Senate Engrossed House Bill

FILED
MICHELE REAGAN
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-third Legislature
First Regular Session
2017

CHAPTER 298

HOUSE BILL 2482

AN ACT

AMENDING SECTION 45-576, ARIZONA REVISED STATUTES; RELATING TO CERTIFICATE OF ASSURED WATER SUPPLY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-576, Arizona Revised Statutes, is amended to read:

45-576. Certificate of assured water supply; designated cities, towns and private water companies; exemptions; definition

A. EXCEPT AS PROVIDED IN SUBSECTIONS G AND J OF THIS SECTION, a person who proposes to offer subdivided lands, as defined in section 32-2101, for sale or lease in an active management area shall apply for and obtain a certificate of assured water supply from the director prior to presenting the plat for approval to the city, town or county in which the land is located, where such is required, and prior to filing with the state real estate commissioner a notice of intention to offer such lands for sale or lease, pursuant to section 32-2181, unless the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section.

B. EXCEPT AS PROVIDED IN SUBSECTIONS G AND J OF THIS SECTION, a city, town or county may approve a subdivision plat only if the subdivider has obtained a certificate of assured water supply from the director or the subdivider has obtained a written commitment of water service for the subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section. The city, town or county shall note on the face of the approved plat that a certificate of assured water supply has been submitted with the plat or that the subdivider has obtained a written commitment of water service for the proposed subdivision from a city, town or private water company designated as having an assured water supply pursuant to this section.

C. EXCEPT AS PROVIDED IN SUBSECTIONS G AND J OF THIS SECTION, the state real estate commissioner may issue a public report authorizing the sale or lease of subdivided lands only on compliance with either of the following:

1. The subdivider, owner or agent ~~has obtained a certificate of assured water supply from the director and~~ has paid any activation fee required under section 48-3772, subsection A, paragraph 7 and any replenishment reserve fee required under section 48-3774.01, subsection A, paragraph 2 AND HAS OBTAINED A CERTIFICATE OF ASSURED WATER SUPPLY FROM THE DIRECTOR.

2. ~~If~~ The subdivider has obtained a written commitment of water service for the lands from a city, town or private water company designated as having an assured water supply pursuant to this section and the subdivider, owner or agent has paid any activation fee required under section 48-3772, subsection A, paragraph 7.

D. The director shall designate private water companies in active management areas that have an assured water supply. If a city or town acquires a private water company that has contracted for central Arizona project water, the city or town shall assume the private water company's contract for central Arizona project water.

E. The director shall designate cities and towns in active management areas where an assured water supply exists. If a city or town has entered into a contract for central Arizona project water, the city or town is deemed to continue to have an assured water supply until December 31, 1997. Commencing on January 1, 1998, the determination that the city or town has an assured water supply is subject to review by the director and the director may determine that a city or town does not have an assured water supply.

F. The director shall notify the mayors of all cities and towns in active management areas and the chairmen of the boards of supervisors of counties in which active management areas are located of the cities, towns and private water companies designated as having an assured water supply and any modification of that designation within thirty days of the designation or modification. If the service area of the city, town or private water company has qualified as a member service area pursuant to title 48, chapter 22, article 4, the director shall also notify the conservation district of the designation or modification and shall report the projected average annual replenishment obligation for the member service area based on the projected and committed average annual demand for water within the service area during the effective term of the designation or modification subject to any limitation in an agreement between the conservation district and the city, town or private water company. For each city, town or private water company that qualified as a member service area under title 48, chapter 22 and was designated as having an assured water supply before January 1, 2004, the director shall report to the conservation district on or before January 1, 2005 the projected average annual replenishment obligation based on the projected and committed average annual demand for water within the service area during the effective term of the designation subject to any limitation in an agreement between the conservation district and the city, town or private water company. Persons proposing to offer subdivided lands served by those designated cities, towns and private water companies for sale or lease are exempt from applying for and obtaining a certificate of assured water supply.

G. This section does not apply in the case of the sale of lands for developments that are subject to a mineral extraction and processing permit or an industrial use permit pursuant to sections 45-514 and 45-515.

H. The director shall adopt rules to carry out the purposes of this section. On or before January 1, 2008, the rules shall provide for a

reduction in water demand for an application for a designation of assured water supply or a certificate of assured water supply if a gray water reuse system will be installed that meets the requirements of the rules adopted by the department of environmental quality for gray water systems and if the application is for a certificate of assured water supply, the land for which the certificate is sought must qualify as a member land in a conservation district pursuant to title 48, chapter 22, article 4. For the purposes of this subsection, "gray water" has the same meaning prescribed in section 49-201.

I. If the director designates a municipal provider as having an assured water supply under this section and the designation lapses or otherwise terminates while the municipal provider's service area is a member service area of a conservation district, the municipal provider or its successor shall continue to comply with the consistency with management goal requirements in the rules adopted by the director under subsection H of this section as if the designation was still in effect with respect to the municipal provider's designation uses. When determining compliance by the municipal provider or its successor with the consistency with management goal requirements in the rules, the director shall consider only water delivered by the municipal provider or its successor to the municipal provider's designation uses. A person is the successor of a municipal provider if the person commences water service to uses that were previously designation uses of the municipal provider. Any groundwater delivered by the municipal provider or its successor to the municipal provider's designation uses in excess of the amount allowed under the consistency with management goal requirements in the rules shall be considered excess groundwater for purposes of title 48, chapter 22. For the purposes of this subsection, "designation uses" means all water uses served by a municipal provider on the date the municipal provider's designation of assured water supply lapses or otherwise terminates and all recorded lots within the municipal provider's service area that were not being served by the municipal provider on that date but that received final plat approval from a city, town or county on or before that date. Designation uses do not include industrial uses served by an irrigation district under section 45-497.

J. SUBSECTIONS A, B AND C OF THIS SECTION DO NOT APPLY TO A PERSON WHO PROPOSES TO OFFER SUBDIVIDED LAND FOR SALE OR LEASE IN AN ACTIVE MANAGEMENT AREA IF ALL THE FOLLOWING APPLY:

1. THE DIRECTOR ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY FOR THE LAND TO A PREVIOUS OWNER OF THE LAND AND THE CERTIFICATE WAS CLASSIFIED AS A TYPE A CERTIFICATE UNDER RULES ADOPTED BY THE DIRECTOR PURSUANT TO SUBSECTION H OF THIS SECTION.

2. THE DIRECTOR HAS NOT REVOKED THE CERTIFICATE OF ASSURED WATER SUPPLY DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION, AND PROCEEDINGS TO

REVOKE THE CERTIFICATE ARE NOT PENDING BEFORE THE DEPARTMENT OR A COURT. THE DEPARTMENT SHALL POST ON ITS WEBSITE A LIST OF ALL CERTIFICATES OF ASSURED WATER SUPPLY THAT HAVE BEEN REVOKED OR FOR WHICH PROCEEDINGS ARE PENDING BEFORE THE DEPARTMENT OR A COURT.

3. THE PLAT SUBMITTED TO THE DEPARTMENT IN THE APPLICATION FOR THE CERTIFICATE OF ASSURED WATER SUPPLY DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION HAS NOT CHANGED.

4. WATER SERVICE IS CURRENTLY AVAILABLE TO EACH LOT WITHIN THE SUBDIVIDED LAND AND THE WATER PROVIDER LISTED ON THE CERTIFICATE OF ASSURED WATER SUPPLY DESCRIBED IN PARAGRAPH 1 OF THIS SUBSECTION HAS NOT CHANGED.

5. THE SUBDIVIDED LAND QUALIFIES AS A MEMBER LAND UNDER TITLE 48, CHAPTER 22 AND THE SUBDIVIDER HAS PAID ANY ACTIVATION FEE REQUIRED UNDER SECTION 48-3772, SUBSECTION A, PARAGRAPH 7 AND ANY REPLENISHMENT RESERVE FEE REQUIRED UNDER SECTION 48-3774.01, SUBSECTION A, PARAGRAPH 2.

6. THE PLAT IS SUBMITTED FOR APPROVAL TO A CITY, TOWN OR COUNTY THAT IS LISTED ON THE DEPARTMENT'S WEBSITE AS A QUALIFIED PLATTING AUTHORITY.

K. SUBSECTION J OF THIS SECTION DOES NOT AFFECT THE ASSIGNMENT OF A CERTIFICATE OF ASSURED WATER SUPPLY AS PRESCRIBED BY SECTION 45-579.

~~J.~~ L. For the purposes of this section, "assured water supply" means all of the following:

1. Sufficient groundwater, surface water or effluent of adequate quality will be continuously available to satisfy the water needs of the proposed use for at least one hundred years. Beginning January 1 of the calendar year following the year in which a groundwater replenishment district is required to submit its preliminary plan pursuant to section 45-576.02, subsection A, paragraph 1, with respect to an applicant that is a member of the district, "sufficient groundwater" for the purposes of this paragraph means that the proposed groundwater withdrawals that the applicant will cause over a period of one hundred years will be of adequate quality and will not exceed, in combination with other withdrawals from land in the replenishment district, a depth to water of one thousand feet or the depth of the bottom of the aquifer, whichever is less. In determining depth to water for the purposes of this paragraph, the director shall consider the combination of:

(a) The existing rate of decline.

(b) The proposed withdrawals.

(c) The expected water requirements of all recorded lots that are not yet served water and that are located in the service area of a municipal provider.

2. The projected groundwater use is consistent with the management plan and achievement of the management goal for the active management area.

3. The financial capability has been demonstrated to construct the water facilities necessary to make the supply of water available for the proposed use, including a delivery system and any storage facilities or treatment works. The director may accept evidence of the construction assurances required by section 9-463.01, 11-823 or 32-2181 to satisfy this requirement.

APPROVED BY THE GOVERNOR MAY 10, 2017.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 10, 2017.

Passed the House February 22, 2017

by the following vote: 53 Ayes,

6 Nays, 1 Not Voting

Speaker of the House

☑ Pro Tempore

Chief Clerk of the House

Passed the Senate April 24, 2017

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2482

HOUSE CONCURS IN SENATE AMENDMENTS AND FINAL PASSAGE

May 8, 2017,

by the following vote: 35 Ayes,

25 Nays, 0 Not Voting

M. R. Gray

Speaker of the House

Jim Drake Protempore

Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8th day of May, 2017,

at 3:37 o'clock P. M.

Secretary to the Governor

Approved this 10th day of

May, 2017,

at 10:27 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 10 day of May, 2017,

at 12:16 o'clock P M.

Michele Reagan

Secretary of State

H.B. 2482