



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
Second Regular Session

House: NREW DP 12-0-0-0

HB 2231: universities; water rights adjudication

Sponsor: Representative Griffin, LD 14

House Engrossed

Overview

Reinstates a requirement that a state university offer pro bono assistance to claimants in the general stream adjudications who are small landowners without legal counsel.

History

General Stream Adjudications

The *doctrine of prior appropriation* governs the use of surface water in Arizona. This doctrine is based on the tenet of “first in time, first in right” which means the person who first puts the water to a beneficial use acquires a right that is senior to later users. Beneficial use is the basis, measure and limit to this right (A.R.S. §§ [45-141](#), [45-151](#)).

The general stream adjudications are judicial proceedings to determine the extent and priority of water rights in the Gila River and Little Colorado River systems ([A.R.S. § 45-251 et seq.](#)). The Gila River adjudication began in 1974 and is assigned to the Maricopa County Superior Court. The Little Colorado River adjudication began in 1978 and is assigned to the Apache County Superior Court.

Litigation Involving FY 2022 Higher Education BRB

Part of the FY 2022 Higher Education Budget Reconciliation Bill authorized a state university to offer pro bono assistance to claimants in the general stream adjudications who are small landowners without legal counsel. This assistance could be offered until a claimant proceeds to a contested proceeding such as an evidentiary hearing. A university similarly could not provide assistance at a contested hearing if the claimant has not settled a claim. In implementing this assistance, the university needed to coordinate with the Arizona Cooperative Extension.

The section of this bill containing the legal assistance in the general stream adjudications also contained a separate provision that generally prohibited the Arizona Board of Regents, a public university or a community college from requiring students to be vaccinated against COVID-19 or from placing conditions on attending or participating in academic activities if an individual chooses not to be vaccinated against COVID-19 or disclose their vaccination status ([Laws 2021, Chapter 410, § 2](#)).

The Supreme Court of Arizona recently struck down this section of the FY 2022 Higher Education Budget Reconciliation Bill for violating the Constitution of Arizona's title requirement ([Arizona Schools Association, Inc. et al. v. State of Arizona](#)).

Provisions

1. Authorizes a state university to offer pro bono assistance to general stream adjudication claimants who are small landowners and not represented by counsel. (Sec. 2)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input checked="" type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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2. Stipulates that a university can provide this assistance until the claimant proceeds to an evidentiary hearing or another contested proceeding. (Sec. 2)
3. Prohibits the university from representing the claimant at an evidentiary or similarly contested hearing. (Sec. 2)
4. Directs a university offering this pro bono assistance to:
 - a) cooperate with the faculty of the Arizona Cooperative Extension; and
 - b) submit a report of its activities to the Governor, Speaker of the House and Senate President and provide a copy to the Secretary of State by November 15th each year. (Sec. 2)
5. Repeals A.R.S. § 15-1647, which is the original statute for assistance for small landowners in the general stream adjudications that was struck down by the Supreme Court of Arizona. (Sec. 1)
6. Contains an emergency clause.