



ARIZONA HOUSE OF REPRESENTATIVES

Fifty-fifth Legislature
First Regular Session

HB 2614: remediated water; groundwater; use.

Sponsor: Representative Osborne, LD 13
Committee on Natural Resources, Energy & Water

Overview

Transfers provisions for regulating municipal water providers' use of remediated groundwater from session law to statute and extends the application of these provisions until 2050.

History

Water Usage Requirements in the Groundwater Management Act

The Groundwater Management Act regulates groundwater usage in certain parts of the state that are called active management areas (AMAs). Each AMA has a management goal that it must attain. The management goal for the Phoenix and Tucson AMAs is to reach safe-yield—which represents a long-term balance between groundwater withdrawn and the amount recharged—by January 1, 2025 (A.R.S. §§ [45-561\(12\)](#) and [45-562\(A\)](#)). Efforts to achieve this management goal occur over the course of several management periods, each of which generally lasts for ten years ([A.R.S. § 45-564 et seq.](#)) For each management period, the Arizona Department of Water Resources (ADWR) develops a management plan that includes conservation requirements for those withdrawing, distributing or receiving groundwater that are intended to reduce groundwater withdrawals ([A.R.S. § 45-563\(A\)](#)). Additionally, someone who plans to sell or lease subdivided lands in an AMA must obtain a certificate of assured water supply from the ADWR or obtain a commitment for water service from a city, town or private water company that has been designated as having an assured water supply ([A.R.S. § 45-576](#)).

Using Remediated Groundwater in AMAs

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) is a federal law that is often referred to as the "Superfund" program. It requires the U.S. Environmental Protection Agency to create a list of national priority sites based on statutory criteria to determine remedial actions for designated areas ([42 U.S.C. § 9604 et seq.](#))

The Legislature passed session law in 1997 that allowed up to 65,000 acre-feet of groundwater withdrawn annually in AMAs as part of remedial actions under CERCLA or state law to be considered consistent with an AMA's management goal through 2025. When evaluating compliance with a management plan's conservation requirements, ADWR would account for this groundwater in the same way it accounts for surface water usage. Additionally, using amounts of remediated groundwater in excess of this annual limit could be considered consistent with the AMA's management goal, subject to a declining allowance for each successive management plan. A water provider that wanted ADWR to consider its use of remediated groundwater to be consistent with the management goal for the purpose of attaining an assured water supply needed to apply to this agency by January 1, 2010 ([Laws 1997, Chapter 287, §§ 51 and 52 as amended by Laws 1999, Chapter 295, §§ 49 and 50](#)).

Provisions

1. Specifies that groundwater withdrawn and treated as part of remedial actions under CERCLA within an AMA and not reinjected into the aquifer must be put to reasonable and beneficial use within the same AMA by a municipality or private water company from whose service area it was withdrawn either as a service area right or, if it decides not to use this water, as a grandfathered groundwater right. (Sec. 1)
2. Requires anyone who receives this groundwater to use it consistent with statutory requirements and exempts this person from paying:
 - a) Costs associated with the remedial action under CERCLA unless that person is responsible for the remedial costs;
 - b) Groundwater withdrawn as a result of the remedial action. (Sec. 1)
3. Requires ADWR to include provisions in its management plans that encourage beneficial use of groundwater withdrawn as part of CERCLA or statutory remedial action projects. (Sec. 2)
4. Directs ADWR, when evaluating compliance with the conservation requirements as part of the management plans, to account for groundwater withdrawn as part of an approved CERCLA or statutory remedial action projects in a way that is consistent with accounting for surface water. (Sec. 2)
5. Declares that using up to 65,000 acre-feet of groundwater in aggregate annually from approved CERCLA or statutory remedial action projects is considered consistent with the AMA's management goal for the purpose of determining an assured water supply until 2050. (Sec. 2)
6. Allows using groundwater withdrawn from approved CERCLA or statutory remedial action projects beyond the 65,000 acre-feet annual cap to be considered consistent with the AMA's management goal in the following amounts:
 - a) For the second management period, 75% of the total volume withdrawn in excess of 65,000 acre-feet;
 - b) For the third management period, 50% of the total volume withdrawn in excess of 65,000 acre-feet;
 - c) For the fourth management period, 25% of the total volume withdrawn in excess of 65,000 acre-feet;
 - d) For the fifth management period, 10% of the total volume withdrawn in excess of 65,000 acre-feet; and
 - e) After 2025, 0% of the total volume withdrawn in excess of 65,000 acre-feet. (Sec. 2)
7. Requires a municipal water provider that plans to use groundwater withdrawn from an approved remedial action project and wants ADWR to determine that using some or all of its projected groundwater withdrawals is consistent with the management goal to apply for this determination before January 1, 2010 and have been subsequently authorized for this exemption. (Sec. 2)
8. Limits the aggregate amount of groundwater that can be withdrawn and used from approved CERCLA or statutory remedial action projects to 65,000 acre-feet annually through 2050. (Sec. 2)
9. Instructs the ADWR Director to amend the assured water supply rules to carry out this law by January 1, 2025. (Sec. 2 and 3)
10. Specifies that before amending these rules, the ADWR Director must treat any groundwater withdrawn from an approved CERCLA or statutory remedial action project as consistent with the management goal. (Sec. 2)

11. Prohibits—for annual remediated groundwater withdrawals of 250 acre-feet or less that are part of an approved remedial action under CERCLA, the Water Quality Assurance Revolving Fund Program, or other applicable federal or state law—that amount of groundwater withdrawn from being:
 - a) Debited against the water provider's assured water supply mined groundwater account; and
 - b) Subject to a replenishment obligation. (Sec. 2)
12. Directs those who use 250 acre-feet or less of remediated groundwater annually to notify ADWR of compliance with this exemption and specifies that these uses cannot apply when calculating the annual 65,000 acre-feet total. (Sec. 2)
13. Repeals Laws 1997, Chapter 287 §§ 51 and 52 as amended by Laws 1999, Chapter 295 §§ 49 and 50. (Sec. 4)
14. Makes technical changes. (Sec. 3)

Prop 105 (45 votes) Prop 108 (40 votes) Emergency (40 votes) Fiscal Note