



ARIZONA STATE SENATE
Fifty-Fifth Legislature, First Regular Session

AMENDED
FACT SHEET FOR S.B. 1366

remediated water; groundwater; use

Purpose

Prescribes statutory requirements and permissions for groundwater withdrawn as part of remedial actions.

Background

The federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) was enacted to respond to hazardous substances released into the environment. CERCLA 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.

In 1997, the Legislature enacted session law in response to CERCLA that authorized the use of up to an aggregate of 65,000 acre-feet of groundwater withdrawn within all Active Management Areas (AMAs) pursuant to statutory or CERCLA remedial action projects to be considered consistent with the AMA management goal, through calendar year 2025. Amounts in excess of the 65,000 acre-feet cap may be considered consistent with the management goal, decreasing the allowed percent of the total volume considered consistent for each management plan. The session law required a municipal water provider proposing to use remediated groundwater considered consistent with the management goals to apply for the determination prior to January 1, 2010, and the amount is limited to the amount the municipal provider is legally obligated to withdraw or use ([Laws 1997, Chapter 285, as amended by Laws 1999, Chapter 295](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Requires groundwater that is withdrawn within an AMA as part of a CERCLA remedial action and not reinjected into the aquifer to be put to reasonable and beneficial use within the same AMA for the use of the city, town or private water company in whose service area the groundwater is withdrawn, and if the city, town or private water company declines to use the water, requires the groundwater to be used for a grandfathered right or a service area right.
2. Requires a person who receives groundwater from a new well construction and withdrawal, treatment and reinjection for a CERCLA remedial action to use the groundwater only for outlined activities and waives the person from:
 - a) costs associated with the CERCLA remedial action unless the person is otherwise responsible for remedial costs; and
 - b) groundwater withdrawn as a result of the remedial action.

3. Directs the Arizona Department of Water Resources (ADWR) to include in its management plans provisions to encourage the beneficial use of groundwater that is withdrawn pursuant to an approved CERCLA or statutory environmental quality remedial action.
4. Directs ADWR to account for groundwater withdrawn pursuant to an approved CERCLA or statutory remedial action consistent with the accounting for surface water, in determining compliance with applicable management plan conservation requirements.
5. Declares the use of up to an aggregate of 65,000 acre-feet of remediated groundwater withdrawn within all AMAs, as consistent with the management goal for the AMA, for each calendar year until 2050.
6. Allows the use of remediated groundwater, except for groundwater withdrawn to provide an alternative water supply for an interim remedial action, in excess of the aggregate 65,000 acre-feet maximum to be considered consistent with the AMA management goal in the following amounts:
 - a) for the second management period, 75 percent of the total volume in excess of the authorized 65,000 acre-feet;
 - b) for the third management period, 50 percent of the total volume in excess of the authorized 65,000 acre-feet;
 - c) for the fourth management period, 25 percent of the total volume in excess of the authorized 65,000 acre-feet; and
 - d) for the fifth management period, through 2025, 10 percent of the total volume in excess of the authorized 65,000 acre-feet.
7. Requires a municipal water provider that proposes to use remedial water and that wishes to have the Director of ADWR determine that the use of some or all of the municipal water provider's projected groundwater withdrawal goals are consistent with the management goal to have applied for the determination before January 1, 2010, and have been subsequently authorized as qualified for the exemption.
8. Limits the amount of groundwater that is determined to be consistent with the management goal to the amount that the municipal water provider is legally obligated to withdraw or use and from extending beyond 2050.
9. Limits the aggregate volume of municipal remediated CERCLA groundwater that is determined to be consistent with the management goals to an aggregate volume of 65,000 acre-feet in any calendar year.
10. Directs the Director of ADWR, by January 1, 2025, to amend the assured water supply rules to carry out the requirements for the beneficial use of remediated groundwater, and to treat any CERCLA remedial groundwater withdrawn before the amendment of the rules as consistent with the management goal.
11. Prohibits the amount of groundwater withdrawn from being debited against the water provider's assured water supply mined groundwater account and from requiring a replenishment obligation for annual remediated groundwater withdrawals of a maximum of 250 acre-feet that are withdrawn pursuant to an approved CERCLA remedial action, the Water Quality Assurance Revolving Fund program or other applicable federal or state law, excluding groundwater withdrawn to provide an alternative water supply under an interim remedial action.

12. Requires an annual user of 250 acre-feet or less of remediated groundwater to notify ADWR of compliance with the exemption from debit against the assured water supply mined groundwater account and specifies that these uses do not apply to the 65,000 acre-feet aggregate maximum deemed consistent with the AMA management goal.
13. Defines terms
14. Makes technical and conforming changes.
15. Repeals session law relating to considering groundwater withdrawn pursuant to CERCLA or statutory remedial action as consistent with the AMA management goal.
16. Becomes effective on the general effective date.

Amendments Adopted by Committee

1. Specifies that, to allow the remediated water to be used pursuant to a grandfathered right, the city, town or private water company must decline the use of the groundwater for municipal or private use.
2. Adds groundwater rights used within a service area as an option for use of remediated groundwater that a municipal or private water provider declines to use.

Senate Action

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Prepared by Senate Research

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KN/gs