State of Arizona
Senate
Fifty-third Legislature
Second Regular Session
2018

SENATE BILL 1512

AN ACT
AMENDING SECTIONS 45-561, 45-563, 45-563.02 AND 45-568, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 2, ARTICLE 9, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 45-568.03, 45-568.04 AND 45-568.05; AMENDING SECTIONS 45-574 AND 45-575, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 45-561, Arizona Revised Statutes, is amended to read:

45-561. Definitions
In this article, unless the context otherwise requires:
1. "Aquifer" means a geologic formation that contains sufficient saturated materials to be capable of storing water and transmitting water in usable quantities to a well.
2. "Augmentation" means to supplement the water supply of an active management area and may include the importation of water into the active management area, storage of water or storage of water pursuant to chapter 3.1 of this title.
3. "Incidental recharge" means the percolation of water to an aquifer after the water has been withdrawn, diverted or received for delivery by a municipal provider for use within its service area, except water that is added to an aquifer pursuant to chapter 3.1 of this title.
4. "Incidental recharge factor" means the ratio of the amount of incidental recharge attributable to a municipal provider during a calendar year to the amount of water withdrawn, diverted or received for delivery by the municipal provider for use within its service area during the year. The amount of incidental recharge attributable to a municipal provider during a calendar year is the amount of water that is incidentally recharged during the year after it is withdrawn, diverted or received for delivery by the municipal provider for use within its service area.
5. "Industrial use" means a non-irrigation use of water not supplied by a city, town or private water company, including animal industry use and expanded animal industry use.
6. "Intermediate water duty" means an irrigation water duty, as defined in section 45-402, which is established by the director during a management period to apply for a specific number of years during the management period.
7. "Large untreated water provider" means a municipal provider that as of January 1, 1990 was serving untreated water to at least five hundred persons or supplying at least one hundred acre-feet of untreated water during a calendar year.
8. "Management period" means a period of years prescribed by sections 45-564, through 45-565, 45-565.01, 45-566, 45-566.01, 45-566.02, 45-567, 45-567.01, 45-567.02, 45-568 AND 45-568.03 during which a prescribed management plan applies.
9. "Mined groundwater" means the amount of groundwater withdrawn or received by a municipal provider from within an active management area during a calendar year for use in its service area, minus both of the following, as applicable:
(a) An amount of water computed by multiplying the amount of water supplied by the municipal provider for use within its service area during the calendar year by the incidental recharge factor established for the municipal provider pursuant to this article.

(b) If the municipal provider is a city or town in the Tucson active management area, the amount of groundwater withdrawn by the municipal provider during the calendar year from land owned or leased by the municipal provider to which a type 1 non-irrigation grandfathered right under section 45-463, subsection A is appurtenant, up to the following amount:

(i) If the municipal provider has made a request to the director as described in section 45-463, subsection F, the amount of groundwater computed by the director under section 45-463, subsection F, in determining whether to designate or redesignate the municipal provider as having an assured water supply, minus the amount of any groundwater withdrawn by the municipal provider from the land during the period beginning with January 1 of the year in which the request was made and ending on December 31 of the year immediately preceding the calendar year for which the calculation of mined groundwater is being made.

(ii) If the municipal provider has not made a request to the director as described in section 45-463, subsection F, the amount of groundwater that the director would have been required to include in determining whether to designate or redesignate the municipal provider as having an assured water supply, as computed under section 45-463, subsection F, if the municipal provider had made a request to the director as described in that subsection on January 1 of the calendar year for which the calculation of mined groundwater is being made.

10. "Municipal provider" means a city, town, private water company or irrigation district that supplies water for non-irrigation use.

11. "Municipal use" means all non-irrigation uses of water supplied by a city, town, private water company or irrigation district, except for uses of water, other than Colorado river water, released for beneficial use from storage, diversion or distribution facilities to avoid spilling that would otherwise occur due to uncontrolled surface water inflows that exceed facility capacity.

12. "Safe-yield" means a groundwater management goal which attempts to achieve and thereafter maintain a long-term balance between the annual amount of groundwater withdrawn in an active management area and the annual amount of natural and artificial recharge in the active management area.

13. "Small municipal provider" means a municipal provider that supplies two hundred fifty acre-feet or less of water for non-irrigation use during a calendar year. For the purposes of this paragraph, the amount of untreated water that is supplied by a large untreated water provider during a year shall not be counted in determining whether the
municipal provider supplied two hundred fifty acre-feet or less of water for non-irrigation use.

14. "Untreated water" means water that is not treated to improve its quality and that is supplied by a municipal provider through a distribution system other than a potable water distribution system.

Sec. 2. Section 45-563, Arizona Revised Statutes, is amended to read:

45-563. Management plans in active management areas; management periods; general provisions

A. The director shall develop a management plan for each initial active management area for each of five SIX management periods pursuant to the guidelines prescribed in sections 45-564, through 45-565, 45-565.01, 45-566, 45-566.01, 45-566.02, 45-567, 45-567.01, 45-567.02, 45-568, 45-568.01, 45-568.02, 45-568.03, 45-568.04 AND 45-568.05 and shall adopt the plans only after public hearings held pursuant to sections 45-570 and 45-571. The plans shall include a continuing mandatory conservation program for all persons withdrawing, distributing or receiving groundwater designed to achieve reductions in withdrawals of groundwater.

B. The director shall develop a management plan for the Santa Cruz active management area for the third, fourth, and fifth AND SIXTH management periods pursuant to the guidelines prescribed in sections 45-566, 45-566.01, 45-567, 45-567.01, 45-568, 45-568.03, 45-568.04 AND 45-568.05 and shall adopt the plans only after public hearings held pursuant to sections 45-570 and 45-571. The plans shall include a continuing mandatory conservation program designed to achieve the management goal of the active management area for all persons withdrawing water, other than stored water, from a well and all persons distributing or receiving water, other than stored water, from a well. The plans shall also include criteria for the location of new wells and replacement wells in new locations consistent with the management goal of the active management area.

Sec. 3. Section 45-563.02, Arizona Revised Statutes, is amended to read:

45-563.02. Exemption from irrigation water duties; small irrigation grandfathered rights; criteria; conservation requirement; exception

A. A person who is entitled to use groundwater pursuant to an irrigation grandfathered right is exempt from any irrigation water duties or intermediate water duties established for the farm to which the right is appurtenant under sections 45-564, 45-565, 45-566, 45-567, and 45-568 AND 45-568.03 if both of the following apply:

1. There are ten or fewer irrigation acres in the farm.

2. The farm is not part of an integrated farming operation.
B. The director shall not establish irrigation water duties or intermediate water duties under section 45-566, 45-567, or 45-568 OR 45-568.03 for a farm to which both of the following apply:

1. There are ten or fewer irrigation acres in the farm.
2. The farm is not part of an integrated farming operation.

C. Except as provided in subsection D of this section, a person who is exempt from the irrigation water duties established for a farm pursuant to subsection A of this section or who owns or uses groundwater on a farm for which irrigation water duties are prohibited in subsection B of this section shall not allow any groundwater to flow off the surface of the farm's irrigation acres unless the groundwater is used for a reasonable and beneficial use approved in writing by the director.

D. A person who is required under subsection C of this section to prevent groundwater from flowing off the surface of a farm's irrigation acres may apply to the director for an exemption from the requirement. The director may grant the exemption if the person demonstrates to the satisfaction of the director that one of the following applies:

1. Preventing groundwater from flowing off the surface of the farm's irrigation acres would not be economically feasible.
2. Any groundwater that will flow off the surface of the farm's irrigation acres will be used by a person with an exempt well in lieu of groundwater that otherwise would have been withdrawn from that well.

Sec. 4. Section 45-568, Arizona Revised Statutes, is amended to read:

45-568. Management plan for fifth management period;

A. For the fifth management period, 2020 to 2025, the director shall promulgate a management plan for each initial active management area not later than January 1, 2019 pursuant to the guidelines prescribed in section 45-567, subsections A and B, except that:

1. The director shall establish the historic annual net natural recharge for any groundwater replenishment district in the active management area, computed by determining the net natural recharge, as defined by section 48-4401, for the groundwater basin beneath the district during calendar years 1988 through 2017 and dividing the result by thirty.
2. The director may adjust the highest twenty-five percent of the irrigation water duties established within an area of similar farming conditions pursuant to section 45-567 by reducing each water duty in an amount up to five percent, except that in making the adjustment, no water duty may be reduced to an amount less than the greater of the following:
   (a) The highest water duty within the lowest seventy-five percent of the water duties computed within the area of similar farming conditions for the fifth management period.
(b) A water duty computed for the farm unit under this paragraph using an irrigation efficiency of eighty percent.

3. A person who is entitled to use groundwater pursuant to an irrigation grandfathered right may apply to the director at any time during the management period for an exemption from the irrigation water duties established pursuant to this section. The director shall grant the exemption if the person demonstrates to the director's satisfaction that granting the exemption is consistent with achieving the management goal of the active management area and that one of the following applies:

(a) Withdrawal of groundwater pursuant to the irrigation grandfathered right during the management period will intercept groundwater that would otherwise flow out of and be lost to the active management area in the next fifteen years without entering another active management area.

(b) Withdrawal of groundwater pursuant to the irrigation grandfathered right during the management period will prevent encroachment of a rising depth to groundwater level that will cause waterlogging problems within the next fifteen years.

B. Within thirty days after the management plan for the fifth management period is adopted, the director shall give written notice in the manner and to the persons prescribed in section 45-565, subsection B and shall give written notice of the non-per capita conservation program established pursuant to section 45-568.01 to all municipal providers. Two years before the compliance date specified in the management plan for any irrigation water duty, intermediate water duty, conservation requirement or intermediate conservation requirement, the director shall give additional written notice by first class mail to the last known addresses of the persons prescribed in section 45-565, subsection B and this subsection.

C. Except for a person who obtains a variance under section 45-574 or who is exempt from irrigation water duties under section 45-563.02, subsection A, all persons notified pursuant to subsection B of this section shall comply with the applicable irrigation water duty or conservation requirements for the fifth management period not later than January 1, 2025 and shall remain in compliance until the legislature determines otherwise. If intermediate water duties or intermediate conservation requirements have been established, a person to whom those water duties or conservation requirements apply shall comply with the intermediate water duties or intermediate conservation requirements not later than the compliance date specified in the management plan, unless the person obtains a variance pursuant to section 45-574 or is exempt from intermediate water duties under section 45-563.02, subsection A. A person who obtains a variance under section 45-574 shall comply with the applicable irrigation water duty or...
CONSERVATION REQUIREMENTS BY THE DATE SPECIFIED IN THE VARIANCE AND SHALL REMAIN IN COMPLIANCE UNTIL THE SUBSEQUENT COMPLIANCE DATE FOR ANY APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS ESTABLISHED IN THE MANAGEMENT PLAN FOR THE FIFTH MANAGEMENT PERIOD.

Sec. 5. Title 45, chapter 2, article 9, Arizona Revised Statutes, is amended by adding sections 45-568.03, 45-568.04 and 45-568.05, to read:

45-568.03. Management plan for sixth management period;

A. FOR THE SIXTH MANAGEMENT PERIOD, 2025 TO 2035, THE DIRECTOR SHALL ADOPT A MANAGEMENT PLAN FOR EACH INITIAL ACTIVE MANAGEMENT AREA NOT LATER THAN JANUARY 1, 2023 PURSUANT TO THE GUIDELINES PRESCRIBED IN SECTION 45-567, SUBSECTIONS A AND B AND SECTIONS 45-568.04 AND 45-568.05, EXCEPT THAT:

1. THE DIRECTOR SHALL ESTABLISH THE HISTORIC ANNUAL NET NATURAL RECHARGE FOR ANY GROUNDWATER REPLENISHMENT DISTRICT IN THE ACTIVE MANAGEMENT AREA, COMPUTED BY DETERMINING THE NET NATURAL RECHARGE, AS DEFINED BY SECTION 48-4401, FOR THE GROUNDWATER BASIN BENEATH THE DISTRICT DURING THE MOST RECENT THIRTY-YEAR PERIOD OF RECORD AND DIVIDING THE RESULT BY THIRTY.

2. THE DIRECTOR MAY ADJUST THE HIGHEST TWENTY-FIVE PERCENT OF THE IRRIGATION WATER DUTIES ESTABLISHED WITHIN AN AREA OF SIMILAR FARMING CONDITIONS PURSUANT TO SECTION 45-567 BY REDUCING EACH WATER DUTY IN AN AMOUNT UP TO FIVE PERCENT, EXCEPT THAT IN MAKING THE ADJUSTMENT, NO WATER DUTY MAY BE REDUCED TO AN AMOUNT LESS THAN THE GREATER OF THE FOLLOWING:

(a) THE HIGHEST WATER DUTY WITHIN THE LOWEST SEVENTY-FIVE PERCENT OF THE WATER DUTIES COMPUTED WITHIN THE AREA OF SIMILAR FARMING CONDITIONS FOR THE SIXTH MANAGEMENT PERIOD.

(b) A WATER DUTY COMPUTED FOR THE FARM UNIT UNDER THIS PARAGRAPH USING AN IRRIGATION EFFICIENCY OF EIGHTY PERCENT.

3. A PERSON WHO IS ENTITLED TO USE GROUNDWATER PURSUANT TO AN IRRIGATION GRANDFATHERED RIGHT MAY APPLY TO THE DIRECTOR AT ANY TIME DURING THE MANAGEMENT PERIOD FOR AN EXEMPTION FROM THE IRRIGATION WATER DUTIES ESTABLISHED PURSUANT TO THIS SECTION. THE DIRECTOR SHALL GRANT THE EXEMPTION IF THE PERSON DEMONSTRATES TO THE DIRECTOR'S SATISFACTION THAT GRANTING THE EXEMPTION IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA AND THAT ONE OF THE FOLLOWING APPLIES:

(a) WITHDRAWAL OF GROUNDWATER PURSUANT TO THE IRRIGATION GRANDFATHERED RIGHT DURING THE MANAGEMENT PERIOD WILL INTERCEPT GROUNDWATER THAT WOULD OTHERWISE FLOW OUT OF AND BE LOST TO THE ACTIVE MANAGEMENT AREA IN THE NEXT FIFTEEN YEARS WITHOUT ENTERING ANOTHER ACTIVE MANAGEMENT AREA.

(b) WITHDRAWAL OF GROUNDWATER PURSUANT TO THE IRRIGATION GRANDFATHERED RIGHT DURING THE MANAGEMENT PERIOD WILL PREVENT ENCROACHMENT OF A RISING DEPTH TO GROUNDWATER LEVEL THAT WILL CAUSE WATERLOGGING PROBLEMS WITHIN THE NEXT FIFTEEN YEARS.
B. WITHIN THIRTY DAYS AFTER THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD IS ADOPTED, THE DIRECTOR SHALL GIVE WRITTEN NOTICE IN THE MANNER AND TO THE PERSONS PRESCRIBED IN SECTION 45-565, SUBSECTION B AND SHALL GIVE WRITTEN NOTICE OF THE NON-PER CAPITA CONSERVATION PROGRAM ESTABLISHED PURSUANT TO SECTION 45-568.04 TO ALL MUNICIPAL PROVIDERS. TWO YEARS BEFORE THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN FOR ANY IRRIGATION WATER DUTY, INTERMEDIATE WATER DUTY, CONSERVATION REQUIREMENT OR INTERMEDIATE CONSERVATION REQUIREMENT, THE DIRECTOR SHALL GIVE ADDITIONAL WRITTEN NOTICE BY FIRST CLASS MAIL TO THE LAST KNOWN ADDRESSES OF THE PERSONS PRESCRIBED IN SECTION 45-565, SUBSECTION B AND THIS SUBSECTION.

C. EXCEPT FOR A PERSON WHO OBTAINS A VARIANCE UNDER SECTION 45-574 OR WHO IS EXEMPT FROM IRRIGATION WATER DUTIES UNDER SECTION 45-563.02, SUBSECTION A, ALL PERSONS NOTIFIED PURSUANT TO SUBSECTION B OF THIS SECTION SHALL COMPLY WITH THE APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS FOR THE SIXTH MANAGEMENT PERIOD NOT LATER THAN JANUARY 1, 2035 AND SHALL REMAIN IN COMPLIANCE UNTIL THE LEGISLATURE OTHERWISE REQUIRES. IF INTERMEDIATE WATER DUTIES OR INTERMEDIATE CONSERVATION REQUIREMENTS HAVE BEEN ESTABLISHED, A PERSON TO WHOM THOSE WATER DUTIES OR CONSERVATION REQUIREMENTS APPLY SHALL COMPLY WITH THE INTERMEDIATE WATER DUTIES OR INTERMEDIATE CONSERVATION REQUIREMENTS NOT LATER THAN THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN, UNLESS THE PERSON OBTAINS A VARIANCE PURSUANT TO SECTION 45-574 OR IS EXEMPT FROM INTERMEDIATE WATER DUTIES UNDER SECTION 45-563.02, SUBSECTION A. A PERSON WHO OBTAINS A VARIANCE UNDER SECTION 45-574 SHALL COMPLY WITH THE APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS BY THE DATE SPECIFIED IN THE VARIANCE AND SHALL REMAIN IN COMPLIANCE UNTIL THE SUBSEQUENT COMPLIANCE DATE FOR ANY APPLICABLE IRRIGATION WATER DUTY OR CONSERVATION REQUIREMENTS ESTABLISHED IN THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD OR UNTIL THE LEGISLATURE OTHERWISE PROVIDES.

45-568.04. Non-per capita conservation program for municipal providers; sixth management period

A. IN ADDITION TO THE PROVISIONS OF THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-568.03, THE DIRECTOR SHALL INCLUDE IN THE MANAGEMENT PLANS A NON-PER CAPITA CONSERVATION PROGRAM FOR MUNICIPAL PROVIDERS. THE PROGRAM SHALL REQUIRE A MUNICIPAL PROVIDER REGULATED UNDER THE PROGRAM TO IMPLEMENT ONE OR MORE WATER CONSERVATION MEASURES IN ITS SERVICE AREA FROM THE LIST ADOPTED BY THE DIRECTOR PURSUANT TO SUBSECTION B OF THIS SECTION, SUBJECT TO APPROVAL BY THE DIRECTOR PURSUANT TO SUBSECTION F OR G OF THIS SECTION. THE PROGRAM MAY PRESCRIBE THE NUMBER OF CONSERVATION MEASURES THAT A PROVIDER MUST IMPLEMENT UNDER THIS SUBSECTION BASED ON THE NUMBER OF SERVICE CONNECTIONS IN THE PROVIDER’S SERVICE AREA.

B. THE DIRECTOR SHALL INCLUDE IN THE NON-PER CAPITA CONSERVATION PROGRAM A LIST AND DESCRIPTION OF CONSERVATION MEASURES THAT MUNICIPAL
PROVIDERS REGULATED UNDER THE PROGRAM MUST SELECT FROM TO COMPLY WITH THE
REQUIREMENTS ADOPTED PURSUANT TO SUBSECTION A OF THIS SECTION, WHICH MAY
INCLUDE THE CONSERVATION MEASURES DESCRIBED IN SECTION 45-567.01,
SUBSECTION A, PARAGRAPHS 1 AND 2.

C. IN ADDITION TO THE REQUIREMENTS PRESCRIBED IN SUBSECTION A OF
THIS SECTION, A MUNICIPAL PROVIDER REGULATED UNDER THE NON-PER CAPITA
CONSERVATION PROGRAM SHALL:

1. INCLUDE IN ITS ANNUAL REPORT FILED PURSUANT TO SECTION 45-632 A
COPY OF THE PROVIDER'S CURRENT WATER RATE STRUCTURE UNLESS NO CHANGES HAVE
BEEN MADE TO THE RATE STRUCTURE SINCE IT WAS LAST SUBMITTED TO THE
DIRECTOR. A MUNICIPAL PROVIDER REGULATED UNDER THE NON-PER CAPITA
CONSERVATION PROGRAM IS ENCOURAGED TO ADOPT A WATER RATE STRUCTURE THAT
PROMOTES EFFICIENT USE OF WATER, SUBJECT TO APPROVAL BY THE CORPORATION
COMMISSION IF THE PROVIDER IS A PUBLIC SERVICE CORPORATION.

2. FOR AT LEAST FIVE YEARS AFTER A YEAR IN WHICH THE MUNICIPAL
PROVIDER IS REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM, KEEP
AND MAINTAIN ACCURATE RECORDS VERIFYING THAT THE MUNICIPAL PROVIDER
IMPLEMENTED THE CONSERVATION MEASURES REQUIRED BY THE NON-PER CAPITA
CONSERVATION PROGRAM DURING THAT YEAR.

D. THE DIRECTOR SHALL DESIGN THE NON-PER CAPITA CONSERVATION
PROGRAM TO ACHIEVE WATER USE EFFICIENCY IN THE SERVICE AREAS OF MUNICIPAL
PROVIDERS REGULATED UNDER THE PROGRAM EQUIVALENT TO THE WATER USE
EFFICIENCY ASSUMED BY THE DIRECTOR IN ESTABLISHING THE PER CAPITA
CONSERVATION REQUIREMENTS FOR THE MANAGEMENT PLAN PURSUANT TO SECTION
45-568.03.

E. EXCEPT AS PROVIDED IN SUBSECTIONS I, J AND K OF THIS SECTION, ON
OR BEFORE THE DATE SPECIFIED IN THE MANAGEMENT PLAN, A MUNICIPAL PROVIDER
NOTIFIED OF THE NON-PER CAPITA CONSERVATION PROGRAM PURSUANT TO SECTION
45-568.03, SUBSECTION B, SHALL SUBMIT TO THE DIRECTOR, ON A FORM
PRESCRIBED BY THE DIRECTOR, A PROVIDER PROFILE THAT CONTAINS THE FOLLOWING
INFORMATION:

1. A DESCRIPTION OF THE MUNICIPAL PROVIDER'S EXISTING SERVICE AREA
CHARACTERISTICS AND WATER USE PATTERNS.

2. A DESCRIPTION OF THE CONSERVATION MEASURES THE MUNICIPAL
PROVIDER IS CURRENTLY IMPLEMENTING AND ANY ADDITIONAL CONSERVATION
MEASURES THAT THE PROVIDER INTENDS TO IMPLEMENT TO COMPLY WITH THE NON-PER
CAPITA CONSERVATION PROGRAM.

3. AN EXPLANATION OF HOW EACH CONSERVATION MEASURE DESCRIBED IN THE
PROVIDER PROFILE IS RELEVANT TO THE MUNICIPAL PROVIDER'S EXISTING SERVICE
AREA CHARACTERISTICS OR WATER USE PATTERNS.

F. WITHIN NINETY DAYS AFTER RECEIVING A MUNICIPAL PROVIDER'S
PROVIDER PROFILE UNDER SUBSECTION E OF THIS SECTION, THE DIRECTOR SHALL
APPROVE OR DISAPPROVE THE PROVIDER PROFILE AND SEND WRITTEN NOTICE OF THE
DECISION TO THE MUNICIPAL PROVIDER. THE DIRECTOR SHALL APPROVE THE
PROVIDER PROFILE IF THE DIRECTOR DETERMINES THAT THE PROFILE CONTAINS

G. IF THE DIRECTOR DISAPPROVES A MUNICIPAL PROVIDER'S PROVIDER PROFILE PURSUANT TO SUBSECTION F OF THIS SECTION, WITHIN NINETY DAYS AFTER THE DATE OF THE DIRECTOR'S WRITTEN NOTICE DISAPPROVING THE PROVIDER PROFILE, OR WITHIN NINETY DAYS AFTER THE DIRECTOR'S DECISION IS FINAL IF THE MUNICIPAL PROVIDER FILES A TIMELY NOTICE OF APPEAL OF THE DECISION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10, THE MUNICIPAL PROVIDER SHALL REVISE THE PROVIDER PROFILE TO CORRECT THE DEFICIENCIES IDENTIFIED BY THE DIRECTOR IN THE WRITTEN NOTICE AND SUBMIT THE REVISED PROVIDER PROFILE TO THE DIRECTOR. WITHIN NINETY DAYS AFTER RECEIVING A MUNICIPAL PROVIDER'S REVISED PROVIDER PROFILE PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL APPROVE OR DISAPPROVE THE REVISED PROVIDER PROFILE PURSUANT TO SUBSECTION F OF THIS SECTION. IF THE DIRECTOR DISAPPROVES THE REVISED PROVIDER PROFILE:

1. THE DECISION IS AN APPEALABLE AGENCY ACTION PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

2. THE MUNICIPAL PROVIDER IS IN VIOLATION OF THIS SECTION BEGINNING ON THE DATE THE DIRECTOR'S DECISION IS FINAL UNTIL THE MUNICIPAL PROVIDER SUBMITS A PROVIDER PROFILE THAT IS APPROVED BY THE DIRECTOR, EXCEPT THAT THE PROVIDER MAY NOT BE IN VIOLATION BEFORE THE COMPLIANCE DATE FOR THE NON-PER CAPITA CONSERVATION PROGRAM SPECIFIED IN THE MANAGEMENT PLAN.

H. EXCEPT AS PROVIDED IN SUBSECTIONS I, J AND K OF THIS SECTION, A MUNICIPAL PROVIDER NOTIFIED OF THE NON-PER CAPITA CONSERVATION PROGRAM PURSUANT TO SECTION 45-568.03, SUBSECTION B OR SECTION 45-571.01, SUBSECTION B SHALL BE REGULATED UNDER THE PROGRAM BEGINNING ON THE DATE THE DIRECTOR APPROVES THE MUNICIPAL PROVIDER'S PROVIDER PROFILE PURSUANT TO SUBSECTION F OR G OF THIS SECTION, BUT NOT EARLIER THAN THE COMPLIANCE DATE SPECIFIED IN THE MANAGEMENT PLAN. A MUNICIPAL PROVIDER REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM SHALL COMPLY WITH THE PROGRAM BEGINNING ON THE DATE THE PROVIDER IS FIRST REGULATED UNDER THE PROGRAM.

1. A MUNICIPAL PROVIDER DESIGNATED AS HAVING AN ASSURED WATER SUPPLY PURSUANT TO SECTION 45-576 MAY NOT BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM, BUT INSTEAD SHALL BE REGULATED UNDER THE PER
CAPITA CONSERVATION PROGRAM ESTABLISHED BY THE DIRECTOR IN THE APPLICABLE MANAGEMENT PLAN, UNLESS BOTH OF THE FOLLOWING APPLY:

1. THE MUNICIPAL PROVIDER NOTIFIES THE DIRECTOR IN WRITING THAT IT ELECTS TO BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM AND INCLUDES WITH THE NOTICE A PROVIDER PROFILE THAT CONTAINS THE INFORMATION PRESCRIBED BY SUBSECTION E OF THIS SECTION.

2. THE DIRECTOR APPROVES THE MUNICIPAL PROVIDER'S PROVIDER PROFILE PURSUANT TO SUBSECTION F OF THIS SECTION OR A REVISED PROVIDER PROFILE PURSUANT TO SUBSECTION G OF THIS SECTION. THE MUNICIPAL PROVIDER SHALL BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM BEGINNING ON THE DATE THE DIRECTOR APPROVES THE PROVIDER PROFILE OR A REVISED PROVIDER PROFILE.

J. A LARGE UNTREATED WATER PROVIDER MAY NOT BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM WITH RESPECT TO ITS DELIVERIES OF UNTREATED WATER. A LARGE UNTREATED WATER PROVIDER SHALL COMPLY WITH ANY CONSERVATION OR RATE OF USE REQUIREMENTS ESTABLISHED FOR DELIVERIES OF UNTREATED WATER BY LARGE UNTREATED WATER PROVIDERS IN THE APPLICABLE MANAGEMENT PLAN WITH RESPECT TO ITS DELIVERIES OF UNTREATED WATER.

K. A SMALL MUNICIPAL PROVIDER MAY NOT BE REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM, BUT INSTEAD SHALL COMPLY WITH ANY CONSERVATION REQUIREMENTS ESTABLISHED FOR SMALL MUNICIPAL PROVIDERS IN THE APPLICABLE PLAN.

L. A MUNICIPAL PROVIDER THAT IS REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM ESTABLISHED IN A MANAGEMENT PLAN UNDER THIS SECTION SHALL COMPLY WITH ANY INDIVIDUAL USER REQUIREMENTS PRESCRIBED IN THE MANAGEMENT PLAN, EXCEPT AS PROVIDED IN SECTION 45-571.02.

M. A MUNICIPAL PROVIDER THAT IS REGULATED UNDER THE NON-PER CAPITA CONSERVATION PROGRAM ESTABLISHED IN A MANAGEMENT PLAN UNDER THIS SECTION IS EXEMPT FROM THE PER CAPITA CONSERVATION REQUIREMENTS PRESCRIBED IN THE MANAGEMENT PLAN.

45-568.05. Alternative conservation programs for agriculture; sixth management period

A. IN ADDITION TO THE PROVISIONS OF THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD PRESCRIBED BY SECTION 45-568.03, THE DIRECTOR SHALL INCLUDE IN THE MANAGEMENT PLAN THE HISTORIC CROPPING PROGRAM PRESCRIBED BY THIS SECTION AS AN ALTERNATIVE AGRICULTURAL CONSERVATION PROGRAM THAT ACHIEVES CONSERVATION EQUIVALENT TO THE AGRICULTURAL CONSERVATION PROGRAM INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03.

B. THE DIRECTOR SHALL ESTABLISH THE COMPONENTS OF THE HISTORIC CROPPING PROGRAM IN THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIODS TO ASSURE THAT CONSERVATION EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM ESTABLISHED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03 WILL BE ACHIEVED. IN ADDITION TO THE
PROGRAM COMPONENTS ESTABLISHED BY THE DIRECTOR, THE HISTORIC CROPPING PROGRAM SHALL INCLUDE THE FOLLOWING PROVISIONS:

1. THE DIRECTOR SHALL CALCULATE THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT AS PROVIDED IN SECTION 45-465.

2. THE DIRECTOR SHALL CALCULATE THE IRRIGATION WATER DUTY IN THE SAME MANNER AS THAT REQUIRED BY SECTION 45-568.03, SUBSECTION A, USING AN IRRIGATION EFFICIENCY OF SEVENTY-FIVE PERCENT. IN AREAS DEEMED BY THE DIRECTOR TO HAVE LIMITING SOILS, THE DIRECTOR MAY USE AN IRRIGATION EFFICIENCY OF SEVENTY PERCENT FOR THE WATER DUTY CALCULATION.

3. THE FLEXIBILITY ACCOUNT PROVISIONS OF SECTION 45-467 APPLY EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION.

4. THE DIRECTOR MAY NOT REGISTER CREDITS TO THE FLEXIBILITY ACCOUNT ESTABLISHED UNDER SECTION 45-467 THAT CAUSE THE CREDIT BALANCE TO EXCEED SEVENTY-FIVE PERCENT OF THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT ESTABLISHED PURSUANT TO THIS SUBSECTION.

5. ONLY OWNERS OF AN IRRIGATION GRANDFATHERED RIGHT MAY APPLY FOR PARTICIPATION IN THE HISTORIC CROPPING PROGRAM.

C. IN THE MANAGEMENT PLANS, THE DIRECTOR SHALL ESTABLISH CRITERIA THAT THE APPLICANT SHALL SATISFY TO ENTER THE HISTORIC CROPPING PROGRAM TO ASSURE THAT CONSERVATION EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM ESTABLISHED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03 WILL BE ACHIEVED. AN OWNER OF AN IRRIGATION GRANDFATHERED RIGHT MAY APPLY TO PARTICIPATE IN THE HISTORIC CROPPING PROGRAM BY FILING AN APPLICATION WITH THE DIRECTOR. THE DIRECTOR MAY NOT APPROVE AN APPLICATION FOR THE HISTORIC CROPPING PROGRAM UNLESS THE APPLICANT SATISFIES THE ENTRANCE CRITERIA ESTABLISHED BY THE DIRECTOR AND THE FOLLOWING CONDITIONS ARE SATISFIED:

1. THE APPLICANT'S ACCUMULATION OF CREDITS IN THE APPLICANT'S FLEXIBILITY ACCOUNT UNDER SECTION 45-467 IS EQUAL TO OR LESS THAN SEVENTY-FIVE PERCENT OF THE FARM'S MAXIMUM ANNUAL GROUNDWATER ALLOTMENT ESTABLISHED PURSUANT TO THE APPLICABLE MANAGEMENT PLAN UNDER SECTION 45-568.03, SUBSECTION A, SECTION 45-568.04, SUBSECTION A OR SUBSECTION A OF THIS SECTION. TO SATISFY THIS REQUIREMENT, THE APPLICANT MAY EITHER SELL OR CONVEY ANY EXCESS CREDITS AS PROVIDED BY SECTION 45-467, OR THE APPLICANT MAY RELINQUISH ANY EXCESS CREDITS.

2. THE APPLICANT'S ACCUMULATION OF DEBITS IN THE APPLICANT'S FLEXIBILITY ACCOUNT UNDER SECTION 45-467 IS EQUAL TO OR LESS THAN TWENTY-FIVE PERCENT OF THE FARM'S MAXIMUM ANNUAL GROUNDWATER ALLOTMENT ESTABLISHED PURSUANT TO THE MANAGEMENT PLAN UNDER SECTION 45-568.03, SUBSECTION A.

D. IN THE MANAGEMENT PLAN, THE DIRECTOR SHALL ESTABLISH PERFORMANCE STANDARDS THAT THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT OR ANY PERSON USING GROUNDWATER PURSUANT TO THAT RIGHT SHALL SATISFY WHILE PARTICIPATING IN THE HISTORIC CROPPING PROGRAM TO ASSURE THAT CONSERVATION EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM
INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03, SUBSECTION A WILL BE ACHIEVED. AFTER AN OWNER OF AN IRRIGATION GRANDFATHERED RIGHT HAS BEEN APPROVED FOR PARTICIPATION IN THE HISTORIC CROPPING PROGRAM, THE OWNER OF THAT RIGHT, AND ANY PERSON USING GROUNDWATER PURSUANT TO THAT RIGHT, SHALL MEET BOTH OF THE FOLLOWING CONDITIONS:

1. COMPLY WITH THE PERFORMANCE STANDARDS ESTABLISHED BY THE DIRECTOR.

2. NOT ACCUMULATE DEBITS TO THE FLEXIBILITY ACCOUNT ESTABLISHED UNDER SECTION 45-467 THAT EXCEED TWENTY-FIVE PERCENT OF THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT ESTABLISHED UNDER SUBSECTION B OF THIS SECTION. THE OWNER OF THE IRRIGATION GRANDFATHERED RIGHT AND ANY PERSON ENTITLED TO USE GROUNDWATER PURSUANT TO THAT RIGHT VIOLATE THIS SECTION IF THE DEBIT BALANCE EXCEEDS THE AMOUNT STATED IN THIS PARAGRAPH.

E. NOTWITHSTANDING SECTION 45-467, AN OWNER OF AN IRRIGATION GRANDFATHERED RIGHT, WHILE PARTICIPATING IN THE HISTORIC CROPPING PROGRAM, MAY NOT CONVEY OR SELL FLEXIBILITY ACCOUNT CREDITS FROM, OR PURCHASE FLEXIBILITY ACCOUNT CREDITS FOR, THE FLEXIBILITY ACCOUNT REGULATED BY THE HISTORIC CROPPING PROGRAM.

F. THE DIRECTOR MAY INCLUDE IN THE ADOPTION OF, OR A MODIFICATION TO, THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD ADDITIONAL ALTERNATIVE AGRICULTURAL CONSERVATION PROGRAMS THAT THE DIRECTOR DETERMINES ACHIEVE CONSERVATION THAT IS AT LEAST EQUIVALENT TO THAT REQUIRED UNDER THE AGRICULTURAL CONSERVATION PROGRAM INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03, INCLUDING A CROPPED ACREAGE PROGRAM IN WHICH THE MAXIMUM ANNUAL GROUNDWATER ALLOTMENT IS DETERMINED BASED ON THE CROPS GROWN DURING THE CALENDAR YEAR IN WHICH THE IRRIGATION EFFICIENCY IS APPLIED.

G. THE DIRECTOR SHALL INCLUDE IN THE ADOPTION OF THE MANAGEMENT PLAN FOR THE SIXTH MANAGEMENT PERIOD A BEST MANAGEMENT PRACTICES PROGRAM THAT REQUIRE THE OWNER OF AN IRRIGATION GRANDFATHERED RIGHT AND ANY PERSON USING GROUNDWATER PURSUANT TO THE RIGHT TO IMPLEMENT SPECIFIC AGRICULTURAL CONSERVATION PRACTICES FOR WATER USE ON THE LAND OR FARM UNIT TO WHICH THE RIGHT IS APPURTEINANT IN LIEU OF COMPLYING WITH AN IRRIGATION WATER DUTY AND A MAXIMUM ANNUAL GROUNDWATER ALLOTMENT. THE PROGRAM SHALL BE DESIGNED TO ACHIEVE CONSERVATION THAT IS AT LEAST EQUIVALENT TO THAT REQUIRED BY THE AGRICULTURAL CONSERVATION PROGRAM INCLUDED IN THE MANAGEMENT PLAN PURSUANT TO SECTION 45-568.03.

Sec. 6. Section 45-574, Arizona Revised Statutes, is amended to read:

45-574. Variances; application; notice; hearing; issuance
A. A person who requires additional time to comply with an irrigation water duty or conservation requirement established pursuant to section 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568, or 45-568.01, 45-568.03 OR 45-568.04 may apply to the director for a variance from the water duty or requirement within ninety days from the date of
notice of the water duty or requirement. The application shall include the
following:

1. The name and mailing address of the applicant.
2. The name of the active management area in which the use is
located.
3. The amount of groundwater currently being withdrawn annually by
the person.
4. The irrigation water duty or conservation requirement from which
the variance is sought.
5. A general description of the economic circumstances preventing
timely compliance with the irrigation water duty or conservation
requirement and any information relevant to such circumstances.
6. The sworn statement that the information contained in the
application is true and correct to the best belief and knowledge of the
applicant.
7. Such other information as the director may require.

B. The director shall give written notice to the applicant of the
opportunity for an administrative hearing. An administrative hearing
shall be held before the director's decision on the application if the
director deems a hearing necessary or a hearing is requested by the
applicant.

C. The director may grant a variance upon a showing of
compelling economic circumstances. The variance shall specify:

1. The amount of groundwater that may be withdrawn by the
person during the variance period, or a schedule of intermediate water
duties or conservation requirements to be reached at specified intervals
during the variance period.
2. The duration of the variance, which may not exceed five years
from the date of the director's final determination of the variance.

D. A party aggrieved by the director's decision may seek judicial
review of the final decision of the director as provided in section
45-114, subsection B in the superior court in the county in which the
irrigated land or non-irrigation use is located.

E. Section 45-114, subsections A and B govern administrative
proceedings, rehearing or review and judicial review of final decisions of
the director under this section. If an administrative hearing is held, it
shall be conducted in the active management area in which the use is
located.

Sec. 7. Section 45-575, Arizona Revised Statutes, is amended to
read:

45-575. Administrative review of irrigation water duty and
conservation requirements
A. Any aggrieved party may request an administrative review of an
irrigation water duty or conservation requirement established pursuant to
section 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568,
45-568.01, 45-568.03 OR 45-568.04. Except as provided in subsection B of this section, the request must be made not later than ninety days from the date of notice of such duty or requirement given thirty days after the adoption of the management plan or if the notice was given pursuant to section 45-566.01, subsection E or 45-571.02, subsection B, not later than ninety days from the date of the notice.

B. An aggrieved person who claims that extraordinary circumstances not in existence as of the date of notice that was given thirty days after adoption of the management plan justify modification of an irrigation water duty or conservation requirement established pursuant to section 45-565, 45-566, 45-566.01, 45-567, 45-567.01, 45-568, 45-568.03 OR 45-568.04 may request administrative review of the water duty or conservation requirement more than ninety days from the date of notice of the water duty or conservation requirement. The director may modify the water duty or conservation requirement if the aggrieved person demonstrates to the director by clear and convincing evidence that extraordinary circumstances not in existence as of the date of the notice that was given thirty days after adoption of the management plan make it unreasonable to require compliance with a water duty or conservation requirement.

C. The director shall give written notice to the aggrieved party who is requesting an administrative review of the opportunity for an administrative hearing. An administrative hearing shall be held before the director's decision on the application if the director deems a hearing necessary or a hearing is requested by the applicant.

D. A party aggrieved by the director's decision may seek judicial review of the final decision of the director as provided in section 45-114, subsection B in the superior court in the county in which the irrigated land or the non-irrigation use is located.

E. Section 45-114, subsections A and B govern administrative proceedings, rehearing or review and judicial review of final decisions of the director under this section. If an administrative hearing is held, it shall be conducted in the active management area in which the use is located.

Sec. 8. Evaluation of conservation requirements and irrigation water duties for fifth and sixth management periods; advisory committee; report; delayed repeal

A. The director of water resources shall evaluate the conservation requirements and irrigation water duties required to be established in the management plans for the fifth and sixth management periods pursuant to section 45-568, Arizona Revised Statutes, as amended by this act, and sections 45-568.03, 45-568.04 and 45-568.05, Arizona Revised Statutes, as added by this act, to determine whether any changes to those conservation requirements are necessary.
requirements and irrigation water duties are appropriate to achieve reasonable conservation in the active management areas.

B. The director shall establish one or more advisory committees for each active management area to assist the director in the evaluation required by subsection A of this section. The director may also contract with an independent researcher to assist in the evaluation. The evaluation shall include a review of the conservation requirements and irrigation water duties established in the management plans for the fifth management period for each active management area to determine whether those conservation requirements should continue for the management plans for the fifth and sixth management periods, or whether changes are appropriate.

C. The director shall prepare a report of the director's findings and recommendations and submit the report on or before December 31, 2030 to the governor, the president of the senate, the speaker of the house of representatives, the members of the senate natural resources, energy and water committee, or its successor committee, and the members of the house of representatives energy, environment and natural resources committee, or its successor committee. The report shall include any recommendations for statutory changes.

D. This section is repealed from and after September 30, 2031.

Sec. 9. Conforming legislation

The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fifty-fourth legislature, first regular session.