



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
Second Regular Session

House: NREW DPA 7-2-0-1 | 3<sup>rd</sup> Read 33-23-3-0-1

Senate: NREW DPA 4-3-0-0 | 3<sup>rd</sup> Read 16-12-2-0

## **HB 2201: Harquahala non-expansion area; groundwater transportation**

**Sponsor: Representative Dunn, LD 25**

**Senate Engrossed**

### **Overview**

Allows groundwater to be transported from the Harquahala Irrigation Non-expansion Area (INA) to any location in La Paz County. Adds a public service corporation to the list of eligible entities authorized to transport groundwater from the Harquahala INA to an initial Active Management Area (AMA).

### **History**

Unless specifically authorized, groundwater that is withdrawn in a basin or sub-basin located outside an initial AMA may not be transported to an initial AMA. Current law identifies four groundwater basins and sub-basins from which groundwater can be withdrawn and transported to an initial AMA: 1) McMullen Valley; 2) Butler Valley; 3) Harquahala INA; and 4) Big Chino sub-basin of the Verde River groundwater basin. Transportation of groundwater is subject to outlined limitations ([A.R.S. § 45-551](#)).

In the Harquahala INA, only Arizona and its political subdivisions can withdraw and transport groundwater from legally irrigable lands. The Harquahala INA is located in western Maricopa County and eastern La Paz County. Groundwater can be withdrawn up to a depth of 1,000 feet at a rate that, when combined with current withdrawals, does not cause groundwater declines at the site by more than 10 feet annually during a 100-year period. The amount that can be withdrawn per acre over a specified time period is limited ([A.R.S. § 45-554](#)).

The Arizona Corporation Commission (ACC) regulates public service corporations, including non-municipal utilities that provide water for irrigation, fire protection and other public uses. The ACC issues certificates of convenience and necessity that authorize a corporation to provide a service in a certain geographical area ([A.R.S. § 40-281](#)).

### **Provisions**

#### ***Public Service Corporations***

1. Adds public service corporations to the list of eligible entities that may transport groundwater from the Harquahala INA to an initial AMA. (Sec. 1)
2. Requires the public service corporation to be:
  - a) regulated by the ACC;
  - b) hold a certificate of convenience and necessity for water service in an initial AMA; and
  - c) own land in the INA that is eligible to be irrigated. (Sec. 1)

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

3. Requires all costs associated with withdrawing, transporting and delivering groundwater that is transported away from the Harquahala INA by a public service corporation to be collected from the customers of the corporation's water district where the transported groundwater is used. (Sec. 1)

***Entities Eligible to Transport Groundwater***

4. Expands the criteria for an eligible entity to withdraw and transport groundwater from the Harquahala INA by requiring:
  - a) compliance with the assured water supply program and hydrological studies;
  - b) installation of water measuring devices to determine the volume of groundwater withdrawn and transported from the Harquahala INA; and
  - c) monthly reports to ADWR containing:
    - i) information on the volume of groundwater withdrawn and transported from the Harquahala INA; and
    - ii) the end use or destination of the transported groundwater. (Sec. 1)
5. Establishes La Paz County as a location authorized to receive groundwater transported from the Harquahala INA for use by an eligible entity. (Sec. 1)

***Arizona Department of Water Resources (ADWR)***

6. Requires the ADWR Director to adopt administrative rules to implement provisions relating to transportation of groundwater from the Harquahala INA. (Sec. 1)
7. Exempts ADWR from rulemaking requirements for one year after the general effective date. (Sec. 2)
8. Requires an annual report from ADWR that:
  - a) lists the amount of groundwater withdrawn and transported from the Harquahala INA for the preceding year, in total and by each entity, and
  - b) includes a delineation of the end use or destination of all groundwater transported. (Sec. 1)
9. Requires ADWR to submit the report by July 1 to specified individuals. (Sec. 1)

***Miscellaneous***

10. Makes technical changes. (Sec. 1)

**Senate Amendments**

1. Requires an applicant for a building permit for new construction of a residential single-family home or for a land division to identify ownership interests in the property.
2. Adds attestation language that must be included in an application for a land division.
3. Specifies, as it relates to subdivision laws, that the following alone are not sufficient to constitute unlawful acting in concert:
  - a) a familial relationship;
  - b) a well share agreement;
  - c) a road maintenance agreement; or
  - d) for a county with a population of less than 500,000, the use or referral of the same licensed engineer or registered contractor.
4. Specifies that compliance is not essential to the public interest for lots, parcels or fractional interests that have been included with a previous public report approved within the last 10 years and where the applicant attests there are no material changes altering the facts of the report.

5. Excludes from statutory compliance requirements lots, parcels or fractional interests owned by a financial institution as a result of foreclosure that are up for sale and have been included with a previous public report that:
  - a) was approved within the last 10 years; and
  - b) has no material changes.
6. Specifies the maximum civil penalty for a subdivider or agent who engages in unlawful practice with respect to the sale or lease of subdivided lands is up to \$2,000 for each lot where a violation occurs if the subdivider does not obtain a public report.
7. Repeals and re-enacts Laws 2023, Chapter 77, Section 3 to correct a technical error resulting in a potentially invalid change to statute.
8. Allows a person who owns land within an AMA that may be legally irrigated with groundwater under a grandfathered right to permanently retire the land from irrigation in exchange for a physical availability exemption credit if specified qualifications are met.
9. Prohibits a municipal provider from applying potable water on nonfunctional turf that is installed as part of a new development project or development project on any applicable portion of property within an AMA.
10. Requires the ADWR Director to find that the volume of groundwater calculated pursuant to a physical availability exemption credit is exempt from the physical availability requirement for an assured water supply.
11. Requires the ADWR Director exclude any volume of groundwater subject to a physical availability exemption credit when calculating an assured water supply in the Pinal AMA.
12. Allows the ADWR Director to designate a portion of a municipality located both in an area delineated for exemption and in the Phoenix AMA as having an assured water supply if certain criteria are met.
13. Outlines a process for a municipal provider that applies for a new designation of assured water supply in the Phoenix AMA to assume the replenishment obligations of member service lands that are located within the municipal provider's service area.
14. Requires ADWR, by January 1, 2025, to amend rules for the incorporation of extinguishment credits and groundwater associated with member lands in an assured water supply designation.