

State of Arizona  
Senate  
Forty-ninth Legislature  
First Regular Session  
2009

# SENATE BILL 1288

## AN ACT

AMENDING SECTIONS 45-576.01, 45-576.03, 48-3712, 48-3713, 48-3751, 48-3762, 48-3772 AND 48-3774, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 22, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-3779; AMENDING SECTION 48-3780.01, ARIZONA REVISED STATUTES; RELATING TO GROUNDWATER REPLENISHMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 45-576.01, Arizona Revised Statutes, is amended to  
3 read:

4 45-576.01. Determining consistency with management goal in a  
5 replenishment district, conservation district and  
6 water district

7 A. For the purpose of determining whether an assured water supply  
8 exists, the director shall find that a groundwater replenishment district  
9 member's projected use is consistent with achieving the management goal for  
10 the active management area under section 45-576 if:

11 1. The land for which a certificate or the city, town or private water  
12 company for which a designation is sought is in a groundwater replenishment  
13 district established pursuant to title 48, chapter 27.

14 2. The director has made either a preliminary determination that has  
15 not expired or a final determination that the district's plan for operation  
16 is consistent with achieving the management goal according to section  
17 45-576.03, subsection E.

18 3. The master replenishment account established pursuant to section  
19 45-858.01 does not have a debit balance that exceeds the cumulative amount of  
20 the district's debits accrued during the four preceding calendar years.

21 B. For the purpose of determining whether an assured water supply  
22 exists, the director shall find that a projected use is consistent with  
23 achieving the management goal for the active management area under section  
24 45-576 if all of the following apply:

25 1. The land for which a certificate is sought is a member land, or the  
26 service area of a city, town or private water company for which a designation  
27 is sought is a member service area, in a conservation district as provided by  
28 title 48, chapter 22, article 4, or the land for which a certificate is  
29 sought is a water district member land, or the service area for which a  
30 designation is sought is a water district member service area in a water  
31 district as provided by title 48, chapter 28, article 7.

32 ~~2. The director has made a determination that has not expired that the~~  
33 ~~most recent plan for operation submitted under section 45-576.02, subsection~~  
34 ~~C or E by the conservation district or the water district, whichever is~~  
35 ~~obligated to replenish groundwater on behalf of the land for which a~~  
36 ~~certificate is sought or the service area of a city, town or private water~~  
37 ~~company for which a designation is sought, is consistent with achieving the~~  
38 ~~management goal for the active management area in which the use is located~~  
39 ~~according to section 45-576.03, subsection N or O, as applicable.~~

40 2. THE DIRECTOR'S MOST RECENT DETERMINATION PURSUANT TO SECTION  
41 45-576.03, SUBSECTION M, O OR R THAT THE PLAN FOR OPERATION SUBMITTED BY THE  
42 CONSERVATION DISTRICT OR WATER DISTRICT IS CONSISTENT WITH ACHIEVING THE  
43 MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA IN WHICH THE USE IS LOCATED  
44 HAS NOT EXPIRED.

1           3. The conservation district or the water district, whichever is  
2 obligated to replenish groundwater on behalf of the land for which a  
3 certificate is sought or the service area of a city, town or private water  
4 company for which a designation is sought, is currently in compliance with  
5 its groundwater replenishment obligation for the active management area in  
6 which the use is located, as determined by the director pursuant to section  
7 45-859.01 or 45-860.01.

8           Sec. 2. Section 45-576.03, Arizona Revised Statutes, is amended to  
9 read:

10           45-576.03. Director's review of plans

11           A. Within sixty days after receiving a groundwater replenishment  
12 district's preliminary and long-range plans pursuant to section 45-576.02,  
13 the director shall determine if the district has submitted sufficient  
14 information to determine whether the district's plan for operation is  
15 consistent with the management goal of the active management area. If the  
16 director determines that the information is insufficient for such a  
17 determination, the director shall notify the district of the insufficiency in  
18 writing and shall specify what additional information is required. The  
19 district shall provide the information to the director within thirty days  
20 after receiving the notice.

21           B. On determining that the district's preliminary or long-range plan  
22 is complete, the director shall publish notice in a newspaper of general  
23 statewide circulation once each week for two consecutive weeks:

24           1. Requesting public comment concerning information supplied by the  
25 district to meet the requirements of section 45-576.02.

26           2. Setting a date and location of a public hearing to be held pursuant  
27 to subsection C of this section.

28           C. The director shall hold a public hearing within sixty days after  
29 the last day of notice under subsection B of this section. The hearing shall  
30 be conducted in an informal manner without adhering to the rules of evidence  
31 required in judicial proceedings. Any person, including the department,  
32 shall have an opportunity to comment on or to present evidence concerning the  
33 submitted plan.

34           D. The district shall respond in writing to all public comments  
35 whether received at the hearing or otherwise received by a date announced by  
36 the director.

37           E. Within one hundred twenty days after the hearing on the preliminary  
38 plan, the director shall issue a preliminary decision determining whether or  
39 not the plan for district operation shall be designated as being consistent  
40 with achieving the management goal. If the director determines that the  
41 preliminary plan for district operation is consistent with achieving the  
42 management goal, the designation expires on January 1 of the thirteenth  
43 calendar year following the calendar year in which the district is  
44 established. Within one hundred twenty days after the hearing on the  
45 long-range plan, the director shall issue a final decision determining

1 whether or not the plan for district operation shall be designated as being  
2 consistent with achieving the management goal. The director shall include  
3 findings with the decision and a summary of all public comments received in  
4 writing and public comments made at the public hearing.

5 F. The director shall issue a decision that the district's plan for  
6 operation is consistent with achieving the management goal if the director  
7 finds that the district has the current capability to meet the district  
8 members' replenishment obligations for the five calendar years following the  
9 calendar year in which the district submits its plan and, in addition, the  
10 director makes either of the following findings, as applicable:

11 1. If the director is evaluating the preliminary plan, that the  
12 district has established an adequate plan for obtaining financing and water  
13 resources that are necessary to meet the district members' replenishment  
14 obligations through the eighteenth calendar year following the year in which  
15 the district is established.

16 2. If the director is evaluating the long-range plan, that the  
17 district has established an adequate plan to meet the projected replenishment  
18 obligations through the first calendar year in which achieving safe-yield is  
19 required.

20 G. Unless the district successfully appeals the director's decision  
21 pursuant to subsection H of this section, if the director has made a  
22 determination that the district's plan for operation is not consistent with  
23 achieving the management goal, the director shall notify the district of the  
24 inconsistency in writing and shall specify how the district's plan for  
25 operation is inconsistent with achieving the management goal. The district  
26 shall modify its proposed plan and resubmit the plan, and the director shall  
27 review the plan as provided by section 45-576.02 and this section, except  
28 that the director shall only hold a hearing regarding those matters that the  
29 district has modified in its resubmitted plan.

30 H. The director's determination under subsection E of this section is  
31 subject to rehearing or review and to judicial review as provided in section  
32 45-114, subsection C, but the court shall not issue a temporary restraining  
33 order or preliminary injunction to prevent the director from acting under  
34 this chapter while the action is pending.

35 I. Within sixty days after receiving a conservation district's plan or  
36 a water district's plan pursuant to section 45-576.02, including a revised  
37 plan pursuant to subsection R of this section, the director shall determine  
38 if the conservation district or water district, as the case may be, has  
39 submitted sufficient information to determine whether the conservation  
40 district's plan for operation is consistent with the management goals of each  
41 of the active management areas in which a member land or member service area  
42 is or may be located or whether the water district's plan for operation is  
43 consistent with the management goal of the active management area in which a  
44 water district member land or a water district member service area is or may  
45 be located. If the director determines that the information is insufficient

1 for such a determination, the director shall notify the conservation district  
2 or water district, as the case may be, of the insufficiency in writing and  
3 shall specify what additional information is required. The conservation  
4 district or water district, as the case may be, shall provide the information  
5 to the director within a reasonable time as specified by the director.

6 J. On determining that the conservation district's plan or the water  
7 district's plan, as the case may be, is complete, the director shall publish  
8 notice in a newspaper of general statewide circulation once each week for two  
9 consecutive weeks:

10 1. Requesting public comment concerning information supplied by the  
11 conservation district or water district, as the case may be, to meet the  
12 requirements of section 45-576.02.

13 2. Setting a date and location of a public hearing to be held pursuant  
14 to subsection K of this section.

15 K. The director shall hold a public hearing within sixty days after  
16 the last day of the notice under subsection J of this section. The hearing  
17 shall be conducted in an informal manner without adhering to the rules of  
18 evidence required in judicial proceedings. Any person, including the  
19 department, shall have an opportunity to comment on or to present evidence  
20 concerning the submitted plan.

21 L. The conservation district or the water district, as the case may  
22 be, shall respond in writing to all public comments whether received at the  
23 hearing or otherwise received by a date announced by the director.

24 M. Within sixty days after the hearing on the first plan required  
25 under section 45-576.02, subsection C or the first plan required under  
26 section 45-576.02, subsection E and within one hundred twenty days after the  
27 hearing on any subsequent plan required under section 45-576.02, subsection C  
28 or E, including a revised plan pursuant to subsection R of this section, the  
29 director shall issue a decision for each of the active management areas in  
30 which a member land or member service area is or may be located, and the  
31 active management area in which a water district member land or water  
32 district member service area is or may be located, ~~determining AS TO~~ whether  
33 or not the plan submitted with respect to an active management area ~~shall be~~  
34 ~~designated as being~~ IS consistent with achieving the management goal of the  
35 active management area. ~~THE DIRECTOR SHALL INCLUDE FINDINGS WITH THE~~  
36 ~~DECISION AND A SUMMARY OF ALL PUBLIC COMMENTS RECEIVED IN WRITING AND PUBLIC~~  
37 ~~COMMENTS MADE AT THE PUBLIC HEARING.~~ If the ~~director determines~~ DIRECTOR'S  
38 ~~DECISION INCLUDES A DETERMINATION~~ that the plan submitted for an active  
39 management area is consistent with achieving the management goal of that  
40 active management area, ~~the designation~~ EXCEPT AS PROVIDED IN SUBSECTION S OF  
41 THIS SECTION, THE DETERMINATION expires on ~~January 1~~ DECEMBER 31 of the year  
42 following the year in which the conservation district or the water district,  
43 as the case may be, is required to submit its next plan under section  
44 45-576.02, subsections C and E, OR THE DATE THE DIRECTOR ISSUES A DECISION  
45 DETERMINING THAT THE NEXT PLAN IS CONSISTENT WITH ACHIEVING THE MANAGEMENT

1 GOAL OF THE ACTIVE MANAGEMENT AREA, WHICHEVER OCCURS FIRST. ~~The director~~  
2 ~~shall include findings with the decision and a summary of all public comments~~  
3 ~~received in writing and public comments made at the public hearing.~~

4 N. The director shall make a determination that the conservation  
5 district's plan is consistent with achieving the management goal for each  
6 active management area if all of the following have been demonstrated:

7 1. The conservation district has identified sufficient water supplies  
8 to meet its replenishment obligations for current members during the twenty  
9 calendar years following the submission of the plan and has identified  
10 additional water supplies potentially available for the district's projected  
11 groundwater replenishment obligations for the one hundred calendar years  
12 following the submission of the plan for current members and potential  
13 members based on reasonable projections of real property and service areas  
14 that could qualify for membership in the ten years following the submission  
15 of the plan.

16 2. The replenishment reserve target for each active management area  
17 was calculated as prescribed in section 48-3772, subsection E, and the  
18 district is developing a replenishment reserve in each active management area  
19 pursuant to section 48-3772, subsection E.

20 3. The conservation district has identified sufficient capacity at  
21 storage facilities and projects to be used for replenishment purposes during  
22 the twenty calendar years following the submission of the plan.

23 4. The district has made a reasonable estimate of its projected  
24 replenishment obligations for the one hundred calendar years following the  
25 submission of the ten year plan as required by section 45-576.02, subsection  
26 C, paragraph 2, subdivision (b).

27 O. The director shall issue a decision that the water district's plan  
28 is consistent with achieving the management goal of the active management  
29 area in which the water district is located if the director finds that the  
30 water district has the current capability to meet the current and projected  
31 water district groundwater replenishment obligation, as that term is defined  
32 and used in title 48, chapter 28, for the five calendar years following the  
33 calendar year in which the water district submits its plan and, in addition,  
34 the director finds the water district has established an adequate plan to  
35 meet the projected water district groundwater replenishment obligation for  
36 the twenty calendar years following the calendar year in which the plan was  
37 submitted.

38 P. Unless the conservation district or water district successfully  
39 appeals the director's decision pursuant to subsection Q of this section, if  
40 the director ~~has made a determination~~ FINDS for one or more active management  
41 areas that the conservation district's plan for operation or the water  
42 district's plan is not consistent with achieving the management goal of an  
43 active management area, the director shall notify the conservation district  
44 or water district, as the case may be, of the inconsistency in writing and  
45 shall specify how the conservation district's plan for operation or the water

1 district's plan is inconsistent with achieving the management goal. The  
2 conservation district or water district, as the case may be, shall modify its  
3 proposed plan and resubmit the plan within sixty days after it has been  
4 notified in writing of the director's decision, and the director shall review  
5 the plan as provided by section 45-576.02 and this section, except that the  
6 director shall only hold a hearing regarding those matters that the  
7 conservation district or water district, as the case may be, has modified in  
8 its resubmitted plan.

9 Q. The director's ~~determination~~ DECISION under subsection M or R of  
10 this section is subject to rehearing or review and to judicial review as  
11 provided in section 45-114, subsection C, but the court shall not issue a  
12 temporary restraining order or preliminary injunction to prevent the director  
13 from acting under this chapter while the action is pending.

14 R. If, at any time between the second anniversary and the ~~sixth~~ EIGHTH  
15 anniversary of the director's determination of consistency with the  
16 management goal, the director ~~determines~~ FINDS that there has been either an  
17 unexpected increase in the conservation district's projected groundwater  
18 replenishment obligations or an unexpected reduction in water supplies  
19 available to meet the conservation district's current obligations such that  
20 the conservation district's plan no longer demonstrates consistency with the  
21 management goal for one or more active management areas, the director shall  
22 require the conservation district to submit a revised plan for operation.  
23 The revised plan for operation shall be submitted within ~~two~~ ONE calendar  
24 ~~years-of~~ YEAR AFTER the date that the director notifies the conservation  
25 district of such a ~~determination~~ FINDING, UNLESS THE DIRECTOR EXTENDS THIS  
26 TIME FOR GOOD CAUSE. The director shall review, hold a hearing on and make a  
27 ~~determination~~ DECISION on the revised plan as provided by this section,  
28 except that the director shall only hold a hearing regarding those conditions  
29 that have changed.

30 S. Unless the conservation district successfully appeals the  
31 director's ~~determination~~ DECISION pursuant to subsection Q of this section,  
32 if the ~~director has made a determination~~ DIRECTOR'S DECISION INCLUDES A  
33 FINDING for one or more active management areas that the conservation  
34 district's revised plan for operation is not consistent with achieving the  
35 management goal of that active management area pursuant to this section and  
36 the conservation district is unable to satisfy the director's concerns within  
37 sixty days after the director has notified the conservation district of the  
38 ~~determination~~ DECISION, the DETERMINATION THAT THE district's plan IS  
39 CONSISTENT WITH THE MANAGEMENT GOAL OF THE ACTIVE MANAGEMENT AREA shall  
40 expire.

41 Sec. 3. Section 48-3712, Arizona Revised Statutes, is amended to read:  
42 48-3712. Powers and duties of the board

43 A. The board shall:

44 1. Manage and conduct the affairs and business of the district.

1           2. Make and execute all necessary contracts and other instruments  
2 which shall be signed by the president or, in the president's absence, by  
3 another member of the board designated for that purpose, and attested by the  
4 secretary.

5           3. Establish bylaws and rules for the governing of the board and for  
6 the functions of the district.

7           4. Perform all acts necessary to carry out the purposes of this  
8 chapter.

9           5. Except as provided in subsection C of this section and in sections  
10 48-3713.03, 48-3715.01, 48-3715.03, 48-3715.05, 48-3772 and 48-3773, require  
11 that all funds received on behalf of the district shall be deposited,  
12 pursuant to sections 35-146 and 35-147, in a special fund established by the  
13 state to be expended at the direction of the board to effectuate the  
14 provisions and purposes of this chapter. On notice from the board, the state  
15 treasurer shall invest and divest monies in the fund as provided by section  
16 35-313, and monies earned from investment shall be credited to the fund.

17           6. Adopt an ordinance or ordinances to establish a revenue bonding  
18 program that pledges to bond repayment any monies received or to be received  
19 by the district from any source except ad valorem tax revenues, ~~replenishment~~  
20 ~~assessment revenues and replenishment tax generated under article 4 of this~~  
21 ~~chapter.~~

22           7. Employ such agents, engineers, attorneys and employees not readily  
23 available from existing state agencies.

24           B. The board may:

25           1. Accept grants, gifts or donations of money or other property from  
26 any source which may be expended for any purpose consistent with the  
27 provisions of this chapter.

28           2. Establish a revolving fund for the purpose of defraying the costs  
29 and expenses of the district.

30           Sec. 4. Section 48-3713, Arizona Revised Statutes, is amended to read:

31           48-3713. Powers of district

32           A. The district, acting through its board, shall:

33           1. Enter into a contract or contracts with the secretary to accomplish  
34 the purposes of this chapter.

35           2. Provide for the repayment of construction costs, interest and  
36 annual operation, maintenance and replacement costs allocated to the district  
37 and payment of administrative costs and expenses of the district.

38           3. Levy an annual tax to defray district costs and expenses and to  
39 effect repayment of a portion of the district's obligation to the United  
40 States. Such tax levy shall not exceed ten cents per each one hundred  
41 dollars of assessed valuation of the taxable property within the district.

42           4. Establish and cause to be collected charges for water consistent  
43 with federal reclamation law and contracts entered into between the district  
44 and the secretary pursuant to this chapter.

1           5. Cooperate and contract with the secretary to carry out the  
2 provisions of the reclamation act of June 17, 1902 (32 Stat. 388), and acts  
3 amendatory thereof or supplementary thereto, including the Colorado river  
4 basin project act (82 Stat. 885).

5           6. Establish and maintain reserve accounts in amounts which may be  
6 required by any contract between the district and the secretary and in such  
7 additional amounts as may be deemed necessary to accomplish the purposes of  
8 this chapter.

9           7. Coordinate and cooperate with the Arizona water banking authority.

10          B. The district, acting through its board, may:

11           1. Contract with the United States to be the operating agent of the  
12 central Arizona project and to maintain all or portions of the project and  
13 subcontract with others for the operation or maintenance of portions of the  
14 project.

15           2. Acquire in any lawful manner real and personal property of every  
16 kind necessary or convenient for the uses and purposes of the district.

17           3. Acquire electricity or other forms of energy necessary for the  
18 operation of the central Arizona project. Effective retroactively to taxable  
19 years beginning from and after December 31, 1984, the acquisition of  
20 electricity or other forms of energy by the district for the purposes of  
21 pumping central Arizona project water shall not be subject to any state or  
22 municipal transaction privilege or use tax.

23           4. Contract for or perform feasibility studies of water storage,  
24 storage facilities and recovery wells.

25           5. Acquire, develop, construct, operate, maintain and acquire permits  
26 for water storage, storage facilities and recovery wells pursuant to title  
27 45, chapter 3.1 using surplus central Arizona project water.

28           6. Enter into contracts to acquire, permit, develop, construct,  
29 operate and maintain water storage, storage facilities and recovery wells  
30 with any person pursuant to title 45, chapter 3.1. Such projects may utilize  
31 water, including central Arizona project water, which such persons have the  
32 right to store pursuant to title 45, chapter 3.1.

33           7. Plan, analyze, propose, apply for, construct, operate, maintain and  
34 dismantle state demonstration projects for water storage and recovery under  
35 title 45, chapter 3.1, article 6.

36           8. Acquire real property for state demonstration projects for water  
37 storage and recovery under title 45, chapter 3.1 by purchase, lease,  
38 donation, dedication, exchange or other lawful means in areas suitable for  
39 demonstration projects for water storage and recovery of state water in  
40 counties in which the district has water transportation facilities.

41           9. Advance monies necessary for the installation, construction,  
42 repair, maintenance or replacement of capital improvements related to any  
43 water storage, storage facilities and recovery wells or any other  
44 replenishment activities of the district undertaken pursuant to article 4 of  
45 this chapter. Monies advanced under this paragraph bear interest as

1 determined by the board. Repayment of the advances shall be amortized over  
2 the useful life of the capital improvements, as determined by the board.  
3 Utilization of excess capacity in a state demonstration project for  
4 replenishment purposes pursuant to section 48-3772, subsection B, paragraph 8  
5 does not constitute the advancement of monies under this paragraph. **MONIES  
6 ADVANCED UNDER THIS PARAGRAPH SHALL NOT BE USED TO PAY THE PRINCIPAL OF, OR  
7 INTEREST OR PREMIUM ON, REVENUE BONDS ISSUED PURSUANT TO ARTICLE 3 OF THIS  
8 CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR WATER RIGHTS AND DEVELOP  
9 INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT  
10 OBLIGATIONS.**

11 10. Advance monies for the payment of the operation and administrative  
12 costs and expenses of the district relating to performance of the groundwater  
13 replenishment obligations under article 4 of this chapter, including  
14 replenishment reserve activities and reasonable reserves. Monies advanced  
15 under this paragraph shall bear interest as determined by the board.  
16 Repayment of the advances may be amortized over a reasonable period, as  
17 determined by the board. **MONIES ADVANCED UNDER THIS PARAGRAPH SHALL NOT BE  
18 USED TO PAY THE PRINCIPAL OF, OR INTEREST OR PREMIUM ON, REVENUE BONDS ISSUED  
19 PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR  
20 WATER RIGHTS AND DEVELOP INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM  
21 ITS REPLENISHMENT OBLIGATIONS.**

22 11. Assign to the account of the district at fair value long-term  
23 storage credits, as defined in section 45-802.01, held by the district.

24 12. Provide technical and operational support to the Arizona water  
25 banking authority and shall be reimbursed by the Arizona water banking  
26 authority for providing that support.

27 13. Appoint certain employees of the district as peace officers only  
28 for purposes of providing law enforcement on property which is under the  
29 control of the district. The district shall not have any more than ten  
30 employees designated as peace officers at any one time.

31 14. Except for electric capacity and energy allocated to the Arizona  
32 power authority under the Hoover power plant act of 1984 (P.L. 98-381; 98  
33 Stat. 1333), sell, resell, deliver or distribute electricity or other forms  
34 of energy acquired by the district for purposes of operating the central  
35 Arizona project but not needed by the district for such purposes, except that  
36 the district may not sell, resell, deliver or distribute electricity to a  
37 retail electric customer as defined in section 30-801.

38 C. The authority granted under title 45, chapter 3.1, article 6 does  
39 not authorize the district to withdraw and use groundwater that exists  
40 naturally in the basin in which the stored water is located. The authority  
41 provided in subsection B, paragraph 7 of this section is in addition to and  
42 distinct from any authority granted to the district by subsection B,  
43 paragraphs 5 and 6 of this section.

1 D. The functions of the district under subsection B, paragraph 5 of  
2 this section may be performed on behalf of the district by other persons  
3 under contract with the district.

4 E. The district may enter into and carry out subcontracts with water  
5 users for the delivery of water through the facilities of the central Arizona  
6 project. Such contracts as may be entered into between the district and the  
7 secretary and between the district and water users shall be subject to the  
8 provisions of the Colorado river basin project act (P.L. 90-537; 82 Stat.  
9 885). Before entering into such contracts the district shall determine that  
10 the proposed contract or proposed amendment, and all related exhibits and  
11 agreements, have been submitted to the director of water resources as  
12 required by section 45-107, subsection D.

13 F. The district may in conjunction with any other marketing entity or  
14 entities be a marketing entity under section 107 of the Hoover power plant  
15 act of 1984 (P.L. 98-381; 98 Stat. 1333) solely for the limited purposes of  
16 establishing and collecting the additional rate components authorized by that  
17 act and may enter into contracts for that purpose. This subsection does not  
18 limit the authority of the district under subsection B, paragraph 3 of this  
19 section and does not prohibit the United States western area power  
20 administration or the Arizona power authority from making incidental  
21 disposition of power acquired by the district for purposes of operating the  
22 central Arizona project but not needed by the district for such purposes.

23 G. Persons who are appointed as peace officers by the district  
24 pursuant to subsection B of this section shall provide law enforcement on the  
25 property which is under the control of the district. District peace officers  
26 shall not preempt the authority and jurisdiction of other police agencies of  
27 this state or its political subdivisions. A district peace officer shall  
28 notify appropriate agencies of this state and its political subdivisions  
29 after making a felony arrest or beginning a felony investigation within the  
30 jurisdiction of that agency. District peace officers shall have at least  
31 those qualifications prescribed by section 41-1822 and are not eligible to  
32 participate in the public safety personnel retirement system. The district  
33 is not eligible to receive funds from the peace officers' training fund  
34 specified in section 41-1825. The district shall reimburse the Arizona peace  
35 officer standards and training board for all training expenses incurred by  
36 the board for the district and all audit expenses incurred by the board in  
37 reviewing compliance by the district with peace officer standards and law  
38 enforcement standards established by the board.

39 Sec. 5. Section 48-3751, Arizona Revised Statutes, is amended to read:  
40 48-3751. Ordinances; revenue bonds

41 A. An ordinance adopted pursuant to section 48-3712 shall set forth a  
42 plan for the district to borrow money and issue its negotiable revenue bonds.  
43 The ordinance may determine the maximum amount of bonds, the maximum rate of  
44 interest and the time of payment of the bonds.

1 B. The principal of and interest and premiums, if any, on bonds are  
2 payable solely from revenues of the district as may be pledged by the  
3 district including monies received from the sales of services or from  
4 contracts of every nature. ~~A bond shall not be issued and interest shall not~~  
5 ~~be paid pursuant to this section if taxes or assessments on or against the~~  
6 ~~real property or other property may be levied.~~ AD VALOREM PROPERTY TAXES  
7 SHALL NOT BE PLEDGED TO, LEVIED FOR OR USED TO PAY PRINCIPAL, INTEREST OR  
8 PREMIUMS ON ANY BONDS ISSUED UNDER THIS ARTICLE. Payment is not enforceable  
9 out of any monies other than the revenues pledged to the payment. No  
10 referendum or election is required for the issuance of bonds authorized in  
11 this article.

12 C. Bonds may bear interest at rates that may fluctuate below a maximum  
13 interest rate established in the ordinance. The board may designate a  
14 remarketing agent to set and reset interest rates in accordance with the  
15 ordinance or any authorizing resolution or trust indenture adopted or entered  
16 into by the district in accordance with the ordinance. The district may  
17 contract for and purchase credit enhancement in the form of letters of  
18 credit, surety bonds, bond insurance policies, bond purchase agreements and  
19 other contractual arrangements providing either credit for the bonds,  
20 liquidity to the bondholders or credit facilities obtained in lieu of  
21 reserves.

22 D. Subject to the limitations of this article, the district may do all  
23 things, enter into all contracts and dispose of bond proceeds in the manner  
24 deemed necessary by the board to effectuate the purpose for which the bonds  
25 are issued and secure payment of the principal and interest on the bonds.

26 Sec. 6. Section 48-3762, Arizona Revised Statutes, is amended to read:  
27 48-3762. Limitation on amount, rates, fees and charges

28 A. The district shall not issue any bonds under ~~the provisions of~~ this  
29 article that will cause the aggregate principal amount of bonds issued and  
30 outstanding under this article to exceed ~~two hundred fifty~~ FIVE HUNDRED  
31 million dollars.

32 B. Bonds issued before September 21, 1991 are excluded for the  
33 purposes of determining the aggregate principal amount.

34 C. Notwithstanding any other law, the district may establish and  
35 collect a fee for water for bonding purposes in lieu of or in addition to any  
36 rate or charge made pursuant to law or by contract.

37 Sec. 7. Section 48-3772, Arizona Revised Statutes, is amended to read:  
38 48-3772. Duties and powers of district regarding replenishment

39 A. The district shall:

40 1. Establish annually the costs and expenses to replenish groundwater  
41 pursuant to this article with respect to all parcels of member lands and all  
42 member service areas located in each active management area, including  
43 capital expenses, DEBT SERVICE EXPENSES, the operation, maintenance,  
44 replacement and administrative costs and expenses of the district,  
45 replenishment reserve costs and expenses as provided in subsection E of this

1 section and reasonable reserves. Separate calculations of costs and expenses  
2 shall be made for each active management area in which member lands or member  
3 service areas are located and for each membership category. Costs and  
4 expenses attributed by the district to contract replenishment obligations  
5 shall not be included in these calculations.

6 2. Provide for the payment of all costs and expenses to replenish  
7 groundwater pursuant to this chapter and the payment of operation,  
8 maintenance, replacement and administrative costs and expenses **AND DEBT**  
9 **SERVICE EXPENSES** of the district.

10 3. Levy an annual replenishment assessment against each parcel of  
11 member land pursuant to section 48-3778 and an annual replenishment tax  
12 against each municipal provider that has a member service area pursuant to  
13 section 48-3781 to pay the district's costs and expenses as established  
14 pursuant to paragraph 1 of this subsection.

15 4. Levy a contract replenishment tax against municipal providers that  
16 are parties to contracts authorized under subsection B, paragraph 9 of this  
17 section to pay the district's costs and expenses to replenish groundwater  
18 based on contract replenishment obligations.

19 5. Establish and maintain reserve accounts in amounts as may be deemed  
20 necessary to perform the district's obligations under this article.

21 6. Fulfill all obligations under resolutions adopted pursuant to  
22 subsection B, paragraph 10 of this section.

23 7. Levy an activation fee as follows:

24 (a) For subdivisions within member lands and member service areas that  
25 are enrolled before May 6, 2004 and that had not been issued a public report  
26 before ~~the effective date of this amendment to this section~~ **AUGUST 12, 2005**,  
27 the district shall levy a one-time activation fee against each housing unit  
28 to be constructed within the subdivision.

29 (b) For subdivisions within member lands and member service areas that  
30 are enrolled on or after May 6, 2004, the district shall levy a one-time  
31 activation fee against each housing unit to be constructed within the  
32 subdivision.

33 (c) The activation fee shall be paid to the district before issuance  
34 of a public report for each real estate subdivision identified in subdivision  
35 (a) or (b) of this paragraph, as provided in section 45-576, subsection C.

36 (d) The activation fee shall be established annually by the district.  
37 Revenues from the activation fee together with revenues from other sources  
38 that are legally available to the district for those uses shall be used by  
39 the district to acquire, **LEASE OR EXCHANGE WATER OR** water rights and develop  
40 infrastructure necessary for the district to perform its replenishment  
41 obligations.

42 **8. FOR ANY YEAR, SET ALL OF ITS RATES AND CHARGES ASSOCIATED WITH THE**  
43 **ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF**  
44 **INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT**  
45 **OBLIGATIONS, OTHER THAN THE ANNUAL MEMBERSHIP DUES ESTABLISHED PURSUANT TO**

1 SECTION 48-3779, SO THAT THE TOTAL PROJECTED REVENUES FROM REVENUE SOURCES  
2 OTHER THAN THE ANNUAL MEMBERSHIP DUES, THAT ARE LEGALLY AVAILABLE TO THE  
3 DISTRICT IN THAT YEAR TO PAY COSTS ASSOCIATED WITH THE ACQUISITION, LEASE OR  
4 EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF INFRASTRUCTURE NECESSARY  
5 FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS, SHALL BE AT LEAST  
6 THREE TIMES THE TOTAL PROJECTED REVENUES FROM THE ANNUAL MEMBERSHIP DUES IN  
7 THAT YEAR. FOR THE PURPOSES OF THIS PARAGRAPH, COSTS ASSOCIATED WITH THE  
8 ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS DO NOT INCLUDE THE  
9 ANNUAL COSTS ASSOCIATED WITH DELIVERY OF WATER FOR REPLENISHMENT PURPOSES.

10 B. The district may:

11 1. Acquire, develop, construct, operate, maintain, replace and acquire  
12 permits for water storage, storage facilities and recovery wells for  
13 replenishment purposes.

14 2. Acquire, transport, hold, exchange, own, lease, store or replenish  
15 water, except groundwater withdrawn from an active management area, subject  
16 to the provisions of title 45, for the benefit of member lands and member  
17 service areas.

18 3. Acquire, hold, exchange, own, lease, retire or dispose of water  
19 rights for the benefit of member lands and member service areas.

20 4. Require municipal providers to provide such information, in such  
21 form and within the time limits prescribed by the district, as may be  
22 necessary to carry out the purpose of this chapter.

23 5. Levy and collect assessments, fees, charges, taxes and other  
24 revenues as are provided in this chapter for the financing of replenishment  
25 activities.

26 6. Contract for or perform feasibility studies of water storage,  
27 storage facilities and recovery wells for replenishment purposes.

28 7. Acquire real and personal property for water storage, storage  
29 facilities and recovery wells for replenishment purposes by purchase, lease,  
30 donation, dedication, exchange or other lawful means.

31 8. Use any facilities and any excess storage capacity of any state  
32 demonstration projects undertaken pursuant to title 45, chapter 3.1 for water  
33 storage for replenishment purposes.

34 9. Subject to subsection G of this section, contract with any  
35 municipal provider having a member service area to replenish groundwater on  
36 behalf of the municipal provider and with respect to the member service area  
37 in an amount in excess of the sum of the service area replenishment  
38 obligations applicable to the member service area for all years in which the  
39 district has not completed the replenishment of the groundwater replenishment  
40 obligation for the member service area.

41 10. Adopt resolutions granting water availability status to a member  
42 service area of a city, town or private water company and committing to  
43 replenish a specified average annual volume of water in a location where the  
44 city, town or private water company may physically access the water for  
45 service to its customers, if all of the following apply:

1 (a) The district has reviewed its requirements for transportation of  
2 central Arizona project water, its contracts, subcontracts, letter  
3 agreements, excess water contracts, and other contractual obligations and its  
4 member service area and member land requirements and has determined that the  
5 district can meet those obligations and that capacity remains in the central  
6 Arizona project to meet the obligations undertaken through the resolution.

7 (b) The resolution acknowledges that the commitment to replenish the  
8 specified average annual volume of water in the location cited in the  
9 resolution shall be a permanent obligation of the district, unless one of the  
10 following applies:

11 (i) A permanent substitute supply of water is found for the city, town  
12 or private water company and the substitution is approved by the director of  
13 water resources, thus terminating the water availability status of the member  
14 service area.

15 (ii) The requirements of section 45-576.07, subsection A are not met,  
16 and thus the director of water resources does not issue an order granting or  
17 maintaining the city, town or private water company as having an assured  
18 water supply based in whole or in part on section 45-576.07. If no order is  
19 issued within two years of the district adopting the resolution, the  
20 resolution may be repealed, and the district shall be relieved of all  
21 obligations under the resolution.

22 (c) The average annual volume of water specified in the resolution,  
23 when added to the average annual volume of water specified in all other  
24 resolutions adopted pursuant to this paragraph, does not exceed twenty  
25 thousand acre-feet.

26 (d) The district has entered into an agreement with the city, town or  
27 private water company under which the city, town or private water company  
28 will hold for the district's future use, and provide to the district when  
29 needed, sufficient water to meet the obligations undertaken by the district  
30 through the resolution.

31 (e) The district determines that the obligations undertaken by the  
32 district through the resolution will not increase annual replenishment  
33 assessment rates or costs to central Arizona project contract and subcontract  
34 holders and its member service areas and member lands.

35 (f) The director of water resources has found, pursuant to section  
36 45-576.07, subsection H, that the district has the capability to grant water  
37 availability status to member service areas.

38 11. Provide in resolutions adopted pursuant to paragraph 10 of this  
39 subsection that the district may fulfill its obligations under the resolution  
40 in any year by directly delivering to the city, town or private water company  
41 the water that otherwise would have been replenished pursuant to the  
42 resolution, if all of the following apply:

43 (a) The district has reviewed its requirements for transportation of  
44 central Arizona project water, its contracts, subcontracts, letter  
45 agreements, excess water contracts, and other contractual obligations, its

1 member service area and member land requirements and has determined that the  
2 district can meet those obligations and that capacity remains in the central  
3 Arizona project to make direct deliveries pursuant to this paragraph.

4 (b) The district determines that the delivery will not increase annual  
5 replenishment assessment rates or costs to central Arizona project contract  
6 and subcontract holders, its member service area and member lands.

7 12. Enter into agreements with a city, town or private water company  
8 that will have water made available to it through a resolution adopted  
9 pursuant to paragraph 10 of this subsection and under which the city, town or  
10 private water company compensates the district for the costs and fair value  
11 of the water supply provided by the district.

12 13. ISSUE REVENUE BONDS PURSUANT TO ARTICLE 3 OF THIS CHAPTER TO FUND  
13 THE COSTS AND EXPENSES OF THE DISTRICT FOR THE ACQUISITION, LEASE OR EXCHANGE  
14 OF WATER OR WATER RIGHTS AND THE DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR  
15 THE DISTRICT TO PERFORM ITS REPLENISHMENT OBLIGATIONS. THE PRINCIPAL OF,  
16 INTEREST AND PREMIUMS, IF ANY, ON REVENUE BONDS ISSUED PURSUANT TO ARTICLE 3  
17 OF THIS CHAPTER TO ACQUIRE, LEASE OR EXCHANGE WATER OR WATER RIGHTS AND  
18 DEVELOP INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS  
19 REPLENISHMENT OBLIGATIONS ARE NOT PAYABLE FROM ANY REVENUES OF THE DISTRICT  
20 OTHER THAN REVENUES GENERATED OR COLLECTED PURSUANT TO THIS ARTICLE THAT ARE  
21 LEGALLY AVAILABLE TO THE DISTRICT FOR THOSE PURPOSES AND REVENUES FROM THE  
22 INVESTMENT OF THE PROCEEDS OF THE BONDS.

23 14. EXCEPT AS PROVIDED IN SECTION 48-3780.01, SUBSECTION B, IN  
24 ADDITION TO ANY OTHER ASSESSMENTS, FEES, CHARGES OR TAXES LEVIED AND  
25 COLLECTED UNDER THIS CHAPTER, OR UNDER ANY DECLARATION, CONTRACT OR AGREEMENT  
26 ENTERED INTO UNDER THIS CHAPTER, CHARGE ANNUAL DUES FOR MEMBERSHIP PURSUANT  
27 TO SECTION 48-3779 AGAINST EACH PARCEL OF MEMBER LAND AND EACH MUNICIPAL  
28 PROVIDER THAT HAS A MEMBER SERVICE AREA.

29 C. The functions of the district under subsection B, paragraph 1 of  
30 this section may be performed on behalf of the district by other persons  
31 under contract with the district.

32 D. ~~For purposes of determining the annual costs and expenses of the~~  
33 ~~district under subsection A, paragraph 1 of this section, the district shall~~  
34 ~~amortize capital costs and expenses, including interest as determined by the~~  
35 ~~district, over the useful life of the capital improvements, as determined by~~  
36 ~~the district.~~ The capital costs of the facilities of any state demonstration  
37 projects used by the district pursuant to subsection B, paragraph 8 of this  
38 section shall not be included in the capital costs and expenses ~~amortized~~  
39 ESTABLISHED by the district under ~~this~~ subsection A, PARAGRAPH 1 OF THIS  
40 SECTION.

41 E. The district shall establish and maintain a replenishment reserve  
42 as follows:

43 1. The district shall calculate a reserve target for each of the three  
44 active management areas within the district and shall identify the reserve  
45 target in the plan of operation prepared pursuant to section 45-576.02. The

1 reserve target for each active management area shall be calculated as  
2 follows:

3 (a) Establish the projected one hundred year replenishment obligation  
4 for each active management area. For the purposes of this subdivision, each  
5 active management area's projected one hundred year replenishment obligation  
6 does not include replenishment obligations under resolutions adopted pursuant  
7 to subsection B, paragraph 10 of this section or replenishment obligations  
8 for category 2 member lands.

9 (b) Subtract from the active management area's projected one hundred  
10 year replenishment obligation the sum of the following volumes of water  
11 derived from sources identified in the plan as water that the district plans  
12 to use to meet its replenishment obligations for that active management area:

13 (i) The annual volume of each nondeclining, long-term municipal and  
14 industrial subcontract for central Arizona project water multiplied by one  
15 hundred.

16 (ii) The annual volume of water under leases or contracts that can be  
17 made physically and legally available to the district consistent with the  
18 rules adopted pursuant to section 45-576, subsection H, multiplied by the  
19 number of years, not to exceed one hundred, in which the water is to be made  
20 available to the district. The water need not be continuously available to  
21 be included in this item. A lease or contract shall not be considered under  
22 this item if the water to be made available under the lease or contract is  
23 for a term of less than twenty years.

24 (iii) The total volume of groundwater that the district plans to  
25 transport to the active management area during the next one hundred years as  
26 allowed by title 45, chapter 2, article 8.1.

27 (iv) The total volume of all sources of water not identified in items  
28 (i), (ii) or (iii) of this subdivision that will not be held by the district  
29 under a lease or contract. Volumes to be included under this item must be  
30 consistent with the rules adopted by the director pursuant to section 45-576,  
31 subsection H.

32 (c) Multiply the result from subdivision (b) of this paragraph by  
33 twenty per cent. The result is the reserve target for the active management  
34 area.

35 2. The reserve target for an active management area may be adjusted by  
36 the district, subject to the approval of the director of water resources,  
37 based on changes in either of the following:

38 (a) The active management area's projected one hundred year  
39 replenishment obligation.

40 (b) The volumes of water identified in the plan of operation prepared  
41 pursuant to section 45-576.02 as water that the district plans to use to meet  
42 its replenishment obligations for that active management area.

43 3. The district shall include a replenishment reserve charge in the  
44 annual replenishment assessment levied against all parcels of category 1  
45 member land as provided in section 48-3774.01 and in the annual replenishment

1 tax levied against all municipal providers that have member service areas as  
2 provided in section 48-3780.01. The replenishment reserve charge for each  
3 active management area is established annually by the district based on the  
4 reserve target for that active management area.

5 4. The district shall levy a replenishment reserve fee against  
6 category 1 member lands pursuant to section 48-3774.01 and against member  
7 service areas pursuant to section 48-3780.01. For category 1 member lands  
8 the fee is equal to twice the applicable replenishment reserve charge  
9 multiplied by the total projected average annual replenishment obligation for  
10 the member lands as reported by the director of water resources pursuant to  
11 section 45-578, subsection F. For member service areas the fee is equal to  
12 twice the applicable replenishment reserve charge multiplied by the excess  
13 groundwater increment. With the approval of the district and the director of  
14 water resources, long-term storage credits as defined in section 45-802.01  
15 may be assigned to the district's replenishment reserve subaccount in lieu of  
16 paying the replenishment reserve fee.

17 5. The district shall use replenishment reserve charges and  
18 replenishment reserve fees collected within each active management area  
19 together with all interest earned on the charges and fees to store water in  
20 that active management area in advance of groundwater replenishment  
21 obligations for the purpose of developing long-term storage credits as  
22 defined in section 45-802.01 that shall be credited to the replenishment  
23 reserve subaccount for that active management area as provided in section  
24 45-859.01.

25 6. Beginning on January 1, 2030 or earlier, on approval of the  
26 director of water resources pursuant to section 45-859.01, subsection K, the  
27 district may transfer credits from a replenishment reserve subaccount to a  
28 conservation district account as provided in section 45-859.01 to satisfy its  
29 groundwater replenishment obligations.

30 7. If the district transfers credits from the replenishment reserve  
31 subaccount for an active management area pursuant to section 45-859.01,  
32 subsection E, the district shall include in the annual replenishment  
33 assessment levied against all parcels of category 1 member land in that  
34 active management area and, except as provided in section 48-3780.01,  
35 subsection B, in the annual replenishment tax levied against all municipal  
36 providers that have member service areas in that active management area a  
37 reserve replacement component to fund the replacement of the transferred  
38 credits. The district shall use all monies from the reserve replacement  
39 component collected within an active management area together with all  
40 interest earned on the monies to develop long-term storage credits as defined  
41 in section 45-802.01 within that active management area to be credited to the  
42 replenishment reserve subaccount for that active management area as provided  
43 in section 45-859.01.

44 8. For the purposes of establishing and maintaining the replenishment  
45 reserve, the district shall have access to excess central Arizona project

1 water equivalent to but no more than the access the Arizona water banking  
2 authority has for the purposes specified in section 45-2401, subsection H,  
3 paragraph 2.

4 F. Groundwater replenished by the district pursuant to a contract to  
5 replenish groundwater under subsection B, paragraph 9 of this section shall  
6 not be credited to a replenishment reserve subaccount established under  
7 section 45-859.01.

8 G. The district shall not enter into a contract authorized under  
9 subsection B, paragraph 9 of this section unless the district has determined  
10 that the contract will not adversely affect the district's ability to fulfill  
11 its obligations under this chapter. For each contract entered into under  
12 subsection B, paragraph 9 of this section, the district shall perform its  
13 contract replenishment obligations in the active management area in which the  
14 service area of the municipal provider that is the party to the contract is  
15 located.

16 H. If the district replenishes groundwater on behalf of a municipal  
17 provider pursuant to a contract to replenish groundwater under subsection B,  
18 paragraph 9 of this section, the amount of groundwater so replenished shall  
19 be a replenishment credit to the municipal provider that may be applied by  
20 the municipal provider on notice to the district to reduce the service area  
21 replenishment obligations applicable to the municipal provider.

22 I. In the Phoenix active management area, the district, to the extent  
23 reasonably feasible, shall replenish groundwater in the east portion of the  
24 active management area and in the west portion of the active management area  
25 in the approximate proportion that the groundwater replenishment obligation  
26 attributable in a particular year to member lands and member service areas  
27 located in the east portion of the active management area bears to the  
28 groundwater replenishment obligation attributable in that year to member  
29 lands and member service areas located in the west portion of the active  
30 management area. For the purposes of this subsection, the boundary between  
31 the east Salt river valley subbasin and the west Salt river valley subbasin  
32 is the boundary between the east and west portions of the active management  
33 area.

34 J. The costs and expenses charged by the district to an active  
35 management area water district established under chapter 28 of this title for  
36 delivery of surplus central Arizona project water to such active management  
37 area water district for replenishment purposes shall not exceed the costs and  
38 expenses for delivery of such water that are or would be included by the  
39 district in the costs and expenses of replenishment for member lands and  
40 member service areas within the active management area in which such active  
41 management area water district is situated.

1           Sec. 8. Section 48-3774, Arizona Revised Statutes, is amended to read:  
2           48-3774. Qualification as member land

3           A. Real property qualifies as member land only if all of the following  
4           apply:

5           1. The real property is located in an active management area in which  
6           a part of the central Arizona project aqueduct is located.

7           2. The real property is not in a member service area or in a  
8           groundwater replenishment district under chapter 27 of this title.

9           3. The real property is not a water district member land or a parcel  
10           of water district member land, or in a water district member service area  
11           established under chapter 28 of this title.

12           4. The conditions stated in section 45-576.01, subsection B,  
13           paragraphs 2 and 3 are satisfied with respect to the district at the time of  
14           the qualification.

15           5. The owner of the real property, or other person or entity, such as  
16           a property owners' or homeowners' association, if the person or entity has  
17           proper authority, records a declaration **THAT HAS BEEN APPROVED BY THE**  
18           **DISTRICT** against the real property in the official records of the county  
19           where the real property is located that:

20           (a) Contains the legal description of the real property.

21           (b) Declares the intent of the owner that the real property qualify as  
22           member land under this chapter.

23           (c) Declares that, in order to permit the delivery of excess  
24           groundwater to the real property, each parcel of member land thereafter  
25           established at the real property is subject to a parcel replenishment  
26           obligation and to a replenishment assessment to be determined by the  
27           district.

28           (d) Declares that qualifying as member land and subjecting the real  
29           property to the parcel replenishment obligation and the replenishment  
30           assessment directly benefits the real property by increasing the potential of  
31           the property to qualify for a certificate of assured water supply issued by  
32           the department of water resources pursuant to title 45, chapter 2, article 9,  
33           thereby allowing the development, use and enjoyment of the real property.

34           (e) Contains a covenant that is binding against the real property and  
35           each parcel of member land thereafter established at the real property to pay  
36           to the district a replenishment assessment based on the parcel replenishment  
37           obligation in an amount determined by the district pursuant to section  
38           48-3772, subsection A.

39           (f) Declares that the district may impose a lien on the real property  
40           and each parcel of member land thereafter established at the real property to  
41           secure payment of the replenishment assessment and any applicable  
42           replenishment reserve fee.

43           (g) Declares that the covenants, conditions and restrictions contained  
44           in the declaration run with the land and bind all successors and assigns of  
45           the owner.

1 B. The declaration may contain covenants, conditions and restrictions  
2 in addition to those prescribed by this section. The declaration may be an  
3 amendment or supplement to covenants, conditions and restrictions recorded  
4 against developed or undeveloped land.

5 C. Notwithstanding subsection A of this section, no real property  
6 qualifies as member land unless the municipal provider that will provide  
7 water to the real property that is subject to the declaration records in the  
8 official records of the county where the real property is located an  
9 ~~instrument~~ AGREEMENT BETWEEN THE DISTRICT AND THE MUNICIPAL PROVIDER that  
10 contains both of the following:

11 1. The legal description of the real property and the tax parcel  
12 numbers for the real property.

13 2. An agreement by the municipal provider to submit to the district by  
14 March 31 of each year after the recordation of the instrument the information  
15 prescribed by section 48-3775, subsection A and such other information as the  
16 district may reasonably request.

17 Sec. 9. Title 48, chapter 22, article 4, Arizona Revised Statutes, is  
18 amended by adding section 48-3779, to read:

19 48-3779. Annual membership dues

20 A. ON OR BEFORE THE THIRD MONDAY OF AUGUST OF EACH YEAR BEGINNING IN  
21 2010, THE DISTRICT MAY CHARGE ANNUAL MEMBERSHIP DUES ON ALL PARCELS OF MEMBER  
22 LANDS AND ON ALL MUNICIPAL PROVIDERS HAVING A MEMBER SERVICE AREA.

23 B. THE ANNUAL MEMBERSHIP DUES SHALL BE ESTABLISHED ANNUALLY BY THE  
24 DISTRICT. THE DISTRICT SHALL USE REVENUES FROM THE ANNUAL MEMBERSHIP DUES,  
25 TOGETHER WITH REVENUES FROM OTHER REVENUE SOURCES THAT ARE LEGALLY AVAILABLE  
26 TO THE DISTRICT FOR THOSE USES, SOLELY TO PAY COSTS ASSOCIATED WITH THE  
27 ACQUISITION, LEASE OR EXCHANGE OF WATER OR WATER RIGHTS AND DEVELOPMENT OF  
28 INFRASTRUCTURE NECESSARY FOR THE DISTRICT TO PERFORM ITS REPLENISHMENT  
29 OBLIGATIONS, INCLUDING THE PAYMENT OF DEBT SERVICE EXPENSES, AND NECESSARY  
30 RESERVES AND COVERAGE REQUIREMENTS, ON BONDS ISSUED FOR REPLENISHMENT  
31 PURPOSES.

32 C. FOR ANY YEAR IN WHICH THE DISTRICT HAS, OR EXPECTS TO HAVE, ANY  
33 REVENUE BONDS OUTSTANDING THAT WERE ISSUED FOR REPLENISHMENT PURPOSES  
34 PURSUANT TO SECTION 48-3772, SUBSECTION B, PARAGRAPH 13, THE ANNUAL  
35 MEMBERSHIP DUES SHALL BE ESTABLISHED IN AN AMOUNT DETERMINED BY THE DISTRICT  
36 TO BE SUFFICIENT TO PROVIDE, WITH OTHER REVENUES LEGALLY AVAILABLE TO THE  
37 DISTRICT FOR THOSE PURPOSES, AND TAKING INTO ACCOUNT THE REQUIREMENTS OF  
38 SECTION 48-3772, SUBSECTION A, PARAGRAPH 8, FOR THE PAYMENT OF ALL DEBT  
39 SERVICE EXPENSES, INCLUDING NECESSARY RESERVES AND COVERAGE REQUIREMENTS WITH  
40 RESPECT TO THE BONDS.

41 D. WHEN THE DISTRICT HAS DETERMINED THE AMOUNT OF REVENUES TO BE  
42 RAISED THROUGH THE ANNUAL MEMBERSHIP DUES, THE DISTRICT SHALL ALLOCATE THE  
43 AMOUNT TO BE RAISED BETWEEN MEMBER LANDS AND MEMBER SERVICE AREAS PRORATED ON  
44 THE BASIS OF THE FOLLOWING TWO VOLUMES:

1           1. TOTAL CURRENT AND PROJECTED ANNUAL REPLENISHMENT OBLIGATION OF ALL  
2 MEMBER LANDS AS IDENTIFIED IN THE MOST RECENT PLAN OF OPERATION DETERMINED BY  
3 THE DIRECTOR OF WATER RESOURCES TO BE CONSISTENT WITH ACHIEVING THE  
4 MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREAS PURSUANT TO SECTION  
5 45-576.03, SUBSECTION M, O OR R.

6           2. TOTAL PLANNED ANNUAL SERVICE AREA REPLENISHMENT OBLIGATIONS FOR ALL  
7 MEMBER SERVICE AREAS. THE PLANNED ANNUAL SERVICE AREA REPLENISHMENT  
8 OBLIGATION FOR A MEMBER SERVICE AREA IS THE LESSER OF:

9           (a) THE ANNUAL SERVICE AREA REPLENISHMENT OBLIGATION, AS DETERMINED BY  
10 THE DISTRICT, ASSOCIATED WITH THE CURRENT AND COMMITTED WATER DEMANDS  
11 PROJECTED WITHIN THE MEMBER SERVICE AREA AS OF DECEMBER 31 OF THE YEAR  
12 FOLLOWING THE YEAR IN WHICH THE DISTRICT IS REQUIRED TO SUBMIT ITS NEXT PLAN  
13 UNDER SECTION 45-576.02, SUBSECTION C.

14           (b) THE MAXIMUM AMOUNT OF EXCESS GROUNDWATER THAT MAY BE REPORTED TO  
15 THE DISTRICT AS DELIVERED BY THE MUNICIPAL PROVIDER WITHIN THE MEMBER SERVICE  
16 AREA IN ANY YEAR AS ESTABLISHED IN AN AGREEMENT EXECUTED BETWEEN THE  
17 MUNICIPAL PROVIDER AND THE DISTRICT.

18           E. THE TOTAL AMOUNT ALLOCATED TO MEMBER LANDS IN ANY YEAR, AS  
19 CALCULATED PURSUANT TO SUBSECTION D OF THIS SECTION, SHALL BE PRORATED AMONG  
20 THE PHOENIX, PINAL AND TUCSON ACTIVE MANAGEMENT AREAS BASED ON THE CURRENT  
21 AND PROJECTED ANNUAL REPLENISHMENT OBLIGATION OF ALL MEMBER LANDS IN THAT  
22 ACTIVE MANAGEMENT AREA AS IDENTIFIED IN THE MOST RECENT PLAN OF OPERATION  
23 DETERMINED BY THE DIRECTOR OF WATER RESOURCES TO BE CONSISTENT WITH ACHIEVING  
24 THE MANAGEMENT GOAL FOR THE ACTIVE MANAGEMENT AREA PURSUANT TO SECTION  
25 45-576.03, SUBSECTION M, O OR R. THE PRORATED AMOUNT WITHIN EACH ACTIVE  
26 MANAGEMENT AREA SHALL BE FURTHER PRORATED AMONG ALL PARCELS OF MEMBER LAND  
27 LOCATED WITHIN THAT ACTIVE MANAGEMENT AREA BASED ON A UNIFORM FEE PER LOT  
28 LEVIED AGAINST THE TOTAL NUMBER OF RESIDENTIAL, COMMERCIAL AND COMMON AREA  
29 LOTS INCLUDED, OR INTENDED TO BE INCLUDED, IN EACH PARCEL OF MEMBER LAND.  
30 THESE DUES ARE A LIEN ON EACH PARCEL OF MEMBER LAND AND SHALL BE CERTIFIED,  
31 COLLECTED AND ENFORCED WITH RESPECT TO MEMBER LAND IN THE SAME MANNER AS THE  
32 ANNUAL ASSESSMENT PURSUANT TO SECTION 48-3778. HOWEVER, ANY PARCEL OF MEMBER  
33 LAND THAT IS INCLUDED IN THE SERVICE AREA OF A MUNICIPAL PROVIDER THAT HAS  
34 BEEN DESIGNATED AS HAVING AN ASSURED WATER SUPPLY UNDER SECTION 45-576 IS NOT  
35 SUBJECT TO THE ANNUAL MEMBERSHIP DUES.

36           F. THE TOTAL AMOUNT ALLOCATED TO MEMBER SERVICE AREAS IN ANY YEAR, AS  
37 CALCULATED PURSUANT TO SUBSECTION D OF THIS SECTION, SHALL BE PRORATED AMONG  
38 ALL MEMBER SERVICE AREAS BASED ON A UNIFORM FEE PER ACRE-FOOT LEVIED AGAINST  
39 THE MEMBER SERVICE AREA'S DUES VOLUME. THE DUES VOLUME FOR A MEMBER SERVICE  
40 AREA IS THE GREATER OF:

41           1. THE PLANNED ANNUAL SERVICE AREA REPLENISHMENT OBLIGATION AS  
42 ESTABLISHED PURSUANT TO SUBSECTION D, PARAGRAPH 2 OF THIS SECTION FOR THE  
43 MEMBER SERVICE AREA.

44           2. FIVE PER CENT OF THE SERVICE AREA'S ANNUAL ESTIMATED WATER DEMAND  
45 TO BE SATISFIED WITH EXCESS GROUNDWATER AS IDENTIFIED IN THE SERVICE AREA'S

1 MOST RECENT DESIGNATION ORDER ISSUED BY THE DIRECTOR OF WATER RESOURCES. IF  
2 THE SERVICE AREA'S MOST RECENT DESIGNATION ORDER ISSUED BY THE DIRECTOR OF  
3 WATER RESOURCES DOES NOT IDENTIFY THE ANNUAL ESTIMATED WATER DEMAND TO BE  
4 SATISFIED WITH EXCESS GROUNDWATER, THE SERVICE AREA'S ANNUAL ESTIMATED WATER  
5 DEMAND TO BE SATISFIED WITH EXCESS GROUNDWATER SHALL BE CALCULATED CONSISTENT  
6 WITH THE RULES ADOPTED BY THE DIRECTOR PURSUANT TO SECTION 45-576,  
7 SUBSECTION H.

8 G. EXCEPT IN THE FIRST FULL YEAR FOLLOWING THE YEAR IN WHICH THE  
9 DIRECTOR MAKES A DETERMINATION THAT THE DISTRICT'S MOST RECENT PLAN OF  
10 OPERATION IS CONSISTENT WITH ACHIEVING THE MANAGEMENT GOALS OF THE ACTIVE  
11 MANAGEMENT AREAS PURSUANT TO SECTION 45-576.03, SUBSECTION M, FOR ANY YEAR IN  
12 WHICH THE DUES VOLUME FOR A MEMBER SERVICE AREA, AS DETERMINED PURSUANT TO  
13 SUBSECTION F OF THIS SECTION, EXCEEDS THE PREVIOUS YEAR'S DUES VOLUME FOR THE  
14 MEMBER SERVICE AREA, A MAKE-UP CHARGE SHALL BE ADDED TO THE ANNUAL MEMBERSHIP  
15 DUES ALLOCATED UNDER SUBSECTION F OF THIS SECTION TO THE MEMBER SERVICE  
16 AREA. THE MAKE-UP CHARGE SHALL BECOME PART OF THE MEMBER SERVICE AREA'S  
17 ANNUAL MEMBERSHIP DUES FOR THAT YEAR AND IS THE SUM OF:

18 1. THE DIFFERENCE BETWEEN THE CURRENT YEAR'S DUES VOLUME AND THE  
19 PREVIOUS YEAR'S DUES VOLUME, IN ACRE-FEET, MULTIPLIED BY THE SUM OF THE  
20 UNIFORM FEES PER ACRE-FOOT ESTABLISHED PURSUANT TO SUBSECTION F OF THIS  
21 SECTION FOR EACH YEAR SINCE THE LATER OF:

22 (a) THE FIRST FULL YEAR FOLLOWING THE YEAR OF THE DIRECTOR'S  
23 DETERMINATION THAT THE DISTRICT'S MOST RECENT PLAN OF OPERATION IS CONSISTENT  
24 WITH ACHIEVING THE MANAGEMENT GOALS OF THE ACTIVE MANAGEMENT AREAS PURSUANT  
25 TO SECTION 45-576.03, SUBSECTION M.

26 (b) THE YEAR IN WHICH THE SERVICE AREA QUALIFIED AS A MEMBER SERVICE  
27 AREA PURSUANT TO SECTION 48-3780.

28 2. INTEREST ON THE AMOUNT ESTABLISHED IN PARAGRAPH 1 OF THIS  
29 SUBSECTION CALCULATED AT AN INTEREST RATE DETERMINED BY THE DISTRICT.

30 3. THE AMOUNTS ESTABLISHED IN PARAGRAPHS 1 AND 2 OF THIS SUBSECTION  
31 MULTIPLIED BY TEN PER CENT.

32 H. THE ANNUAL MEMBERSHIP DUES BECOME AN OBLIGATION OF EACH MUNICIPAL  
33 PROVIDER THAT HAS A MEMBER SERVICE AREA AND SHALL BE STATED, COLLECTED AND  
34 ENFORCED WITH RESPECT TO THE MUNICIPAL PROVIDER IN THE SAME MANNER AS THE  
35 ANNUAL REPLENISHMENT TAX PURSUANT TO SECTIONS 48-3781 AND 48-3782.

36 I. ANNUAL MEMBERSHIP DUES COLLECTED BY THE DISTRICT SHALL BE DEPOSITED  
37 IN A SPECIAL FUND ESTABLISHED BY THE STATE TO BE SPENT BY THE DISTRICT ONLY  
38 FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE, INCLUDING:

39 1. THE PAYMENT OF DEBT SERVICE EXPENSES AND FUNDING RESERVES FOR BONDS  
40 ISSUED FOR REPLENISHMENT PURPOSES.

41 2. THE PAYMENT OF THE COSTS OF ACQUIRING, LEASING OR EXCHANGING WATER  
42 OR WATER RIGHTS AND DEVELOPMENT OF INFRASTRUCTURE NECESSARY FOR THE DISTRICT  
43 TO PERFORM ITS REPLENISHMENT OBLIGATIONS.

1 J. AMOUNTS COLLECTED MAY BE TRANSFERRED TO A BANK OR TRUST COMPANY TO  
2 BE HELD IN TRUST AND SPENT WITH RESPECT TO BONDS ISSUED FOR REPLENISHMENT  
3 PURPOSES.

4 Sec. 10. Section 48-3780.01, Arizona Revised Statutes, is amended to  
5 read:

6 48-3780.01. Member service area; replenishment reserve

7 A. Except as provided in subsection B of this section, municipal  
8 providers with service areas that qualify under section 48-3780 shall pay to  
9 the district annual replenishment reserve charges and replenishment reserve  
10 fees as provided in section 48-3772, subsection E, and as follows:

11 1. A municipal provider with a member service area that qualified  
12 before January 1, 2004 shall pay annual replenishment reserve charges for  
13 twenty-five years beginning in 2004.

14 2. A municipal provider with a member service area that qualifies on  
15 or after January 1, 2004 shall:

16 (a) Pay annual replenishment reserve charges associated with each  
17 excess groundwater increment for twenty-three years beginning in the year  
18 after the excess groundwater increment is reported.

19 (b) Pay a replenishment reserve fee each year beginning in the year  
20 following qualification.

21 3. If the assured water supply designation of a municipal provider  
22 with a member service area is modified in a manner that increases the  
23 district's projected annual replenishment obligation as reported by the  
24 director of water resources pursuant to section 45-576, subsection F, the  
25 municipal provider shall:

26 (a) Pay annual replenishment reserve charges associated with each  
27 excess groundwater increment for twenty-three years beginning in the year  
28 after the excess groundwater increment is reported. Such charges are in  
29 addition to any replenishment reserve charges due under paragraphs 1 and 2.

30 (b) Pay a replenishment reserve fee each year beginning in the year  
31 following modification.

32 B. The district shall not levy ANNUAL MEMBERSHIP DUES, replenishment  
33 reserve fees, replenishment reserve charges or a reserve replacement  
34 component associated with replenishment activities performed under a  
35 resolution adopted pursuant to section 48-3772, subsection B, paragraph 10.

36 C. The district shall not use credits from a replenishment reserve  
37 subaccount established under section 45-859.01 to satisfy its replenishment  
38 obligations under a resolution adopted pursuant to section 48-3772,  
39 subsection B, paragraph 10.