House Engrossed

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-ninth Legislature
First Regular Session
2009

CHAPTER 49

HOUSE BILL 2440

AN ACT

RELATING TO DROUGHT EMERGENCY GROUNDWATER TRANSFERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Drought emergency groundwater transfer

A. Notwithstanding section 45-544, subsection A, paragraph 2, Arizona Revised Statutes, in areas outside of active management areas, groundwater may be transported away from a groundwater basin on application to and approval by the director of the department of water resources. The director shall post the application on the department's website before approving the application.

B. The director of the department of water resources shall approve a request to transport groundwater away from a groundwater basin outside of an active management area if the director finds that all of the following apply:

1. The governor has declared an emergency due to lack of precipitation or a water shortage pursuant to section 35-192, Arizona Revised Statutes.

2. The groundwater to be transported will be withdrawn from a well that is in existence as of the date of the governor's declaration of emergency.

3. If the groundwater to be transported will be withdrawn from a well within the incorporated area of a city or town, the city or town has consented to the groundwater withdrawal.

4. If the groundwater to be transported will be withdrawn from a well within the boundaries of a political subdivision, however designated, established pursuant to title 48, chapter 17 or 19, Arizona Revised Statutes, the political subdivision has consented to the groundwater withdrawal.

5. If the groundwater to be transported will be withdrawn from a well within the boundaries of a county for use in another county, the county from which the groundwater will be withdrawn has consented to the groundwater withdrawal.

6. The groundwater to be transported will be transported only by motor vehicle or train.

7. The groundwater transportation is necessary to provide water supplies for domestic, stock watering or potable municipal water service purposes in a location included in the emergency declaration.

8. The groundwater to be transported will be used only for domestic, stock watering or potable municipal water service purposes.

9. The county, city, town or other political subdivision within which the transported water is to be used has implemented an emergency conservation plan sufficient to prevent nonessential use of the groundwater.

10. The groundwater to be transported will not be used in an active management area.

C. If the director of the department of water resources approves the request to transport groundwater away from a groundwater basin outside of an active management area pursuant to subsection B of this section, the approval is valid for six months, or until the director determines that the groundwater transportation is no longer necessary to provide water supplies for domestic, stock watering or potable municipal water service purposes in a

location experiencing a water shortage. On request, the director may extend the approval of the groundwater transportation for one additional six month period on the expiration of the original approval period, if the director determines that all of the requirements of subsection B of this section continue to apply. On expiration or revocation of the approval to transport groundwater, the transportation of the groundwater shall immediately cease.

D. The director of the department of water resources shall approve or deny a request to transport groundwater away from a groundwater basin outside of an active management area within thirty days of the receipt of the request. Title 41, chapter 6, article 7.1, Arizona Revised Statutes, does not apply to this act.

E. Groundwater transported away from a groundwater basin outside of an active management area pursuant to this act is subject to the payment of damages.

F. Water transported pursuant to this section shall not be transported to subsidize insufficient supplies due to continued growth or deficient base water supplies.

Sec. 2. Legislative intent

It is the intent of this legislature by this act to provide interim water use for true emergencies.

Sec. 3. Retroactivity

This act is effective retroactively to from and after April 30, 2009.

Sec. 4. Delayed repeal

This act is repealed from and after April 30, 2010.

APPROVED BY THE GOVERNOR JULY 10, 2009.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 10, 2009.