



AMWUA 2022 LEGISLATIVE SUMMARY

July 1, 2022

SESSION OVERVIEW

The 2nd Regular Session of Arizona's 55th Legislature adjourned at 12:25 am on Saturday, June 25th 2022, just before the end of the fiscal year. The 2022 session lasted 167 days and is the fifth longest in modern State history. A total of 1613 individual bills were introduced, as well as 134 memorials and resolutions.

The protracted session took up many controversial topics, including a water-heavy agenda. Most notable was the augmentation legislation which overhauled WIFA by adding \$1.39 billion to across three funds and a slate of authorities to administer the monies. AMWUA's involvement in the WIFA augmentation legislation started with some of the most candid criticism of the initial proposal, followed by a subsequent invitation from legislative leadership to provide constructive feedback on how to make the proposal viable. Ultimately, the early provisions allowing for unbounded powers and insufficient transparency were removed from the bill and a host of important modifications led the AMWUA Board to support the legislation. With the statutory framework in place, the work must now begin to implement WIFA's revised governance and to hire staff as the agency transitions to a more expansive organization.

The WIFA augmentation legislation was hardly the only water-related issue of the session. AMWUA led the charge, working closely with other stakeholders, on two positive water policy measures: SB 1067 *cities; water infrastructure finance authority (Shope)* and HB 2129 *ADEQ direct potable reuse; rules (Griffin)*. While the full election requirement for federal WIFA funds was not completely repealed, SB 1067 secured easier access to the anticipated \$600 million of funding from the Infrastructure Investment and Jobs Act over the next five years, which will allow larger cities to access federal loan dollars as we work on addressing the election issue in 2023.

The passage of HB 2129 as part of the budget package marks the most important and least heralded development of the session, as it gives ADEQ a two-year deadline to develop a DPR regulatory framework and will pave the way for larger scale DPR implementation.

AMWUA also engaged heavily to oppose several significantly problematic measures, including:

- HB 2549 - a slate of poorly-crafted statutory amendments to designed to unwind AWS Program requirements and facilitate new growth in Pinal County



- SB 1595 - enabling the Buckeye Water Conservation and Drainage District to export and sell groundwater from the waterlogged area, and
- SB 1171 – special legislation introduced by two beverage bottling facilities to increase their legal rights for groundwater extraction.

Each of these bills would have had negative impacts on the groundwater security of the Valley cities, and it was an important accomplishment to overcome the homebuilding, agricultural, and corporate lobbies pushing for the measures. AMWUA also successfully intervened to secure critical amendments for several bills, including SB 1197 *s/e irrigation districts; service area; WIFA (Martinez)* and HB 2055 *Harquahala non-expansion area; groundwater transportation (Griffin)*. HB 2055 ultimately failed.

On the whole, the 2022 Session was a successful year with critical wins on key policy items, defeat of harmful proposals, and the advancement of a \$1.2 billion investment in Arizona water. This 2022 Legislative Summary chronicles the developments of key water-related bills, and also includes an overview of key items in the FY23 State Budget.

FY23 WATER-RELATED BUDGET PROVISIONS

- **SB 1740 WIFA Legislation** – \$1 billion over three years to the Long-Term Water Augmentation Fund; transfer of \$150 million to the Water Supply Development Revolving Fund from the Drought Mitigation Revolving Fund (note that the WSDR Fund already had \$40 million appropriated from the previous year); allocation of \$200 million of federal ARPA funds for the Water Conservation Grant Fund.
- **\$3 million** – Appropriated to ADEQ over two years, this funding is for the Department to establish a regulatory framework for Direct Potable Reuse and originated from AMWUA and Valley Partnership’s HB 2129 effort.
- **\$15 million** – General Fund appropriation to WQARF in FY23.
- **\$15 million** – Appropriated to the newly established Water Infrastructure and Commerce Grant Fund housed at the Arizona Commerce Authority (ACA). Fund monies may be used to provide grants for the design and construction of water infrastructure. The only entities eligible for this grant fund are Pinal County employers with more than 250 employees, or a water provider acting on behalf of such an employer. Only three such eligible employers currently exist in Pinal County, and it is our understanding that Lucid Motors is the intended recipient of this appropriation.



- **\$15 million** – Over three years to the Gila River Nonnative Species Eradication Fund. In FY24 and FY25 the \$5 million appropriations are federal ARPA funds.
- **\$10 million** – To WIFA for “Eastern Arizona water projects assistance grants.” \$6 million is allocated to provide financial assistance to municipalities that provide water in Navajo and Apache counties to contract with consultants; \$4 million is allocated to irrigation districts in Cochise and Graham counties to contract with outside consultants. These monies were appropriated in the 2021 budget but have been restructured into their own Funds.
- **\$30 million** – Of federal ARPA funds to the “On-Farm Irrigation Efficiency Grant Program” established by SB 1564 and administered by the University of Arizona Cooperative Extension. The Program allows UA Extension to award grants up to \$1,000,000 to eligible farm units replacing or modifying flood irrigation systems.
- **\$47.6 million** – Capital outlay to the Arizona Department of Corrections to replace evaporative cooling systems in state prisons with HVAC
- **\$1.3 million** – To the Arizona State Parks Board in FY23 for “Statewide Water Conservation” capital projects
- **\$1 million** – Appropriation to the Arizona Water Protection Fund
- **ADWR** – Received over \$500,000 for net increased operating expenses, including approval for 4 new FTEs in the Assured Water Supply Program.



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[HB 2037](#) counties; powers; water supply projects (Cook)

This bill would expand the authority of a County Board of Supervisors to appropriate and spend funds for participation in water reuse projects, regional recharge projects, and to purchase water rights to “demonstrate an assured water supply.” HB 2037 allows a County Flood Control District’s Board to engage in joint recharge projects with private water companies, in addition to political subdivisions.

AMWUA Position: Monitor

15 February: A s/e amendment was adopted and passed out of House NREW that significantly limited the scope of the bill to a sole change in the powers of a Board of Supervisors – allowing a Board to enter into agreements for the management and distribution of federal funds related to water supply projects. This new language is much less problematic and less of an expansion of County authority.

22 April: Signed by the Governor

[HB 2053](#) department of environmental quality; continuation (Griffin)

Extends the sunset date for the Arizona Department of Environmental Quality for eight years, through 2030.

AMWUA Position: Support

02 March: ADEQ’s continuation was passed out of Senate NREW; committee testimony has been fascinating with the Republican members lauding ADEQ and the Democrat members criticizing the Agency’s shortcomings and trying to twist the screws after the unfavorable Auditor General Report.

25 March: Signed by the Governor.

**[HB 2055](#) | [SB-1147](#) Harquahala non-expansion area; groundwater transportation
(H: Griffin | S: Kerr)**

This bill adds a provision to statute allowing private water companies to withdraw groundwater from purchased land in the Harquahala irrigation non-expansion area (INA) and transport that water to an initial AMA. Currently, only political subdivisions of the state can purchase land and transfer the Harquahala groundwater to AMAs. This bill is similar to a measure introduced in



2019 (HB 2609) although previously problematic elements relating to the depth of allowable groundwater withdrawal have been removed.

AMWUA worked with the main proponent, EPCOR, to amend the proposal so that the definition of “private water company” is clearly limited to private utilities regulated by the Arizona Corporation Commission, excluding a broader interpretation of the term that could include entities such as investment firms and developers. We understand that ADWR will be seeking an amendment to clarify that the state would also need to own land in the INA in order to transport groundwater. This is a legislative council drafting error.

AMWUA Position: Neutral

19 January: HB 2055 made it through the House NREW committee relatively easy, passing along partisan lines with support from the Speaker and Rep. Griffin. SB 1147 didn't fare so well, despite impassioned testimony from Stan Barnes (representing [Harquahala Valley Water Project](#)) and the Homebuilders Association. The bill became embroiled in a series of questions from Senator Otondo and Senator Gray, the latter harboring serious concerns about EPCOR's ability to expend large sums of capital into Harquahala with a guaranteed rate of return across its many consolidated service areas. The City of Buckeye also expressed concerns with opening Harquahala up to private water companies and increasing competition for that resource. Ultimately, Senator Kerr chose to hold the bill without a vote.

02 February: City of Buckeye remains opposed to this legislation at current time. Buckeye is interested in constructing a pipeline from the Harquahala groundwater basin to the City and is concerned about the increase to competition and price that this legislation would bring by allowing private water companies to access the groundwater resource. At [House Caucus on February 1st](#) Rep. Gina Cobb and Rep. Biasiucci expressed concern about export of this water – similar to their concerns with P4 on-river transfers. Rep. Kavanagh also expressed concern about EPCOR's ability to purchase this water and spread the costs out across multiple service areas. Rep. Dunn noted that a larger discussion should be held on the use of this water should be used for new growth and assured water supplies, vs. to backfill CAP cuts for existing communities.

09 February: A stakeholder meeting was held - Speaker Bowers, Rep. Griffin and bill proponents are still pushing to make this bill move. Suggested proposals floating around include a limit on the quantity and timing of groundwater exports from the Harquahala INA. The Senate bill (SB 1147) has been replaced with a strike everything amendment.

23 February: Passed the House on a vote of 32-26. Griffin and Bowers both spoke to advocate for the concept, Cobb and Biasiucci spoke against. A floor amendment was



adopted that adds several limitations to the bill – the groundwater must be used by the transporting entity’s customers within 5 years of transport and cannot be sold for use other than by the transporting entity. A private water company transferring the groundwater must pay for all associated costs from charges to customers where the water is actually transported for use. ADWR must adopt Rules for compliance and reporting related to Harquahala groundwater transfers.

09 March: HB 2055 passed out of Senate NREW on a 5-4 party line vote after 90 minutes of debate and questioning. Sen. Borelli and Rep. Biasiucci both testified that on-river lawmakers have been left out of negotiations and stakeholder meetings, characterizing this as an attempt to take water from their communities. This bill continues to be a lightning rod for lawmakers of both parties and is generating significant interest and education on the water issues surrounding it.

HB 2056 fifth management period; extension (Griffin and 3 others)

Extends the 5th Management Period by ten years, lengthening the Period from to 2025 to 2035. Extending the 5th Management Period by a decade does not alter the end date of the 5MP regulations, as the conservation requirements continue to remain in effect indefinitely, whether the Period ends in 2025 or 2035. HB 2056 also pushes back the effective date of 5MP conservation requirements by ten years, to 2035.

AMWUA has voiced support at the Governor’s Water Council for continuing to update the regulatory framework, noting that there is a need for the AMA groundwater management framework to evolve. Agricultural and homebuilder representatives have voiced opposition to additional Management Periods.

AMWUA Position: Monitor

21 January: Rep. Griffin has informed the Department that this bill will not be amended to establish a 6th Management Plan, despite ADWR’s hopes. The bill may be used as a vehicle later on (which would probably be a better alternative to its actual passage resulting in ten extra years under the 4th Management Plan conservation programs).

15 February: A strike everything amendment was introduced in Rep. Griffin’s name that would use HB 2056 as a vehicle for prohibition of on-river P4 transfers. The bill was scheduled for House NREW but was ultimately held with no discussion or vote. There is speculation that the P4 transfer prohibition may get a hearing in House Approps on February 20th in exchange for Cobb’s cooperation on Harquahala issues. Even if the transfer prohibition were to receive a hearing, we doubt it would make through the stiff



opposition from Homebuilders, investment firms, private utilities, and growing communities.

HB 2057 water supply development fund; revisions (Griffin & Bowers)

The Water Supply Development Revolving (WSDR) fund was established in 2007 and was intended to assist rural water providers acquire water supplies through loans and grants. The statutory criteria associated with WSDR Fund were substantively modified in the 2021 Legislative Session by HB 2388 which expanded applicant eligibility, as well a \$46 million appropriation to the Fund.

This bill, HB 2057, makes technical corrections, deletes references to the defunct WSDR Fund Committee, and makes conforming changes to last year’s legislation that expanded the maximum grant limit to \$250,000.

AMWUA Position: Monitor

25 March: Signed by the Governor.

HB 2099 municipalities; membership dues; limit (Cobb & 2 others)

This bill applies to all organizations whose majority of paid members are cities or towns. HB 2099 establishes a “per capita” metric that divides a city’s membership dues by its total population. No city may pay membership dues to an organization if its “per capita” ratio is greater than the ratio of the largest city within the same organization.

This formula is incompatible with AMWUA’s calculation of membership assessments which are not solely based on population. This legislation would impair the ability of municipalities to establish and participate in organizations that do not follow this narrow structure for establishing membership dues.

AMWUA Position: Oppose

25 January: AMWUA was present to testify in opposition to HB 2099, noting that this attempt to target the League would impact many other municipal associations. The bill was passed out of Commerce on partisan lines, though at least one Republican lawmaker voting for the bill expressed concerns about impacts to other organizations. It remains to be seen if this bill will continue to advance or if enough of a message has been sent to the League.



04 March: Appears to be dead.

HB 2129 ADEQ direct potable reuse; rules (Griffin)

On November 30, 2021, the Post-2025 AMAs Committee recommended a series of consensus proposals to the Governor’s Water Council, including a request that resources be provided to the Arizona Department of Environmental Quality (ADEQ) to fast track development of a Rulemaking for a Direct Potable Reuse (DPR) permit process.

ADEQ’s Regulatory Agenda anticipates that this Rulemaking and program development will take place in 2022, however no funds were specifically requested for this purpose in the agency’s FY23 Budget Request.

As co-chairs of the Post-2025 AMAs Committee, AMWUA and Valley Partnership have collaborated to pursue a legislative appropriation that would provide ADEQ with the financial resources to complete this Rulemaking, as well as a statutory deadline of 2024. Accelerating the implementation of DPR is a long-standing priority for the Arizona water community and an important step towards mitigating the impacts of drought and shortage. HB 2129 requires ADEQ to complete this rulemaking by December 31, 2024 and appropriates \$1,500,000 in FY 23 and FY 24 assist the Department in developing the DPR program.

AMWUA Position: Support

11 February: We understand that this bill will be heard at House NREW on 2/15 as a strike everything amendment to HB 2129. More funds may be allocated to ADEQ.

15 February: HB 2129 passed House NREW in under 4 minutes. The bill has been amended to provide additional funding to ADEQ for administration of the DPR Program (\$1.5 million in FY23 and FY24) and pushes back the deadline until the end of 2024.

24 February: Passed House 56-2

09 March: Passed out of Senate NREW unanimously. Much ado was made in committee about both Sandy Bahr and Gail Griffin testifying in support of a concept.

31 March: Broad support remains for HB 2129 and development of a DPR program. The bill will now be considered in the upcoming budget negotiations – we hope it makes it out of the cage.



23 June: Both the appropriation and mandate to ADEQ to complete the rulemaking were included in the Environment budget bill ([HB 2861](#), Sec. 3)

[HB 2131](#) HOAs; artificial grass ban prohibited (Kavanagh)

An HOA cannot prohibit installation or use of artificial turf on any member’s property. The HOA may adopt reasonable rules regarding the installation and appearance of artificial grass. AMWUA staff are reaching out to Rep. Kavanagh to discuss potential amendments to increase the focus on water conservation, similar to SB 1102.

AMWUA Position: Monitor

02 February: AMWUA has reached out to Rep. Kavanagh to offer an amendment to HB 2131, adding language that would also prohibit HOAs from requiring turfgrass on homeowner properties.

07 February: An agreement was reached between Kavanagh and the HOAs giving more discretion to the HOAs on the rules pertaining to artificial grass. The bill will not be further amended to ban natural turf mandates, but AMWUA staff still feel this is a step forward for encouraging outdoor water conservation. The bill passed unanimously out of House Gov & Elections on 2/9.

30 March: Signed by Governor.

[HB 2231](#) universities; water rights adjudication (Griffin)

Authorizes Arizona universities to offer pro bono assistance to General Stream Adjudication claimants who are “small landowners.” This language was included in a 2021 budget bill subsequently deemed unconstitutional by the Arizona Supreme Court, thus its reintroduction in this session.

AMWUA Position: Monitor

23 June: effectively authorized through an appropriation to the UA Natural Resource Users law and Policy Center ([HB 2862](#), Sec 93).



HB 2256 assured water supply; service area (Cook)

Requires the Director of ADWR, when determining the physical availability of groundwater to be drawn through future wells for an Assured Water Supply Determination to assume that:

- The service area of a city or town is coterminous with the boundaries of the city or town;
- The service area of a private water company is coterminous with the boundaries of its certificate of convenience and necessity (CC&N); and
- The service area of a water improvement district is coterminous with the boundaries of the district.

In the Pinal AMA and other less-developed areas, undesignated providers and private water companies seek to locate “hypothetical future wells” for the groundwater modeling in favorable locations outside of their current service areas to serve future growth. These utilities and developers argue that if the development is within their CC&N, they will ultimately be the water provider for that Certificate or Analysis, and therefore they should have more flexibility to project the future pumping locations for AWS groundwater modeling purposes. In this case, extending out to the CC&N boundaries.

This proposal makes a number of concerning changes, and unintended consequences abound. Firstly, the new definitions of service area contradict with existing provisions in the Groundwater Code, including the definition in A.R.S. § 45-402(31) as well as A.R.S. § 45-493(A)(1) which explicitly prohibits extension of a service area “primarily to include a wellfield, furnish a disproportionately large amount of water to a large water user or include irrigation acres within the service area.” The bill tries to amend this definition to narrowly, but still creates significant statutory conflicts.

Private water companies often have service areas within a city’s incorporated limits – the proposed definition would require that ADWR assume both entities have overlapping service areas and approve AWS Determinations based on this assumption. This conflicts with the exclusionary nature of water service areas and would allow a Determination to be approved on the premise that a future well will be drilled in a location where there is no guarantee the water provider will have access in the future.

ADWR shares similar concerns to those listed above, noting that the proposed legislation is fundamentally inconsistent with the consumer protection goals of the AWS Program.

AMWUA Position: Oppose



HB 2258 assured water; supply; nonlocal water (Cook)

HB 2258 attempts to enable water providers delivering commingled water supplies (surface water, groundwater, effluent) to account for deliveries to an individual end user as if groundwater had not been delivered to that user. Presumably this would allow – or require – a water provider to account for certain water supplies going to specific end users, despite physical deliveries of a blended supply. AMWUA staff believe this to be the intended outcome of the amendments to A.R.S. § 45-468 based upon conversations and documentation from the Pinal Stakeholder Group, however it is unclear exactly how these amendments would affect ADWR’s interpretation of commingled accounting requirements.

HB 2258 also seeks to assist undesignated water providers with wheeling specific supplies to specific customers by removing the long-standing ADWR requirement that an applicant for a Certificate of AWS must demonstrate physical availability of any groundwater delivered through the water provider’s distribution system.

Specifically, statutory language is added dictating that if water is recovered within the Area of Impact (AOI), then ADWR “shall not review the physical availability of other sources served by the municipal provider . . .” ADWR has expressed significant concern with this particular element of the proposal ([See November 9, 2021 Post-2025 Committee Meeting](#)).

If the amendments to A.R.S. § 45-468 allow – or require – water providers to assign specific water supplies to specific customers despite deliveries of a blended supply, this could lead to infeasible municipal reporting requirements, as well as inequities within a service area between different customers.

Recognizing the controversy and complexity surrounding the commingled accounting procedures, the Post-2025 Committee explicitly chose to recommend that stakeholders work through this issue with ADWR, outside of the legislature. This bill circumvents those efforts, despite significant participation on the Committee by proponents of HB 2258.

AMWUA Position: Oppose

HB 2327 drought mitigation revolving fund; appropriation (Bowers & Toma)

Appropriates _____ billion dollars (unspecified) to the Drought Mitigation Revolving Fund.

AMWUA Position: Monitor



19 January: It remains to be seen how much will be appropriated to the Drought Mitigation Revolving Fund after the Executive Budget proposal included only \$334 million in FY23. Staff anticipate that there may also be legislation introduced in the coming weeks that makes structural changes to the authority and administration of the Drought Mitigation Board – stay tuned. See SB 1611 and HB 2725.

HB 2331 area of impact; stored water (Cook)

Moves statutory definitions of Area of Impact (AOI), previously only applicable to Designation applications in the Pinal AMA, to the Recharge Program statutes in Title 45, Chapter 3.1. Moving the AOI definitions as proposed would have broader impacts to the Recharge Program where “Area of Impact” is used in other regulatory processes, such as permitting requirements for an Underground Storage Facility.

For example, narrowly defining “Area of Impact” as a 1-mile buffer around an underground storage facility may have implications for unreasonable harm determinations which require evaluation of the “maximum area of impact” for underground storage permits.

HB 2331 also expands the AOI for a groundwater savings facility by adding a 1-mile buffer to the boundaries of the irrigation district. Pinal AMA proponents state that “donut holes,” or areas within an GSF that are not part of the irrigation district create difficulties for recovery, and this buffer would serve to extend the AOI and fill those gaps.

ADWR and AMWUA members have noted that GSFs do not operate in the same fashion as a USF, and that no renewable water is actually stored at the irrigation district. Extending the AOI for a GSF further disconnects recovery from recharge.

AMWUA Position: Oppose

HB 2389 s/e river water transfers (Kerr)

This strike everything amendment prohibits transfers of Colorado River P4 entitlements from La Paz County, Mohave County, and Yuma County to other areas of the state. The pending Queen Creek transfer is exempted from this prohibition.

16 March: This striker was heard in Senate NREW and appears to be part of negotiations with Rep. Gina Cobb and her fellow legislators to come to a deal on the Harquahala legislation. The bill was passed 7-2, with several Republican lawmakers expressing their



hesitation to limit property rights, and Chairman Kerr voted against the amendment brought in her name.

31 March: The bill passed out of House Rules, despite legitimate concerns over its legality. Broad stakeholder opposition to the transfer prohibition remains, and CAP has entered the fray – [staff are recommending that CAP formally oppose the bill](#).

HB 2406 water quality fee fund (Griffin)

Expands the allowable uses of ADEQ's Water Quality Fee Fund (WQFF) to include total maximum daily load (TMDL) development, nonpoint source rulemakings, and groundwater monitoring and standards development. Also allows ADEQ to pursue a rulemaking to update AZPDES and APP fees which have been static since 2011. Rep. Griffin is running this bill on behalf of ADEQ.

AMWUA Position: Support

29 April: Signed by the Governor

HB 2409 multi-county water districts; storage tax (Griffin)

Extends CAWCD's authority to levy the Water Storage Tax at 4¢ through 2029. The Water Storage Tax subsequently reduces to 3¢ in 2030 and expires in 2035.

CAWCD had originally sought to extend the tax levy at the full 4¢ through 2044. AMWUA has requested that CAWCD provide more specificity regarding the intended use of the tax revenues, and that the legislation clarify that recovery is an authorized use of the Water Storage Tax.

AMWUA Position: "Monitor," but willing to move to "Support" if the statutory amendments include language clarifying that the Water Storage Tax can be used for the purposes of recovery.

01 February: Passed House NREW 11-1 with substantial support from Arizona's various political influencers: Chambers of Commerce, developers, agriculture, etc. Numerous legislators asked how these funds could be used, particularly in relationship to recovery and augmentation. Ted Cooke briefly covered current recovery efforts, noted that recovery could be funded through the general ad valorem tax, and stated that CAP's role in for augmentation is "limited to replacing Colorado River supplies for its contractors and subcontractors. [We do not] have the general authority to acquire a water supply for other water users." ([Video Link](#))



23 February: Passed House 46-13. Transmitted to Senate.

02 March: Passed Senate NREW unanimously.

12 April: Passed Senate 21-6

18 April: Signed by the Governor

HB 2410 environmental programs; amendments (Griffin)

Arizona Capitol Reports: Various changes to statutes regulating environmental programs. Repeals the article of statute regulating dry wells, including dry well registration and license to drill. Repeals the dust-free developments program. The Arizona Department of Environmental Quality (ADEQ) is allowed, instead of required, to adopt rules for air pollution emission standards for off-road vehicles. Repeals session law requiring ADEQ to establish a daily visibility index to be used in evaluating and reporting current visibility conditions and progress toward visibility improvement goals in area A. The deadline for the U.S. Environmental Protection Agency to approve proposed modifications to the gasoline fuel formulation requirements as part of the State Implementation Plan for air quality is extended two years, two July 1, 2024. Session law grants directs clear title of a specified square mile of real property to be conveyed from ADEQ to the Department of Administration.

26 January: AMWUA staff were able to confirm with ADEQ that repeal of the drywell statutes will not cause any substantive change in drywell regulations. Drywells are currently required to be registered with ADEQ *and* inventoried with the EPA as Class V wells under the federal UIC Program. If HB 2410 goes into effect, drywells will still be subject to the UIC inventory requirement which ADEQ has determined to be more protective than Arizona's drywell regulations. When ADEQ assumes primacy of the UIC Program and implements the UIC Rulemaking, drywells will continue to be regulated in this manner. HB 2410 was pulled from the House NREW agenda on 1/25/22, but not due to the drywell provisions.

19 April: Signed by the Governor (as subsequently amended).

No position



[HB 2456](#) | [HB 2511](#) | [SB 1492](#) subsequent irrigation non-expansion areas; procedures (Cano, Cobb | Otondo)

These measures introduce a number of modifications to the procedures for establishment of new irrigation non-expansion areas (INA). This proposal would allow ADWR to consider projected rates of groundwater withdrawal as part of the determination of a new INA. The bill also clarifies which entities are eligible to petition the State to create a new INA and would mandate that petitioners submit a groundwater model and hydrologic assessment using methodology approved by the ADWR Director. The language aligns with the suggested statutory changes presented by ADWR in the summer of 2017 during the Governor’s Water Solutions Conversations. AMWUA continues to support this legislation.

AMWUA Position: Support

[HB 2459](#) appropriation; WQARF (Cano & 8 others)

Appropriates \$15 million from the general fund in FY2022-23 to the Water Quality Assurance Revolving Fund. WQARF is a state-sponsored program established by the Legislature and administered by the Arizona Department of Environmental Quality to clean up hazardous soil and groundwater contamination.

AMWUA Position: Support

[HB 2460](#) wells; permits; spacing rules (Cano & 5 others)

Requires that ADWR adopt rules governing the location of new and replacement wells >35 gpm located outside of AMAs, within groundwater basins that the Director determines to be experiencing declining groundwater levels. AMWUA has historically supported legislation to this effect.

AMWUA Position: Support

[HB 2461](#) | [SB 1283](#) drinking water standards; pollutants (H: Cano | S: Stahl Hamilton)

Requires ADEQ to establish aquifer water quality standards for chromium-6, 1,4 dioxane, and PFAS-related substances and to consider adopting standards pollutants regulated by other states. Removes the statutory provision that currently prohibits ADEQ from adopting



regulations that are more stringent than federal law. This bill has not received a committee hearing in the last two years and is not anticipated to move forward.

No position

[HB 2466](#) | [SB 1491](#) adequate water supply; statewide requirements (H: Cano | S: Otondo)

Mandates that a city, town, or county may only approve a subdivision plat if the development has demonstrated an adequate water supply. This legislation has failed to receive a committee hearing for years and is unlikely to advance.

No Position

[HB 2510](#) | [HB 2661](#) rural management areas; water (Cobb & Biasiucci)

The Coconino, Mohave, La Paz, or Yuma County Board of Supervisors may establish within their county a Rural Management Area (RMA) if one more criteria are met, which include groundwater overdraft, physical indications of water level declines, or water management issues within the area. The Board of Supervisors may order the establishment of the RMA after allowing for public comment and hearings.

Governed by a 7-9 member council of individuals, including at least one county supervisor, one mayor or city councilmember. Criteria are established requiring that the Council include agricultural mining, industrial, real estate, utility, conservation, and tribal interests, as applicable. The Councilmembers shall be nominated by the Board of Supervisors and appointed by the Governor to serve six-year terms. The Council may coordinate with cities, towns, counties, and other entities to engage in regional water planning activities, and the Council may request technical support from ADWR as well as assistance in developing a Rural Management Area Plan.

The Council shall adopt a Rural Management Area Plan that includes:

- One or more management goals for the RMA
- A description of RMA hydrologic, geologic, ecological, and demographic conditions
- Proposed actions to achieve the RMA goals, as well as methods to monitor and report on progress towards achieving the RMA goals

The RMA Plan may include:



- Actions recommended by the Council for implementation by other governmental entities within the RMA to incentivize conservation and achieve the RMA goals
- Proposed actions for implementation by ADWR, including: required monitoring and reporting of groundwater withdrawals, adoption of well spacing and permitting requirements, implementation of conservation programs, etc

After adopting the RMA Plan, the RMA Council shall petition ADWR for approval of any proposed actions in the Plan that would be implemented by ADWR. If ADWR determines that the proposed actions included in the Plan are consistent with the RMA Goals, the Director shall issue such “orders and designations as may be required to implement the actions” of the RMA Plan.

ADWR may designate an area as a subsequent INA if the Director determines that the designation of a subsequent INA is being considered in response to a petition by an RMA Council. A basin or subbasin in an RMA is not eligible for inclusion in formation of a new, locally initiated AMA for 10 years after approval of an RMA Plan.

Establishes the “Department of Water Resources Heritage Fund” consisting of monies deposited from the State Lottery Fund, to be spent only for the purposes of implementing and supporting Rural Management Areas and conservation and augmentation activities conducted pursuant to RMA Plans.

AMWUA Position: Monitor

01 February: HB 2661 was introduced as a separate bill and makes minor changes to HB 2510 relating to funding of the ADWR Heritage Fund and adding a criterion for the County Board of Supervisors to consider when establishing the RMA. HB 2661 also expands eligibility for the RMA to any County with lands outside an AMA, no longer restricting the bill to counties bordering the Colorado River.

24 February: Cobb’s RMA proposal was inserted onto Griffin’s HB 2836 via hostile floor amendment in COW. Griffin was forced to retain her bill, now a vehicle for Cobb’s RMA proposal on the calendar.

HB 2512 Colorado River water; local communities (Cobb & Biasiucci)

Prohibits transfer of on-river Priority 4 Colorado River water from outside of a “Colorado River community.”

AMWUA Position: Monitor



[HB 2538](#) water protection fund; appropriation (Griffin)

This bill would appropriate \$1 million from the state general fund in Fiscal Year 2022-23 to the Arizona Water Protection Fund. The Arizona Water Protection Fund is a state-run program administered by ADWR that funds projects to protect and enhance water quality and quantity in Arizona's rivers, streams, and riparian areas. Some of these efforts include revegetation, erosion control, channel stabilization, research, and water conservation. AMWUA has supported this legislation in previous years.

AMWUA Position: Support

[HB 2539](#) nonnative species eradication; projects; appropriation (John)

Appropriates \$15,000,000 in FY23 to the Nonnative Vegetation Species Eradication Fund for use specifically along the Gila River. ~~The fund is renamed after former Buckeye mayor, Jackie Meck. Establishes the Gila River Nonnative Species Eradication Project Advisory Committee to review progress of ongoing projects, receive community input, and make recommendations for ongoing projects. The Committee is required to submit a report of its recommendations to the Governor and the Legislature by September 1 of each year, and self-repeals October 1, 2025.~~

No position

31 January: AMWUA is aware that proponents of this legislation are interested in developing or utilizing the additional water that would be “freed up” after eradication of salt cedar along the Gila River, noting that it could create “up to 50,000 AF.” When asked about this, Buckeye’s lobbyist stated that after getting the process for salt cedar removal up and going “we’ll come back and have conversations with all of the stakeholder parties about the water rights.”

Naturally, any surface water available before or after this project will be subject to existing appropriators and existing priority dates, and any attempt to circumvent these right holders would be unconstitutional. We’ll stay tuned.

23 June: HB 2539 did not pass, however, \$5 million was appropriated to the existing Fund in FY23 as part of the Forestry budget, with \$5 million of ARPA funds earmarked as well in FY24 and FY25. ([HB 2862](#), Sec. 37)



HB 2549 stored water; certificates; impact; accounting (Griffin)

HB 2549 consolidates the legislative proposals of the Pinal AMA stakeholder group contained in HB 2256, HB 2258, and HB 2331. As noted, AMWUA and ADWR have serious concerns that these proposals undermine the Assured Water Supply Program.

AMWUA Position: Oppose

01 February: Passed House NREW Committee 7-5 on a party line vote. ADWR gave prepared remarks noting that the bill undermines the consumer protections of the Assured Water Supply Program, it creates statutory contradictions, and it waives ADWR's ability to evaluate physical availability of groundwater. The Pinal Stakeholders painted ADWR as unresponsive to their repeated attempts to engage the Department on this legislation and claimed that this legislation was so good that other AMAs wanted it to pass. This last assertion was made straight-faced; directly after testimony against the HB 2549 in which AMWUA pointed out that it would harm the Phoenix AMA, and that the Pinal Stakeholders avoided sharing their legislation at the Vetting Forum for 4 consecutive months.

10 February: HB 2549 has encountered some concerns on the majority side and was subsequently pulled from the House consent calendar. Pinal stakeholders continue to push for the legislation, and we understand that ADWR has presented a letter countering Pinal's baseless claim that the Department has been unresponsive – apparently ADWR has spent over 2,000 FTE hours on Pinal issues alone.

17 February: HB 2549 was on the House COW Calendar but was retained. The Assured Water Supply Program lives to fight another day.

24 February: Retained again on House COW Calendar.

HB 2553 agricultural safety; scope; technical correction (Griffin s/e)

A strike everything amendment for this vehicle introduces various requirements to the process of transferring Colorado River entitlements. Specifically, for a proposed transfer of non-CAP Priority 4 (P4) water, ADWR must provide 90 days for any political subdivision in Arizona to make its own offer on the P4 entitlement being transferred. If the original entity seeking to transfer its P4 entitlement refuses to sell to a political subdivision that is "ready, willing and able to" contract for that entitlement, then ADWR must recommend to the Secretary of the Interior that the proposed transfer should not be approved.



17 February: The strike everything amendment described above was introduced by Representative Griffin, ostensibly as part of some coordination with Rep. Cobb. HB 2553 was subsequently withdrawn from House NREW and assigned to Approps; however the bill has not been heard. AMWUA is maintaining its Monitor position on bills prohibiting/impeding P4 transfers at this time (See HB 2056 and HB 2510) in recognition of the substantial opposition that exists elsewhere for these concepts.

HB 2556 water infrastructure finance; sunset repeal (Griffin)

Repeals the statutory sunset for the Water Infrastructure Finance Authority of Arizona (WIFA), which will now be included under the sunset review of its governing body, the Arizona Office of Economic Opportunity (OEO). The next sunset review for the Arizona OEO and its Boards is July 1, 2023. WIFA supports this alignment.

AMWUA Position: Support

HB 2560 ~~appropriation; DWR; water efficiency projects (Dunn) s/e group homes; monitoring~~

~~This bill would appropriate \$1 million from the state general fund in Fiscal Year 2022-23 to ADWR “to identify water efficiency projects that have significant potential for water savings but that also have legal impediments hindering implementation.” The policy objective for prioritizing projects that are legally questionable is unclear at this time.~~

AMWUA Position: Monitor

21 February: An unrelated strike everything amendment was passed related to group homes.

HB 2619 | HB 2812 s/e rainwater harvesting program (Liguori & 11 others)

Establishes the Rainwater Harvesting Grant Program within the Arizona Department of Water Resources. Grants are available to Program applicants at two Levels: Level 1 Grants may be used to reimburse up to 50% of a simple or passive rainwater harvesting system, up to \$500. Level 2 Grants may fund up to a maximum of \$2,000 for an “active and more complex” project, including installation of a rainwater harvesting system and storage tank. Various routine landscaping activities are identified and excluded from eligibility for grant funding. HB 2812 appropriates \$1 million to ADWR to fund the Program.



AMWUA Position: Support

23 March: A strike-everything amendment in Senator Kerr’s name was heard in Senate NREW to revive the rainwater harvesting concept originally proposed by Rep. Sarah Liguori. The bill was passed unanimously out of committee.

HB 2677 rural groundwater projects; list (Biasiucci, Cobb, Borrelli)

The Arizona Commerce Authority is required to develop a list of at least 100 rural groundwater projects outside AMAs that are designed to augment, conserve, and protect groundwater supplies. This list shall be submitted to the Governor, Senate President, and Speaker of the House by December 31, 2022.

No position

HB 2761 water efficient plumbing fixtures (Mathis & 9 others)

Arizona adopted water-efficiency standards for indoor plumbing fixtures in 1992 which have since been superseded by various federal laws and requirements. This bill would update Arizona’s water-efficiency standards to align with criteria established by the WaterSense Program, a public-private partnership between industry, utilities, and regulators. AMWUA has supported this legislation each year since the 2019 session.

AMWUA Position: Support

HB 2836 interim groundwater review areas (Griffin)

An *Interim Water Review Area* located outside of an AMA or INA may be initiated by petition to ADWR if signed by at least 25% of the groundwater users in the basin, or at least 10% of the registered voters residing in the proposed area. If such a petition is submitted, ADWR shall hold public hearings on the formation of the Interim Water Review Area. After the hearings, the Area may be established upon majority approval in an election held amongst all of the registered voters residing within the boundaries, and all owners of privately owned land within the boundaries, without regard to their place of legal residence.

If an Interim Water Review Area is established, “only groundwater uses on the land that occurred at any time during the five years preceding the date of establishment . . . may be continued and no additional uses of groundwater are allowed for a period of five years . . .” After five years have passed, the prohibitions on groundwater use are repealed.



This bill is clearly a gutted version of Rep. Cobb’s RMA proposals, only applying for 5 years and with a much steeper road to adopt an “Interim Water Review Area” due to the petition and election requirements. Language in the bill could be interpreted that all new groundwater use in the Area is prohibited, not just new irrigation use.

No Position

15 February: Passed House NREW 7-5 on a party line vote. Several provisions were updated via amendment clarifying the Sponsor’s intent to establish “Temporary INAs.”

24 February: Cobb’s RMA proposal was inserted onto Griffin’s HB 2836 via hostile floor amendment in COW. Griffin was forced to retain her bill on the calendar, now a vehicle for Cobb’s RMA proposal.

[SB 1022](#) | [HB 2467](#) groundwater pumping; measuring; reporting (S: Steele | H: Cano)

Requires measuring, monitoring and annual reporting for nonexempt groundwater wells throughout the state. Water users who irrigate 10 or fewer acres that are not part of a larger farming operation, or water users who pump <10 acre-feet per year for non-irrigation use are exempted from this requirement. AMWUA supported this legislation in the 2020 and 2021 sessions.

AMWUA Position: Support

[SB 1023](#) | [HB 2463](#) well drilling; groundwater basins (S: Steele | H: Cano)

Establishes a well drilling moratorium that prevents new wells in the Upper San Pedro and Verde Valley groundwater subbasins until the conclusion of the General Stream Adjudication unless a well is a replacement well or does not pump subflow. AMWUA adopted a “Monitor” position on this legislation in the 2020 and 2021 sessions.

AMWUA Position: Monitor

[SB 1067](#) cities; water infrastructure finance authority (Shope)

SB 1067 would streamline the statutory process so that cities and towns with populations over 150,000, can also utilize WIFA financing for critical water infrastructure without having to place



the issue on the ballot. This enables all municipalities to apply for WIFA's infrastructure funds to meet the needs of their communities without delay.

Removing this regulatory hurdle will allow Arizona to capitalize on federal infrastructure funding and will bolster WIFA's project portfolio. This will strengthen WIFA's ability to maintain low interest rates and to leverage funds for even more infrastructure investment throughout the state. SB 1067 proposal has been met with positive feedback from WIFA staff as well as the broader water community.

AMWUA Position: Support

24 January: AMWUA was notified that SB 1067 was pulled from the Senate NREW Committee meeting scheduled for 1/26/22 due to "transparency concerns" from the Homebuilders Association, Cattle Growers' Association, and Arizona Tax Research Association (ATRA). These concerns arose closely after AMWUA voiced criticism of the Pinal AMA legislation (HB 2549 et al). It is worth noting that no such concerns were raised regarding the [2019 WIFA legislation](#) which accomplished the exact same result as SB 1067. AMWUA is continuing to work with our sponsor on moving the bill forward.

10 February: ATRA and the Homebuilders maintain their concerns regarding "transparency." The bill will most likely be amended to raise the voter requirement threshold to 300,000 – keeping Mesa, Phoenix, and Tucson subject to the voter requirement. A.R.S. § 1-215(31) defines "population" according to the last decennial census. For instance, if Chandler, population 275,000, grows to 301,000 before 2030, Chandler would still be exempted from the ballot requirement. AMWUA staff will continue to advocate for session law waiving the ballot requirement for all cities when applying for federal funds distributed to WIFA from the Infrastructure Investment and Jobs Act.

16 February: Passed Senate NREW 7-1 with the amendment updating the population threshold to 300,000. The Homebuilders, Cattlegrowers, and private utilities voiced concerns about transparency and access to WIFA funds for smaller communities despite repeated assurances from the WIFA director that no adverse impacts would manifest from removing the ballot requirement. We're aware that Tucson is also interested in Session Law to waive the ballot requirement for federal funds to help address their ongoing PFAS issues.

21 February: Passed Rules Committee. In recognition of the significant federal funding that will be appropriated to WIFA over the next 5 years from the Infrastructure Investment and Jobs Act, AMWUA is working with WIFA, ADEQ, and others to create a



statutory provision waiving the ballot requirement for associated funds. This may take the form as an amendment to SB 1067.

28 February: Amended on the floor, AMWUA and ADEQ were able to secure an amendment that would waive the ballot for all cities when applying for federal funds distributed to WIFA from the Infrastructure Investment and Jobs Act, in FY 23 through FY 27. This crucial amendment will ensure equal access to the AMWUA cities for the federal funding flowing into Arizona.

Additionally, provisions were added that prohibit a city from using WIFA funding to condemn or acquire through eminent domain private water company assets. This provision was inserted at the behest of the Water Utilities Association of Arizona.

01 March: SB 1067 passed the Senate as amended, 26-4.

10 March: Anticipated to be heard in House NREW on March 22nd. Retaining the five-year waiver for federal funds remains AMWUA's priority.

22 March: SB 1067 passed out of House NREW unanimously, 12-0. The original provisions amending the statutory population thresholds have been removed (the ballot requirement will remain for cities with population over 150,000); however bipartisan support remains for waiving the ballot requirement for all cities applying for federal Infrastructure Investment and Job Act funds over the next five years.

31 March: Passed out of the House by a vote of 56-2. The bill will be transmitted to the Senate for concurrence and then signed by the Governor.

13 April: [Signed by Governor Ducey](#). Effective on July 12, 2021.

SB 1102 homeowners' associations; solar, water devices (Mendez & Salman)

Homeowners Associations cannot prohibit the installation of a water saving device or indoor or outdoor water conservation practice. An HOA can adopt reasonable rules governing the placement and use of a water saving or conservation practice. AMWUA supported this legislation in 2019.

AMWUA Position: Support



SB 1171 S/E treated process water; definitions (Kerr)

Amends the statutory definition of “Water that cannot reasonably be used directly” (WaterBUD) to include *Treated Process Water*, defined as: “groundwater that is used for nonirrigation use in a facility that manufactures food and beverage products and subsequently treated at the site of use for storage.” Currently, wastewater generated from industrial processes does not fall under the legal definition of “effluent” and is ineligible to accrue LTSC when stored underground. SB 1171 limits the use of treated process water LTSC to the same subbasin where the water was stored, and also limits the assignment (i.e., transfer or sale) of the LTSC to an affiliate or successor of the original storer.

Rauch (Red Bull) and Mark Anthony Brewing (Red Bull & White Claw) own two beverage manufacturing facilities in the Waddell area, which has been annexed by Glendale. Both pump groundwater via their own wells, pursuant to grandfathered rights (Type 1 and Type 2). The purpose of this legislation is to allow Rauch and MAB to generate LTSC from their industrial wastewater. Purchasing more groundwater rights is cost-prohibitive, so they’d like to store their industrial wastewater underground to generate LTSC. They will subsequently have a legal right to recover those credits and expand their withdrawals.

- This bill is concerning because it allows an industrial user to locate within a municipality, extract groundwater, and subsequently divert recycled water resources from the provider. This disconnects the industrial user from the holistic water management of a service area and gives a pathway to avoid wastewater collection.
- Allowing industrial users to extract fossil groundwater and convert it LTSC for sale creates a perverse incentive to pump cheap groundwater for valuable credits. We know that other industries want to open this up, and there is currently a desire from the mining industry to amend the bill for that purpose. Opening the door for individual users within a municipal service area to “opt out” of the system is very concerning.
- If industrial users pumping groundwater and creating LTSC proliferate, those users will mine a city’s physical availability of groundwater out from underneath, and then replace it with LTSC belonging to the industrial user. We may also see USFs that will make it harder to re-permit existing recharge projects.

AMWUA Position: Oppose

11 February: A stakeholder meeting was held with the proponents, EPCOR, AMWUA, Freeport, ADWR, ADEQ, and Senate staff in attendance. There was general opposition



and concern about the proposal to generate LTSC with pumped groundwater. Senator Kerr has decided to not move the striker, however the vehicle (“unlawful feeding; wildlife; exception”) may continue to move forward. Freeport also alluded to an intention to pursue a similar proposal for generating LTSC with industrial process water, but they are adamant against using groundwater for that. We may see this concept next year.

16 February: The vehicle was passed out of Senate NREW without the s/e amendment. We’ll continue to keep an eye on this bill or other vehicles in the event that there are attempts to move the striker.

23 February: The vehicle passed the Senate 28-0-2. AMWUA has since received updated language from the proponents, however none of our concerns have been addressed.

22 March: The concept was passed out of House NREW nearly unanimously after the proponents (Red Bull and White Claw) ramped up an intensive lobbying campaign for members in each caucus. The bottling companies have successfully convinced lawmakers that their urgent need to generate LTSC is a matter of recycling their water supply (rather than increasing their right to pump, which we know is a primary objective). The AMWUA cities, homebuilders, Valley Partnership, Freeport-McMoRan, and private water utilities remain adamantly opposed to the concept and continue to engage with lawmakers. A stakeholder meeting was held on March 24th where was repeatedly expressed that this carve-out would have significant and damaging ripple effects on groundwater management in the AMAs and erode the water security of a provider’s service area. The AMWUA Board of Directors was briefed on the subject on March 24th and directed staff to continue opposing the bill.

28 March: SB 1171 passed out of Senate Rules. AMWUA has met with several Democrat lawmakers and minority staff to discuss the bill – there appears to be a general perception that the bill will not be moving forward and needs to be addressed in a larger context. We will continue to monitor the bill and work to ensure it fails on the floor if it is scheduled.

06 April: No significant news on movement for this bill. We hear that the proponents are trying to find ways to narrow the proposal even farther, but we don’t believe any amendments at this stage can alleviate our concerns.

22 April: Draft amendment language has been circulated to stakeholders that significantly updates the bill. Most significantly, the new language limits the storer of “treated process water” (TPW) to annual storage & recovery – they cannot generate LTSC – and TPW cannot stored underground if the water is subject to a contract for



wastewater service with a water provider.

Recovery must take place within the AOI and a cut to the aquifer of 5% is established. Concerns had been raised about the bottling facilities being exempted from the Aquifer Protection Permit (APP) program via loophole; new language was added stipulating that the TPW storer must receive an APP.

AMWUA recommends continuing to oppose the bill on the grounds that it still would allow industrial facilities carve up service areas, decentralize water management, and harm USF permitting efforts. AMWUA's analysis and recommendation has been sent to the WRAG for review and further engagement on the bill will continue next week.

05 May: Held in House COW after a concerted lobbying campaign by the cities, we hope this proves to be the nail in the coffin.

25 May: Passed House COW with the Griffin floor amendment circulated in late April. AMWUA believes that the proponents lack the votes to move it through the House, however they are sure to be persistently lobbying through the next week. We have had to combat a series of false "rumors" that (1) the cities have changed their positions, (2) the amendment has addressed municipal concerns, and (3) AMWUA will oppose the Water Authority legislation if SB 1171 moves forward. All of these claims are untrue and have injected uncertainty in the process despite our consistent and transparent opposition to the bill.

23 June: Once again brought to the House floor for third read, SB 1171 failed resoundingly 23-33.

SB 1197 s/e irrigation districts; service area; WIFA (Martinez)

A strike-everything amendment in Rep. Martinez's name was heard and passed out of committee. The new language makes two changes: (1) allows an irrigation district to access WIFA funds that originate from the Clean Water Act funding for an eligible project, and (2) allows an irrigation district to operate infrastructure that was not within its service area at the time the 1980 Groundwater Management Act was passed. The objective of the WIFA-related amendment is to allow the irrigation district(s) in Pinal to potentially access WIFA funds to treat the contaminated groundwater they currently pump into the Santa Rosa canal which is the driver of Ak-Chin litigation.

The objective of the second, service area-related provisions is to allow the irrigation districts to access groundwater wells just outside of District boundaries under the DCP mitigation program



that appropriated \$20 million to for groundwater pumping infrastructure rehabilitation. AMWUA has reached out to the proponents to express concerns about the potential for irrigation district service area expansion and will be working to identify if proposed amendments may be necessary.

Management Board Recommendation: Support amendment, oppose original striker language

31 March: AMWUA has been in contact with ADWR and the Pinal irrigation districts to raise concerns about deleting Groundwater Code language fundamental to how service areas are determined. AMWUA has proposed an alternative approach that would allow certain irrigation districts to expand their service area only on the condition that they are seeking to drill new wells or rehab infrastructure specifically for DCP mitigation purposes. ADWR supports this alternative, narrower approach and it was received favorably by counsel for the Districts. A floor amendment updating this language would be the next step if the amendment language is accepted by the proponents.

08 April: AMWUA continues to work through the amendment language with Irrigation District proponents who remain on board with our proposed limitations. The latest iteration of language limits the service area expansion to Districts who were not engaged in the distribution of groundwater as of 1980 – i.e., CAP Districts like MSIDD and CAIDD.

13 April: The amendment agreed upon by AMWUA, the bill’s proponents, and ADWR was discussed in both caucuses this week and supported as a compromise. The amendment was discussed by the AMWUA Management Board, who recommended support for the amendment and opposition to the original striker.

25 April: The compromise amendment was introduced and adopted on the House floor. SB 1197 was passed, moved back through the Senate, and transmitted to the Governor’s office for signing.

SB 1198 local governments; lobbying; prohibition (Peterson, Leach, and Cook)

Local governments, including cities and towns, are prohibited from entering into a contract for lobbying services and may not spend monies for lobbying services unless that person is an employee of the city or town. Local governmental entities may not pay membership dues to an organization that engages in lobbying activities.

AMWUA Position: Oppose



07 March: Failed on the floor 12-17. No motion to reconsider.

SB 1480 watershed health; use; survey (Stahl Hamilton & 5 others)

This bill directs ADWR to conduct a triennial assessment of watershed health throughout Arizona and to establish by December 31, 2024 a set of recommendations for how much “ecological water” is needed to sustain ecosystems, wildlife habitat, or communities that may rely on a watershed. The bill also provides for the appropriation of water for “watershed health uses,” defined as the conservation of water within a natural watercourse that supports the health of an individual watershed. Current statutes allow for the appropriation and beneficial use of water instream for fish, wildlife, and recreation purposes but not explicitly for the benefit of the watershed or ecosystem as a whole.

This bill has not advanced in the Legislature for four years. Staff do not anticipate it to move forward.

No Position

SB 1481 home sales; water supply disclosure (Stahl Hamilton & 4 others)

Beginning in 2023, a subdivider selling one or more lots outside of an AMA must record a document with the County stating whether the subdivision has been determined to have an adequate or inadequate water supply. If, at a later date, ADWR determines that water supply is now adequate, ADWR shall notify the subdivision water provider of the new determination, and the water provider shall subsequently notify affected customers.

SB 1481’s primary change to existing adequate water supply requirements in A.R.S. § 45-108 appears to be requiring that the determination be recorded with the County where it would presumably be easier to access and associate with the property.

No Position

SB 1489 subdivisions; definition; lots (Otondo & 6 others)

Amends the statutory definition of “subdivision.” Currently subdivision is defined as land divided into six or more parcels where at least one parcel is less than 36 acres. SB 1489 would amend the definition to land divided into *four* or more parcels. It is AMWUA’s understanding that this bill is intended to address lot splits and wildcat subdivisions to bring more



development under the jurisdiction of the Assured and Adequate Water Supply (AAWS) programs. From a water resource planning perspective, this would reduce the future unreplenished groundwater pumping associated with new subdivisions that are not currently subject to AAWS requirements.

AMWUA Position: Support

SB 1564 s/e on-farm irrigation efficiency; fund; appropriation (Dunn) ~~domestic water districts; wastewater; annexation~~

~~Amends A.R.S. § 48-959 governing the dissolution of domestic water and wastewater improvement districts. Under SB 1564, when any portion of a District is annexed into a city or town, if the municipality elects to provide water service to the newly annexed area, the District's assets and liabilities from the newly annexed area are assumed by the city. If applicable, the District shall continue to operate outside of the boundaries of the newly annexed area. If the city determines that the District does not have the capacity to maintain peak domestic demand and fire flow requirements in the newly annexed area, the District is dissolved and the city assumes its assets and liabilities.~~

~~This legislation originates from the City of Maricopa which has a number of DWIDs within its corporate boundaries and has taken efforts to acquire district assets and territory and turn over service to Global Water.¹ The League is also supporting this bill as one of its annual resolutions.~~

AMWUA Position: Monitor

17 February: SB 1564 passed out of the Senate unanimously, which we find somewhat surprising as it appears to allow a municipality to acquire DWID/WWID infrastructure quite easily.

22 March: A strike-everything amendment was heard and passed out of House NREW appropriating \$30 million (!) to the "On-farm Irrigation Efficiency Fund" which will be administered by the University of Arizona Cooperative Extension. Representative Cano sagely noted that it may be hard to measure water savings from the program when agricultural water use is not measured in the majority of the state.

23 June: The bill was passed, sans the \$30 million appropriation, and will be funded via with federal ARPA funds.

¹ <https://www.inmaricopa.com/water-board-at-center-of-city-frustrations-in-heritage-district/>;
<https://www.inmaricopa.com/city-assumes-control-of-seven-ranches-water-district/>



SB 1595 irrigation districts; uses; drainage permit (Kerr)

This legislation would allow the Buckeye Water Conservation & Drainage District (BWCDD) to serve groundwater to municipal and industrial water users up to the volume approved in its Drainage Water Withdrawal Permit (30,000 AF annually).

This provision would allow BWCDD to serve up to 30,000 AF of groundwater in addition to the ~20,000 AF of drainage pumping and the ~64,000 AF of IGFR pumping the District currently performs.

BWCDD has described this legislation as an effort to help nearby cities with an additional water supply as the groundwater would not carry a replenishment obligation because it originates from the Buckeye Waterlogged Area [see A.A.C. R12-15-722(G)(2)]. BWCDD maintains that APS – Palo Verde Nuclear Generating Station is 10 miles to the west – is not the intended customer.

It is unclear which local city or industrial user would utilize this supply of groundwater, much of which is of poor quality and requires significant treatment. SRP has expressed some concerns with the proposal but is currently neutral as long as the bill remains narrowly focused to BWCDD. The City of Buckeye is opposed to this legislation.

AMWUA has engaged with BWCDD representatives and other stakeholders to better understand the intent and consequences of this legislation. AMWUA staff and member cities have expressed significant concerns regarding the ramifications of this concept, however SB 1595 as introduced has not been modified substantively from earlier drafts shared with stakeholders.

This bill would lead to increased groundwater mining in the Buckeye Waterlogged Area, up to 30,000 AF per year, which would reduce physical availability of groundwater and count against the Phoenix AMA goal of safe-yield. The pumping and sale of this water has no conservation requirements, no replenishment obligations, and no withdrawal fees to contribute to the AMA water management objectives. Of most concern is the potential for future development to become reliant on groundwater from the waterlogged area that is temporary in nature as well as the precedence for irrigation districts to serve groundwater outside of their service area.

AMWUA Position: Oppose

10 February: SB 1595 has been scheduled for the 2/16 NREW Committee, with an unrelated strike everything amendment. All indications continue to point towards this legislation being dead, with Senator Kerr unwilling to move the bill forward in light of City of Buckeye's concerns and widespread opposition. We will continue to keep a close eye out.



16 February: Held in Senate NREW as anticipated.

SB 1600 water recharge; direct use (Shope)

Amends the definition of “Water that cannot reasonable be used directly” (WaterBUD) to include Central Arizona Project water stored underground in the Pinal AMA by a water provider located in the Pinal AMA. WaterBUD generally prohibits entities from earning or purchasing long-term storage credits (LTSC) if they are simultaneously pumping groundwater. SB 1600 would remove this prohibition from Pinal AMA water providers recharging CAP water in the Pinal AMA.

AMWUA Position: Neutral

SB 1611 | HB 2725 Arizona Water Authority (S: Fann & Kerr | H: Bowers & Griffin)

SB 1611 and HB 2725 establish the “Arizona Water Authority.” This bill is a placeholder for legislation under development by the Governor’s Office and House & Senate leadership. It is anticipated to restructure the Drought Mitigation Revolving Fund Board that was established in 2021 and create an entity to fund and oversee large augmentation projects.

AMWUA Position: Monitor

SB 1656 | HB 2742 water and energy; improvement district (S: Pace | H: Sierra)

Allows the governing body of a Town, City, or County to establish a “C-PACE” (Commercial Property Assessed Clean Energy) Program within its boundaries upon approval of a resolution or ordinance. C-PACE Programs typically set up a financing program where a property owner (often commercial) can receive financing for an energy efficiency retrofit which is paid back in installments via a special assessment. C-PACE Programs are currently authorized in 36 states.²

No position

² <https://www.liveoakbank.com/energy-infrastructure-resources/what-is-pace-financing/>



HM 2002 Central Arizona Project; debt forgiveness (Burgess)

This one-page Memorial notes that the CAP cost over \$4 billion to construct, of which Arizona had an original obligation of \$1.6 billion. After acknowledging this hefty subsidy, the Memorial implores the United States to forgive the debt still owed on the CAP.



SB 1740 – water infrastructure financing; supply; augmentation AMWUA Bill Summary

June 28, 2022

<https://www.azleg.gov/legtext/55leg/2R/bills/SB1740S.pdf>

Legislative History

In late February, the Governor’s Office and House of Representatives released a draft legislative proposal to appropriate over \$1 billion to a new state agency, the Arizona Water Authority. The Authority would be given vast powers to buy, own, sell, and develop water rights. ADWR received over 70 pages of comments expressing concern with the proposal. To begin addressing these concerns a small group of stakeholders (AMWUA, SRP, CAP, AZ Farm Bureau, Yuma County Agriculture Water Coalition, Valley Partnership) were asked by the House, Senate, and Governor’s Office to develop principles to improve the proposal.

The House and Governor’s Office released “v2.0” of the legislation on May 17, 2022 after incorporating stakeholder feedback to limit and clarify the powers of the Authority. On the same day, the Senate Majority Caucus issued a memorandum proposing that the Water Infrastructure Finance Authority (WIFA) be given the oversight of the augmentation funds, and new authorities and responsibilities to administer those programs. The Senate shared a rough draft of legislative language that implemented the proposal on June 19 which also included the principles developed by the stakeholders. This legislation became the working path forward between the Senate, House, and Governor’s Office.

On Thursday, June 23, 2022, the WIFA legislation was heard in both House and Senate Natural Resources Environment and Water (NREW) committees. The bills passed out of each Committee, but House Democrats expressed serious frustration with the lack of conservation and water management requirements in the proposal. The next afternoon on Friday, June 24 a deal was reached with the House and Senate Democrats to secure their support in exchange for more minority party influence on the Board appointments, and establishment of the \$200 million conservation fund. SB 1740 ultimately passed the Senate by a vote of 25-1 and the House by a vote of 48-1.



Funds Administered by WIFA

Long-term Water Augmentation (LTWA) Fund

(\$1 billion over three years)³

Monies from the LTWA Fund can be used to provide funding and financial assistance for *Water Supply Development* projects such as augmentation, conveyance, storage, recovery, reclamation, reuse, replenishment, and conservation of water.⁴ The LTWA Fund can also be used to fund Water Supply Development projects that import water from outside the state of Arizona, and to purchase and convey imported water supplies.⁵ WIFA is directed to take all actions necessary to ensure that monies spent from the LTWA Fund are fully repaid by the recipients of the funding or the recipients of the water supply developed by a project.⁶

When evaluating LTWA Fund expenditures, considering participation in a project to import water, or determining how to allocate imported water, WIFA must consider the following criteria:⁷

- the benefits of the project to the public, including the ability of the project to augment or improve access to water supplies within this state and promote economic growth
- the ability of the project to provide multiple water supply development benefits
- the projected costs and cost-effectiveness of the project, and impacts to ratepayers
- the ability of the project to mitigate water supply reductions to existing water users, considering the mitigation measures already available to those water users
- the reliability and long-term security of the water supply to be developed through the project
- existing/planned conservation, best management practices and management programs of the applicant
- the degree to which available funding sources, including federal, are maximized or leveraged
- the applicant's ability to meet any environmental requirements
- the general reputation, qualifications, industry experience and financial capacity of any private partner

³ The following amounts are appropriated over three years: \$334 million in FY23; \$333 million in FY24; \$333 million in FY25. The FY24 and FY25 appropriations are built into the Base budget – they can be swept or redirected by future legislatures, but it will require an affirmative action to do so.

⁴ A.R.S. § 49-1201(22)

⁵ A.R.S. § 49-1303

⁶ A.R.S. § 49-1303(E)

⁷ A.R.S. § 49-1304



- the proposed design, operation and feasibility of any project
- comments from users, local citizens and affected jurisdictions
- for beneficiaries of the project, water demands compared to water supplies. WIFA shall utilize ADWR's water needs assessments to assist in this evaluation
- the ability of the applicant and any public or private partner to repay the Authority
- For agreements entered into pursuant to 49-1203.01 (i.e., imported water), the impact of any such agreement on WIFA's ability to comply with the full cost recovery requirement in 49-1303(E)

Water Supply Development Revolving (WSDR) Fund (\$190 million)⁸

WIFA currently administers the WSDR Fund, which is modified to provide loans up to \$3 million and grants up to \$2 million for water supply development projects. "Eligible Entities" for WSDR Fund monies are water providers and governmental entities that are located outside of the Phoenix, Pinal, or Pima AMAs.⁹ WSDR Fund projects are evaluated against a similar, smaller list of criteria to the LTWA Fund.¹⁰

For both the WSDR Fund *and* the LTWA Fund, WIFA must make a determination of:¹¹

- the applicant's financial ability to construct, operate and maintain the project,
- the applicant's ability to manage the project
- the applicant's ability to meet environmental regulations and acquire regulatory permits
- the ability of the applicant to repay the loan

Both the LTWA Fund and WSDR Fund are accessible to applicants who meet the criteria of an **Eligible Entity**, defined as either:

- Water Provider— municipal water delivery system, county water augmentation authority, county water authority, Indian tribe, community facilities district, public water system, county with <300,000, or a natural resource conservation district.¹²

⁸ SB 1740 Sec. 27 - \$150 million from the [Drought Mitigation Revolving Fund](#) is transferred to the WSDR Fund. \$40 million currently exists within the WSDR Fund.

⁹ A.R.S. § 49-1270(1)

¹⁰ A.R.S. § 49-1274(B)(3)

¹¹ A.R.S. § 49-1274(B)(2)(a); § 49-1308

¹² A.R.S. § 49-1201(33)



- A city, town, county, district, commission, authority, or other public entity that is organized and exists under statute or under a voter-approved charter or initiative.

Water Conservation Grant (WCG) Fund

(\$200 million)¹³

Monies in the WCG Fund must be used to create long-term, sustainable reductions in water use or improvements in water use efficiency and reliability. The WCG Fund may be used to fund *Programs* up to \$3 million or *Projects* up to \$250,000 with a 25% match required (neither Program nor Project is defined).

The following are approved uses of WCG Fund monies:

- education and research programs on how to reduce water consumption, increase water efficiency or increase water reuse
- programs and projects for rainwater harvesting, gray water systems, efficiency upgrades, drought-resistant landscaping, turf removal and other practices to reduce water use
- programs and projects:
 - to reduce structural water overuse issues
 - to promote groundwater recharge and improved aquifer health
 - facilitating coordinated water management, including groundwater storage and recovery
- landscape watershed protection, restoration and rehabilitation, including through green infrastructure and low-impact development to conserve or augment water supplies

Entities eligible to apply for water conservation grants include municipalities, districts, commissions, authorities or other public entities. A non-governmental governmental entity that “focuses on water conservation” may apply for grants if it partners with a public entity.

Federal Water Programs

WIFA will continue to administer the federal Clean Water Act and Safe Drinking Water Act programs in its role as the State Revolving Fund. WIFA will also disburse the anticipated \$600 million of funding from the Infrastructure Investment and Jobs Act (IIJA) through its Federal Water Programs function.

¹³ \$200 million from federal ARPA funds.



Powers and Authorities of WIFA

To administer the LTWA Fund, WIFA is given additional powers and authorities as follows:¹⁴

- Acquire, sell, lease, exchange real and personal property
- Apply for and hold permits
- Enter into private and intergovernmental agreements
 - Public-private partnerships are outlined in A.R.S. § 49-1213
- Contract for or perform feasibility studies for water storage facilities
- Employ staff
- Apply for and accept grants
- Sue and be sued
- Issue long-term water augmentation bonds
- For a water supply development project that imports water:
 - Plan, construct, own, etc, water-related facilities to transport imported water
 - Acquire, hold, sell, store, and subcontract out imported water in its own name
- Conduct feasibility investigations
- Assess fees associated with WIFA's costs and administration
- To the extent necessary to facilitate a water supply development project:¹⁵
 - Acquire, sell, lease, transfer rights to imported water
 - Enter into contracts or subcontracts for the transportation, treatment, and delivery of imported water
 - Store imported water and own LTSC generated with imported water

¹⁴ A.R.S. § 49-1203 - 1203.01

¹⁵ A.R.S. § 49-1203.01(C)(5)



WIFA Limitations, Prohibitions, and Requirements

- WIFA may not utilize the LTWA Fund for the purchase of any mainstream Colorado River water or rights except for water rights owned by a federally recognized tribe.¹⁶
- WIFA may not enter into any agreement to convey or deliver water to a water user within the incorporated boundaries or water service area of a city or within the boundaries of a CC&N of a private water company without the written consent of the city or private water company.¹⁷
- WIFA may only acquire water rights to *imported water* and may only own water-related infrastructure within Arizona used to transport imported water.¹⁸
 - *Imported Water* is defined as: any water that originates outside of this state and that is made available to water users within this state by conveyance, exchange or otherwise through projects that are funded or financed by the LTWA Fund.¹⁹
- The WIFA Board and its committees are subject to public meeting requirements in Title 38, Chapter 3, Article 3.1²⁰
- Cities may pledge utility revenues or secondary property tax revenues to repay a LTWA Fund loan without an election.²¹
- Entities with an entitlement to water from the Colorado River, including water delivered through CAP, must be given written notice for any water supply development project to import water that is proposed to be funded by the Authority. An entity that receives a notice shall submit to the Authority within 30 days after the date of the notice a statement of the entity's interest in the participating project.²²
- WIFA may not enter into any agreement involving the use, storage, or conservation of Colorado River water outside of Arizona without the express written approval of ADWR.²³

¹⁶ A.R.S. § 49-1210(A)

¹⁷ A.R.S. § 49-1210(B)

¹⁸ A.R.S. § 49-1210(D)

¹⁹ A.R.S. § 49-1201(8)

²⁰ A.R.S. § 49-1206(K)

²¹ A.R.S. § 49-1307(J)-(K)

²² A.R.S. § 49-1305

²³ A.R.S. § 49-1209(C)



- 75% of the monies appropriated to the LTWA Fund for the first three years must be used for a large water augmentation project that imports water into the state of Arizona.²⁴
- ADWR is required to prepare a Water Supply and Demand Assessment for at least six of Arizona’s 46 groundwater basins by December 31, 2023 and must update the assessment for each basin once every five years.²⁵ An appropriation of \$3.5 million is made to the Department for this Assessment.²⁶
- WIFA is exempted from A.R.S. Title 41, Chapter 23 (Arizona Procurement Code) and required to establish procurement procedures for the LTWA Fund by rule in coordination with ADOA.²⁷

WIFA Governance

WIFA Board of Directors²⁸

WIFA will be removed from under the Arizona Finance Authority (AFA) and governed by a new, 18-member Board of Directors: 9 voting members and 9 ex-officio. The voting members will be appointed by the Governor (5), President of the Senate (2), and the Speaker of the House (2).

The voting Board members include:

- Four representatives from either Maricopa, Pima, or Pinal counties (pop. >400,000)
- Four “rural” representatives from smaller counties (pop. <400,000)
- One “at-large” member from anywhere in Arizona.

Legislative leadership from the majority party and minority party will alternate when nominating their appointees. Initial terms for the first Board are laid out in Section 28. Ex-officio members do not have voting privileges, and include the following: Senate President, Speaker of the House, Senate Minority Leader, House Minority Leader, ADEQ, ADWR, ASLD, ADOA, and ACA.

²⁴ A.R.S. § 49-1303(A)(1)

²⁵ A.R.S. § 45-105(B)(14)

²⁶ SB 1740, Sec. 34

²⁷ A.R.S. § 49-1203(E)

²⁸ A.R.S. § 49-1206



Board membership is prohibited for individuals that are required to register as lobbyists, has financial interest in an organization that receives money from WIFA, or are employed by a water users association or trade association. These provisions do not apply to any individual employed by a state agency or political subdivision of the state.

Approval of funding or financial assistance from any Fund requires the affirmative vote of at least 6 of the 9 voting Board members.

WIFA Advisory Committees

Four Committees are established to review funding proposals and give recommendations to the WIFA Board of Directors.

- *LTWA Fund Committee* – 7 Members: 4 large county | 2 small county
- *WSDR Fund Committee* – 7 Members: 4 small county | 2 large county
- *WCG Fund Committee* – 8 members representing each of the following:
 - large public water system (>500 connections)
 - small public water system (<500 connections)
 - large county (>500,000 population)
 - small county (<500,000 population)
 - advocacy group with a focus on water conservation
 - university water conservation expert
 - natural resource conservation district
 - ADWR director or designee
- *Federal Water Programs Committee* – Existing 11-member WIFA Advisory Board:
 - large public water system (>500 connections)
 - small public water system (<500 connections)
 - large county DWID (>500,000 population)
 - small county DWID (<500,000 population)
 - large county WWID (>500,000 population)
 - small city (<50,000 population)
 - large city (>50,000 population)
 - large county (>500,000 population)
 - ADEQ Director
 - ADWR Director
 - ACC Director
 - Commerce Authority CEO



Joint Legislative Water Committee²⁹

The JLWC is established, consisting of the President of the Senate, Speaker of the House, both Minority Leaders, both chairpersons, the ranking members of the Senate and House water committees, and the Chairperson of Joint Legislative Budget Committee.

The JLWC reviews awards over \$50 million from the LTWA Fund. The JLWC does not have the authority to veto or alter any decision made by the WIFA Board on a funding application.

²⁹ A.R.S. § 49-1215