



Public Notice Pursuant to A.R.S. § 38-431.02

**ARIZONA MUNICIPAL WATER USERS ASSOCIATION
BOARD OF DIRECTORS**

MEETING NOTICE AND AGENDA

Thursday, February 22, 2024 – 11:00 a.m.

**This meeting will be held as a Hybrid meeting.
Attendance in person is welcomed; Others may join via Zoom.**

Access this [Link](#) to join via Zoom. Meeting ID: 889 7057 7007
(Option to join by phone: 602-753-0140, same Meeting ID as above)

A. Call to Order

B. General Business—Items for Discussion and Possible Action

1. Approval of the Minutes from the January 25, 2024, Meeting
2. Next Meeting Date: March 28, 2024, 11:00 a.m.
3. 2024 Legislative Session
4. Fiscal Year 2024 Quarterly Financial Statements – Second Quarter

C. Executive Director's Report

D. Future Agenda Items

E. Adjournment

*The order of the agenda may be altered or changed by the AMWUA Board of Directors. Members of the AMWUA Board of Directors may attend in person or by internet conferencing.

More information about AMWUA public meetings is available online at www.amwua.org/what-we-do/public-meetings, or by request.

Arizona Municipal Water Users Association



**BOARD OF DIRECTORS
MEETING MINUTES
January 25, 2024
HYBRID MEETING**

BOARD MEMBERS PRESENT

Councilmember Sheri Lauritano, Goodyear, President
Mayor Scott Anderson, Gilbert, Vice President
Councilmember Mark Freeman, Mesa, Secretary/Treasurer
Councilmember Curtis Nielson, Avondale
Councilmember Matt Orlando, Chandler
Councilmember Bart Turner, Glendale
Councilmember, Jennifer Crawford, Peoria
Councilwoman Kesha Hodge Washington, Phoenix
Mayor David Ortega, Scottsdale
Councilmember Arlene Chin, Tempe

OTHERS PRESENT

Barry Aarons, Aarons Co.	Berenice Felix-Baca, Phoenix	Jacob Perez Laurent, AMWUA
Amy Arguilez, Gilbert	Brett Fleck, City of Peoria	Ryan Peters, Chandler
Gretchen Baumgardner, Scottsdale	Sherry Garcia, AMWUA	Tina Sleeper, Tempe
Kirk Beaty, City of Avondale	Jake Golden, Phoenix	Warren Tenney, AMWUA
Rebecca Bernat, AWBA	Laura Hixson, Town of Gilbert	Sheri Trapp, AMWUA
Paul Bergelin, AMWUA	Sandra House, Glendale	Theresa Ulmer, Ulmer Consulting
Andrew Butler, Aarons Co.	Simone Kjolsrud, Chandler	Tammi Watson, CAP
Wally Campbell, City of Goodyear	Ty Lee, City of Tempe	
Barbara Chappell, City of Goodyear	Sina Matthes, City of Phoenix	
Harry Cooper, AMWUA	Kathy McDonald, City of Mesa	
Ray Diaz, City of Goodyear	Brad Moore, AMWUA	
Kathleen Ferris, AMWUA		

A. Call to Order

Councilmember Lauritano called the meeting to order at 11:01 a.m.

B. General Business – Items for Discussion and Possible Action

1. Approval of the Minutes from the December 7, 2023, Meeting

Upon a motion made by Councilmember Turner and a second from Mayor Anderson, the AMWUA Board of Directors unanimously approved the December 7, 2023, meeting minutes.

2. Next Meeting Date: Thursday, February 22, 2024 – 11:00 a.m.

3. Political Landscape for Water Legislation

Mr. Tenney reported there are 70 bills. For over four decades the Groundwater Management Act has provided us relative water stability; however, today we are facing water challenges with the Colorado River and groundwater. There is growing tension between short-term economic gain and long-term water management for long-term economic stability. This is a critical juncture for Arizona's water management.

Mr. Tenney reported that groundwater is an issue in rural Arizona with long-standing resistance to regulations vs. growing concern to better manage groundwater. There is tension between rural communities and large agriculture businesses – protection of local aquifers vs. economic benefits of agricultural industry. In 2022, we saw the first time in 40 years the creation of the Douglas AMA and Hualapai INA created within the last year. ADWR just released hydrologic studies of seven key rural basins that concluded that almost all these basins have had a negative balance (meaning more demand than supply) for at least the past 10 years. Recently, ADWR issued public notice of looking to establish the Gila Bend AMA. The Governor's Water Policy Council recommended a regulatory framework for local management and key Republicans have introduced their alternative legislative framework. Half of the majority's bills introduced this session would erode the new AMA and INA as well as limit the tools ADWR has to manage rural groundwater.

The Phoenix AMA groundwater model projected 4.9-million-acre-foot of unmet demand by 2121 due to rates of groundwater decline that are twice the historical average projections. This has halted subdivision development outside of designated providers – no development solely dependent upon groundwater. To address this, the Governor's Water Council recommended an alternative path to designation as a way to shift development away from the paradigm of subdivisions obtaining certificates to a water provider obtaining designation for the whole service area. Half of Majority's bills seek to jump-start development by attacking the groundwater model or weakening the Assured Water Supply Program.

Mr. Aarons commented on the political dynamics at the Legislature. Mr. Aarons reported that it's not just about the ten AMWUA cities but it's about the state's overall water policy. However, the legislature doesn't just live in the water policy world and there are many dynamic tensions, and one is agriculture vs. urban. Agriculture has a disproportionate influence on policy at the legislature. There is also the tension between rural communities and rural management, and the influence of the developing community. Looking at many of the water bills, the legislature wants to modify enough so that any restrictions they perceive are lifted or avoided for development. We can't just rely on the Governor to veto, so getting votes to support an AMWUA position on legislation is important. Mr. Aarons encourages members to take an active role in advocating for AMWUA's positions.

4. 2024 Legislative Session

Mr. Bergelin reported that groundwater management in rural areas is a hot topic. AMWUA is tracking rural groundwater legislation as of Monday, and primarily taking positions of neutral or monitor, unless it is egregiously poor water management. Mr. Bergelin reported SB 1221, Senator Kerr's rural management framework was just introduced and counters Governor's Water Council recommendation. Everyone is watching to see if legislature and the Governor's Office can resolve differences to create on rural groundwater management.

Mr. Bergelin reviewed bills that would have the most impact upon AMWUA members and overall water management. He then gave a high-level overview of the remaining bills with AMWUA's recommending position.

Councilmember Chin asked about the origin of HB 2320? Mr. Tenney reported that this bill, which has been introduced in previous sessions, is meant to allow the Game and Fish commission to acquire surface water rights for watershed health uses and instream uses. It has been brought up before, but the concern is that it would be another large responsibility placed on ADWR without ADWR having funds to complete it. There is also concern that this bill could add additional issues regarding acquiring and leasing surface water rights. For those reasons, AMWUA is not sure it would be heard in committee so that it why AMWUA's recommendation is to monitor. Mr. Tenney reported that AMWUA is targeting bills that could be heard in committee and bills that will have the most impact on AMWUA cities.

Regarding HB 2030, , Mr. Bergelin explained this bill would require cities to hire an independent auditor to conduct a full rate audit and cost-of-service study focusing on various components of their water and sewer services. This unnecessary, unfunded mandate will force municipal water providers to contract for an outside audit of their finances when the information requested is already available. This bill encroaches into the business of the city management by subverting local oversight and responsibility of water management and finances, which is why we are encouraging the League of Cities and Towns to take the lead on opposing this bill.

Mr. Tenney explained that regarding HB 2366, it would be detrimental to our economy to undermine any of our members' a 100-year assured water supply designation. Mr. Tenney strongly encouraged reaching out to Legislators to explain the negative perception this bill places on Arizona's economy. Councilmember Lauritano requested a list of the members of the House Natural Resources Committee.

Mr. Aarons reported regarding HCR 2400, SCR 1015, and SB1195, he does not believe this will pass as a ballot measure. Mr. Aarons stated that ballot measures do not go to the Governor, they go directly to the Secretary of the State for inclusion. Mr. Tenney further added that AMWUA is concerned about the negative impression that these bills place on Advanced Water Purification. The ability to be able to re-cycle water and reuse it as a drinking supply is critical for our future. It is the only near-term supply available, and there is a need to generate positive confidence to residents. It's disturbing when there are state leaders that are suggesting that this is bad, when technology shows that this is possible and it's already happening in different parts of the world. Mr. Tenney highly encourages AMWUA cities to talk with elected officials and councilmembers about the importance of Advanced Water Purification in the near-term for Arizona.

Councilmember Turner asked if there are sponsors? Mr. Bergelin reported that there is a decent list of sponsors.

Councilmember Freeman stated that he feels this is a direct attack on the municipalities and questions how state agencies will be empowered to carry such a mandate forward.

Mayor Ortega stated that this approach is another form of denial. Scottsdale has the technology for water reuse. The City of Scottsdale can handle \$20 million gallons a day of recycled water. This is an opportunity to educate the public.

Upon a motion made by Vice Mayor Ortega and a second from Councilmember Freeman, the AMWUA Board of Directors unanimously approved to adopt the recommended legislative positions.

SUPPORT

HB 2007 subdivided lands; civil penalties (Griffin)
HB 2009 subdivisions; acting in concert (Griffin)
HB 2011 lottery, water infrastructure finance authority (Griffin)
HB 2024 lottery; on-farm irrigation efficiency fund (Griffin)
HB 2026 residential lease community; water; certificate (Griffin)
HB 2055 underground water storage; permitting (Dunn)
HB 2056 appropriation; on-farm efficiency fund (Dunn)
HB 2057 appropriation; long-term water augmentation fund (Dunn)
HB 2101 land division; applicant submissions; review (Griffin)
HB 2200 groundwater transportation; Harquahala non-expansion area (Dunn)
HB 2201 Harquahala non-expansion area; groundwater transportation (Dunn)
HB 2214 water treatment facilities; loan repayment (Terech)
HB 2358 state lands; leases; groundwater use (Stahl Hamilton)
HB 2359 adequate water supply; statewide requirements (Stahl Hamilton)
HB 2399 reporting; groundwater pumping; measuring (Crews)
SB 1106 state lands; leases, groundwater use (Sundareshan)

NEUTRAL or MONITOR

HB 2006 real estate; acting in concert (Griffin)
HB 2010 cities; towns; water reuse plans (Griffin)
HB 2013 water improvements program; nonprofit corporations (Griffin)
HB 2015 subsequent water management areas; basins (Griffin)
HB 2016 grandfathered rights; subsequent AMA; extension (Griffin)
HB 2027 subsequent AMAs; assured water supply (Griffin)
HB 2059 contiguous real estate; definition (Griffin)
HB 2060 irrigation non-expansion area; substitution; acres (Griffin)
HB 2063 exempt wells; certificate; groundwater use (Griffin)
HB 2096 tiny homes; construction; requirements; exemptions (Parker B)
HB 2097 gray water; definition; residential standard (Parker B)
HB 2182 augmentation; Phoenix; Pinal; Tucson; AMA (Kolodin)
HB 2184 brackish groundwater pilot program (Smith)
HB 2195 on-site wastewater treatment facilities, permitting (Hendrix)
HB 2320 watersheds; beneficial use; instream flows (Travers)
HB 2355 subsequent active management area; designation (Stahl Hamilton)
HB 2356 subsequent irrigation; non-expansion areas; procedures (Stahl Hamilton)
HB 2357 watershed health; use; survey (Stahl Hamilton)
HB 2368 transportation; groundwater; Douglas AMA (Griffin)
HB 2647 physical availability credits; water supply (Smith)
SB 1081 exemption area; assured water supply (Kerr)
SB 1108 subsequent active management area; designation (Sundareshan)
SB 1172 physical availability credits; water supply (Shope)
SB 1081 exemption area; assured water supply (Kerr)
SB 1181 groundwater replenishment; member lands; area (Peterson)

OPPOSE – SEEK TO AMEND

HB 2008 commercial; industrial; conservation requirements; rules (Griffin)

HB 2018 subsequent irrigation non-expansion area; removal (Griffin)

HB 2058 Yuma water banking; study committee (Dunn)

OPPOSE

HB 2014 wells; intention to drill, appropriation (Griffin)

HB 2017 assured water supply; commingling (Griffin)

HB 2019 groundwater model; public inspection, challenge (Griffin)

HB 2020 long-term storage; stormwater; rainwater; rules (Griffin)

HB 2025 residential lease community; water; requirements (Griffin)

HB 2028 groundwater model; unpledged storage credits (Griffin)

HB 2029 groundwater model; unpledged effluent (Griffin)

HB 2030 cities, town, water service; audit (Griffin)

HB 2061 subsequent active management area; removal (Griffin)

HB 2062 assured water supply; certificate; model (Griffin)

HB 2099 active management area; groundwater right (Griffin)

HB 2100 administrative completeness review; licensing (Griffin)

HB 2123 wells; water measuring devices; prohibition (Smith)

HB 2127 assured water supply certificate; effluent (Griffin)

HB 2150 groundwater sales; online exchange (Kolodin)

HB 2186 remedial groundwater incentive; brackish groundwater (Kolodin)

HB 2366 physical availability; review; designated providers (Griffin)

HB 2589 assured water supply; analysis; availability (Dunn)

SB 1041 groundwater savings certificate; assured water (Hoffman)

SB 1056 municipalities; counties, fee increases, vote (Peterson)

SB 1107 long-term storage accounts; credits; percentage (Sundareshan)

SB 1109 water augmentation fund; appropriation; rights (Sundareshan)

SB 1153 regulatory costs; rulemaking; legislative ratification (Kern)

C. Executive Director's Report

Mr. Tenney reported this winter precipitation is trailing behind from last year. As of today, snowpack for the Upper Colorado River Basin (above Lake Powell) is at 90% of the 30-year median. Remember that does not equate to runoff as there has been smaller runoffs in recent years. Both Lake Mead and Lake Powell are remaining steady at 35% full. The total SRP system is 81% full, as compared to 77% full a year ago. Current runoff in the total SRP system is about 69% of average.

AMWUA has rescheduled the legislative breakfast for February 28, 2024.

D. Future Agenda Items

No future agenda items were requested.

E. Adjournment

Councilmember Lauritano adjourned the meeting at 12:23 p.m.

AMWUA BOARD OF DIRECTORS

INFORMATION SUMMARY

February 22, 2024

2024 Legislative Session

ANNUAL PLAN REFERENCE

Legislation

Effectively advocate with one voice at the Legislature.

- Monitor, analyze and clarify state and federal legislation of interest to our members.
- Engage with legislators to inform them about the issues important to AMWUA including identifying and working with legislators to champion water issues.

Strategic Plan: Collaborate and Advocate for Solutions, Safeguard Water Supplies, Reinforce Groundwater Management, Prepare for Impacts of Drought & Shortage, Pursue Post-2025 Water Policy

SUMMARY

The Second Regular Session of the 56th Legislature began January 8, 2024. This report has been updated as of February 14, 2024, when 1,756 measures have been introduced of which 94 relate to water.

At its January 25, 2024 meeting, the AMWUA Board adopted positions on 70 bills. Subsequently, an additional 24 bills have been introduced. This legislative report includes first a summary of those 24 water bills, which the Board is requested to take a position on. The report then summarizes and provides updates regarding the water legislation that AMWUA is tracking.

AMWUA staff and Lobbyist will provide an overview about the most relevant new legislation that has been introduced since January 25, 2024. Also, AMWUA staff will give an update about key water legislation that is moving forward.

On February 14, 2024, the AMWUA Management Board reviewed the water bills and recommended positions on those bills that have been introduced since January 25, 2024. The Management Board also recommended changing AMWUA's position on SB 1172/HB 2647 from "monitor" to "oppose". While negotiations continue to find an acceptable amendment to this legislation, as written, both bills would be problematic to overall water management in the AMA and could negatively impact our members. Therefore, it was felt that we should express that through a position of "oppose" and see if an acceptable compromise can be reached.

The terms "neutral" and "monitor" apply to bills that we are watching. "Neutral" infers that we most likely do not see the bill having an impact on our members and have will therefore not get into the debate on the bill. "Monitor" infers that we are watching the bill closely, further analyzing, and may take a position of support, oppose, or neutral at a later date.

RECOMMENDATION

It is recommended that the AMWUA Board of Directors discuss and ask questions regarding legislation impacting AMWUA’s members. The Board packet includes a list of bills that the Management Board has recommended that the AMWUA Board take action on.

SUGGESTED MOTION

I move that the AMWUA Board of Directors adopt the following legislative positions as outlined in the Board packet:

HB 2487	residential lease community; Prescott AMA (Bliss)	-----	<i>Neutral</i>
HB 2628	department of environmental quality; omnibus (Griffin)	-----	<i>Neutral</i>
HB 2647	physical availability credits; water supply (Smith)	-----	<i>Oppose</i>
HB 2708	WIFA; water augmentation fund (Villegas)	-----	<i>Support</i>
HB 2842	basin-fill aquifers; groundwater; correlative rights	-----	<i>Neutral</i>
HB 2857	rural groundwater management (Mathis)	-----	<i>Neutral</i>
HB 2860	water conservation infrastructure; reimbursement (Livingston)	-----	<i>Monitor</i>
HB 2894	rainwater harvesting; appropriation (Hernandez M)	-----	<i>Monitor</i>
SB 1108	subsequent active management area; designation (Sundareshan)	-----	<i>Monitor</i>
SB 1172	physical availability credits; water supply (Shope)	-----	<i>Oppose</i>
SB 1221	basin management areas; appropriation (Kerr)	-----	<i>Neutral</i>
SB 1241	tax credit; gray water systems (Shope)	-----	<i>Neutral</i>
SB 1242	ADWR; application; review; time frames (Shope)	-----	<i>Oppose</i>
SB 1243	groundwater sales; online exchange (Wadsack)	-----	<i>Oppose</i>
SB 1245	drinking water standards; pollutants (Sundareshan)	-----	<i>Monitor</i>
SB 1246	reporting; groundwater pumping; measuring (Sundareshan)	-----	<i>Support</i>
SB 1264	Colorado River; pumping notice; objection (Borrelli)	-----	<i>Neutral</i>
SB 1289	DWR; hydrology reports (Hoffman)	-----	<i>Oppose</i>
SB 1325	aquifer management; conservation; priority (Sundareshan)	-----	<i>Monitor</i>
SB 1326	subdivisions; assured water supply; lots (Sundareshan)	-----	<i>Support</i>
SB 1327	assured water supply; building permits (Sundareshan)	-----	<i>Support</i>
SB 1328	subsequent irrigation; non-expansion areas; procedures (Sundareshan)	-----	<i>Monitor</i>
SB 1329	watershed health; use; survey (Sundareshan)	-----	<i>Monitor</i>
SB 1339	regulatory costs; rulemaking; legislative ratification (Carroll)	-----	<i>Oppose</i>
SB 1520	appropriation; Page water infrastructure project (Hatathlie)	-----	<i>Monitor</i>
SB 1551	rural management areas (Mendez)	-----	<i>Monitor</i>
SB 1606	residential lease communities; building permits (Wadsack)	-----	<i>Support</i>
SB 1650	subdivisions; assured water supply; lots (Bennett)	-----	<i>Support</i>

The following are water bills introduced since the January 25, 2024 AMWUA Board Meeting –

[HB 2487](#) residential lease community; Prescott AMA (Bliss)

Recommended Position – Neutral

HB 2487 would establish water supply-related criteria to dictate when a city or town in the Prescott AMA or the Yavapai County Board of Supervisors could approve a commercial building plan for a build-to-rent or multi-family housing property. Specifically, this plan could only be approved if the development in question either is within a designated provider's service area or has acquired enough Irrigation Grandfathered Rights or Type 1 non-Irrigation Grandfathered Rights to meet its annual water demand. (The bill also mentions Type 2 non-Irrigation Grandfathered Rights, but it's unclear how they fit into the bill's mechanics.) This requirement does not apply to any current or planned build-to-rent or multi-family housing properties that received zoning entitlements before 2025. Housing for agricultural workers are exempted from the bill's requirements.

Establishing water supply requirements for these properties, which largely fall outside the scope of the Assured Water Supply Program, is commendable. However, groundwater pumped using a grandfathered right may not necessary be physically available under the Assured Water Supply Program. Groundwater models for the Pinal and Phoenix AMAs have projected unmet demand over the next 100 years, which means that groundwater is not physically available—even when it is pumped pursuant to a grandfathered right. Fortunately, the Prescott AMA is not yet facing this same predicament. Still, it may be worth exploring how to tighten the bill's criteria for pumping using these grandfathered rights.

[HB 2628](#) department of environmental quality; omnibus (Griffin)

Recommended Position – Neutral

HB 2628 is an omnibus bill that makes various changes to the Arizona Department of Environmental Quality's statutes, including those related regulating coal combustion residuals and vehicle emissions. The only water-related provisions of this bill involve the Monitoring Assistance Program, which helps smaller water systems comply with the Safe Drinking Water Act, and one change to the Underground Injection Control (UIC) Program.

For the UIC Program, HB 2628 repeals A.R.S. 49-257, which requires the Safe Drinking Water Act's definitions for this program and implementing regulations to apply to the State's UIC Program. This statute is redundant because of a separate statute (A.R.S. 49-257.01) that

authorizes ADEQ to establish its own UIC Program and adopt rules to that end. ADEQ is in the process applying for primary enforcement authority with EPA for its own UIC Program.

Regarding the Monitoring Assistance Program, HB 2628 authorizes ADEQ to adopt rules that establish criteria for public water systems to opt out of this program. The bill also allows ADEQ to conduct additional sampling when a system's sample exceeds a limit established in the Safe Drinking Water Act's rules. Finally, HB 2628 allows the program's fund to receive federal monies and private grants, gifts, and contributions and provides more flexibility to ADEQ when a fund surplus occurs.

HB 2708 WIFA; water augmentation fund (Villegas)

Recommended Position – Support

This bill would allow WIFA's Long-Term Water Augmentation Fund to be used to fund water supply development projects that utilize sources of water found within Arizona. This bill would also remove the requirement that 75% of the Fund be used to bring in new water supplies from outside of Arizona.

This bill would accomplish mostly the same thing as HB 2182. However, this bill does not include the requirement from HB 2182 that most of the Fund be used within the Phoenix, Tucson, or Pinal AMAs. Still, this bill is certainly a step in the right direction.

HB 2842 basin-fill aquifers; groundwater; correlative rights

Recommended position – Neutral

This bill repeals A.R.S. 45-544, which sets parameters for transporting groundwater outside active management areas (AMAs). In its place, the bill creates a new statute to govern groundwater transportation in these areas, which it refers to as basin-fill aquifer areas. In these areas, groundwater may be transported within the same basin or sub-basin. Any transportation would not be subject to any claims of damages from other groundwater users. It also may be withdrawn and used consistent with correlative rights of landowners. The Arizona Department of Water Resources (ADWR) would determine these correlative rights based on a formula that considers the area of the owner's land, the volume of groundwater available in the basin or sub-basin, and annual natural recharge. The resulting correlative right would be converted into a lump volume of groundwater that would be assigned to an account for each landowner. This volume would effectively limit the amount of groundwater that a landowner could pump. HB 2842 would also require a regular audit and hydrological audit of these accounts.

HB 2857 rural groundwater management (Mathis)

Recommended Position –Neutral

This bill would allow the creation of rural groundwater management areas in areas not currently included within an Active Management Area. These areas could be designated by ADWR if it is found that there is significant land subsidence or if current groundwater pumping is threatening current or future groundwater supply or quality. These areas could also be designated if a petition is signed by either the majority of the members of a County Board of Supervisors with lands within the area, or by ten percent of registered voters residing within the area. ADWR will be required to hold a public hearing where they present data and solicit public comments about the establishment of the area.

Certificates of groundwater use will be issued to individuals who legally pump groundwater from non-exempt wells as of the date of the designation of the area. These certificates will be based on the average amount of groundwater pumped by the applicant within either the previous ten years or the previous twelve months (if the applicant has only used groundwater for less than twelve months). These certificates will be transferable between other people and land within the same rural management area.

These areas will have a management area council that is composed of seven members appointed by the Governor from a list of names submitted by majority and minority Legislators as well as three appointed directly by the Governor. The council members will serve five-year terms and will have duties including developing a management plan and at least one management goal for the area. The management goal(s) must be either achieving safe-yield, mitigating land subsidence, mitigating water quality degradation, or mitigating groundwater level decline. The management plan is established to describe how the management goals should be met. The management plan is required to include monitoring and reporting requirements for non-exempt wells, as well as conservation requirements for these users. The management goal(s) and management plan will be subject to review by ADWR and a public comment and hearing process.

Between when the process to create the area starts and when the area's rural groundwater management plan is created there will be a moratorium on additional groundwater withdrawals and irrigation of additional acres. These rural groundwater management areas will be reviewed by ADWR every ten years to determine if the conditions for their existence are still present. This bill establishes an un-funded Rural Groundwater Management Area Fund to be used by ADWR to manage this program.

Much like SB 1551, this bill is quite in-line with the recommendations made by the Governor's Water Policy Council about a rural management framework. This bill would take some big steps for rural groundwater management in Arizona, notably by requiring monitoring and reporting by non-exempt users in these areas, in addition to conservation requirements. It is worrying

that this bill does not include any specific funds appropriated to ADWR for this very large new responsibility.

HB 2860 water conservation infrastructure; reimbursement (Livingston)

Recommended Position – Monitor

HB 2860 would create a new program that allows cities, towns, and counties to reimburse themselves for up to 80% of the costs of constructing water conservation improvement infrastructure that supports manufacturing facilities. This reimbursement would come from state transaction privilege tax revenues that had been collected within that particular city, town, or county. This bill is modeled off an existing program that allows qualifying cities, towns, and counties to be similarly reimbursed for public infrastructure for manufacturing facilities. (The existing program has been used to support Intel’s facility in Chandler and Phoenix’s planned TSMC facility.) The water conservation improvement infrastructure in HB 2860 includes wastewater reclamation, recycling, treatment, storage, and delivery facilities. Similar to the existing public infrastructure program, the program proposed by HB 2860 is limited to allocating up to \$200 million among all qualifying political subdivisions and would expire in 2033.

HB 2894 rainwater harvesting; appropriation (Hernandez M)

Recommended Position – Monitor

This bill would appropriate \$1 million from the State General Fund for Fiscal Year 2024-2025 to ADWR for the purpose of establishing a rainwater harvesting grant program. This program would provide grants to people that wish install either a “passive” or “active” rainwater harvesting system. The award would be up to \$500 for people who install a “simple and passive” rainwater harvesting system, and up to \$2,000 for those who install a more complex system. The grant money would be able to be used towards rain storage tanks and associated items, such as gutters.

SB 1108 subsequent active management area; designation (Sundareshan)

Recommended Position – Monitor

This bill would require ADWR to designate as an AMA any area that meets the AMA designation criteria. The criteria include water quality degradation from groundwater use, land fissures, and active management to preserve groundwater for future use.

AMAs are the gold standard when it comes to groundwater management in Arizona, and any area that shows signs of groundwater depletion should be designated as an AMA. However, the large increase in responsibilities that the designation of numerous new AMAs could place on ADWR would necessitate further funding for the Department, and that should be considered.

[HB 2647/SB 1172](#) *physical availability credits; water supply (Smith/Shope)*

Recommended Position – Oppose

Last Action Taken – SB 1172 was amended and passed Senate NREW on February 1, 2024 with a 4-3 vote.

HB 2647 and SB 1172 are both an effort to incentivize the retirement of agricultural land so it can be developed for residential use and thereby dramatically reduce the use of water. Specifically, this legislation would allow the holder of an irrigation grandfathered right (IGR) to earn a physical availability credit by permanently retiring their land from irrigation to future non-irrigation use if certain criteria were met. The land to be retired must have been farmed in three of the last seven years, the new non-irrigation use must remain appurtenant to the retired lands, and the groundwater is delivered by a municipal provider, which will withdraw the groundwater from within its service area.

This credit would entitle the holder to withdraw groundwater from the retired lands in an amount that would be the lesser of either:

- the current maximum amount of groundwater that may be pumped per the IGR OR
- 3 acre-feet multiplied by the water duty acres in the appurtenant farm divided by the irrigated acreage on this farm.

If the amount withdrawn is more than what's needed for the lands, the remaining balance can be used anywhere within the municipal provider's service area.

The physical availability credit could also be used to support Certificates and Designations of Assured Water Supply. In addition to being physically available, any groundwater pumped pursuant to this credit would be considered consistent with the AMA's management goal.

The fundamental problem with this bill is that there is no clear connection between a grandfathered right and physical availability of groundwater. The bill tries to address this issue by limiting its applicability to recently used IGRs that would presumably have been factored into the Phoenix AMA groundwater model. In doing so, the intent seems to be reduction of unmet demand.

An additional problem is that there is already a statutory process to retire farmlands and convert an IGR to type 1 non-IGR. It is not clear why that process cannot be used.

SB 1221 basin management areas; appropriation (Kerr)

Recommended Position – Neutral

This bill would establish a type of rural groundwater management framework called a Basin Management Area. These areas may only be initiated through a petition by voters who live within the groundwater subbasin or basin covered by the area. These areas may be turned into Active Basin Management Areas if there is a unanimous vote by all County Boards of Supervisors that govern land contained within the Management Area. Active Management Areas are managed by a five-person council that works in conjunction with ADWR and the State Legislature to develop a management plan for the Area and provide financial assistance for water conservation.

SB 1241 tax credit; gray water systems (Shope)

Recommended Position – Neutral

This bill would establish a tax credit of up to \$5,000 for both individuals and corporations that install a graywater system that complies with ADEQ regulations established in ARS § 49-204(C). This tax credit would be available for tax years 2025 through 2035.

SB 1242 ADWR; application; review; time frames (Shope)

Recommended Position – Oppose

SB 1242 would shorten the time frames that the Arizona Department of Water Resources (ADWR) must comply with when processing Assured Water Supply (AWS) applications. It would reduce the administrative completeness review from 150 days to 90 days for all types of applications. Additionally, it would reduce the substantive time frame review from Certificates and Designations from 60 days to 30 days. When combined, all AWS applications would need to be processed within 120 days.

Additionally, SB 1242 would repeal an exemption that ADWR has for determinations that an application is not administratively complete. Under current statute, when most state agencies determine that an application is not administratively complete, the applicant is entitled to appeal the agency's determination and have the merits of the application's administrative completeness adjudicated. However, ADWR's determinations are exempt from this appeal process.

SB 1243 groundwater sales; online exchange (Wadsack)

Recommended Position – Oppose

SB 1243 proposes to allow those with a grandfathered groundwater right in the Phoenix, Pinal and Tucson Active Management Areas (AMAs) to sell or lease a portion of their right or the groundwater itself to anyone in these three AMAs. Any groundwater right or groundwater sold leased may not be withdrawn in another sub-basin but may be transported to that basin. When a transaction occurs, the buyer lessee is entitled to receive the right to receive or withdraw 65% of the total amount of groundwater that was part of the transaction. The remaining 35% will remain with the land and cannot be pumped, used, or otherwise conveyed.

Any groundwater or right conveyed would be exempt from replenishment by the Central Arizona Groundwater Replenishment District, excluded from a designated water provider’s groundwater allowance, deemed consistent with the AMA’s management goal, and deemed physically available for obtaining a Certificate of Assured Water Supply.

SB 1243 has numerous problems. First, there has been a market for grandfathered groundwater rights since the passage of the Groundwater Management Act in 1980. Second, by allowing quantities of groundwater to be sold or leased, SB 1243 contradicts established caselaw on managing groundwater. Third, allowing grandfathered rights to be sold for use outside of the AMA in which they were issued threatens the ability to reach the unique management goal of that particular AMA. Fourth, physical availability of groundwater is separate and distinct from the right to pump groundwater. Deeming water pumped pursuant to a Grandfathered Right to be physically available for the purpose of obtaining a Certificate of Assured Water Supply is not based on hydrologic reality and is contrary to the consumer protection purpose of the assured water supply provisions.

SB 1245 drinking water standards; pollutants (Sundareshan)

Recommended Position – Monitor

This bill would require ADEQ to establish Aquifer Water Quality Standards (AWQS) for chromium-6 (hexavalent chromium), 1,4-dioxin, and all PFAS chemicals. This bill would also remove a requirement that state regulations established by ADEQ are no more stringent than federal regulations about the same subject matter.

EPA and ADEQ are already in the process of developing monitoring rules for the compounds listed in this bill. This bill would simply seek to accelerate the process for ADEQ specifically to regulate these compounds and would seek to allow ADEQ to impose regulations stricter than those of the EPA.

SB 1246 reporting; groundwater pumping; measuring (Sundareshan)

Recommended Position – Support

This bill would require measurement and reporting by anyone who owns a non-exempt well outside of an AMA or INA if the well withdraws more than 10 acre-feet per year for a non-irrigation use or is used to irrigate 10 or fewer acres for an irrigation use. This bill also lists the reporting requirements for the well owner.

Accurate measurement and reporting of groundwater use within Arizona is essential to sound groundwater management. Groundwater availability in Arizona is more threatened now than it has been in at least the past 40 years, and now is exactly when we should be showing the rest of the world that we are serious about sound water management.

SB 1264 Colorado River; pumping; notice; objection (Borrelli)

Recommended Position – Monitor

SB 1264 requires, as part of a notice of intent to drill filed with the Arizona Department of Water Resources (ADWR), a statement indicating that there is no objection from a municipality, county, irrigation district, or the Mohave County Water Authority with a Colorado River entitlement when the well is an exempt well that will be drilled either:

- Within the city limits or water service area (as defined in a Colorado River entitlement contract) of a municipality in a county adjacent to the Colorado River;
- Within the service area of an irrigation district in a county adjacent to the Colorado River;
- Within 5 miles of the Colorado River in a county adjacent to the Colorado River; or
- Within the water service area of the Mohave County Water Authority.

The person intending to drill this well must first submit a notice of intent to drill to the applicable municipality, county, irrigation district, or county water authority. If the applicable governing body does not object to this application within 45 days, ADWR is directed to assume that the governing body does not object and process the application.

This bill does not directly affect our member cities, but it appears to be a step in the right direction in that it allows some municipal water providers to object to exempt wells that may impact water supplies within their service areas.

SB 1289 DWR; hydrology reports (Hoffman)

Recommended Position – Oppose

SB 1289 would require the Arizona Department of Water Resources (ADWR) and Governor to provide the House and Senate Committees on Natural Resources, Energy & Water with a copy of any report on the hydrologic conditions of an active management area (AMA) 30 days before that report is issued.

This bill would essentially give lawmakers a sneak preview of any projections and findings from an AMA groundwater model. No entity or person was given a physical copy of the report on the projections and findings of the Pinal AMA or Phoenix AMA groundwater model before those were publicly released.

SB 1325 aquifer management; conservation; priority (Sundareshan)

Recommended Position – Monitor

This bill would require ADWR to prioritize the “conservation and maintenance” of Arizona’s aquifers above all else, followed in priority by the protection of Arizona’s “consumers” and then finally the protection of “all other users”.

SB 1326 subdivisions; assured water supply; lots (Sundareshan)

Recommended Position – Support

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease (regardless of the lease term) within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment of water service before a building permit may be issued. This bill would also require the plat to obtain a CAWS or commitment before it was approved for development, even in areas where approval is not required, which seems redundant. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

Requiring all developments within an AMA (including build-to-rent properties) to be covered under the Assured Water Supply program would be a step in ensuring that all Arizonan’s have assured long-term access to water. Additionally, separating this requirement from the definition of a subdivision avoids the confusing and controversial conversations about what exactly constitutes a subdivision.

SB 1327 assured water supply; building permits (Sundareshan)

Recommended Position – Support

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment before a building permit may be issued. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

This bill is the same as SB 1326 except it removes the requirement that plats receive a CAWS or commitment both before approval and before a building permit if approval is not required by the county or city.

SB 1328 subsequent irrigation; non-expansion areas; procedures (Sundareshan)

Recommended Position – Monitor

This bill would allow ADWR to consider “reasonable projections” of future irrigation groundwater use when considering whether to designate an area as a subsequent INA, rather than only considering current irrigation groundwater use. This bill also defines the acceptable amount of groundwater available for irrigation as a 100-year supply. This bill also specifies who may sign a petition to designate a subsequent INA, including someone who is the owner of irrigated land, has irrigated two or more acres in the basin in the past five years, or “is capable of irrigating the land in the future”. This bill requires these petitions to be submitted along with a numeric groundwater model and hydrologic report prepared by a professional geologist or hydrologist. Lastly, this bill states that ADWR’s final decision on the designation of a subsequent INA are not an appealable agency action but are subject to judicial review, and that after a refusal another petition to designate the area may not be submitted for three years.

SB 1329 watershed health; use; survey (Sundareshan)

Recommended Position – Monitor

This bill would require ADWR to establish criteria to evaluate the status of the relationship between “ecological water needs”, groundwater withdrawal, and surface water appropriations in Arizona. This bill also requires ADWR to complete a survey of the status of the waters of Arizona by December 31, 2026. This survey must include an assessment of the overall health of all watersheds in the state, and a lesser assessment of the health of sub-watersheds and the

health of the ecosystems they support. ADWR must also determine the appropriate steps to be taken to remedy the problems in these watersheds and recommend legislation through which to take these steps. ADWR is also required to hold public meetings and receive and publish public comments on this survey and make the survey public when it is complete. This bill also includes the same requirements for follow-up surveys and the same definitions that are included in HB 2320.

Again, while it is laudable goal to evaluate the overall health of Arizona’s watersheds, it is worrying that another large responsibility would be placed on ADWR without additional funding or other resources. This bill is a superior version of HB 2320 because it includes a description of the initial watershed health survey. This bill is also preferable because it does not put any additional responsibilities or allowances on the Game and Fish Commission.

SB 1339 regulatory costs; rulemaking; legislative ratification (Carroll)

Recommended Position – Oppose

This bill would prohibit any proposed rule that will cost the state more than \$500,000 within five years from going into effect until the Legislature enacts legislation ratifying the proposed rule. An agency would be required to submit the proposed rule to the (newly created?) Administrative Rules Oversight Committee, and the Committee would submit the rule to the Legislature “as soon as practicable”. The agency is prohibited from submitting a finalized rule until the Legislature ratifies the rule, and the agency must terminate the proposed rule if the Legislature fails to ratify it within the same legislative session that it was submitted to the Committee.

This bill is troubling because of the wide-ranging impacts it could have on ADWR, ADEQ, and every other state agency. \$500,000 is not a lot of money, and most substantive agency rules would probably cost the state that amount within five years. Oversight of agency rulemaking should be handled through public stakeholder processes, and not through the political machinations of the legislature. Requiring agency rulemaking to be approved by the legislature effectively opens these agencies up to political influence and means that rules would likely be passed through that were politically advantageous rather than those that follow actual best practices.

SB 1520 appropriation; Page water infrastructure project (Hatathlie)

Recommended Position – Monitor

This bill would appropriate \$6 million from the State General Fund for Fiscal Year 2024-2025 to WIFA to be used for the City of Page in order to create an intake pump near Glen Canyon Dam.

We are uncertain of why this bill is necessary. In January 2023, the Bureau of Reclamation complete a new water intake connection to address lower water levels at Lake Powell. This connection would allow Page, Arizona and the LeChee Chapter of the Navajo Nation to receive water if Lake Powell dropped below “dead pool” to 3,362 feet. Prior to the completion of this project, this water delivery system could only draw water at two elevations: a main intake at 3,480 feet and a backup that tapped into two penstocks that could access water at 3,462 feet,

SB 1551 rural management areas (Mendez)

Recommended Position – Monitor

This bill establishes a rural groundwater management framework called a Rural Management Area. These areas would be established by County Boards of Supervisors. This bill would require ADWR to analyze all groundwater basins not included within an AMA every five years and to notify counties if any of several criteria are met to allow for the establishment of these Management Areas.

This bill arguably has the same spirit as Senator Kerr’s SB 1221, but with some noticeable differences that make this bill more directly in-line with what was recommended by the Governor’s Water Policy Council. It is also notable that the Management Areas in this bill would be established by County Boards of Supervisors in conjunction with ADWR, and not through a regional popular vote.

SB 1606 residential lease communities; building permits (Wadsack)

Recommended Position – Support

This bill would require that any residential lease community obtain either a Certificate of Assured Water Supply or a commitment of service from a Designated Provider before being issued a building permit. This bill also requires these developments to pay all relevant fees to the CAGR. This bill appears to be a complete and more preferable version of HB 2025 and HB 2026.

SB 1650 subdivisions; assured water supply; lots (Bennett)

Recommended Position – Support

This bill would require anyone who proposes to offer one or more lots, parcels, or fractional interests for sale or lease (regardless of the lease term) within an AMA to obtain a Certificate of Assured Water Supply (CAWS) or a commitment of service from a Designated Provider. In cases where approval of the plat is not required, this bill would require a CAWS or commitment of water service before a building permit may be issued. This bill would also require the plat to obtain a CAWS or commitment before it was approved for development, even in areas where approval is not required, which seems redundant. This bill would separate the existing requirement to obtain a CAWS or a commitment of service from the definition of a subdivision.

Requiring all developments within an AMA (including build-to-rent properties) to be covered under the Assured Water Supply program would be a big step in ensuring that all Arizonan's have assured long-term access to water. Additionally, separating this requirement from the definition of a subdivision avoids the confusing and controversial conversations about what exactly constitutes a subdivision.

Water Bills on which the AMWUA Board has adopted positions –

HB 2006 real estate; acting in concert (Griffin)

Position – Neutral

This bill specifies that familial relationships, well-sharing agreements, road maintenance agreements, and use of the same contractor do not constitute “acting in concert” to illegally subdivided lands.

This bill is in response to a recommendation from the Governor’s Water Policy Council to improve oversight of “wildcat” subdivisions, which are lots that are illegally created to circumvent the legal requirements for creating subdivided lands. Specifically, the Council’s recommendation seeks to broaden the applicability of the “acting in concert” statute, which prohibits different parties from working together to divide lands into lots without going through the approval process to formally subdivide those lands. In particular, the Water Council recommended that “acting in concert” include (1) 25% or more shared ownership interests (substantial control), and (2) 50% or more shared development resources.” The bill does not include this specificity but appears to incorporate the general intention of the Water Council’s recommendation.

HB 2007 subdivided lands; civil penalties (Griffin)

Position – Support

This bill implements another recommendation for addressing “wildcat” subdivisions made by the Governor’s Water Policy Council. Under current law, the civil penalty for violating statutes and regulations to unlawfully selling or leasing subdivided lands is a fine of to up to \$2,000. However, any infraction involving more than one lot is considered a single infraction. Therefore, someone who illegally subdivided lands to create 100 lots would be fined as if he created a single lot. HB 2007 would apply this civil penalty to each lot where the violation occurred, which means that the aforementioned subdivider would be fined as much as \$200,000 for illegally creating 100 lots.

HB 2008 commercial; industrial; conservation requirements; rules (Griffin)

Position – Oppose but seek to amend

Last Action Taken – This bill passed House NREW on January 30, 2024 with a vote of 5-4.

HB 2008 requires the Arizona Department of Water Resources (ADWR) to adopt rules by 2025 for commercial and industrial water users within and outside of the service area of designated providers in an attempt to create greater water efficiency, conservation, and on-site water

reuse and recycling. This bill prohibits these rules from requiring a commercial or industrial user to obtain a Certificate of Assured Water Supply, enroll as a Member Land, or otherwise meet a replenishment obligation.

By targeting industrial and commercial users within a designated provider's service area, this bill would be redundant with ADWR's existing industrial conservation requirements in the 5th Management Plan, as well as the existing conservation programs created by municipal water providers to address their own specific commercial and industrial water users. Moreover, "commercial users" is not defined anywhere in statute or in the management plans.

HB 2008 would be more effective if it was solely addressing groundwater pumping by large water-using industrial users located outside of the service areas of designated providers. Many of these users are only minimally regulated by ADWR's 5th Management Plan (5MP) and are able to pump groundwater without having to meet AMA management goals or demonstrate physical availability. The sponsor and other legislators ought to be encouraged to remedy this issue by pursuing an amendment to the 5th Management Plan's industrial regulations.

HB 2009 subdivisions; acting in concert (Griffin)

Position – Support

This bill would add a time-related criteria to the "acting in concert" statutes by specifying that illegally subdividing lands involves dividing a parcel into six or more lots to sell or lease through a series of owners, conveyances or other methods over a 10-year period. It also requires someone who applies to split a parcel to acknowledge this definition of "acting in concert."

Although this bill was not technically part of the Governor's Water Policy Council's recommendations for "wildcat" subdivisions, the concept was discussed in the Assured Water Supply Committee's meetings.

HB 2010 cities; towns; water reuse plans (Griffin)

Position – Neutral

This bill would allow a municipality's common council to participate in water reuse and recycling programs and regional wastewater recharge projects and related infrastructure. The intent or need for this legislation is not known.

HB 2011 lottery; water infrastructure finance authority (Griffin)

Position – Support

Last Action Taken – This bill passed House NREW on January 30, 2024 with a vote of 9-0.

This bill would annually appropriate \$50 million from the State Lottery Fund to the Water Infrastructure Finance Authority (WIFA). This appropriation would occur after nearly all distributions from the State Lottery Fund are made, but before any remaining fund monies are deposited into the state General Fund. This \$50 million appropriation would be evenly divided between the Water Supply Development Revolving Fund and the Water Conservation Grant Fund.

While the Water Supply Development Revolving Fund can receive revenue from fund bonds and loan repayments, the Water Conservation Grant Fund lacks a dedicated revenue source. The Water Conservation Grant Fund received a single \$200 million appropriation in American Rescue Plan Act monies, and those funds are set to be fully encumbered by the end of the calendar year.

Having a dedicated revenue source for the Water Conservation Grant Fund would help AMWUA members and others finance more water conservation projects in the future.

HB 2013 water improvements program; nonprofit corporations (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW 6-3 on January 23, 2024.

This bill would allow a nonprofit corporation to establish a water improvement program to provide finance assistance to low-income or fixed income property owners to either deepen their drinking water well or replumb their residence for a water delivery system. Although counties have the authority to establish this program, some have declined to do so because they lack the funds necessary to implement it.

HB 2014 wells; intention to drill; appropriation (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on January 30, 2024 with a vote of 5-4.

This bill would require the Arizona Department of Water Resources (ADWR) to audit all notices of an intention to drill to determine how many issued notices led to someone drilling a new well or deepening an existing well. The bill also lists additional information that must be collected about these wells and requires ADWR to submit a report of its findings by 2026.

Finally, HB 2014 appropriates an unspecified amount of state General Fund monies to ADWR to conduct this audit.

Notices of intention to drill must be filed with ADWR anytime someone either drills a well or deepens an existing well. ADWR will review the notice and, if it is determined to be accurate and complete and contains the appropriate fee, ADWR will issue a card authorizing the drilling of the well. The well must be drilled or deepened within a year.

This bill will create an additional administrative burden for ADWR.

HB 2015 subsequent water management areas; basins (Griffin)

Position – Neutral

Last Action Taken – This amended bill passed House NREW on January 30, 2024 with a 5-4 vote.

This bill would limit who can sign a petition to the Arizona Department of Water Resources to designate a subsequent irrigation non-expansion area (INA) or designate an INA as an active management area (AMA). Specifically, this bill would require residents who sign a petition to be receiving their drinking water from the same groundwater basin or sub-basin specified in that petition. HB 2015 would also limit who can sign a petition to hold a local election to designate a subsequent AMA.

The proliferation of several large corporate farming operations in rural Arizona has created tension with local residents who rely on small, shallow wells for their water supply. The Hualapai Valley INA (2022) and Douglas AMA (2022) were both created in response to petitions from local residents, and there has been discussion of more petitions in the future. HB 2015 could undermine those efforts by limiting who may sign these petitions.

HB 2016 grandfathered right; subsequent AMA; extension (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW on January 9, 2024 by a vote of 8-2.

This bill is an emergency measure that would allow someone within the recently created Douglas active management area (AMA) to file an application for a grandfathered groundwater right with the Arizona Department of Water Resources (ADWR) by September 1, 2024. Within AMAs, pumping groundwater requires some to obtain a right or a permit from ADWR. A grandfathered groundwater right refers to a right pump groundwater based on the individual's historic water usage; this pumping is essentially "grandfathered" into the AMA.

There have been concerns that some residents of the Douglas AMA (which was designated on December 1, 2022) have not submitted grandfathered groundwater rights applications and

therefore might lose their right to pump groundwater. The deadline to apply for these rights is currently March 1, 2024, so HB 2016 would effectively extend that deadline by six months.

HB 2017 assured water supply; commingling (Griffin)

Position – Oppose

Last Action Taken – This amended bill passed House NREW on January 16, 2024 with a 6-4 vote.

This bill would direct the Arizona Department of Water Resources (ADWR) to consider any type of waters that are commingled together when making an Assured Water Supply (AWS) determination. Since this mandate is consistent with how ADWR already evaluates different water supplies under the AWS Rules, we believe that this bill does not appear to change ADWR’s current practices and procedures. Therefore, the Management Board recommended a neutral position.

Subsequently, at the January 16th House Natural Resources Committee, an amendment was added that makes it questionable if this legislation would not change ADWR’s current practices. Of greater concern, the amendment appears to be subverting the Governor’s Water Policy Council’s recommendation for an Alternative Path to Designation (ADAWS) before ADWR has even released draft rules for the ADAWS concept. For this reason, AMWUA staff is recommending that our position be oppose rather than neutral.

As background, most water providers utilize a combination of water supplies in their systems, such as groundwater, Central Arizona Project water, and Salt River Project water. Water providers that have Designations of Assured Water Supply like the AMWUA cities have their water supplies reviewed every 10-15 years by the ADWR to determine compliance with AWS criteria. This is why subdivisions that receive service from these designated providers do not need to obtain Certificates of Assured Water Supply (CAWS). Water providers that lack designations must have their supplies regularly reviewed by ADWR when it is evaluating whether to issue a CAWS for a proposed development. Since the Phoenix AMA groundwater model projected that groundwater is overallocated over the next 100 years, ADWR has refused to issue any CAWS for proposed developments served by undesignated providers that use any amount of groundwater. There has been an effort to allow CAWS to be issued for developments served by undesignated providers if these providers obtain renewable water supplies for these developments.

HB 2018 subsequent irrigation non-expansion area; removal (Griffin)

Position – Oppose but seek to amend

This bill would require the Arizona Department of Water Resources (ADWR) to periodically review subsequent irrigation non-expansion areas (INAs) to determine whether they still meet

the criteria to qualify for an INA. ADWR would also have the authority to rescind an INA’s designation if it no longer meets these criteria. Additionally, the bill would establish a process by which local residents could petition ADWR to rescind a subsequent INA’s designation. Finally, HB 2018 would restrict who can sign a petition requesting that ADWR designate a subsequent INA to registered voters who receive their drinking water from the basin or sub-basin specified in the petition.

INAs—which were originally established in 1948 as “critical groundwater areas”—are designed to preserve groundwater for future agriculture by essentially prohibiting the expansion of any irrigated acreage. In A.R.S. 45-431, initial irrigation expansion areas are listed as the Douglas critical groundwater area and Joseph City critical groundwater area. The Harquahala INA was designated by ADWR in 1982, which means it would be considered a subsequent INA. Aside from the Harquahala INA, the only other subsequent INA is the Hualapai Valley INA, which was designated by ADWR in October 2022.

HB 2018 may threaten groundwater transportation from the Harquahala INA, which is allowed under the 1991 Groundwater Transportation Act. When transporting groundwater from the Harquahala INA, groundwater may only be withdrawn from lands that are eligible to be irrigated while the INA is in effect. If HB 2018 were to be enacted and residents successfully petitioned ADWR to rescind the Harquahala INA’s designation, no groundwater could be withdrawn and transported. This could have a negative impact on AMWUA cities and other central Arizona water providers who seek to utilize the 1991 Groundwater Transportation Act.

HB 2019 groundwater model; public inspection; challenge (Griffin)

Position – Oppose

Last Action Taken – This amended bill passed House NREW on January 16, 2024 with a 6-4 vote.

This bill would require the Arizona Department of Water Resources (ADWR) to make publicly available “at no cost” all information related to groundwater models it uses for Assured Water Supply determinations. It would also establish a process for a party to challenge any groundwater model that ADWR makes publicly available.

Since the release of the Pinal Active Management Area (AMA) groundwater model in Fall 2019, ADWR has been exceedingly proactive in working with stakeholders to address any concerns about its groundwater model. In the case of the Pinal AMA model, ADWR formed a stakeholder group and many of the changes made in response to this group’s concerns were carried over to the Phoenix AMA model. ADWR has similarly indicated that it is open to remedying any technical concerns related to Phoenix AMA model.

Based on these efforts, we are uncertain why this bill is necessary. We are concerned that this bill might create a formal process by which disgruntled stakeholders can harass ADWR over the projections of unmet demand in current and future groundwater models.

At the January 16th House Natural Resources Committee, the Committee did amend the bill to remove the provision requiring a process to allow a party to challenge the model and added a public comment period prior to the model being ran and released regarding the assumptions that would be used in the groundwater model.

HB 2020 long-term storage; stormwater; rainwater; rules (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 6, 2024 with a 5-4 vote.

This bill would allow someone to earn long-term storage credits (LTSCs) by building infrastructure—including roadways and sidewalks—that leads to increased natural, incidental, or artificial recharge of groundwater in an active management area. The Arizona Department of Water Resources would be required to develop rules by 2025 that detail the criteria for this infrastructure and formula for determining how much increased recharge the infrastructure will create over its useful life when determining the amount of LTSCs earned.

While we support efforts to utilize stormwater runoff and floodwaters more efficiently, this bill’s approach is poorly defined. It also takes a big leap from the intention and purpose of the Underground Storage Act. As currently written, credits could be generated from infrastructure, such as streets and sidewalks, that are not specifically designed for recharge and underground storage and without any established methodology to support how much recharge is actually taking place. It would impose an administrative burden on ADWR as they would try to quantify aquifer recharge generated by unconventional infrastructure. Additionally, there may be water quality issues associated with storm water runoff which would undermine the quality of underlying aquifer and could consequently raise public health concerns for rural communities that rely on wells. Plus, there would most likely be questions about how it may impact surface water rights.

HB 2024 lottery; on-farm irrigation efficiency fund (Griffin)

Position – Support

Last Action Taken – This bill passed House NREW on February 6, 2024 with a 8-2 vote.

This bill would annually appropriate \$50 million from the State Lottery Fund to the On-Farm Irrigation Efficiency Fund in FYs 2025 and 2026. This appropriation would occur after nearly all distributions from the State Lottery Fund are made, but before any remaining fund monies are deposited into the state General Fund.

The On-Farm Irrigation Efficiency Program was created in 2022 to provide grants for farmers to adopt water-efficient drip and sprinkler systems in place of flood irrigation. It received an initial

appropriation of \$30 million in ARPA monies in 2022 and received \$15 million more from the state General Fund in 2023. To date, this program (which is administered by the University of Arizona Cooperative Extension) has enabled more efficient irrigation on over 18,000 acres of farmlands, resulting in an annual water savings of about 36,000 acre-feet.

HB 2025 residential lease community; water; requirements (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 5-4 vote.

This bill attempts to implement the Governor’s Water Policy Council’s recommendation to fully incorporate build-to-rent developments (which are called “residential lease communities” in the bill) into the Assured Water Supply Program. It would require applications for building permits for six or more detached single-family within a residential lease community in the Prescott, Phoenix, Pinal, Tucson, and Santa Cruz AMAs to either obtain water service from the water provider with a Designation of Assured Water Supply or be located on a parcel of land that already qualifies as Central Arizona Groundwater Replenishment District (CAGR D) Member Lands. The applicant must also pay applicable fees to CAGR D. This requirement would not apply to residential lease communities that are existing or that have applied for or received zoning changes before September 30, 2024.

CAP staff are concerned that this bill is not consistent with the Governor’s Water Policy Council’s recommendation and could decouple CAGR D’s replenishment obligation from the AWS Program and create operational challenges for CAGR D. First, although becoming a Member Land is necessary to obtain a Certificate of Assured Water Supply (CAWS), one does not necessarily need a CAWS to become a Member Land. Therefore, it is possible that this bill as written could enable the expansion of CAGR D’s replenishment obligation beyond lands covered by the AWS Program. The CAWCD Board recently approved an addition to the 2024 CAP State Legislative Agenda that specifically says that CAP will oppose any legislation that would lead to the CAGR D gaining a replenishment obligation separate from the AWS Program.

Additionally, the information contained in a CAWS for a Member Land helps CAGR D calculate the estimated water demand, replenishment obligation, and any fees or dues for that Member Land. However, if there are no CAWS for the Member Land, CAGR D would need to obtain this information by other means.

HB 2026 residential lease community; water; certificate (Griffin)

Position – Support but amend

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 9-0 vote.

This bill would implement the Governor’s Water Policy Council’s recommendation to fully incorporate build-to-rent developments into the Assured Water Supply (AWS) Program. Under the Council’s recommendation, these developments would be considered the same as a subdivision for the purposes of the AWS Program. The Council defined these developments as “six or more detached residential dwellings on one or more lots, parcels, or fractional interests...offered for the purpose of lease without regard to lease term.”

HB 2026 would require applications for building permits for six or more detached single-family residences in the Phoenix, Pinal, and Tucson AMAs to either obtain a Certificate of Assured Water Supply (CAWS) or water service from the water provider with a Designation of Assured Water Supply (DAWS). The applicant must also pay applicable fees to the Central Arizona Groundwater Replenishment District (CAGRDR). This requirement would apply regardless of the proposed lease term for these single-family residences. The bill would be limited to applications submitted after September 30, 2023.

Additionally, CAGRDR would levy an activation fee for residential lease communities within Member Lands and Member Service Areas that are enrolled beginning in 2025 and a one-time activation fee against each detached residential dwelling unit within the “residential lease community.” Although “residential lease community” was the Council’s term for build-to-rent developments, it is not defined in HB 2026. This technical error will need to be remedied if the bill moves forward.

HB 2027 subsequent AMAs; assured water supply (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW on January 9, 2024 with a vote of 6-4 with an amendment that made grammatical changes and added an emergency clause.

This bill would not require a subdivision that is within the boundaries of a county or municipality that had adopted a mandatory water adequacy ordinance to show an adequate water supply if that subdivision is included in a subsequent active management area. Any such subdivision that has already been shown to have an adequate water supply would be considered to have an assured water supply.

This bill is intended to resolve some regulatory ambiguities raised by the recently created Douglas AMA in southeastern Arizona. While AMAs require an *assured* water supply before developing subdivided lands, rural communities only require that developers disclose whether subdivided lands have an *adequate* water supply. (The requirements for an assured water supply and adequate water supply are similar.) However, rural counties and municipalities can adopt ordinances requiring a demonstration of adequate water supply before subdivided lands are developed. Cochise County has adopted one of these mandatory water adequacy ordinances. The creation of the Douglas AMA, which is within Cochise County, raised questions

of how the county's mandatory water adequacy ordinance and the subdivisions authorized under it would be treated. HB 2027 is intended to resolve these ambiguities.

HB 2028 groundwater model; unpledged storage credits (Griffin)

Position – Oppose

Last Action Taken – This bill was held without discussion in House NREW on January 16, 2024.

This bill would require the Arizona Department of Water Resources (ADWR), when making a groundwater model to help evaluate Assured Water Supply determinations, to assume that any long-term storage credits (LTSCs) not pledged to a current water user or Assured Water Supply application will be available for use.

This bill is intended to address a criticism that the Phoenix AMA groundwater model, which projected a 4% overallocation of groundwater over the next 100 years, did not fully consider the availability of future LTSCs that could be used in place of groundwater.

Unpledged LTSC is not a term used in statute and rule and it could cover any number of credits. It may refer to Arizona Water Banking Authority's LTSCs for future firming during shortages on the Colorado River, including those that the AWBA holds for Nevada. Unpledged credits may also refer to those LTSCs held by municipal water providers (cities, towns, and private water companies) that are not included in their current designations, including those that these providers have created or acquired subsequent to becoming designated. Municipal water providers store and acquire LTSCs to ensure their ability to meet future demands including as a backup supply to in the event of an emergency. Credits held by other private entities such as mines may also qualify as unpledged LTSCs.

HB 2028 is deeply problematic because it essentially authorizes a taking of others' LTSCs for the potential benefit of allowing more groundwater pumping. If these credits were factored into the model and eliminated the projected unmet demand, it would effectively allow new Certificates of Assured Water Supply based on groundwater to be issued. Even though this pumping would likely be replenished by CAGR in the future, the decline in groundwater levels in some areas may make it difficult for water providers and others to recover stored water, particularly if the area experiences an average annual decline greater than 4-feet per year.

Simply put, HB 2028 would allow the LTSCs held by others to be used to facilitate additional groundwater pumping while limiting or preventing these very users from recovering these credits in the future.

Additionally, it would be naïve and irresponsible to factor any of these unpledged credits into the groundwater model since they could be recovered in the near-term as the Colorado River's flows continue to decline. It is also questionable how much of a difference such credits would

make in either the Phoenix AMA or Pinal AMA groundwater model’s determination of an unmet demand.

HB 2029 groundwater model; unpledged effluent (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 6-4 vote.

This bill would require the Arizona Department of Water Resources (ADWR), when making a groundwater model to help evaluate Assured Water Supply determinations, to assume that any effluent created within the active management area (AMA) and not pledged to a specific user will be used to replace groundwater demand. This bill is intended to address a criticism that the Phoenix AMA groundwater model, which projected a 4% overallocation of groundwater over the next 100 years, did not fully consider how future effluent will be used.

The Phoenix AMA model incorporates effluent uses in two ways. First, the model includes existing effluent uses (as of 2021) as reductions in groundwater pumping. It also includes effluent discharges, such as those from the 91st Avenue Wastewater Treatment Plant. Second, the model considers future effluent usage if that effluent is included in an Assured Water Supply (AWS) determination. The model does not account for future effluent that is stored and recovered outside of the area of impact, discharged, or that is committed by contract to third party users.

Although “pledging effluent” is not a term used in statute or the Assured Water Supply (AWS) rules, the intent of this bill seems to be to incorporate future effluent usage not associated with AWS determinations into groundwater models. The problem with that approach is that effluent can be used in a variety of capacities that do not necessarily entail directly offsetting groundwater pumping, such as being used for potable drinking water supplies through direct potable reuse, being treated for use by agricultural users downstream of a discharge site or supplying the Palo Verde Nuclear Generating Station.

Effluent is the property of whoever creates and/or obtains it. Assuming that owners of effluent will use it to offset groundwater pumping is highly speculative and does not adhere to the conservative and cautious principles that govern how we project groundwater levels for the purpose of future AWS determinations.

HB 2030 cities; towns; water service; audit (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 5-4 vote.

This bill would require Phoenix, Tucson, Mesa, Chandler, Gilbert, Glendale, and Scottsdale (cities with more than 240,000 in population) to hire an independent auditor to conduct a full rate audit and cost-of-service study that focuses on various components of their water and sewer services.

Based on our initial review, municipal water providers would be required to undergo a duplicate governmental review for their finances when most of the information requested is already publicly available and subject to transparent reporting requirements. We are additionally concerned that this audit, which would be covered by each municipal provider's rate payers, is an expensive, unfunded mandate that will force municipal water providers to contract for an outside review of their finances when most of information requested is already available.

Some topics this audit is required to cover are very time and resource intensive. For example, it normally takes the Arizona Corporation Commission about a year to determine "used and usefulness" for a private utility's assets during the ratemaking process. Having an independent auditor make this determination for public utilities, which are structured and operate in financially different ways from private utilities, would be time consuming and very costly.

Some topics are so vague that it is doubtful that an independent auditor would be able to arrive at an objective conclusion, such as evaluating the reasonableness and prudence of capital and operating expenditures compared to "known and reasonable alternatives." Having ill-defined topics will set up the auditors, municipalities, and the taxpayers funding them, for a pricey failure.

This bill encroaches into the business of city management, which is overseen by elected officials. While it is limited to seven municipalities, this bill sets a disturbing precedent in subverting local oversight and responsibility of water management and finances.

HB 2055 *underground water storage; permitting (Dunn)*

Position – Support

Last Action Taken – This bill passed House NREW on February 6, 2024 with a 10-0 vote.

HB 2055 allows ADWR more time to conduct its due diligence review of underground water storage applications without altering the overall deadline for making a determination on these applications. It would lengthen the timeframe within which ADWR is required to conduct its due diligence review applications for underground water storage permits from within 100 days to within 180 days. However, this bill would also shorten the timeframe within which ADWR is required to issue a decision on the permit application from within 6 months of ADWR publishing a public notice of the application to within 100 days of the public notice. Taken together, these changes should not alter the overall deadline for ADWR making a determination on an application.

HB 2056 appropriation; on-farm efficiency fund (Dunn)

Position – Support

Last Action Taken – This bill passed House NREW on January 16, 2024 with a vote of 9-0.

This bill would appropriate \$30 million from the State General Fund for FY 2025 to be used for the On-Farm Irrigation Efficiency Fund.

The On-Farm Irrigation Efficiency Program was established in 2022 and is administered by the University of Arizona’s Cooperative Extension. The program provides grants and collects data for the purpose of reducing on-farm use of Colorado River water, surface water, and groundwater, while also seeking to reduce use of flood irrigation and instances of fallowing. Essentially, the program seeks to reduce water use through efficiency gains rather than reducing farmed acres.

Representative Dunn introduced a bill with this same language during the 2023 legislative session. Ultimately, \$15.2 million was appropriated to the University of Arizona for funding the program as part of the FY 2024 Budget.

HB 2057 appropriation; long-term water augmentation fund (Dunn)

Position – Support

Last Action Taken – This bill passed House NREW on January 30, 2024 with a 5-4 vote.

This bill would appropriate \$143.8 million from the State General Fund for FY 2024 for WIFA’s Long-Term Water Augmentation Fund. This appropriation would also be exempt from lapsing at the end of FY 2024.

This appropriation would make WIFA’s Long-Term Water Augmentation Fund whole again, after \$143.8 million in funding was directed elsewhere instead of to that fund in the 2023 session. AMWUA is supportive of funding that can help WIFA secure additional water sources for our state and our member cities.

HB 2058 Yuma water banking; study committee (Dunn)

Position – Oppose but seek to amend

This bill would establish the Yuma Area Water Banking Study Committee. This committee would consist of two Yuma-area senators and four Yuma-area representatives from the State Legislature, as well as seven members of the Yuma Area Agricultural Council, each of whom

would represent one of the seven irrigation districts in Yuma County. The purpose of the committee would be to develop legislation to establish a water banking authority for the “Yuma County area” that would bank excess Colorado River water. The committee would submit a report of its findings to the Governor and State Legislature by 2025. This bill would also require ADWR to assign staff and provide services to the committee.

The biggest concern raised by the potential creation of a water banking authority for Yuma County are the implications for lower priority Colorado River users. If this authority would bank higher priority excess Colorado River water for Yuma-area agricultural users, many of whom have senior Colorado River water rights, it could adversely impact the Central Arizona Project and other lower priority Colorado River users by leaving less water in the river. In effect, it could reduce the amount of Colorado River water available to the AMWUA cities, tribes with water rights settlements that include M&I CAP water, and other CAP subcontractors. Banking Colorado River water worked well during times when excess water was available, but doing so when the river is in a long-term state of decline risks rushing headlong into a crisis.

The requirement for ADWR to assign staff and provide services such as “hydrological information and potential locations for underground storage” to this committee does not provide ADWR with funding with which to do so. Additionally, the prospect of the creation of an additional water banking authority raises concerns about the over-extension of already strained funding.

HB 2059 contiguous real estate; definition (Griffin)

Position – Neutral

This bill would amend the definition of “contiguous” in reference to subdivisions to include lots, parcels or fractional interests that are separated by a private road or street. This bill also clarifies that lots separated by a public road or street are not considered contiguous.

This bill is in response to the recommendations made by the Governor’s Water Policy Council in relation to wildcat subdivisions but does not accurately reflect what was recommended by the Council.

HB 2060 irrigation non-expansion area; substitution; acres (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW on February 6, 2024 with a 5-4 vote.

This bill would allow a person who owns irrigated acres within an irrigation non-expansion area (INA) to permanently retire those acres and transfer the irrigation right to a piece of land that is the same acreage in the same INA and use the associated water for any purpose. The person

must demonstrate to ADWR that the transfer of the irrigation right will not lead to a net increase in groundwater withdrawal within the INA. However, ADWR may not condition approval of the acreage substitution on groundwater withdrawal being decreased.

This bill could allow owners of irrigated but unproductive acreage within INA's to use the associated irrigation right for a more productive purpose. Alternatively, a farmer that acquires another farmer's land could discontinue irrigation of the acquired land and expand irrigation to other owned lands. Essentially, this bill gives INA landowners flexibility in their irrigation operations, something that many have been asking for.

HB 2061 subsequent active management area; removal (Griffin)

Position – Oppose

This bill would require ADWR to periodically review all areas that are included within subsequent Active Management Areas (AMAs) and determine whether the areas still meet the criteria for inclusion within an AMA. This bill would also require voters to obtain their drinking water from within a groundwater basin before they can vote on whether that basin should be designated as a subsequent AMA. This bill would also allow a subsequent AMA designation to be removed if ten percent of voters within the AMA sign a petition calling for the removal and then a majority of voters approve this removal in a general election.

This bill may be an attempt to repeal the recently designated Douglas AMA. This bill is certainly an attempt to make it easier to remove subsequent AMA designations once they have been put into place. More importantly, it could mean a removal of AMA when the hydrologic conditions still demonstrate a new for the AMA.

HB 2062 assured water supply; certificate; model (Griffin)

Position – Oppose

Last Action Taken – This amended bill passed House NREW on January 30, 2024 with a 5-4 vote.

This bill would require ADWR to review undecided or denied applications for Certificates of Assured Water Supply (CAWS) if the applicant requests such a review. Only applications filed within the Phoenix AMA and between January 26, 2021 and May 31, 2023 are eligible for review. ADWR must notify all eligible applicants of the possible review within five days of the effective date of this bill, and the review must be requested within 90 days of the effective date of this bill. ADWR must issue a determination for these reviews within 15 days and must only use the 2006-2009 Salt River Valley Regional Model when conducting these reviews.

This bill appears to be an attempt to free up water that is held by certificates that were either denied or had their development put on hold due to the release of the Phoenix AMA

Groundwater Model. The requirement for ADWR to use the 2006-2009 Salt River Valley Regional Model for these reviews, and not the more current and accurate Phoenix AMA Groundwater Model is concerning and is certainly not in line with scientific best practices.

This bill received an amendment that would also allow the review of these CAWS applications using the 2006 Lower Hassayampa Subbasin Groundwater Flow Model.

HB 2063 exempt wells; certificate; groundwater use (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW on February 6, 2024 with a 6-4 vote.

This bill reiterates that owners of exempt wells are allowed to pump no more than 35 gallons per minute and requires ADWR to issue owners of exempt wells with a “Certificate of Water Rights” that says as much. This bill also clarifies that exempt well owners may not appropriate subflow or surface water out of priority and further specifies that withdrawn water is not exempt from a general stream adjudication.

This bill may be proposed in response to recent actions in the Gila River general stream adjudications. In December 2021, at the request of the adjudication court, ADWR issued a report that proposed a subflow zone for the Verde River Mainstem and the Sycamore Canyon Subwatershed, which will assist the court in distinguishing between subflow and groundwater. ADWR issued a separate report for the remainder of the Verde River watershed in April 2023, which included all tributaries not covered in the 2021 report. Those who filed statements of claim in the Gila River general stream adjudication could file objection with the Maricopa County Superior Court related to ADWR’s findings by October 27, 2023. After that date, the court will review these objections and consider further proceedings before ultimately issuing an order on the subflow boundaries for this watershed. Once those boundaries are established, the court will determine wells are located within the subflow zone and which wells are outside this zone. Wells within this zone are presumed to pump surface water. Wells outside this zone may pump surface water depending on how the pumping impacts the subflow zone.

Exempt wells have a pumping capacity of less than 35 gallons per minute and are generally exempt from the Groundwater Management Act’s requirements. However, depending on the location of an exempt well, it is possible that its owner may be pumping appropriable surface water. The provisions of HB 2063 do not seem to materially impact how owners of these small wells will be treated in the Gila River general stream adjudications. Instead, this bill—like HB 2818 (adjudication; subflow wells; claim priority) in the 2020 session—may serve as a signal that the Legislature is aware of the stress that small well owners are experiencing under the Gila River general stream adjudication.

HB 2096 tiny homes; construction; requirements; exemptions (Parker B)

Position – Neutral

Last Action Taken – This bill passed House NREW 5-4 on January 23, 2024.

This bill requires that counties ensure “maximum ease” when considering the construction of residences on “residential rural land”. The bill also states that counties cannot require building permits for single-family home and accessory dwelling units built on residential rural land, they meet some requirements. These requirements include a maximum size of 600 square feet for the home and a requirement that the home is attached to utility service, or otherwise has on-site electrical generation capacity, on-site water storage, and an on-site wastewater treatment or graywater system. Counties are allowed to require the owners and/or builders of said buildings to sign an affidavit saying that they will abide by the requirements in the bill, and that they are not constructing the building with the intent of selling or leasing it.

This bill, along with HB 2097, is intended to allow for easier construction of tiny homes on county islands and other unincorporated land. While this bill does not necessarily directly impact the AMWUA cities, the proliferation of residential buildings on county islands raises questions about exactly how wastewater will be discharged and treated; and therefore, is something that AMWUA should monitor.

HB 2097 gray water; definition; residential standards (Parker B)

Position – Neutral

Last Action Taken – This bill passed House NREW 5-4 on January 23, 2024.

This bill prohibits county supervisors from putting additional regulations or zoning restrictions on use of graywater systems or on land improvements that allow for the use of graywater systems. This bill also adds a definition of a “composting toilet” to Title 49 and clarifies that a kitchen sink that includes a garbage disposal does not produce graywater. This bill also clarifies that a graywater treatment and disposal system does not constitute an on-site wastewater treatment facility. This bill prohibits a city, town or county from requiring notice or permit before a resident can use graywater if the resident meets a series of requirements that are meant to prevent the graywater from contaminating aquifers or food sources. Lastly, this bill prevents a city, town, or county from prohibiting a composting toilet on an unincorporated lot of two acres or more that is not adjacent to a city or town.

This bill is building off of and adding clarifying language in relation to last year’s HB 2143 (NOW: gray water; residential standards; rules), which allowed ADEQ to permit graywater systems. It appears to be consistent with ADEQ’s existing regulations for graywater systems; however, there is uncertainty of how expanding graywater use may cause emerging contaminants to percolate into aquifers. A homeowner’s ability to put to use the graywater generated on their property is viewed by many as a proactive effort to conserving water.

HB 2099 active management area; groundwater right (Griffin)

Position – Oppose

Last Action Taken – This bill failed to pass House NREW on January 9, 2024 with a vote of 5-5. Representative Kolodin sided with the committee’s Democratic members to vote against this bill, citing concerns about the Harquahala INA becoming an AMA and depriving his constituents of transported groundwater.

HB 2099 would prohibit ADWR, in an AMA that had previously been an INA, from granting a water duty acre that is less than the highest annual withdrawal of the user since the basin was designated as an INA. This bill also requires ADWR to grant any person who owns legally irrigated land (in an AMA that was previously an INA) an irrigation water duty and a designation of the number of farm units that is consistent with the user’s highest annual withdrawal since the basin was designated as an INA. ADWR would be required to provide groundwater users with notice of their granted water duty and farm units and cannot charge the user any fee or require any application. The user can contest the granted water duty and farm units. Lastly, this bill states that on the effective date of the act ADWR will grant all groundwater users in the Douglas AMA an irrigation water duty consistent with this act. This is an emergency measure.

This bill is would essentially undermine the basic premise of an AMA, which is to manage all sectors of water users, by eliminating ADWR’s ability to regulate agricultural groundwater pumping in the recently designated Douglas AMA. The water duty is one component of an irrigation grandfathered right that dictates how much groundwater may be pumped pursuant to that right. Crucially, the water duty is established in the AMA’s management plan, which means that it allows ADWR to control the amount of agricultural pumping in an AMA. HB 2099 would replace this authority with water duty based on the user’s highest annual withdrawal since 1980. ADWR’s authority to set a water duty particularly important in the newly created Douglas AMA, where about 87% of groundwater pumping is for agriculture. If the Douglas AMA is to succeed in achieving its management goal of reducing the rate of aquifer depletion, ADWR must have the ability to curb pumping from IGRs.

HB 2100 administrative completeness review; licensing (Griffin)

Position – Oppose

Last Action Taken – This bill passed House GOV on January 17, 2024 with a vote of 7-0.

This bill requires an agency to make available a comprehensive list of items needed for an application to be deemed administratively complete. This bill also states that an agency may issue a notice of deficiencies, but that even if they do so, the application is still considered administratively complete (this portion of the bill seems to conflict with the sentence that is directly before it, and which has not been removed). This bill also states that an agency cannot

issue a final decision on an application that is based on items not in the comprehensive list described in the first sentence.

Crucially, HB 2100 prohibits an agency from making a final decision on an application based on the findings or conclusions of a document not included in the application unless the document or report was “subject to public inspection and the applicant had the opportunity to challenge the document or report and its findings before submitting the application.” Although the bill refers to an “agency” in general terms, our concern is that the “document or report” could include those related to the Phoenix AMA groundwater model. In effect, this requirement would create a backdoor way to implement a process to challenge the findings of the Phoenix AMA groundwater model similar to HB 2019 (groundwater model; public inspection; challenge). This challenge process could redirect ADWR’s resources away from more pressing matters such as processing recovery well permit applications, accounting for long-term storage credits, or assisting with the general stream adjudications.

HB 2101 land division; applicant submissions; review (Griffin)

Position – Support

HB 2101 requires an applicant for a land division to answer two additional questions when submitting an application. The first question asks if them or related parties own or represent any property in the same tax parcel map or subdivision as the lots in the application. The second question asks if them or related parties have sold or leased any property within the same tax parcel map or subdivision as the lots in the application.

HB 2123 wells; water measuring devices; prohibition (Smith)

Position – Oppose

Last Action Taken – This bill received a clarifying amendment and passed House NREW 5-4 on January 23, 2024.

This bill prohibits the State or any political subdivision of the State from requiring a water measuring device for any well located in a basin or subbasin that is subject to a general adjudication of water rights that has not yet been completed *and* that is located outside of an initial Active Management Area (AMA) *and* outside of a basin from which groundwater can be withdrawn and transported to an AMA.

This bill, despite not applying to initial AMAs or the specific transportation basins, is a threat to ADWR’s ability to regulate groundwater in Arizona. This bill is also in obvious opposition to the intent and recommendations of the Governor’s Water Policy Council’s Rural Groundwater Committee.

HB 2127 assured water supply certificate; effluent (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 5-4 vote.

HB 2127 would allow a Certificate of Assured Water Supply (CAWS) in the Phoenix, Prescott, Tucson, and Santa Cruz AMAs to consider effluent that will be projected to be produced. In particular, if the proposed subdivision will use all effluent produced, this bill would allow this effluent use to qualify as demonstrating physical availability and consistency with the management plan. ADWR would additionally be required to deem that the applicant has sufficient groundwater, and that the groundwater use is consistent with the AMA's management plan and goal. If the applicant enrolls as a Member Land and all projected effluent that is produced by the subdivision is recharged in the same sub-basin, ADWR would be required to grant the applicant a CAWS.

HB 2127 is problematic. First, there needs to be more certainty as to how the effluent will be used, as is required in a Designation of Assured Water Supply. This includes a financial commitment for the development and infrastructure necessary to put to use the effluent. There is not a similar requirement for the applicant of the CAWS under this legislation. Treating effluent is costly and there should be some requirement for the developer to show a willingness to financially pay for this treatment to ensure that it will be contributed to the CAWS. Second, the CAWS would use an undetermined amount of effluent created by a proposed subdivision as a stand in for groundwater being physically available in order to allow the CAWS to be issued on groundwater. This is adding speculation, rather than certainty, to the Assured Water Supply Program.

HB 2150 groundwater sales; online exchange (Kolodin)

Position – Oppose

HB 2150 proposes to allow those with a grandfathered groundwater right in the Phoenix, Pinal and Tucson Active Management Areas (AMAs) to sell or lease a portion of their right or the groundwater itself to anyone in these three AMAs. Any groundwater right or groundwater sold or leased may not be withdrawn in another sub-basin but may be transported to that basin. When a transaction occurs, the buyer or lessee is entitled to receive the right to receive or withdraw 65% of the total amount of groundwater that was part of the transaction. The remaining 35% will remain with the land and cannot be pumped, used, or otherwise conveyed.

Any groundwater or right conveyed would be exempt from replenishment by the Central Arizona Groundwater Replenishment District, excluded from a designated water provider's groundwater allowance, deemed consistent with the AMA's management goal, and deemed physically available for obtaining a Certificate of Assured Water Supply.

HB 2150 has numerous problems. First, there has been a market for grandfathered groundwater rights since the passage of the Groundwater Management Act in 1980. However, ADWR has indicated that as of 2021, there are underutilized grandfathered groundwater rights in the Phoenix, Pinal, and Tucson AMAs, which indicates a lack of market activity. The utilization rate varies based on the type of right from Type 1 non-IGRs (6-34%), Type 2 non-IGRs (23-34%), and IGRs (67-78%). Taken together, the underutilization of these rights also means that there may not be any groundwater saved by the transactions contemplated in HB 2150.

Second, by allowing quantities of groundwater to be sold or leased, HB 2150 contradicts established caselaw on managing groundwater. In *Town of Chino Valley v. City of Prescott*, the Arizona Supreme Court held that “there is no right of ownership of groundwater in Arizona prior to its capture and withdrawal from the common supply.” Allowing the owner of a right to sell or lease groundwater conflicts with the court's decision and undermines Arizona’s management of groundwater for the last four decades.

Third, allowing grandfathered rights to be sold for use outside of the AMA in which they were issued threatens the ability to reach the unique management goal of that particular AMA. Some AMAs, such as the Phoenix AMA which covers 5,600 square miles and seven sub-basin, are so large that changing the pumping location within an AMA may prove problematic.

Fourth, physical availability of groundwater is separate and distinct from the right to pump groundwater. Deeming water pumped pursuant to a Grandfathered Right to be physically available for the purpose of obtaining a Certificate of Assured Water Supply is not based on hydrologic reality and is contrary to the consumer protection purpose of the assured water supply provisions. Just like Rio Verde Foothills, homeowners could be left down the road without a water supply.

Fifth, trying to shuffle groundwater around the AMAs to allow development distracts stakeholders from working on the need to develop additional near-term and long-term supplies that will provide a more sustainable future.

HB 2182 augmentation; Phoenix; Pinal; Tucson; AMA (Kolodin)

Position – Monitor

This bill would change the allowable uses of WIFA’s Long-Term Water Augmentation Fund to include creating new water sources and purchasing new water or purchasing rights to use new water created within Arizona. The bill also states that the fund cannot be used to purchase water or rights to water from in-state users unless the purchase is related to the creation of new water. The bill also states that the funds can be used to construct infrastructure to convey or deliver new water created in Arizona. Lastly, the bill states that 75% of any money left in the

fund for FY22, FY23, or FY24 as of the effective date of the bill must be used to supply imported or new water to users within the Phoenix, Pinal, or Tucson AMAs.

The changes this bill makes to the Long-Term Water Augmentation Fund's allowable uses pivot the fund away from a focus on out-of-state importation of water and mean that it may also fund "new water" from within Arizona. It is problematic that "new water" is not defined and should be clarified to avoid this important fund from being used to develop an inappropriate or questionable source of water. For example, brackish groundwater is frequently mentioned by some legislators but this is problematic since brackish groundwater is already considered as groundwater for the purposes of ADWR modeling and the Assured Water Supply Program, and is therefore not actually a new supply.

HB 2184 brackish groundwater pilot program (Smith)

Position – Neutral

Last Action Taken – This bill passed House NREW on January 30, 2024 with a 9-0 vote.

This bill would amend the 2023 General Appropriations Act to state that \$2 million previously appropriated to ADWR for the purpose of a brackish groundwater desalination demonstration program within the AMAs can now be used for such a demonstration program anywhere within Arizona. This bill also states that ADWR may locate this demonstration program within any administrative section of ADWR, rather than within the AMA section. Lastly, this bill states that \$9 million previously appropriated towards dollar-for-dollar matches for brackish water desalination projects by CAP subcontractors within AMAs can now be used for such matches anywhere within Arizona. CAP will be provided \$3 for every dollar it contributes towards such programs that are within AMAs.

Pursuing the use of brackish groundwater as a "new" supply of water continues to be an inappropriate use of state funds and ADWR's time, as brackish groundwater is deemed hydrologically and legally as groundwater within ADWR modeling and the Assured Water Supply Program. However, this funding has already been appropriated, and this bill takes a slightly positive turn by allowing ADWR slightly more flexibility in the use of this funding. One may speculate that ADWR has had trouble putting this funding to use within AMAs, because of the aforementioned reality about brackish groundwater, so the flexibility granted by this bill may allow them to carry out such a study elsewhere in Arizona.

HB 2186 remedial groundwater incentive; brackish groundwater (Kolodin)

Position – Oppose

Last Action Taken – This bill passed House NREW on February 13, 2024 with a 6-4 vote.

This bill would amend the definition of a hazardous substance under A.R.S. Title 49 to include groundwater with a total dissolved solids (TDS) content between 1,000 and 10,000 milligrams per liter. This bill also adds desalination of such brackish groundwater as a remedial action to be taken by relevant parties that wish to use such groundwater. This bill also makes conforming changes to include brackish groundwater as a hazardous substance that may be included in a remediation plan. This bill also states that this brackish (remedial) groundwater will be considered consistent with AMA management goals when applying for an AWS Certificate or Designation, without ADWR approval, if the applicant meets metering and reporting requirements for said groundwater. ADWR is required to create rules outlining how it will determine compliance with management goals for remedial groundwater. Applicants who wish to use such a supply in their AWS determination must provide ADWR with notice at least 120 days of notice. Lastly, this bill states that “remedial groundwater” will be metered and reported separately from “groundwater” when reporting to ADWR.

TDS is not, on its own, considered a health hazard by environmental regulatory agencies. On its own, TDS is an aesthetic issue that can lead to buildup in pipes and on taps, and certainly does not warrant elevation to the level of a hazardous substance that require remediation. An exceptionally high TDS level can indicate the presence of harmful ions such as copper and lead. However, these ions and TDS itself are already regulated by ADEQ. Requiring such a commonplace water quality measurement as TDS to be handled through a remediation plan would put an unnecessary burden on municipal water providers that are already able to thoroughly treat water for TDS and related ions.

This bill is likely meant to sidestep ADWR’s stance that brackish groundwater is simply groundwater by designating it as a hazardous substance and making it easier to classify it separately. This bill also more directly classifies brackish groundwater separately by requiring it to be metered and reported separately from other groundwater. Regardless, the reality remains that brackish groundwater is already included in ADWR’s modeling and within the Assured Water Supply Program as simply groundwater. This supply is already included within providers’ portfolios and creating it as a separate category of water will only exacerbate the groundwater challenges Arizona is already facing.

HB 2195 on-site wastewater treatment facilities; permitting (Hendrix)

Position – Monitor

This bill would allow an on-site wastewater treatment facility with a design flow between 3,000 and 75,000 gallons per day to operate under a general Aquifer Protection Permit (APP) rather than having to obtain an individual permit. The facility operator must comply with existing general permit rules, and the bill also requires ADEQ to create requirements for maintenance, monitoring, recordkeeping, and reporting that would apply to such facilities operated under a general permit.

This bill would expedite the process for those wishing to set up an on-site wastewater treatment facility, likely in an industrial facility of some kind, because they would be able to be covered under a general APP rather than going through the process of receiving an individualized permit. So long as ADEQ makes the requirements to obtain a general APP adequately stringent, there is no reason to believe that holders of such a permit would pose a danger to the aquifer or other water sources.

HB 2200 groundwater transportation; Harquahala non-expansion area (Dunn)

Position – Support

This bill was introduced again as an effort to allow EPCOR and other private water companies to transport groundwater from the Harquahala INA, something that these entities have previously pursued. Currently, only political subdivisions of the State—such as cities and towns—that own legally irrigable land can withdraw and transport groundwater from this INA. This bill is relevant this session because of the need to secure new water supplies that was created by the Governor’s Water Policy Council’s recommendation to create an Alternative Pathway to Designation.

HB 2201 Harquahala non-expansion area; groundwater transportation (Dunn)

Position – Support

This bill is serving the same purpose as HB 2200, except for allowing the transported groundwater to be used in La Paz County in addition to initial AMAs. La Paz County interests have been seeking to obtain transported groundwater from Harquahala INA. Again, this bill is especially relevant this session because of the need to secure new water supplies that was created by the Governor’s Water Policy Council’s recommendation to create an Alternative Pathway to Designation.

HB 2214 water treatment facilities; loan repayment (Terech)

Position – Support

This bill would remove from Title 9 a requirement that cities and towns with a population of more than 150,000 must hold a public vote before the city or town may enter into a federal financial assistance loan repayment program through the Water Infrastructure Finance Authority (WIFA). This bill would also remove a similar requirement that applies to all counties.

Requiring municipalities with a population of more than 150,000 people to ask for a vote before entering a federal loan repayment program through WIFA puts an unfair barrier between most

of the state’s population and crucial water resources development funding. No such requirement exists for any other loan repayment program or funding source, and the fact that the State Legislature put a five year stay on this provision shows that it is unnecessary and harmful. This bill is similar to previous legislation that we supported.

HB 2320 watersheds; beneficial use; instream flows (Travers)

Position – Monitor

This bill would allow the Game and Fish Commission to acquire and lease surface water rights for “watershed health uses and instream uses”. This bill also defines “watershed health uses” as water that is conserved in a natural watercourse and not otherwise used and that supports watershed health. This bill also requires ADWR to conduct a watershed health survey every three years after the initial survey, which is not described in this bill. The survey will evaluate the overall health of each watershed in the state based on hydrology, geomorphology, plant and animal biodiversity, landscape condition, and other factors. This bill also adds watershed health as a reason why a water right may be severed and transferred from the land to which it is appurtenant.

While it is a laudable goal to evaluate the overall health of Arizona’s watersheds, it is worrying that another large responsibility would be placed on ADWR without additional funding or other resources. This bill is a slightly different version of HB 2357 and is not complete because it does not include a description of the initial watershed health survey that is referenced in the bill. This bill is also worrying because of the additional ability to acquire and lease surface water rights that it grants to the Game and Fish Commission.

HB 2355/SB 1108 subsequent active management area; designation (Stahl Hamilton/Sundereshan)

Position – Monitor

This bill would require ADWR to designate as an AMA any area that meets the AMA designation criteria. The criteria include water quality degradation from groundwater use, land fissures, and active management to preserve groundwater for future use.

AMAs are the gold standard when it comes to groundwater management in Arizona, and any area that shows signs of groundwater depletion should be designated as an AMA. However, the large increase in responsibilities that the designation of numerous new AMAs could place on ADWR would necessitate further funding for the Department, and that should be considered.

HB 2356 subsequent irrigation; non-expansion areas; procedures (Stahl Hamilton)

Position – Monitor

This bill would allow ADWR to consider “reasonable projections” of future irrigation groundwater use when considering whether to designate an area as a subsequent INA, rather than only considering current irrigation groundwater use. This bill also defines the acceptable amount of groundwater available for irrigation as a 100-year supply. This bill also specifies who may sign a petition to designate a subsequent INA, including someone who is the owner of irrigated land, has irrigated two or more acres in the basin in the past five years, or “is capable of irrigating the land in the future”. This bill requires these petitions to be submitted along with a numeric groundwater model and hydrologic report prepared by a professional geologist or hydrologist. Lastly, this bill states that ADWR’s final decision on the designation of a subsequent INA are not an appealable agency action but are subject to judicial review, and that after a refusal another petition to designate the area may not be submitted for three years.

This bill has two sides, in that it arguably makes it both easier and more difficult to designate an area as a subsequent INA. ADWR is given more flexibility in their projections of groundwater use when designating an area. The number of people eligible to sign a petition is broadened substantially by the stating that anyone who “is capable of irrigating the land in the future” may sign the petition. Conversely, the designation of a subsequent INA via petition is made more onerous by a requirement to include hydrological evidence. This provision does, however, make the petition stronger in addition to pre-empting any attempts to invalidate the petition by including evidence that the petition is necessary.

HB 2357 watershed health; use; survey (Stahl Hamilton)

Position – Monitor

This bill would require ADWR to establish criteria to evaluate the status of the relationship between “ecological water needs”, groundwater withdrawal, and surface water appropriations in Arizona. This bill also requires ADWR to complete a survey of the status of the waters of Arizona by December 31, 2026. This survey must include an assessment of the overall health of all watersheds in the state, and a lesser assessment of the health of sub-watersheds and the health of the ecosystems they support. ADWR must also determine the appropriate steps to be taken to remedy the problems in these watersheds and recommend legislation through which to take these steps. ADWR is also required to hold public meetings and receive and publish public comments on this survey and make the survey public when it is complete. This bill also includes the same requirements for follow-up surveys and the same definitions that are included in HB 2320.

Again, while it is laudable goal to evaluate the overall health of Arizona’s watersheds, it is worrying that another large responsibility would be placed on ADWR without additional funding

or other resources. This bill is a superior version of HB 2320 because it includes a description of the initial watershed health survey. This bill is also preferable because it does not put any additional responsibilities or allowances on the Game and Fish Commission.

[HB 2358/SB 1106](#) *state lands; leases; groundwater use (Stahl Hamilton/Sundareshan)*

Position – Support

This bill would require ADWR to establish rules to govern an annual groundwater withdrawal fee that it will levy upon each lessee of State Land for agricultural purposes that is located outside of an AMA or INA. These lessees would be required to submit a report to ADWR each year that details the locations of any wells, the amount of groundwater withdrawn from these wells, and why the groundwater was used.

This bill would disincentivize agricultural groundwater use on State Land outside of AMAs and INAs and would also bring additional revenue to ADWR.

[HB 2359](#) *adequate water supply; statewide requirements (Stahl Hamilton)*

Position – Support

This bill would require a city, town, or county to ensure that a subdivision has an adequate water supply or will be served by a provider with an adequate water supply before it may be platted. This bill would also require the Department of Real Estate to ensure that a subdivision has an adequate water supply or will be served by a provider with an adequate water supply before it may issue a public report and allow sale or lease of the land. This bill would also repeal provisions that allow capital investment and infrastructure assurances that would allow development to continue despite no adequate water supply existing.

Currently, most areas outside of AMAs do not require an adequate water supply before development can occur. Developers may apply for determination of adequate water supply with ADWR, but it is not required. Some areas (e.g. Yuma County, Town of Clarkdale) do require an adequate water supply before development, despite not being located in an AMA. This bill would place that “mandatory adequacy” requirement on all areas of the state outside of AMAs and is therefore a big step forward in ensuring that we have water first, and then development.

HB 2366 physical availability; review; designated providers (Griffin)

Position – Oppose

Last Action Taken – This bill passed House NREW on January 30, 2024 with a 5-4 vote.

HB 2366 would endanger the designations of all designated municipal providers in the Phoenix AMA. The bill prohibits ADWR from adopting the Carry-Over Rule in the Phoenix AMA, which allows designated municipal water providers to carry over their unused groundwater allowance when applying for redesignation. Since ADWR has already adopted this rule, we do not believe that this provision would have any impact. However, HB 2366 still directs ADWR to review the physical availability of groundwater and stored water for each designated municipal water provider in the Phoenix AMA.

It is more than troubling that HB 2366 is attempting to question and undermine the groundwater allowances from all designated municipal providers and consequently threaten their ability to remain designated. This bill could cause immense damage to growth and development in Phoenix metropolitan area and the entire state by questioning the designations of water providers.

HB 2368 transportation; groundwater; Douglas AMA (Griffin)

Position – Neutral

Last Action Taken – This bill passed House NREW on January 30, 2024 with a 5-4 vote.

HB 2368 would allow a private water company to withdraw groundwater from the Upper San Pedro Groundwater Basin to transport to the Douglas AMA if the groundwater will be used for municipal service, the private water company or its predecessor had been engaged in this transportation since September 30, 1992, and the company holds a Certificate of Convenience and Necessity to provide water service in the Douglas AMA. HB 2368 limits the amount of groundwater that may be annually transported to the annual amount that was transported before December 1, 2022.

HB 2368 is intended to allow Arizona Water Company–Bisbee to continue transporting groundwater to the Town of Douglas. The company’s service area is mostly within the Upper San Pedro Groundwater Basin though part of it overlays the Douglas AMA. The Company relies on four wells near Naco to provide groundwater.

HB 2399 reporting; groundwater pumping; measuring (Crews)

Position – Support

This bill would require measurement and reporting by anyone who owns a non-exempt well outside of an AMA or INA if the well withdraws more than 10 acre-feet per year for a non-irrigation use or is used to irrigate 10 or fewer acres for an irrigation use. This bill also lists the reporting requirements for the well owner.

Accurate measurement and reporting of groundwater use within Arizona is essential to sound groundwater management. Groundwater availability in Arizona is more threatened now than it has been in at least the past 40 years, and now is exactly when we should be showing the rest of the world that we are serious about sound water management.

HB 2589 assured water supply; analysis; availability (Dunn)

Position – Oppose

Last Action Taken – This amended bill passed House NREW on January 30, 2024 with a 5-4 vote.

An Analysis of Assured Water Supply is used by developers to “reserve” groundwater for future Certificates. An Analysis of Assured Water Supply is not a permanent guarantee and can expire and be revoked. However, numerous developers have argued that larger investments were made because of the analysis and believe it to be an expectation that they will receive the Certificate. HB 2589 would require ADWR to consider an Analysis of Assured Water Supply (that was issued before May 31, 2023, and has not expired) as a valid demonstration of physical availability of groundwater for the amount stated in the Analysis. Additionally, ADWR must subtract the amount of groundwater “represented” by all Certificates that were already issued based on the Analysis from the amount of groundwater considered physically available based on the Analysis.

This bill appears to be an attempt to require ADWR to resume the granting of some Certificates despite the release of the Phoenix AMA groundwater model. Issued Analyses are already considered in the model, and it has been demonstrated that sufficient physical availability does not exist. The Analyses that this bill applies to would not have been issued if they were based on ADWR’s most recent modeling. In fact, ADWR has stopped issuing new Analyses in the Phoenix AMA simply because there is not enough physical availability of groundwater. Requiring ADWR to issue Certificates based on the outdated modeling from these Analyses would not at all be in line with sound water management or scientific best practices.

SB 1041 groundwater savings certificate; assured water (Hoffman)

Position – Oppose

SB 1041 would create a new type of a certificate (a Groundwater Savings Certificate) that could be used in place of a Certificate of Assured Water Supply when a developer plans to sell or lease subdivided lands in an active management area (AMA). A Groundwater Savings Certificate will be issued if all the following conditions are met:

- The land in the application is or will be a Member Land of the Central Arizona Groundwater Replenishment District (CAGR);
- The applicant can show, based on ADWR's groundwater model, that any wells on the land or that are authorized to provide water service to the land can be operated continuously for 100 years at the development's annual demand without exceeding 1,000 feet below land surface or the bottom of the aquifer, whichever is less; and
- The applicant makes no claim to any sewage or effluent that will be produced on the land and relinquishes any claim to the authorized sewage treatment provider that will provide sewer service to the land.

Additionally, the SB 1041 directs ADWR to adopt rules by the start of this year that would provide or a reduction in water demand for a Groundwater Savings Certificate if a gray water system is installed that meets ADEQ's requirements and the land in the application qualifies as a Member Land.

This bill manifests a criticism of how ADWR interpreted the unmet demand projected in the Phoenix AMA groundwater model. Some have argued that development should be allowed to continue in areas where the model has projected that the aquifer will not fall below 1,000 feet below land surface or bedrock, whichever is shallower. It also encourages the adoption of gray water systems in the belief that these systems will reduce overall water demand.

SB 1041 would significantly alter the 1980 Groundwater Management Act's principle that the active management area is managed as a hydrologic whole. It would allow for the segregation of property's presumed groundwater from the rest of the basin is hydrologically questionable since groundwater is not stationary, but flows.

Allowing groundwater pumping for 100 years to be tied to a specific location jeopardizes the groundwater that is accounted for to nearby designated water providers and already issued certificates. In other words, the 100-year water supply that was guaranteed by these certificates and designations may be no more. SB 1041 also undermines the security of water that cities have stored underground for future use by focusing on the depth to water at a well without taking into account how much of that water level is made up of stored water. It would basically enable more groundwater pumping that would endanger our cities' ability to recover water they have stored over several decades.

SB 1041 would allow development to continue on groundwater and will only worsen the projections in future groundwater models and make Arizona's water future less secure. While the Phoenix AMA groundwater model projected 4.9 million acre-feet of unmet demand over

the next 100 years, it also projected that groundwater levels are expected to decline at twice the rate they had between the pre-1900s period and 2021. This decline represents a 30% loss in aquifer storage over the next 100 years. This loss in available groundwater combined with the land subsidence, fissuring, and collapsing of aquifers that inevitably will follow will make the Arizona's water future less secure for future generations. Allowing additional groundwater pumping to occur will only make this future frailer.

Proponents of groundwater-dependent development often point to CAGRDR replenishment as the mechanism for ensuring that a groundwater model's dire projections do not come to pass. But crucially, that argument only works if CAGRDR can continue to secure enough water supplies to meet its replenishment obligations so that its Plan of Operation receives ADWR's approval. That task will be made more difficult as its replenishment obligation grows and as the water supplies to meet those obligations becoming fewer in number and drastically more expensive. Putting stress on an already stressed system is imprudent and irresponsible for Arizona's future.

SB 1056 municipalities; counties; fee increases; vote (Petersen)

Position – Oppose

This bill would require a two-thirds vote in favor by the common council of a municipality or the board of supervisors of a county before any increase of any assessment, tax, or fee.

This bill would make it harder for city councils to pass any increase of assessments, taxes, or fees. This would certainly make it harder to increase development fees and may make it harder to increase other fees associated with water service in the AMWUA cities. While it is necessary that assessment, tax, and fee increases are run through city councils, requiring a two-thirds majority is unnecessarily cumbersome. The additional barrier this creates makes it even harder for city water departments to recoup their costs for providing quality water and wastewater services to their residents.

SB 1081 exemption area; assured water supply (Kerr)

Position – Monitor

Last Action Taken – This bill passed Senate NREW 4-2 on January 25, 2024.

SB 1081 intends to incentivize the development on agricultural within the Buckeye Water Conservation and Drainage District. Specifically, the bill would allow ADWR to designate part of city or town that is located in the Phoenix AMA and Buckeye Waterlogged Area as having an Assured Water Supply if several criteria are met. The portion designated must be entirely within an irrigation and water conservation district, the city or town must have contracted with the district for water service for at least 100 years, and the city or town will not use "new groundwater" as the basis for an AWS within the portion of its service area designated.

The district would be allowed the city or town to pump up to 10,000 acre-feet per year of groundwater from the district's wells for municipal use on district lands. ADWR would be required to deem this groundwater as physically available. The pumping would also be consistent with the AMA's management goal if the average groundwater level remains less than 150 feet below surface over a three-year period, as measured by 10 index wells. If the groundwater falls below this level, the city or town must become a CAGR Member Service Area and its pumping will be subject to replenishment.

There are several potential problems with this bill. The Buckeye Waterlogged Area is a legal construct that was created to address temporary conditions in the West Valley. It provides more leeway for pumping in this area due to the shallow groundwater. A recent ADWR study indicated that the unique hydrologic factors that characterize this area could cease to exist if the amount of effluent that flows down the Gila River is reduced or ends. If this waterlogged area ceases to exist, the provisions of SB 1081 will probably no longer apply. Moreover, ADWR regularly evaluates the physical availability of CAP water and surface water supplied by SRP when a designation comes up for review.

In addition, designating a portion of a water provider's service area may be problematic because it does not align with the fact that a service area contains a provider's entire distribution system. Water that enters the designated part of the system can move to the undesignated part, and vice versa. A partially designated service area can also allow for non-AWS pumping to proliferate in the undesignated portion of the provider's service area while limiting growth of subdivided lands to the designated portion. Finally, the term "new groundwater" is not defined in this bill which raises questions about how this bill would be implemented.

[SB 1107](#) long-term storage accounts; credits; percentage (Sundareshan)

Position – Oppose

This bill would change the amount of recoverable stored water that ADWR will credit to long-term storage accounts from 95% to 70%. In other words, this bill increases the so-called "cut to the aquifer" for most long-term storage from 5% to 30%.

This bill may be interpreted to apply either retroactively or prospectively. If the bill is retroactively, it would be reckless and irresponsible since it would drastically reduce the investment made for generating these credits and undermine how their owner had planned to utilize them. If the bill is prospective, it still is troubling to have a major alteration in the Underground Storage Program and how municipal water providers and other water users prepare for less Colorado River water in the future.

SB 1109 water augmentation fund; appropriation; rights (Sundareshan)

Position – Oppose

This bill would transfer \$30 million from WIFA’s Long-Term Water Augmentation Fund for FY 2024 to ADWR to be used to purchase and retire irrigation grandfathered rights. This bill also requires ADWR to begin purchasing and retiring these rights by the end of 2024.

This bill has a laudable goal. Voluntarily purchasing and retiring irrigation grandfathered rights could be an essential tool in reducing groundwater pumping within AMAs, which will include developing a monetary incentive. However, the Long-Term Water Augmentation Fund is not the place to get the funding for such a project. WIFA has already faced numerous budget cuts at a time when we need new water supplies more than ever. We cannot allow the Legislature to alter its mission before it has had a chance to prove itself nor should the funding used for whatever project the Legislature wants to pursue.

SB 1153 regulatory costs; rulemaking; legislative ratification (Kern)

Position – Oppose

This bill would prohibit any proposed rule that will cost the state more than \$500,000 within five years from going into effect until the Legislature enacts legislation ratifying the proposed rule. An agency would be required to submit the proposed rule to the Administrative Rules Oversight Committee, and the Committee would submit the rule to the Legislature “as soon as practicable”. The agency is prohibited from submitting a finalized rule until the Legislature ratifies the rule, and the agency must terminate the proposed rule if the Legislature fails to ratify it within the same legislative session that it was submitted to the Committee.

This bill is troubling because of the wide-ranging impacts it could have on ADWR, ADEQ, and every other state agency. \$500,000 is not a lot of money, and most substantive agency rules would probably cost the state that amount within five years. Oversight of agency rulemaking should be handled through public stakeholder processes, and not through the political machinations of the legislature. Requiring agency rulemaking to be approved by the legislature effectively opens these agencies up to political influence and means that rules would likely be passed through that were politically advantageous rather than those that follow actual best practices.

Whether the intention of the bill or not, the timing of this bill raises questions about its impact on ADWR’s upcoming A-DAWS rule. The A-DAWS is the best current path forward for development in the Phoenix AMA and preventing it from being enacted would be counter to the goals of the legislators that sponsored this bill. Perhaps those legislators are hoping that,

without the A-DAWS, other ways to push forward development or ways to weaken the Assured Water Supply Program would gain more traction.

SB 1181 groundwater replenishment; member lands; areas (Petersen)

Position – Monitor

As introduced, SB 1181 would allow a municipal provider that is seeking a designation to decide whether to assume the replenishment obligation for any Central Arizona Groundwater Replenishment District (CAGR) Member Lands within its service area or whether to have the replenishment obligation remain with those Member Lands. If the provider chooses for the replenishment obligation to remain with the Member Land, the Arizona Department of Water Resources (ADWR) would have the authority to require the provider to reduce the replenishment obligations for those Member Lands 10 years after becoming designated. Specifically, the provider would be required to reduce the replenishment obligation in thirds over the next 15 years so that no replenishment obligation would remain by the end of the fifteenth year.

This bill is being introduced to support Queen Creek’s efforts to become designated through the Alternative Pathway to Designation (ADAWS), which was a proposal from the Governor’s Water Policy Council and ADWR is currently developing rules to establish an ADAWS. Utilizing the ADAWS would require Queen Creek to become a Member Service Area, which would mean that it would need to assume the responsibility for CAGR replenishing groundwater pumping within its service area. Queen Creek officials have expressed concerns about the financial shock assuming this replenishment obligation would cause to their rates. They have proposed SB 1181 as a way of easing the easing this burden by allowing a gradual assumption of replenishment obligations for Member Lands.

Queen Creek and CAGR have developed an amendment that will change some provisions of SB 1181. Under this amendment, a newly designated provider will need to begin assuming the replenishment obligations for Member Lands within its service area and the end of its first term of designation (which may be up to 15 years) or 10 years after becoming designated, whichever is greater. After that point, the provider will be required to reduce the replenishment obligation in thirds over the next 15 years in a way similar to the introduced bill. Finally, the amendment will limit the bill’s provisions to municipal providers that apply for designation in the Phoenix AMA. Queen Creek and CAGR are both supportive of the amendment, which is anticipated to be offered when SB 1181 is heard in committee.

[SB 1195](#)/[SCR 1015](#)/**[HCR 2040](#) public monies; prohibited uses (Kern/Smith)******

Position – Oppose

Last Action Taken – This amended bill passed House NREW on February 6, 2024 with a 5-4 vote.

This bill would prohibit any public entity from promoting or becoming a part of an association that promotes (among other things) “reusing water that has touched human feces as a source of municipal drinking water”. The concurrent resolution versions of this legislation would seek to enact this prohibition through a voter referendum.

This bill received an amendment on February 6th, 2024 that removed “reusing water that has touched human feces” from the list of unacceptable uses of public monies.

BOARD OF DIRECTORS
INFORMATION SUMMARY
February 22, 2024

AMWUA Fiscal Year 2024 Quarterly Financial Statements – Second Quarter

ANNUAL PLAN REFERENCE

Day-to-Day Operations

Maintain the daily operations of an effective organization and the services members rely on.

- AMWUA will continue to wisely manage its financial resources
Strategic Plan: Facilitate our Strength in Numbers, Educate - Excel as an Expert and Resource

SUMMARY

The AMWUA Statement of Revenues and Expenses for the period July 1, 2023 through December 31, 2023 and the Balance Sheet dated December 31, 2023 are presented for your information.

AMWUA actual revenue at the end of the second quarter is \$42,372 over year-to-date budget. This increase is due to the collection of interest revenue.

AMWUA has incurred year-to-date actual expenses that are \$8,965 under the year-to-date budget. This variance is due to a small savings in deferred compensation, medical and disability insurance, and mileage reimbursement, as well as savings in IT services, copy machine lease, dues and memberships, staff development, website services, occupancy expenses, and outreach efforts. These several small savings were mostly offset in an overage paid to payroll salaries and consultant-finance/accounting expense.

RECOMMENDATION

At the February 14, 2024 meeting, the AMWUA Management Board recommended that the AMWUA Board of Directors accept the AMWUA quarterly financial statements for the second quarter as presented.

SUGGESTED MOTION

I move to accept the AMWUA quarterly financial statements for the second quarter as presented.

ATTACHMENTS

- **Attachment A:** Statement of Revenues and Expenses
- **Attachment B:** Balance Sheet

ARIZONA MUNICIPAL WATER USERS ASSOCIATION

Statement of Revenues and Expenses
(Actual to Budget Comparison)

For Period July 1, 2023 through December 31, 2023

	Year-To-Date Actual	Year-To-Date Budget	Over(Under) Year-To-Date Variance	Approved Annual Budget	Over(Under) Budget Variance
Funding Sources					
Assessment - Water	1,381,866.00	1,381,866.00	0.00	1,381,869.00	(3.00)
Assessment - Wastewater	248,071.00	248,071.00	0.00	248,070.00	1.00
Water Loss Control Training Program Income	0.00	0.00	0.00	0.00	-
2022 Carryover Applied to Reduce Member Assessments	(87,997.00)	(87,997.00)	0.00	(88,000.00)	3.00
Interest Revenues	42,372.41	0.00	42,372.41	0.00	42,372.41
Other Revenues	0.00	0.00	0.00	0.00	-
Net Revenues	1,584,312.41	1,541,940.00	42,372.41	1,541,939.00	42,373.41
Operating Expenses					
Payroll (Salaries)	403,388.64	389,850.00	13,538.64	779,700.00	(376,311.36)
Deferred Compensation (ASRS Payments)	38,381.80	47,912.50	(9,530.70)	95,825.00	(57,443.20)
Payroll Processing, Taxes and Insurance	35,573.84	35,000.00	573.84	70,000.00	(34,426.16)
Medical and Disability Insurance	42,936.44	55,000.00	(12,063.56)	110,000.00	(67,063.56)
Cell Phone Allowance	4,060.00	4,000.00	60.00	8,000.00	(3,940.00)
Temporary Services/Receptionist	0.00	0.00	0.00	0.00	-
Legal/Consulting Services (Ferris Contract)	30,000.00	30,000.00	0.00	60,000.00	(30,000.00)
Legislative Services (Aarons Company-Contract)	26,460.00	26,460.00	0.00	52,920.00	(26,460.00)
Audit - Water	34,000.00	34,000.00	0.00	10,200.00	23,800.00
Audit - Waste Water	0.00	0.00	0.00	23,800.00	(23,800.00)
Website Services	0.00	2,500.00	(2,500.00)	5,000.00	(5,000.00)
Communication Services (Kossan Contract)	0.00	0.00	0.00	0.00	-
Consultant-Finance/Accounting	30,025.00	25,000.00	5,025.00	50,000.00	(19,975.00)
Audio/Visual Development	399.90	0.00	399.90	0.00	399.90
IT Services	2,400.00	3,000.00	(600.00)	6,000.00	(3,600.00)
Office Space - Lease	100,549.14	102,622.00	(2,072.86)	205,244.00	(104,694.86)
Common Area Maintenance	13.47	1,750.00	(1,736.53)	3,500.00	(3,486.53)
Telephone	3,019.22	3,000.00	19.22	6,000.00	(2,980.78)
E-Mail/Webpage/Internet	4,267.41	3,000.00	1,267.41	6,000.00	(1,732.59)
Travel/Conferences	4,185.76	3,750.00	435.76	7,500.00	(3,314.24)
Mileage Reimbursement	145.46	1,000.00	(854.54)	2,000.00	(1,854.54)
Continuing Professional Ed	0.00	0.00	0.00	0.00	-
Staff Development	0.00	1,000.00	(1,000.00)	2,000.00	(2,000.00)
Copy Machine - Lease	1,746.92	2,500.00	(753.08)	5,000.00	(3,253.08)
Computer Hardware/Software	3,084.26	3,250.00	(165.74)	6,500.00	(3,415.74)
Office Supplies	2,661.51	2,000.00	661.51	4,000.00	(1,338.49)
Meetings	2,608.11	2,375.00	233.11	4,750.00	(2,141.89)
Outreach Efforts	0.00	3,750.00	(3,750.00)	7,500.00	(7,500.00)
Printing	878.22	500.00	378.22	1,000.00	(121.78)
Postage & Deliveries	311.67	500.00	(188.33)	1,000.00	(688.33)
Subscription & Reference	3,553.09	2,000.00	1,553.09	4,000.00	(446.91)
Dues & Memberships	817.44	1,500.00	(682.56)	3,000.00	(2,182.56)
Insurance	3,804.67	2,750.00	1,054.67	5,500.00	(1,695.33)
Equipment Maintenance	334.89	1,000.00	(665.11)	2,000.00	(1,665.11)
Water Loss Control Program	0.00	0.00	0.00	0.00	-
Water Conservation	43,397.53	41,000.00	2,397.53	82,000.00	(38,602.47)
Total Operating Expenses	823,004.39	831,969.50	(8,965.11)	1,629,939.00	(806,934.61)
Reserve and Contingency Funds Summary:					
Contingency Fund Balance on 06/30/23	\$600,000				
Reserve Fund Balance on 06/30/23	388,840				
Total Contingency and Reserve Funds	\$988,840				

Reserve and Contingency Funds Summary

Fund Restructuring:

On March 28, 2013 the Board of Directors established a Contingency Fund in the amount of \$600,000 with monies from AMWUA's current reserve amount. The Reserve Fund shall be the difference between AMWUA's current reserve amount and the \$600,000 used to establish the AMWUA Contingency Fund.

Arizona Municipal Water Users Association
Statement of Net Position
As of December 31, 2023

ASSETS AND DEFERRED OUTFLOWS OF RESOURCES

CURRENT ASSETS

1000 Petty Cash	500.00	
1015 Compass Checking 39 1139 0592	85,515.63	
1025 Compass Money Market 39 1098 8939	182,597.03	
1030 Investment Account (LGIP)	1,681,185.16	
1050 Prepaid Expenses	25,761.88	
Total Cash	\$ 1,975,559.70	

CAPITAL ASSETS

1100 Furniture & Equipment	133,700.55	
1150 Leasehold Improvements	7,101.50	
1160 Right-of-use Asset	1,409,508.16	
Total depreciable assets	\$ 1,550,310.21	
Less accumulated depreciation		
1200 Accum Depreciation Furniture	-114,954.67	
1250 Accum Depreciation Leasehold	-7,101.50	
1265 Accumulated amortization Right-of-use asset	-352,377.02	
Total 1260 Accumulated amortization	-\$ 474,433.19	
Total Capital Assets	\$ 1,075,877.02	

OTHER ASSETS

1400 Refundable Deposits	8,276.25	
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DEFERRED OUTFLOWS OF RESOURCES

1450 Deferred Outflow - Pension Resources	149,510.00	
Total Other Assets	\$ 157,786.25	

TOTAL ASSETS AND DEFERRED OUTFLOWS OF RESOURCES

\$ 3,209,222.97

Arizona Municipal Water Users Association
Statement of Net Position
As of December 31, 2023

LIABILITIES, DEFERRED INFLOWS OR RESOURCES AND NET POSITION

CURRENT LIABILITIES

2005 BBVA Compass Credit Card	4,865.11	
2050 Accrued Expenses	61,210.36	
2070 ICMA Withheld	350.00	
2110 Retirees Excess Benefit Clearance	3,660.24	
Total Other Current Liabilities		\$ 70,085.71

NONCURRENT LIABILITIES

2210 Net Pension Liability	900,987.00	
2230 Lease Liability	1,206,638.21	
Total Noncurrent Liabilities		\$ 2,107,625.21

TOTAL LIABILITIES

DEFERRED INFLOWS OF RESOURCES

2220 Deferred Inflow-Pension Resources	64,159.00	
Total Deferred Inflow-Pension Resources		\$ 64,159.00

NET POSITION

Restricted Net Position	235,327.97	
Unrestricted Net Position	732,025.08	
Total Net Position		\$ 967,353.05

TOTAL LIABILITIES, DEFERRED INFLOWS OR RESOURCES AND NET POSITION

\$ 3,209,222.97

Arizona Municipal Water Users Association
Selected Information
For the six months ended December 31, 2023

The accompanying historical financial statements and budgeted financial statements include the following departures from accounting principles generally accepted in the United States of America and the guidelines for presentation established by the AICPA. The effects of these departures have not been determined.

Historical

- The financial statements omit substantially all the disclosures required by accounting principles generally accepted in the United States of America.
- The Statement of Cash Flows has been omitted.
- The Statement of Activities does not report changes in net assets between restrictions and does not include a reconciliation of beginning net assets that agrees to net assets on the statement of financial position.
- Accrued vacation and payroll accruals are not calculated monthly. These amounts will be calculated and updated at year-end.

Budget

- The budgeted financial statements omit substantially all of the disclosures required by the accounting principles generally accepted in the United States of America.
- The budgeted financial information omits substantially all of significant accounting policies.

Summary of Significant Assumptions

The financial budget present, to the best of managements knowledge and belief, the Association's expected results of operations for the budget periods. Accordingly, the budget reflects its judgment as of July 1, 2023, the date the budget was approved by the Board of Directors, of the expected conditions and course of action. The assumptions disclosed herein are those that management believes are significant to the budget. There will usually be differences between the budget and actual results, because events and circumstances frequently do not occur as expected, and those differences may be material.

Budget Assumptions

- Salaries and benefits are based upon anticipated staffing changes and payroll data.
- Additional pay increases have been built into the budget.
- Annual water assessments are allocated based upon MAG population estimates.
- Annual waste water assessments are assessed based upon flow ownership in the 91st Avenue WWTP at 204.50 mgd.
- Office space expenses are based upon actual increases as stated in the office lease.