



## **BOARD OF DIRECTORS**

### *Information Summary*

May 21, 2009

#### **Subject**

Update on 2009 Legislative Issues

#### **Policy Question**

What will AMWUA's position on water-related legislative proposals be, once legislation is introduced?

#### **Summary**

Each year, in advance of the upcoming legislative session, AMWUA staff prepares a summary of water-related legislation that may come before the Arizona State Legislature. These summaries provide a brief overview of possible legislation. If the legislation is introduced, a more in-depth analysis is developed providing detail on key provisions of the bill and identifying possible policy issues.

Once the legislation is introduced, AMWUA staff and the AMWUA Water Resources Advisory Group (WRAG) review the legislation and assess its relation to the AMWUA Board Resolutions and Issue Papers and their potential impacts on water management. Based on this analysis, recommendations regarding an AMWUA position are then forwarded to the AMWUA Management Board and AMWUA Board of Directors for action. Board members are apprised of the status of the legislation at monthly Board meetings and through the Legislative Summary, which is posted to the AMWUA Web site on Friday afternoons during the legislative session.

#### **Key Issues and Considerations**

A number of water-related legislative issues were under consideration for the 2009 Legislative Session. At this point in the session, bills that were of concern to the AMWUA members are either not expected to move forward or have been amended to resolve objectionable provisions.

The House of Representatives and the Senate are addressing the legislative process differently during this year's session. The Senate has taken no action on Senate bills, due to its focus on the state budget. Senate leadership does not intend to move legislation forward until a budget is passed.

The House has passed a number of bills out of the House, but the Senate has taken no action on those bills that have been transmitted to the Senate. It is not clear, at this point, how the Legislature intends to address the bills that have been introduced during this session. The budget remains the key issue.

*SB 1288 CAGRD Revenue Bonding; Sustainability Policies*

The joint AMWUA/CAWCD legislation has been introduced in the Senate by Senator Nelson. SB 1288 contains the legislation developed by the AMWUA Board of Directors and the CAWCD Board of Directors. AMWUA staff and CAWCD staff continue to meet with legislators to secure support for the legislation. To date, legislators have been receptive to the need to address the issues contained in the draft proposal; however, due to the unique nature of this session, the ultimate fate of the bill is unknown at this time.

CAWCD and AMWUA representatives are working with water providers who have, or are in the process of obtaining, a Designation of Assured Water Supply based on a large replenishment obligation, but who currently do not have the rate base necessary to provide the funding to support the membership fee resulting from that replenishment obligation. Discussions continue to determine if a resolution can be reached. AMWUA staff has been meeting with these stakeholders to assure that any proposal to address the designated private water companies' concerns is acceptable to the AMWUA members who belong to the CAGRD.

There is no new information at this time.

*HB 2157 Wildlife; Aquatic Invasive Species*

HB 2157 allows the Director of the Arizona Game and Fish Department to establish and maintain an aquatic invasive species program.

“Aquatic invasive species” means any aquatic species that is not native to the ecosystem under consideration and whose introduction or presence in this state (Arizona) may cause economic or environmental harm or harm to human health. Aquatic invasive species do not include any non-indigenous species lawfully or historically introduced into this state for sport fishing recreation or any species introduced into this state by the Arizona Game and Fish Department, by other governmental entities, or by any person pursuant to this title.

HB 2157 also specifies the powers and duties of the director, establishes penalties, and provides for the establishment of an “Aquatic Invasive Species Fund”.

This legislation would have created significant liability for the owners and operators of water treatment facilities and water conveyance systems. To address this issue, stakeholders met with representatives of the Arizona Game and Fish Department to draft proposed amendment language.

The proposed amendment exempts the following entities from the provisions of the bill:

- The owner or operator of any system of canals, laterals or pipes, and any related or ancillary facilities, fixed equipment and structures related to the delivery of water, and any discharges from the system.
- The owner or operator of any water treatment or distribution facility system and any related or ancillary facilities, fixed equipment and structures, and any discharges from the system.
- The owner or operator of any drainage, wastewater collection, treatment or disposal facility system, and any related or ancillary facilities, fixed equipment and structures and any discharges from the system.

Additionally, the amendment specifies that the legislation does not create any express or implied private right of action and may only be enforced by this state and allows the director to consult with the entities listed above to assist in the implementation of the provisions of this article.

This amendment has been adopted by the House Natural Resources and Rural Affairs Committee.

An amendment to address the source of funding for the proposed Fund has been proposed by the Arizona Game and Fish Department. It shifts funds from an existing educational program to the Aquatic Invasive Species Program. It does not appear to have any impact on funding for the Multi-Species Conservation Plan.

#### *HB 2352 Aquifer Protection Permits; Natural Gas*

HB 2352 adds certain injection wells that are used in connection with natural gas storage projects and that are subject to regulation, under specified federal laws, to the list of exemptions to the aquifer protection permit requirements.

The WRAG has expressed concern about the breadth of this legislation. AMWUA will work with stakeholders to narrow the exemption from the Aquifer Protection Permit Program to allow for deep well injection, but under limited circumstances, based on hydrologic considerations.

After discussing the issue with proponents of the bill, the impacts of the bill do not appear to affect the Phoenix AMA and sufficient safeguards appear to be in place to alleviate concerns relating to the degradation of groundwater.

There is no new information on this legislation.

### **Prior Committee Action**

At the February 2009 AMWUA Management Board meeting, Board members expressed concern regarding the provisions of HB 2157 and directed AMWUA staff to seek an amendment to resolve those issues. At the March 2009 meeting, AMWUA staff reported that the amendment had been drafted and adopted. AMWUA is now in support of the bill with the House Natural Resources and Rural Affairs Committee amendment.

At the March 2009 meeting, the AMWUA Management Board directed staff to work with stakeholders to resolve the concerns regarding HB 2352.

At the May 2009 meeting, the AMWUA Management Board was provided an update on the water-related legislative issues.

### **Recommendation**

There are no issues at this time that require a recommendation from AMWUA staff.

### **Attachments**

There are no attachments for this agenda item.