



2019 Legislative Review

The 1st Regular Session of Arizona's 54th Legislature convened on January 14th, 2019 and continued for 135 days; adjourning in the early hours of May 28th, 2019. Lawmakers introduced 1,318 bills and 100 memorials/resolutions, passing 331. The general effective date for legislation is August 26th, 2019.

The first month of the 2019 legislative session was dominated by the Drought Contingency Plan (DCP), with legislators and stakeholders scrambling to finalize an agreement for intra-state implementation of DCP. A resolution authorizing the Director of the Arizona Department of Water Resources (ADWR) to execute the Lower Basin DCP and an omnibus bill providing for the intra-state implementation were both passed on January 31st, 2019.

Throughout the duration of the session water-related legislation persisted as a priority for lawmakers. AMWUA successfully supported multiple bills that enhanced water management in Arizona and raised concerns on several significant bills that would have had detrimental or unforeseen impacts. AMWUA actively reviewed every single introduced measure, monitored over 70 pieces of legislation, and formally engaged on 41 bills.

The last several weeks of the legislative assembly revolved around spending negotiations which ultimately led to the passage of an \$11.8 billion budget. Significant appropriations included \$20 million to fund loans for development of groundwater infrastructure for Central Arizona agriculture, \$13.5 million of one-time WQARF funding from various sources, \$740,000 towards additional staff and digitization resources for ADWR, and nearly \$300,000 for the Special Water Master of the Arizona Superior Court to utilize for the General Stream Adjudication.

AMWUA accomplished its 2019 legislative agenda in its entirety with the passage of DCP, removal of the 2025 Sunset for long-term storage credit accrual via effluent, and advocacy for sound water management policy.



Drought Contingency Plan Legislation

Senate Joint Resolution 1001 authorized the Director of ADWR to enter into the interstate Lower Basin DCP agreements, if: federal legislation is enacted directing the Secretary of the Interior to execute the DCP agreements, and if all other parties to the DCP have authorized the execution of the agreements.

Senate Bill 1227 was the omnibus bill that housed the statutory amendments and appropriations negotiated as part of the DCP implementation within Arizona. The bill included :

1. Creation of an Arizona System Conservation Fund administered by ADWR for the purpose of spending monies from various parties on Colorado River system conservation. This component contains an appropriation of \$30 million which is intended to purchase 150,000 acre-feet (AF) of system conservation from the Colorado River Indian Tribes.
2. Creation of a temporary fund to finance groundwater withdrawal infrastructure projects in Pinal County and the Harquahala INA, as well as authorization for redistribution of Pinal County Groundwater Withdrawal Fees normally collected for use by the Arizona Water Banking Authority (AWBA). As amended, SB 1227 contains an appropriation of \$9 million for the fund.
3. Elimination of the 2025 sunset for effluent storage sunset, and amendments to the Groundwater Code allowing for 95% long-term storage credit accrual for effluent storage at an existing effluent managed underground storage facility (USF).
4. Alterations to the Groundwater Code for entities who do not currently qualify to earn Long-Term Storage Credits under the WaterBUD provision. As amended, water stored at a Groundwater Savings Facility (GSF) in Pinal County to support DCP may now qualify for credit accrual, up to 15,000 AF per year.
5. Session Law authorizing the AWBA to transfer LTSCs between Active Management Areas (AMA). This provision enables USF to GSF storage arrangements between the Phoenix, Tucson, and Pinal AMAs negotiated in the DCP stakeholder process.



AMWUA played a role in the success, amendment, or opposition of the following bills:

HB 2111: carbon dioxide emissions committee; repeal (Griffin). *AMWUA Position: Oppose*

This striker would have allowed a county that is not in an Active Management Area (AMA), through a unanimous vote of its county board of supervisors, to vote not to readopt the mandatory 100-year adequate water supply requirement. Upon rescinding the provision, the county would not be able to readopt the adequacy requirements for five years. This bill was similar to legislation introduced by Representative Griffin in 2016 and 2018 that AMWUA opposed. HB 2111 was ultimately retained on the House Committee of the Whole calendar.

HB 2428: no-water urinals required; public buildings (Thorpe). *AMWUA Position: Support, if amended.*

This bill established that counties and municipalities must require the installation of water-free or ultra-low water use (≤ 0.5 gallon) urinals in all new construction or remodeling of existing public buildings where costs exceed \$10,000. The bill also mandated that within two years after the effective date of the legislation, all flushable urinals located in state buildings shall be replaced with the alternative fixtures. This bill was amended, with Representative Thorpe expressing that his intention was to execute a pilot test of the low water use fixtures in the House and Senate buildings; however, as written, the amendment would still require municipalities and counties to replace existing restroom fixtures upon initiating any new construction or renovation of existing buildings where costs exceed \$10,000. The bill was ultimately held in the House.

HB 2464: water infrastructure finance; municipal approval (Shope). *AMWUA Position: Support*

The Water Infrastructure Finance Authority (WIFA) is an Arizona state agency that provides low interest loans for water and wastewater infrastructure improvement. Under existing law, any city or town with a population of more than 50,000 must request voter authorization in order to accept a WIFA loan. HB 2464 raised this threshold, changing the requirement to apply to cities or towns with populations greater than 150,000. This bill was signed into law on March 22, 2019.



HB 2476: surface water forfeiture; repeal (Bowers). *AMWUA Position: Oppose*

Under Arizona law, the owner of a water right that fails to put the appropriated water to beneficial use for five consecutive years forfeits that right. This is a primary tenant of western water law and can be found within the statutes of 16 western states. HB 2476 would remove this statutory provision, which could have a wide impact on nearly every water right in the state, and the proceedings of the General Stream Adjudication. This change conflicts with a prior Arizona Supreme Court ruling that found a previous attempt to retroactively modify the forfeiture of water rights through legislative changes to be unconstitutional.

The bill also removes statutory clauses that specifically protect certain types of beneficial use for surface waters of the state, including underground storage and the exchange of effluent or Central Arizona Project water for surface water. While removal of these beneficial use protections may be congruent with removing all grounds for water right forfeiture, AMWUA is cautious of any legislation that would eliminate safeguards on underground storage or water exchanges as beneficial uses. The bill was held in the House.

HB 2477: adjudication statutes; unconstitutional provisions; repeal (Bowers). *AMWUA Position: Support*

In 1995, the Arizona State Legislature enacted multiple bills with the intent of simplifying and expediting the General Stream Adjudication. After passage, these bills were legally challenged in the Supreme Court by multiple parties. The Court ultimately found that some of the legislative provisions affecting water rights and the adjudication were unconstitutional. HB 2477 repeals the provisions of statute that were deemed unconstitutional by the Arizona Supreme Court in 1999 but have remained in State statute to the present day. The bill was signed on April 30th, 2019.

HB 2580 | SB 1450: grants; invasive vegetation reduction (HB: Osborne | SB: Kerr). *AMWUA Position: Support*

These bills would appropriate monies from the state general fund for the Game and Fish Commission to provide grants to municipalities, counties, tribes, and political subdivisions of the State for projects to eradicate invasive vegetation. The projects must assist in fire and flood prevention and conservation of water and wildlife habitat. The final budget allocated \$1 million per year for ten years.



HB 2586: groundwater replenishment; water supply; credits (Cook). *AMWUA Position: Oppose*

As amended, this bill contained numerous alterations to the Groundwater Code that would significantly undermine Arizona's assured water supply requirements and establish worrisome precedent for all AMAs. Specifically, HB 2586 included the following substantial provisions: (1) It would require ADWR to extend an analysis of assured water supply in Pinal County an indefinite number of times even though the Department has determined there is not enough groundwater in the Pinal AMA to meet the water demands of all analyses that have been already issued. (2) Changes the statutory definition of assured water supply, removing the Department's ability to consider existing rates of groundwater decline. (3) Adds perplexing criteria for the consideration of future groundwater replenishment from the Central Arizona Groundwater Replenishment District which would impact the Designations of Assured Water Supply held by municipal water providers. AMWUA raised concerns about the bill with various stakeholders and legislators. Subsequently, the sponsor suggested holding the bill and having an ad hoc committee convene this summer to develop a solution to the issues raised in HB 2586. AMWUA voiced its support for participating in such an effort. Ultimately the bill was held in the House.

HB 2609: Harquahala non-expansion area; groundwater transfer (Peterson & Cook). *AMWUA Position: Oppose*

This bill would add a provision to statute allowing private water companies to withdraw groundwater from purchased land in the Harquahala irrigation non-expansion area (INA) and transport that water to an initial AMA. Previously, only political subdivisions of the state could purchase land and transfer the groundwater to AMAs. HB 2609 also deepens the acceptable level of the water table for groundwater pumping from 1,000 feet below ground to 1,500 feet.

The AMWUA Board of Directors took a position to oppose HB 2609 stating that these issues and their implications warrant a broader stakeholder discussion outside of the legislative session. Subsequently, Speaker Bowers convened a meeting with stakeholders to discuss the bill. La Paz County interests also expressed concern about increasing the amount of water that could be transferred from the Harquahala non-expansion area by adding private water companies to other entities that can transfer groundwater. Ultimately the bill was held in the House.



SB 1440: appropriation; employees; water resources (Pratt). *AMWUA Position: Support*

This striker declared the Legislature's intent to appropriate \$740,000 to ADWR for the purpose of hiring hydrologic modelers, geographic information system professionals, and other support staff. The funds were included in the final budget.

The following were bills that AMWUA also monitored or took positions on:

HB 2009: navigable stream adjudication commission; extension (Griffin and 12 others). *AMWUA Position: Support*

This bill extended the legislative authorization for the Arizona Navigable Stream Adjudication Commission (ANSAC) for four years to June 30, 2024. The ANSAC is charged with determining which of Arizona's rivers and streams were navigable at time of statehood. If determined to be navigable at time of statehood, the land beneath the watercourse is subject to ownership by the State to be held in public trust. If non-navigable, the watercourse is subject to ownership by the person whose property it crosses. The commission was previously scheduled to sunset on June 30, 2020. The bill was signed into law on March 22nd, 2019.

HB 2013: appropriation; Arizona water protection fund (Griffin & Townsend). *AMWUA Position: Support*

This bill would have appropriated \$1 million from the state general fund in Fiscal Year 2019-20 to the Arizona Water Protection Fund. The Arizona Water Protection Fund is a state-run program administered by ADWR that funds projects to protect and enhance water quality and quantity in Arizona's rivers, streams, and riparian areas. Some of these efforts include revegetation, erosion control, channel stabilization, research, and water conservation. AMWUA has supported this legislation in previous years. \$500,000 was appropriated for this fund in the final budget.

HB 2098: delinquent property taxes; payment plans (Cook). *AMWUA Position: Monitor*

This striker, originally introduced as HB 2590, would appropriate \$20 million from the state general fund in Fiscal Year 2019-20 for the development of groundwater infrastructure projects in Pinal County. The funds were ultimately designated as a loan in the final budget.



HB 2110: water efficient plumbing (Engel and six others). *AMWUA Position: Support*

This striker, originally introduced as HB 2394, updates Arizona's water efficiency standards for indoor water fixtures, starting in 2020. Arizona's efficiency requirements for plumbing fixtures have not been updated since they were last aligned with federal standards in 1992. HB 2110 striker would bring these efficiency standards into alignment with the voluntary Environmental Protection Agency WaterSense standards, a national water efficiency certification program. AMWUA testified in support of this bill; however, the House NREW Committee rejected HB 2110 along party lines.

HB 2124: appropriations; courts; water master (Udall and four others). *AMWUA Position: Support*

This striker announced the Legislature's intent to appropriate \$289,500 to the Administrative Office of the Courts as aid to the Special Water Master who oversees the General Stream Adjudication. The monies are allocated to electronic improvements to the case management system as well as for funding of administrative support personnel. The funding was included in the final budget.

HB 2143: water, west basin advisory councils (Cobb & Biasiucci). *AMWUA Position: Monitor*

This bill provides for the establishment of a Mohave County West Basin and a La Paz County West Basin Water Users Advisory Council, each made up of 10 appointed members. The Councils are tasked with reviewing groundwater withdrawal data and recommending programs and policies to ADWR for the regional groundwater basins. The bill was held in the House.

HB 2225: exempt wells; capacity (Blanc, Chavez, Peten). *AMWUA Position: Monitor*

The Groundwater Code defines exempt wells as those with a maximum pumping capacity of less than 35 gallons per minute (gpm) used to withdraw groundwater for non-irrigation uses. These wells are exempt from most of the provisions of the Groundwater Code. This bill alters that criterion, changing the threshold for exemption to a maximum capacity of 20 gpm of pumping capacity. The bill was held in the House.



HB 2396 | SB 1368: water; well metering; nonexempt wells (HB: Engel | SB: Mendez). *AMWUA Position: Support*

These bills mandate measuring and annual reporting for nonexempt groundwater wells throughout the state. Nonexempt wells include those with a pumping capacity greater than 35 gpm. Current law contains no measuring requirements for wells outside of the AMAs or INAs except for a person who withdraws groundwater for transportation to an initial AMA. The bills were held in their respective chambers.

HB 2397 | SB 1369: water adequacy requirements; statewide applicability (HB: Engel | SB: Mendez and five others). *AMWUA Position: Monitor*

This bill would mandate that counties outside of the AMAs adopt an adequate water requirement for subdivided lands within the county. Currently, counties outside of an AMA have an option to adopt the mandatory adequacy provisions upon unanimous vote of the county board of supervisors. The bills were held in their respective chambers.

HB 2434: Colorado River Transfers; limitation (Cobb). *AMWUA Position: Monitor*

This bill would add statutory language prohibiting the transfer of any Priority 4 Colorado River water from Mohave County irrigation and water conservation districts to any other county that does not border the Colorado River. Transfers from Mohave County to La Paz or Yuma counties would not be prohibited. The bill was held in the House.

HB 2449: adequate water supply; county review (Griffin). *AMWUA Position: Oppose*

This bill would allow a county that is not in an AMA, through a unanimous vote of its county board of supervisors, to vote not to readopt the mandatory 100-year adequate water supply water requirement, if certain conditions are met. The conditions, which must be met by the county or largest city in the county, include participation in the following: groundwater recharge, reclaimed water reuse, water conservation programs, and use of low water use plants in certain publicly owned areas. This bill reflects proposals that were put forth in the 2016 and 2018 legislative sessions and opposed by AMWUA. The bill was held in the House.



HB 2467: west basin water users; committee (Cobb). *AMWUA Position: Monitor*

This bill provides for the establishment of a West Basin Water Users Committee to serve Mohave and La Paz counties. Comprised of elected officials and other water-use stakeholders, the Committee is tasked with reviewing groundwater withdrawal data and recommending programs and policies to ADWR for the regional groundwater basins. The Committee is required to submit a report on its findings to ADWR, the Governor, and the Legislature by December 31, 2021. The Committee terminates on July 1, 2022. The bill was signed into law on May 22nd, 2019

HB 2468: Colorado River transfers; emergency rulemaking (Cobb). *AMWUA Position: Monitor*

Requires the Director of ADWR to adopt an emergency rule that describes the policies and procedures of the Department when providing review and consultation of any transfers of Colorado River water rights and contracts. The emergency rule would also be required to outline the criteria the Department will use to evaluate any proposed transfers, leases, or allocations of mainstream Colorado River water.

Current law (A.R.S. § 45-107(D)) already requires that any party preparing to transfer an allocation or entitlement of Colorado River water is obligated to submit the proposed contract to the Director of ADWR for review prior to its execution. ADWR presently operates under Substantive Policy Statement CR10 which governs the procedures for obtaining Departmental consultation and outlines the criteria that the Department uses to evaluate water transfers. The Director of ADWR adopted CR10 on January 16, 2019 and revised previous substantive policy statements on this issue. The bill was held in the House.

HB 2475: water use; criminal penalty; wells (Bowers). *AMWUA Position: Monitor*

Arizona law classified the act of unauthorized “taking water that another is entitled to” as a Class 2 Misdemeanor. This bill exempts a person from criminal charges for taking water through a registered well, if that person did not know that the water was subflow. The bill was signed into law on June 6th, 2019.



HB 2484 | SB 1221: irrigation grandfathered right; containerized plants (HB: Griffin | SB: Kerr).

AMWUA Position: Support

These bills state that in an initial AMA, a person who holds a certificate of irrigation grandfathered right may exercise that right to withdraw groundwater to water plants in containers on or above the ground surface. Among other things, these bills also require the right holder to separately measure any groundwater used for watering plants in containers and groundwater for irrigation; however, the total amount of water may not exceed the amount allowed by the irrigation water duty for the farm. HB 2484 was substituted for SB 1221 and signed by the Governor on February 19th, 2019.

HB 2591 | SB 1265: appropriation; WQARF (HB: Gabaldón | SB: Peshlakai and 13 others).

AMWUA Position: Support

These bills would have appropriated \$15-20 million from the state general fund to the Water Quality Assurance Revolving Fund (WQARF) in Fiscal Year 2019-20. WQARF is a state-sponsored program established by the Legislature and administered by the Arizona Department of Environmental Quality to clean up hazardous soil and groundwater contamination. Approximately \$15 million from a variety of sources was appropriated in the final budget.

HB 2592: appropriation; DWR; hydrologists (Gabaldón). *AMWUA Position: Support*

This bill would appropriate \$6.1 million to ADWR for the purpose of hiring hydrologists and other support staff. ADWR has stated that it faces challenges in competing with California for the hiring of technical hydrologic staff. The bill was held in the House.

HB 2595: adequate water supply; designation; standards (Gabaldón). *AMWUA Position: Monitor*

On August 8, 2018, the Arizona Supreme Court held that ADWR is not required to consider unquantified federal reserved water rights as part of the legal or physical availability analysis in its determination of an adequate water supply. This decision addressed ongoing litigation over a large development near Sierra Vista. The Court's opinion was predicated on its interpretation of the adequate water supply statutes, reasoning that, (1) ADWR is not required to consider the impacts of an applicant's groundwater withdrawals on existing uses, but rather that the agency must consider existing groundwater uses on the supply of the applicant, (2) the legislature did not specify that unquantified federal reserved water rights must be considered in the



determination of legally available water supplies, and that (3) a private water company's possession of a Certificate of Convenience & Necessity is, in effect, consumer protection for the legal availability of water.

HB 2595 attempted to alter adequate water supply statute to address these considerations. The bill was held in the House.

HB 2630 | SB 1370: freshwater ecosystems; ecological water; survey (HB: Engel | SB: Dalessandro) *AMWUA Position: Monitor*

These bills add a statutory definition and provides for the appropriation of "ecological water." Current statutes allow for the appropriation and beneficial use of water for fish and wildlife purposes but not explicitly for the benefit of the watershed or ecosystem as a whole.

SB 1370 would also require the Director of ADWR to perform a one-time survey of Arizona's watersheds, identifying any ecological water needs and recommending any necessary environmental or policy improvements. The bills were held in their respective committees.

HR 2002: Arizona water professionals appreciation week (Gabaldón). *AMWUA Position: Support*

Designates April 14-20, 2019 as Arizona Water Professionals Appreciation Week to express gratitude and appreciation for the water professionals who contribute to the delivery and management of Arizona's safe and reliable water supplies. The resolution was unanimously passed on April 15th, 2019.

SB 1198: water infrastructure finance authority; appropriation (Mendez and six others). *AMWUA Position: Monitor*

This bill appropriates \$30 million from the state general fund to WIFA, a state agency that provides low-interest loans to water providers. The bill was held in the Senate.

SB 1477: appropriation; best land management practices (Otondo and 16 others). *AMWUA Position: Support*

This bill directs the State Land Commissioner and State Forester to establish a program promoting best land management practices for the removal of hazardous vegetation on state



land for the purposes of fire suppression and watershed management. SB 1477 amends the program requirements to specifically include a plan for removal of hazardous vegetation from federal and tribal lands for the purposes of protecting infrastructure and municipal water supplies. The bill would appropriate \$4 million from the state general fund for the program. The bill was held in the House.

SB 1478: municipalities; counties; wildfire hazard removal (Otondo and 13 others). *AMWUA Position: Support*

The Wildland-Urban Interface (WUI) is a federal land classification for areas where communities are located in and around forests. SB 1478 would require that cities or towns that contain a WUI must adopt an ordinance requiring private property within the WUI to remove any vegetation, natural fuels, or trash that constitute a wildfire hazard. This bill appropriates \$1 million for cities or towns to use in matching programs for the wildfire fuel removal. The bill was held in the Senate.

SB 1544: water conservation; landscaping; rent; notice (Mendez and three others). *AMWUA Position: Support*

This bill would forbid the owner of a property or Homeowners Association from prohibiting the use of a water saving device or water conservation practice as part of a property contract or rental agreement. The bill was held in the Senate.