



## 2021 Legislative Review

The First Regular Session of Arizona's 55<sup>th</sup> Legislature adjourned on June 30, 2021, the last day of the fiscal year. The 2021 session is tied for the third longest in State history and it saw a record-breaking total of 1,708 individual bills introduced by session deadlines as well as 114 memorials and resolutions.

Prior to the session's start, AMWUA and the Agribusiness & Water Council partnered once again to host the second annual Vetting Forum for Water (VF4W), an opportunity for legislators and stakeholders to discuss water-related legislation and proposals that they were considering for the 2021 legislative session. The VF4W was convened four times, monthly from October through January. Virtual meetings saw attendance of well over 100 stakeholders and legislators at each meeting.

In response to the COVID-19 pandemic the Legislature adjusted its day-to-day operations, including restrictions on floor access as well as livestreamed committees and stakeholder testimony via Zoom. Use of virtual platforms didn't always increase communication or transparency, evidenced by nearly identical bills that were introduced two, three, even four times by various lawmakers and early morning special committee meetings scheduled only the night before.

Many of the proposals shared at the VF4W and introduced during the session were revivals of bills that had failed to move the year prior when the pandemic caused an abrupt halt in legislative activity. Over 60 individual bills related to Arizona water law were introduced this year, and the AMWUA Board of Directors adopted formal positions on 45 legislative measures. Bills reintroduced from the prior year that were deemed "noncontroversial" by the legislative majority were fast tracked, and most were passed and signed into law as early as February. Water bills related to rural groundwater management were only given informational hearings at best, and none of the measures introduced by the minority caucus were heard in committee.

One particularly bright spot of the session was passage of *SB 1147: water banking; storage credits; subcontractors (Kerr)*, which created a statutory procedure for the Arizona Water Banking Authority to distribute Long-term Storage Credits directly to Municipal & Industrial subcontractors for firming purposes. Not only does this measure add increased flexibility for recovery planning, but it also serves as a model for the legislative process. Taking the lead on SB 1147, AMWUA worked jointly with ADWR, AWBA, and CAWCD to craft the language and vet the proposal with the water community. It's an example of how transparent collaboration leads to bipartisan support for sensible water legislation.

In addition to the individual measures that were signed into law are a number of water-related appropriations included into the FY 2022 state budget. Those items are discussed in more detail below:

- **\$160 million** to establish the Drought Mitigation Revolving Fund to provide financial assistance for large, State-wide water augmentation and conservation projects. Monies in the Fund can be used to support Colorado River system conservation, water development projects on State Lands, and long-term loans for “planning, designing, constructing or financing water supply [importation] projects from outside this state.” Drought Mitigation Revolving Fund monies are explicitly prohibited from use to transfer mainstream Colorado River entitlements away from the River.

The Fund will be administered by a Board consisting of the ADWR Director, six representatives from different regions of the state, and legislative leadership serving in a non-voting capacity. The Board is directed to design a procedure for entities to apply for funding.

- **\$99.5 million** appropriated in a special session for wildfire emergency response and mitigation efforts to the Department of Forestry and Fire management. Appropriations were authorized to fund fire suppression efforts, including capital and equipment expenditures, financial assistance to public and private landowners for emergency infrastructure repairs, hiring of additional employees to fight and mitigate wildfires, hazardous vegetation removal and more.
- **\$46 million** appropriated to the Water Supply Development Revolving Fund (WSDR). This fund was created in 2007 as a companion to legislation allowing jurisdictions outside of the AMAs to voluntarily enact Adequate Water Supply regulations. The Fund was intended to provide financial assistance to water providers (particularly in rural areas) to develop water supplies on the condition that they were within an AMA or had adopted the Adequate Water Supply regulations.

*HB 2388 water supply development fund; appropriation (Griffin)* removed those conditions, expanded the list of eligible projects, and broadened the definition of “water provider” for purposes of the WSDR. The funds are now accessible to all water providers, private water companies and Natural Resource Conservation Districts throughout the state.

- **\$20 million** of one-time federal revenue for Pinal and Phoenix AMA irrigation districts to develop groundwater infrastructure for shortage mitigation as contemplated under Arizona’s DCP Implementation Plan.
- **\$15 million** appropriated for the Water Quality Assurance Revolving Fund (WQARF), Arizona’s program for remediation of contaminated soils and groundwater.
- **\$6 million** for the Water Infrastructure Finance Authority (WIFA). \$3 million is specifically designated to fund grants for municipal water providers in Navajo and Apache counties, and



\$2 million is allocated as grant money for irrigation districts in Cochise and Graham counties to hire outside consultants. The remaining \$1 million is appropriated to the small drinking water systems fund.

- **\$2.9 million** for General Stream Adjudication administrative costs. \$2.4 million is directed to the newly established General Adjudication Personnel and Support Fund which can be accessed by the courts and ADWR for staff, equipment, and services related to Adjudication proceedings. \$500,000 is also appropriated to the University of Arizona’s Natural Resource Users Law and Policy Center to aid “small claimants” in the Adjudication proceedings.
- **\$2.8 million** for the Arizona Department of Water Resources for salary increases to retain high-quality water professionals.
- **\$1 million** to the Arizona Water Protection Fund.



## Positions adopted by the AMWUA Board of Directors during the 2021 Legislative Session

### [HB 2035](#) appropriation; Arizona water protection fund (Griffin)

This bill would appropriate \$1 million from the state general fund in Fiscal Year 2021-22 to the Arizona Water Protection Fund. The Arizona Water Protection Fund is a state-run program administered by ADWR that funds projects to protect and enhance water quality and quantity in Arizona's rivers, streams, and riparian areas. Some of these efforts include revegetation, erosion control, channel stabilization, research, and water conservation. AMWUA has supported this legislation in previous years.

*AMWUA Position: Support*

*Final Disposition: Included in State FY 22 Budget*

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### [HB 2041](#) | [SB 1446](#) groundwater replenishment reserves (H: Griffin | S: Kerr)

This bill introduces clarifications to the calculation of CAGR's 100-year replenishment obligation for the purpose of calculating the replenishment reserve target. Existing statute could be read to require the CAGR to calculate the replenishment reserve based on each AMA's buildout obligation multiplied by 100. Modifies the statutory calculation of each AMA's projected replenishment obligation to equal the cumulative projected obligation for each year following submission of the Plan of Operation. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: HB 2041 signed by Governor 2/18*

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### [HB 2056](#) | [SB 1368](#) water conservation notice; no forfeiture (H: Griffin | S: Kerr)

Allows a water right holder to file a "Water Conservation Plan" with ADWR. Upon filing a plan that outlines water conservation measures that are planned or will be implemented, the water rights included in that notice would be shielded from a claim of abandonment or forfeiture. The Plan can be extended by 10-years, indefinitely. Includes a legislative intent clause specifying that the Legislature intends the provisions to only apply prospectively.

*AMWUA Position: Monitor*

*Final Disposition: HB 2056 signed by Governor 2/18*



[HB 2074](#) | [SB 1147](#) **water banking; storage credits; subcontractors (H: Pratt | S: Kerr)**

For nearly three decades the Arizona Water Banking Authority (AWBA) has stored Colorado River water underground to supplement the water supplies of Central Arizona Project (CAP) Municipal & Industrial (M&I) subcontractors. To access the stored water in times of shortage, current statutes require that the AWBA must first transfer the long-term storage credits (LTSC) to CAP for recovery. This bill would provide the AWBA with the option to distribute LTSC directly to M&I subcontractors. The concept of direct distribution is an outcome of a stakeholder effort to plan for the recovery of water supplies stored by the AWBA. This legislative change would provide flexibility and simplicity for recovery of AWBA credits and reduces the cost of recovery to end users. AMWUA took the lead for this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: SB 1147 signed by Governor 4/14*

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[HB 2078](#) | [SB 1021](#) **groundwater; waterlogged area exemption; date (H: Dunn | S: Kerr)**

The Buckeye Waterlogged Area (BWLA) was established by the Legislature in 1988, covering an area surrounding the Gila River from confluence with the Salt River west to Gillespie Dam, which includes part of Avondale and Goodyear. Within the BWLA, farmlands are exempt from water duties, certain irrigation districts are exempt from conservation requirements, and entities pumping groundwater are not required to pay withdrawal fees. Statute requires that ADWR review the area's hydrologic conditions and make a recommendation to the Governor and Legislature on whether or not the exemptions should continue. ADWR published its findings in December 2019 and recommended that the BWLA continue through 2034. This bill would extend the BWLA exemptions through 2034, as recommended by ADWR. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: HB 2078 signed by Governor 2/5*

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[HB 2203](#) | [SB 1079](#) **well drilling; groundwater basins (H: Cano | S: Steele)**

Establishes a well drilling moratorium that prevents new wells in the Upper San Pedro and Verde Valley groundwater subbasins until the conclusion of the General Stream Adjudication unless a well is a replacement well or does not pump subflow.

*AMWUA Position: Monitor*

*Final Disposition: Neither bill received a committee hearing*



[HB 2204](#) | [SB 1656](#) wells; permits; spacing rules (H: Cano | S: Mendez)

Requires that ADWR adopt rules governing the location of new and replacement wells >35 gpm located outside of AMAs, within groundwater basins that the Director determines to be experiencing declining groundwater levels. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: Neither bill received a committee hearing*

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[HB 2205](#) | [SB 1562](#) WQARF; Appropriation (H: Cano | S: Peshlakai)

Appropriates \$15 million from the general fund in FY2021-22 to the Water Quality Assurance Revolving Fund. WQARF is a state-sponsored program established by the Legislature and administered by the Arizona Department of Environmental Quality to clean up hazardous soil and groundwater contamination. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: Included in State FY 22 Budget*

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[HB 2206](#) | [HB 2595](#) | [SB 1765](#) subsequent irrigation non-expansion areas; procedures (H: Cano, Cobb | S: Otondo)

These measures introduce a number of modifications to the procedures for establishment of new irrigation non-expansion areas (INA). This proposal would allow ADWR to consider projected rates of groundwater withdrawal as part of the determination of a new INA. The bills also clarify which entities are eligible to petition the State to create a new INA and would mandate that petitioners submit a groundwater model and hydrologic assessment using methodology approved by the ADWR Director. The language aligns with the suggested statutory changes presented by ADWR in the summer of 2017 during the Governor's Water Solutions Conversations. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: None of the bills received a committee hearing*

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[HB 2209](#) | [SB 1314](#) groundwater pumping; measuring; reporting (H: Cano | S: Steele)

Requires monitoring and annual reporting for nonexempt groundwater wells throughout the state. Water users who irrigate 10 or fewer acres that are not part of a larger farming operation,



or water users who pump <10 acre-feet per year for non-irrigation use are exempted from this requirement. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: Neither bill received a committee hearing*

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**[HB 2247](#) | [SB 1177](#) forest products; processing; tax credit (H: Griffin | S: Kerr)**

This legislation would establish a new tax credit for qualifying entities in the forest product industry that participate in the Arizona Commerce Authority's "Healthy Forest Enterprise Incentive Program." The tax credit is determined by the volume of qualifying forest products that the business processes annually. This legislation, developed by SRP, is intended to incentivize increased forest thinning to improve watershed conditions. The tax credit offered in this legislation expires after 10 years.

*AMWUA Position: Support*

*Final Disposition: Included in the State FY 22 Budget*

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**[HB 2286](#) | [SB 1037](#) water efficient plumbing fixtures (H: Lieberman | S: Engel)**

Arizona adopted water-efficiency standards for indoor plumbing fixtures in 1992 which have since been superseded by various federal laws and requirements. This bill would update Arizona's water-efficiency standards to align with criteria established by the WaterSense Program, a public-private partnership between industry, utilities, and regulators. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: Neither bill received a committee hearing*

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**[HB 2330](#) | [SB 1370](#) environmental quality programs; terminations; repeal (H: Griffin | S: Kerr)**

This bill proposes to remove the statutory termination dates for multiple programs administered by the Arizona Department of Environmental Quality (ADEQ). Current statutes include sunset dates for these individual programs, separate from ADEQ's sunset review as an entire agency. Removing the termination dates for these programs would align their sunset reviews with the ADEQ sunset review. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: SB 1370 signed by Governor 3/18*



## [HB 2336](#) | [SB 1274](#) assured water supply; subdivisions (H: Pratt | S: Shope)

This measure has been introduced on behalf of the Pinal AMA Stakeholder Group; entities working to address groundwater physical availability issues in the Pinal AMA that have resulted in ADWR holding pending AWS applications. HB 2336 would amend statute to allow a water provider in the Pinal AMA to Modify their most recent Designation of Assured Water Supply (AWS) without having to re-demonstrate the physical availability of groundwater if the Provider is not seeking to increase its previously approved physical availability volume.

This bill codifies ADWR's existing policies related to determining the "Area of Impact" for water stored underground that will be included in an AWS application.

The bill also changes the AWS statutes to allow developers to change the land use type or increase the number of housing units on a subdivision plat associated with existing Certificates of AWS, provided that the overall water use does not increase. Current regulations require developers to apply for a new Certificate if a plat is revised and housing units are increased by 10% or more.

AMWUA has worked with the proponents of this bill to incorporate technical amendments related to the AWS Program, as well as to secure a provision that would ensure ADWR can revise its Rules across all AMAs to make conforming changes.

*AMWUA Position: Support*

*Final Disposition: SB 1274 signed by Governor 2/12*

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## [HB 2388](#) water supply development fund; appropriation (Griffin)

The Water Supply Development Revolving fund was established in 2007 and was intended to assist rural water providers acquire water supplies through loans and grants. Currently statutory criteria exist that limit the disbursements from the fund to only water providers that are located within an AMA, or a jurisdiction that has voluntarily adopted adequate water supply provisions. This bill would negate those statutory criteria and make the monies available to any water provider outside of Maricopa County. HB 2388 also expands the definition of "water provider" to include additional private water companies and Natural Resource Conservation Districts. Passive stormwater recharge projects are added to the approved statutory list of water supply development projects. An amendment passed on March 11<sup>th</sup> removed a proposed \$50 million appropriation.

*AMWUA Position: Monitor*

*Final Disposition: Signed by Governor 4/20*



[HB 2390](#) | [HB 2594](#) | [HB 2778](#) stream adjudications; cooperative extension; appropriation (Griffin & Bowers)

These bills authorize Arizona Universities to represent claimants in the General Stream Adjudications. HB 2778 was introduced with slightly differing language, directing the \$500,000 to the University of Arizona’s cooperative extension, rather than for the establishment of a new UA law clinic. HB 2778 also modifies the qualification criteria of those eligible to receive this assistance from low income claimants to “small land owners.”

*AMWUA Position: Support*

*Final Disposition: Included in the State FY 22 Budget*

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[HB 2441](#) water; substitute acreage (Griffin)

Adds statutory provisions that would allow an irrigator to retire irrigated acres and apply that water right to new, “substitute” lands. The substitute lands must be contiguous to the retired acres or part of the same farming unit. The irrigator must notify ADWR that the retired acres were damaged by floodwaters or, report that a “condition” (including soil quality or the shape of the farmland) exists that is limiting the efficient irrigation of those original acres and that the substitution of new land will facilitate more efficient water use.

*AMWUA Position: Monitor*

*Final Disposition: Signed by Governor 3/23*

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[HB 2456](#) Colorado River fourth priority water (Cobb & 5 others)

This bill would add statutory language prohibiting the transfer of any Priority 4 Colorado River water to non-Colorado river communities.

*AMWUA Position: Monitor*

*Final Disposition: HB 2456 was never assigned to a committee*

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[HB 2576](#) | [SB 1763](#) water rights; general adjudications; funding (H: Griffin | S: Engel)

This measure establishes the *General Adjudication Personnel and Support Fund*. Monies in the Fund can be used to provide additional full-time staff, equipment, or services for the Adjudication proceedings for both the Court and ADWR. Prior to any monies being allocated from the Fund, ADWR or the Supreme Court must prepare an expenditure plan for review by the Joint Legislative Budget Committee. The bill appropriates nearly \$400,000 for the Court to



immediately utilize and \$2 million for the general purposes of the Fund. AMWUA supported this legislation in the 2020 session.

*AMWUA Position: Support*

*Final Disposition: Included in the State FY 22 Budget*

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### [HB 2614](#) | [SB 1366](#) remediated water; groundwater; use (H: Osborne | S: Kerr)

In 1997 the Arizona legislature enacted reform measures to the WQARF Program, including creation of incentives for the use of remediated groundwater to facilitate the cleanup of groundwater contamination. Session Law directs ADWR to consider remediated groundwater pumped pursuant to qualifying projects to be consistent with the Management Goal and Plan of the AMA. HB 2614 incorporates the Session Law provisions into A.R.S. Title 45, extends the exemption from 2025 to 2050, and adds a statutory provision that mandates remediated groundwater be put to beneficial use within the service area of the municipal provider where the groundwater was withdrawn, or pursuant to an existing grandfathered right.

*AMWUA Position: Support*

*Final Disposition: SB 1366 signed by Governor 4/20*

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### [HB 2679](#) water; rural management areas (Cobb)

For counties bordering the Colorado River, this bill would allow the County Board of Supervisors to establish a new type of water management jurisdiction called a *Rural Management Area* if a particular groundwater basin or subbasin meet certain criteria, generally related to groundwater depletion. For any Rural Management Area that is formed, a five-person advisory council shall be appointed by the Governor, and ADWR shall appoint a Director of the area. Rural Management Areas may develop a Management Goal, Management Plan, and voluntary or mandatory best management practices designed to reduce groundwater withdrawals in the area. The proposed Management Plan must be submitted for approval by ADWR.

*AMWUA Position: Monitor*

*Final Disposition: HB 2679 never received a committee hearing*

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### [HB 2691 s/e](#) ADEQ; water quality programs; WOTUS (Griffin)

This bill authorizes ADEQ to adopt water quality standards for surface waters in Arizona that are not classified as “Waters of the United States” (WOTUS) pursuant to the Clean Water Act. The statutory amendments direct ADEQ to establish a list of “protected surface waters” and outlines



specific waterbodies that must be listed, as well as criteria and procedures for adding or removing waterbodies to the list of protected surface waters. AMWUA has engaged with ADEQ throughout the formation of this legislation as a member of the Department’s Stakeholder Advisory Group. AMWUA staff recommended adoption of a Monitor position on this bill, in recognition that each member city has specific comments and concerns with the legislation.

*AMWUA Position: Monitor*

*Final Disposition: Signed by Governor 5/5*

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[HB 2740](#) | [SB 1474](#) watershed health; use; survey (H: Dalessandro | S: Engel)

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

*AMWUA Position: Monitor*

*Final Disposition: Neither bill received a committee hearing*

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[SB 1386](#) water; augmentation authority; special districts (Shope)

This measure has been introduced on behalf of the Pinal County Water Augmentation Authority (CWAA). The bill would create a statutory framework for a CWAA to levy an assessment (similar to an ad valorem property tax) upon request of property owners for the purposes of financing water supply development projects that will ultimately allow that property to be eligible for a Certificate of Assured Water Supply. SB 1386 also adds to the existing statutory authorities of County Improvement Districts the ability to acquire water supplies and develop infrastructure for water conveyance, reuse, or replenishment. Finally, this bill would require ADWR to transfer a minimum of \$200,000 per year of groundwater withdrawal fee monies to the Pinal CWAA. Currently, statute specifies that ADWR may transfer up to \$200,000 by annual determination.

*AMWUA Position: Monitor*

*Final Disposition: Held in Senate NREW Committee 2/17*