

SB 1507 Summary Chart

<u>Issue</u>	<u>SB 1507</u>	<u>Concerns</u>
<p>1. <u>Arizona Colorado River Conservation Program/Intra-State Forbearance</u>: The State proposed a program to facilitate the conservation of water in Lake Mead to protect Arizona’s Colorado River supplies.</p>		<ul style="list-style-type: none"> • This tool is absolutely necessary to create conserved water to protect Lake Mead and Arizona’s Colorado River supply.
<p>2. <u>Mandatory Adequacy Review</u>: While negotiating a package, the State provided an option that would require the Legislature to publicly review mandatory adequacy requirements periodically with input from the ADWR Director regarding, among other things, whether certain conservation and augmentation measures</p>	<p>Effectively sunsets mandatory adequacy requirements. Would require county boards to periodically review mandatory adequacy provisions and vote on whether to readopt those provisions. Readoption would require unanimous vote.</p> <p>If the vote is not to readopt, mandatory adequacy requirements would be eliminated if the county or the largest city in the county meets eight requirements, which include certain</p>	<ul style="list-style-type: none"> • SB 1507 undermines important consumer protections established in 2007. <ul style="list-style-type: none"> ○ Requires counties to periodically readopt mandatory adequacy provisions by unanimous vote for them to remain in effect. ○ Allows a county to repeal mandatory adequacy without input of the ADWR Director or a determination by the Legislature and does not require a review of the sufficiency of water supplies to meet needs for development.

<p>have been taken and whether there are sufficient water supplies for development. After the review, the Legislature could allow counties and cities to opt out of mandatory adequacy requirements.</p>	<p>conservation and augmentation measures.</p>	
<p>3. <u>Pinal AMA Extinguishment Credit Calculation</u>: The State’s proposal set forth language for extinguishment credit calculation identical to the language approved by Pinal stakeholders.</p> <p>The State’s proposal would also eliminate the groundwater allowance in the Pinal AMA for new certificates as approved by Pinal stakeholders.</p>	<p>Would require the Director to adopt rules through an exempt rulemaking proceeding to calculate extinguishments credits in the Pinal AMA “consistent with [A.R.S. § 45-462].”</p> <p>Does not address the groundwater allowance.</p> <p>Would require the Director to “recalculate the amount of groundwater available for use” after “eliminating ... proposed uses that are no longer economically practicable for actual development and future use.” (Section E(2).)</p>	<ul style="list-style-type: none"> • ADWR already has rules in place to calculate extinguishment credits in the Pinal AMA. SB 1507 does not provide guidance as to how ADWR is to amend its rules to calculate extinguishment credits. • SB 1507 does not address the groundwater allowance. • It appears that Section E(2) would require ADWR to reduce demands in its modeling but leave existing assured water supply determinations intact. This would result in an overallocation of groundwater, seriously undermining the assured water supply program in the Pinal AMA. • ADWR would face significant litigation over the meaning of “no longer economically practicable.”

<p>4. <u>CAWCD Sovereign Immunity</u>: The State’s proposal would prohibit CAWCD from asserting 11th Amendment immunity for claims involving the delivery, transfer, storage, conservation or use of water, to the extent a court determines that CAWCD has sovereign immunity.</p>	<p>Says that CAWCD shall not assert the defense of sovereign immunity under the 11th Amendment only in litigation “to enforce the terms of a Central Arizona Project water delivery contract or subcontract.”</p>	<ul style="list-style-type: none"> • SB 1507’s prohibition on sovereign immunity is not broad enough. • SB 1507 implies that CAWCD has sovereign immunity under the 11th Amendment, which is not the case. • SB 1507 would empower CAWCD to assert the defense against on-river contractors (such as Yuma and MCWA) and against CAWCD contractors and subcontractors with claims not arising under the terms of a CAP water delivery contract or subcontract. • SB 1507 would empower CAWCD to assert the defense against claims involving non-Project water wheeled through the canal pursuant to the CAP System Use Agreement.
<p>5. <u>Approval of CAWCD’s Negotiation of Interstate Agreements</u>: The State’s proposal would prohibit CAWCD from beginning negotiations or entering into an interstate agreement involving Colorado river water without the express written</p>	<p>Subsection A would require CAWCD to “promptly” notify the ADWR Director if CAWCD is a party to discussions on or negotiations of interstate agreements or agreements with the U.S. involving the use, storage or conservation of Colorado River water.</p>	<ul style="list-style-type: none"> • SB 1507 would give CAWCD authority to negotiate and enter interstate agreements regarding Colorado River water without the Director’s approval and without considering statewide impacts. • SB 1507 leaves considerable uncertainty about when CAWCD must notify the Director. • SB 1507’s requirement that the Director inform CAWCD of the

<p>approval of the ADWR Director. The State’s proposal contains a provision clarifying that its proposed language does not authorize interstate transactions that are not otherwise authorized under Arizona’s water banking statutes.</p>	<p>Subsection B would require the Director to inform CAWCD if the Director is a party to discussions and negotiations regarding Colorado River water. (Legislative staff has acknowledged a drafting error in this section.)</p>	<p>Director’s negotiations improperly elevates CAWCD above other Colorado River water users.</p>
<p>6. <u>Interstate Transportation of Water</u>: The State has no proposal on this issue.</p>	<p>Would require Legislative approval of applications to transport water out of state.</p> <p>Adds new language to include Colorado River water in section 45-292 but does not delete language exempting Colorado River water.</p>	<ul style="list-style-type: none"> • SB 1507 may raise constitutional issues. • SB 1507 would make the statute internally inconsistent and potentially allow Colorado River water to be transported out of state.
<p>7. <u>Management Plans Post-2026</u>: The State’s proposal would add three new management periods and require the ADWR Director to establish advisory committees to evaluate the existing conservation requirements</p>	<p>SB 1507 is the same as the State’s proposal except that it would add only one new management period.</p>	<ul style="list-style-type: none"> • Adding only one new management period is not sufficiently proactive and does not provide sufficient certainty for stakeholders. • SB 1507 contains errors and references which appear to be unintentionally retained from ADWR’s proposal.

<p>and irrigation water duties to determine whether they are appropriate for the fifth and sixth management periods.</p>		
<p>8. <u>Containerized Plants</u>: The State’s proposal would allow the holder of a certificate of irrigation grandfathered right to use groundwater withdrawn pursuant to the right to water plants in containers on or above the certificated acres.</p>	<p>SB 1507 is the same as the State’s proposal except that it adds “plant research or plant breeding” as a permissible use.</p>	<ul style="list-style-type: none"> • Addition of the language “plant research or plant breeding” may suggest that irrigation grandfathered rights cannot be used to irrigate plants in the ground for these same activities.
<p>9. <u>Effluent Definition Change</u>: The State has no proposal on this issue.</p>	<p>Provides that effluent is alternatively referred to as “recycled water” for “purposes of departmental information materials only.”</p> <p>This is intended to encourage the reuse of treated effluent.</p>	<ul style="list-style-type: none"> • Using “recycled water” in ADWR’s informational materials in place of “effluent” could confuse the regulated community, as “recycled water” has a different meaning in ADEQ’s rules.
<p>10. <u>Desalination Action Plan</u>: While negotiating a package, the State proposed a session law that</p>	<p>Would add a new permanent section within title 45 (section 45-118) with requirements for a desalination action plan.</p>	<ul style="list-style-type: none"> • ADWR does not have concerns with this proposal. It allows the Director to identify all issues related to desalination, including brine disposal,

<p>would require the ADWR Director to submit a desalination action plan to the Governor, the Legislature, and the Secretary of State by December 31, 2019.</p>	<p>Would require the Director to submit an initial desalination action plan on or before September 30, 2019 and to submit subsequent reports on the plan and its results by December 31 every two years there-after.</p>	<p>area of origin impacts, and disposition of the treated water.</p> <ul style="list-style-type: none"> • The Director may also report on the progress of the Governor’s Water Augmentation Council Desalination Committee.
<p>11. <u>State Forester Responsibilities</u>: The State has no proposal on this issue.</p>	<p>Would place the natural resource conservation districts under the supervision of the state forester (instead of the state land commissioner) and adds powers and duties, including:</p> <ul style="list-style-type: none"> • Publicly recognize water conservation measures, including watershed improvement or protection programs. • Promote to the public water-related advancements and their effect <p>Would add the state forester as a nonvoting ex officio member of the water protection fund commission.</p>	<ul style="list-style-type: none"> • This could create confusion between obligations between ADWR and the State Forester regarding conservation programs. • This may raise issues regarding State Land’s constitutionally-mandated mission.