

**Metropolitan Domestic Water Improvement District
Board of Directors Meeting**

April 11, 2011

Discussion and Direction for Legislative Issues 2011

Report

The Arizona State Legislature has passed a budget that the Governor will sign. The Legislature has completed committee hearings. The remainder of the session will be moving bills forward. Staff has been monitoring to see what water and special districts related legislation is introduced.

The main water news from the budget is that the approved budget provides the Arizona Department of Water Resources with permanent authority to assess all municipal governments with a fee, which is to be set by the agency via the adoption of an administrative rule. This provision is exempt from the rulemaking process. The enacted budget includes session law that caps the aggregate amount of the assessment to not exceed \$7 million. Since the enabling legislation is statutory, each fiscal year the Legislature will be required to set an assessment level that can be charged to municipal governments, otherwise, the statute has no limitation in the amount that can be assessed by the Department. Given the political history of legislative trends, the risk is significant that future budgets will continue to rely on municipal governments to reduce the reliance on General Fund support of ADWR. It is also within reason to speculate that the amount of the aggregate assessment (again, currently limited to \$7 million) will likely be increased as the state's fiscal situation warrants. This provision in the enacted budget does not assess the fee to unincorporated areas, which means the District is exempt from this fee. Some larger municipalities, such as the City of Phoenix, have publically expressed an intent to label the fee on the water bill as a "state assessment" in order to avoid the perception that the increased cost to the ratepayer was adopted by the municipality.

The following are the main pieces of legislation that District staff is following for the 2011 session with two bills not previously included in last month's report.

Acquisition of Wastewater Utility – SB 1171 would allow a city or town authorized to operate a wastewater utility to acquire all or any portion of a sewage system located within or serving the city or town and owned or operated by a county. The language stipulates requirements for title of sewer pipes, sewage treatment, and treatment capacity. This bill was orchestrated by the Town of Marana as a legislative resolve to the Town's long-standing conflict with Pima County over acquiring the County's treatment system within the Town. Marana was able to gain eight sponsors for the bill, all of whom are the main Republican Legislators in Pima County. The bill has passed the Senate and is now moving through the House. The District's position is to remain neutral.

Municipal Water Charges – SB 2193 and HB 1344 both appear to be follow-up from last year's bill on who is responsible for municipal water charges. The bill specifies that the prohibition of a municipality to require payment of unpaid water charges by or refuse service to anyone other than the person who the municipality has contracted with to provide the service for residential property be further limited to the person who physically resides or resided at the property and who received the service. It also allows a property owner, immediate family member not residing at the property or any other entity to contract for water and wastewater service with a municipality and requires the contract party to pay for services. The language appears to allow greater flexibility than what originally had been pursued last year. The language is specific to municipalities and does not affect the District; however, it is legislation that should be monitored.

Well Ownership & Transfer – HB 2527 would require when an existing well's ownership is being transferred, the new owner would record a document that specifies the registration number of the well in addition to the information on depth of the well, legal description, etc. The bill requires the document to be recorded in the office of the county recorder in which the well is located. The bill was amended to clarify it only applies to wells used to produce water for domestic purposes. The District has sent a letter of support for HB 2527. However, the bill has not moved any further in the House and is considered dead for this year.

Exempt Wells and Emergency Use – SB1566 adds another exemption to the prohibition of exempt wells for emergency purposes on agricultural property. The bill was amended in the House Committee on Agriculture and Water to include a provision that provides ADWR with the statutory authority to transfer groundwater during emergency drought situations because the actual legislation that included that authority had become stuck in committee. The limitations on emergency exempt wells obtained in the Senate remain entirely intact, which is to permit an exempt well to be drilled inside of an AMA only if the water is to be used for livestock purposes in the event of a water shortage.

Drought Emergency Groundwater Transfer – As noted above, by amending SB1566, the Legislature was able to continue moving forward legislation to make permanent ADWR's drought emergency groundwater transfer requirements, which states the legislative intent is to provide interim water use for emergencies. This has been a bill that is passed annually by the Legislature. ADWR would like to make it permanent. The District sent letters of support to the sponsors.

Cities & Services and Managed Competition – SB 1322 would require a city of 500,000 or larger to furnish all municipal services with a cost of \$75,000 or more through open and competitive bidding. Stipulates precompetition assessment requirements, minimum contract standards, and transparency requirements. The intent is to open the door to small business owners that have been shut out of municipal services. The League of Cities and Towns opposes this bill. While it does not impact the District, it is possible that if the legislation is successful it could be extended to other governmental entities. The bill has passed the Senate and is moving through the House.

Water Harvesting - SB 1522, relating to the recharge of harvested water, was amended in the House Committee on Agriculture and Water to create the Macro-Harvested Water Joint Legislative Study

Committee with a delayed repeal date of September 30, 2013. The bill passed out of committee with a 5-2 vote. Macro-harvested water is defined as precipitation that is captured on or above the surface of the Earth before reaching a natural channel, natural lake, or natural pond.

Arizona State Retirement System – The Legislature passed SB 1614, which requires employers to contribute 47% of the total ASRS contribution rate and the employee to contribute 53 % of the total contribution rate beginning July 1, 2011. This replaces the current 50/50 split for employer and employee contribution rates. Preliminary numbers for the District’s budget indicates a reduction in ASRS contributions for District of \$19,439. Employees would see an increase of \$6.50 per thousand dollars of salary (for example an employee earning \$50,000 would pay \$325 more for the year in ASRS contributions and the employee at \$100,000 would pay \$650 more for the year in retirement contributions).

Recommendation

It is recommended that the District Board of Directors discuss with staff any questions or issues regarding the new legislative session. No action is requested.

Respectfully submitted,

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General Manager