

**Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.**

1 State of Arkansas *As Engrossed: H3/20/01 H3/21/01 H3/23/01*

2 83rd General Assembly

# A Bill

3 Regular Session, 2001

HOUSE BILL 2422

4

5 By: Representatives Bevis, Milligan, Milum, Parks, Hathorn, Bradford, Cleveland, M. Steele, Scroggin

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## For An Act To Be Entitled

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AN ACT TO AMEND THE ARKANSAS GROUNDWATER

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MANAGEMENT AND PROTECTION ACT; TO DESIGNATE

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SUSTAINING AQUIFERS; TO REMOVE LIMITATIONS IN

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SUSTAINING AQUIFERS; TO REQUIRE MEASURING OF

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CERTAIN GROUNDWATER WITHDRAWALS; AND FOR OTHER

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PURPOSES.

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## Subtitle

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AMENDMENTS TO THE GROUNDWATER PROTECTION

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AND MANAGEMENT ACT.

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20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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23 SECTION 1. Arkansas Code 15-22-903 is amended to read as follows:

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15-22-903. Definitions.

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Unless the context clearly requires otherwise, the following

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definitions shall apply:

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(1) "Administrative Procedure Act" means the Arkansas Administrative

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Procedure Act, § 25-15-201 et seq.;

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(2) "Aquifer" means a permeable, water-bearing stratum of rock, sand,

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or gravel;

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(3) "Beneficial use" means the use of water in such quantity as is

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economical and efficient and which use is for a purpose and in a manner which

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is reasonable, not wasteful, and is compatible with the public interest;

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(4) "Commission" means the Arkansas Soil and Water Conservation

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Commission created under § 15-20-201;

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(5) "Conservation district" means conservation districts created under

1 the Conservation Districts Law, § 14-125-101 et seq.;

2 (6) "Critical groundwater area" is defined in the Arkansas Water Plan  
3 developed by the commission under its authority in § 15-22-503;

4 (7) "District" means a conservation district or regional water  
5 district;

6 (8) "Domestic use" means the use of water for ordinary household  
7 purposes, including human consumption, washing, the watering of domestic  
8 livestock, poultry, and animals, and the watering of home gardens for  
9 consumption by the household;

10 (9) "Groundwater" means water beneath the surface of the ground;

11 (10) "Person" means any natural person, partnership, firm,  
12 association, cooperative, municipality, county, public or private  
13 corporation, and state or local governmental agency;

14 (11) "Regional water district" means a regional water distribution  
15 district created under the Regional Water Distribution District Act, § 14-  
16 116-101 et seq.;

17 (12) "Sustaining aquifer" means any aquifer excluding the state's  
18 alluvial aquifers, which is used as a significant source for water supply  
19 including, but not limited to, the Cockfield, Sparta, Memphis, Cane River,  
20 Carrizo, Wilcox, Nacatoch, Roubidoux, and Gunter aquifers;

21 ~~(12)~~ (13) "Water right" means the authority or permission issued by  
22 the commission under this subchapter to use groundwater within a critical  
23 groundwater area;

24 ~~(13)~~ (14) "Water year" means the twelve-month period beginning October  
25 1 and ending the next September 30; and

26 ~~(14)~~ (15)(A) "Well" means any hole dug, drilled, or otherwise  
27 constructed in the ground, for the purpose of withdrawing groundwater.

28 (B) For the purpose of this subchapter, a well also must  
29 have a potential flow rate of fifty thousand (50,000) gallons per day or  
30 greater.

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32 SECTION 2. Arkansas Code 15-22-905(1) is amended to read as follows:

33 (1)(A) There will be no reduction or limitation of the withdrawal of  
34 groundwater from existing wells in an alluvial aquifer for which a water  
35 right is grandfathered under the provisions of § 15-22-910(a)(1) unless  
36 alternative surface supplies are available or can be made available at a cost

1 to the person no greater than the operating cost of the person's wells within  
2 the critical area, including depreciation costs over the life of the well;

3 (B) There shall be no reduction or limitation of the withdrawal of  
4 groundwater from existing wells in a sustaining aquifer for which a water  
5 right is grandfathered under the provisions of § 15-22-910(a)(1) unless  
6 alternative surface supplies are available;

7  
8 SECTION 3. Arkansas Code 15-22-905(2) is amended to read as follows:

9 ~~(2)(A) There~~ In an alluvial aquifer, there will be no reduction or  
10 limitation of the withdrawal of groundwater from wells for which a water  
11 right has been issued under § 15-22-910 and for which the person holding the  
12 right can demonstrate:

13 ~~(A)(i) A reduction of twenty percent (20%) of his or her use of~~  
14 ~~groundwater by either institution of water conservation measures or~~  
15 ~~conversion to surface supplies. ~~(++)~~ The demonstrated reduction must be~~  
16 ~~based on the use reported in water year 1986 or later; or~~

17 ~~(B)(ii) The implementation of a water conservation plan~~  
18 ~~employing generally accepted water conservation practices approved by the~~  
19 ~~commission;.~~

20 (B) In sustaining aquifers, the commission may consider  
21 voluntary reductions, water use efficiencies, and implementation of water  
22 conservation measures in determining limitations or reduction of withdrawals;  
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24 SECTION 4. Arkansas Code 15-22-910(a) is amended to read as follows:

25 (a) Grandfathering Existing Wells.

26 (1)(A) Within one (1) year of initiation of the regulatory  
27 authority as provided under § 15-22-909, the Arkansas Soil and Water  
28 Conservation Commission, upon application, shall issue to an applicant within  
29 the critical water use area a water right for existing wells equal to the  
30 average quantity of water withdrawn for beneficial use ~~and reported~~ over the  
31 past three (3) water years.

32 (B) For wells with reported use levels significantly below  
33 normal use levels, prior water year use reports may be ~~substituted in~~  
34 ~~determining~~ used to determine the three-year average above.

35 (2) For new wells constructed during the first year of  
36 initiation of the regulatory authority as provided under § 15-22-909, the

1 commission, upon application, shall issue to an applicant within the critical  
 2 water use area a water right equal to the quantity of water ~~requested to be~~  
 3 ~~withdrawn~~ necessary for beneficial use.

4 (3)(A) Failure to apply within this period shall create a  
 5 conclusive presumption of abandonment of use.

6 (B) If the landowner desires to receive a water right, he  
 7 must apply for a water right pursuant to subsection (b) of this section.

8 (4) Water rights issued pursuant to subsection (a) of this  
 9 section shall be exempt from the public notice requirements described in  
 10 subsection (b) of this section.

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 12 SECTION 5. Arkansas Code 15-22-910, dealing with the issuance of  
 13 groundwater rights, is amended by adding an additional subsection to read as  
 14 follows:

15 (e) Alternative water supplies. In determining the issuance of water  
 16 rights, the commission shall consider the availability or lack of  
 17 availability of alternative water supplies.

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 19 SECTION 6. Arkansas Code Title 15, Chapter 22, Subchapter 9 is amended  
 20 by adding an additional section to read as follows:

21 15-22-915. Metering of certain withdrawals.

22 (a) Any well constructed after September 30, 2001 to withdraw  
 23 groundwater from a sustaining aquifer shall be equipped with a properly  
 24 functioning water measuring or metering device acceptable to the commission.

25 (b) After September 30, 2006, any well withdrawing groundwater from a  
 26 sustaining aquifer shall be equipped with a properly functioning water  
 27 measuring or metering device acceptable to the commission.

28 (c) Data gathered by the metering shall be used when completing the  
 29 annual water use reports as provided in § 15-22-302.

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 31 SECTION 7. Arkansas Code 15-22-909(b) is amended to read as follows:

32 *(b) There will be no reduction or limitation for a period of four (4)*  
 33 *years of the withdrawal of groundwater from ~~wells~~ an existing well or a well*  
 34 *constructed during the first year following initiation of the regulatory*  
 35 *authority ~~as provided under subsection (a) of this section~~ and for which a*  
 36 *water right is issued under the provisions of § 15-22-910(a)~~(2)~~.*

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