

House Engrossed Senate Bill

~~water infrastructure finance authority; cities~~  
(now: cities; water infrastructure finance authority)

State of Arizona  
Senate  
Fifty-fifth Legislature  
Second Regular Session  
2022

**CHAPTER 133**  
**SENATE BILL 1067**

AN ACT

AMENDING SECTION 9-571, ARIZONA REVISED STATUTES; AMENDING TITLE 49,  
CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1205;  
RELATING TO MUNICIPAL WATER INFRASTRUCTURE FINANCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 9-571, Arizona Revised Statutes, is amended to  
3 read:

4 9-571. Wastewater treatment and drinking water treatment  
5 facilities and nonpoint source projects; financial  
6 assistance loan repayment agreements; definitions

7 A. Notwithstanding any other law, a city or town may construct,  
8 acquire from a willing seller or improve a wastewater treatment facility,  
9 drinking water facility or nonpoint source project with monies borrowed  
10 from or financial assistance including forgivable principal provided by  
11 the water infrastructure finance authority of Arizona.

12 B. To repay financial assistance from the water infrastructure  
13 finance authority of Arizona a city or town may enter into a financial  
14 assistance loan repayment agreement with the authority. A financial  
15 assistance loan repayment agreement is payable from any revenues otherwise  
16 authorized by law to be used to repay long-term obligations. If revenue  
17 from a property tax assessment is the designated source of repayment under  
18 the agreement, the property tax assessed and levied is a secondary  
19 property tax levy for purposes of article IX, Constitution of Arizona.

20 C. For any city or town, the following apply:

21 1. For a city or town with a population of more than one hundred  
22 fifty thousand persons, the governing body of the city or town shall  
23 submit the question of entering and performing a financial assistance loan  
24 repayment agreement to the qualified electors voting at a regular or  
25 special election in the city or town, except that if revenue from a  
26 secondary property tax levy is the designated source of repayment or if  
27 the project is constructed with an improvement district, the question  
28 shall be submitted to the qualified electors at an election held on the  
29 first Tuesday following the first Monday in November.

30 2. For a city or town with a population of one hundred fifty  
31 thousand persons or less, the revenues of the city's or town's utility  
32 system or systems may be pledged to the payment of the repayment agreement  
33 without an election, if the pledge of revenues does not violate any  
34 covenant pertaining to the utility system or systems or the revenues  
35 pledged to secure outstanding bonds or other obligations of the city or  
36 town.

37 3. An election is not required if voter approval has previously  
38 been obtained for substantially the same project with another funding  
39 source.

40 4. If a majority of the qualified electors voting on the question:

41 (a) Approves, the governing body may execute, deliver and perform  
42 the financial assistance loan repayment agreement.

43 (b) Disapproves, the governing body shall not execute a financial  
44 assistance loan repayment agreement.

1 D. Payments made pursuant to a financial assistance loan repayment  
2 agreement are not subject to section 42-17106.

3 E. A financial assistance loan repayment agreement entered into  
4 pursuant to this section shall contain the covenants and conditions  
5 pertaining to ~~the construction, acquisition~~ CONSTRUCTING, ACQUIRING or  
6 ~~improvement of~~ IMPROVING a wastewater treatment or drinking water facility  
7 or nonpoint source project and ~~repayment of~~ REPAYING the loan as the water  
8 infrastructure finance authority of Arizona deems proper. Financial  
9 assistance loan repayment agreements may provide for ~~the payment of~~ PAYING  
10 interest on the unpaid principal balance of such agreement at the rates  
11 established in the agreement. The agreement may also provide for ~~payment~~  
12 ~~of~~ PAYING the city's or town's proportionate share of the expenses of  
13 administering the clean water and drinking water revolving funds  
14 established by sections 49-1221 and 49-1241 and may provide that the city  
15 or town pay financing and loan administration fees approved by the water  
16 infrastructure finance authority. These costs may be included in the levy  
17 or assessment amounts pledged to repay the financial assistance. Cities  
18 and towns are bound by and shall fully perform the loan repayment  
19 agreements, and the agreements are incontestable after the loan is funded  
20 by the water infrastructure finance authority of Arizona. The city or  
21 town shall also agree to pay the authority's costs in issuing bonds or  
22 otherwise borrowing to fund a loan.

23 F. A financial assistance loan repayment agreement under this  
24 section does not create a debt of the city or town, and the authority  
25 shall not require that payment of a financial assistance loan repayment  
26 agreement be made from other than those sources ~~permitted~~ ALLOWED in  
27 subsection B of this section and as prescribed by sections 49-1225 and  
28 49-1245.

29 G. A city or town may employ attorneys, accountants, financial  
30 consultants and such other experts in their field as deemed necessary to  
31 perform services with respect to the financial assistance loan repayment  
32 agreement.

33 H. This section is supplemental and alternative to any other law  
34 under which a city or town may borrow money or issue bonds. This section  
35 ~~shall not be construed as~~ IS NOT the exclusive authorization to enter into  
36 loan agreements with the authority.

37 I. A city or town may borrow additional monies or enter into  
38 additional financial assistance loan repayment agreements with the water  
39 infrastructure finance authority in an amount up to the amount approved by  
40 the voters pursuant to subsection C of this section less the amount that  
41 the city or town is already obligated to repay to the water infrastructure  
42 finance authority pursuant to a financial assistance loan repayment  
43 agreement.

1 J. THE WATER INFRASTRUCTURE FINANCE AUTHORITY MAY NOT PROVIDE FUNDS  
2 TO A CITY OR TOWN TO EITHER:

3 1. CONDEMN OR ACQUIRE THROUGH EMINENT DOMAIN ANY ASSETS OF A PUBLIC  
4 SERVICE CORPORATION THAT IS REGULATED BY THE CORPORATION COMMISSION  
5 WITHOUT A WRITTEN STATEMENT FROM THE PUBLIC SERVICE CORPORATION CERTIFYING  
6 THAT IT IS A WILLING SELLER AND CONSENTING TO THE PROVISION OF FUNDING.

7 2. REFINANCE ANY LOAN, BOND OR OTHER FINANCING ARRANGEMENT USED BY  
8 A CITY OR TOWN TO CONDEMN OR ACQUIRE THROUGH EMINENT DOMAIN ANY ASSETS OF  
9 A PUBLIC SERVICE CORPORATION THAT IS REGULATED BY THE CORPORATION  
10 COMMISSION WITHOUT A WRITTEN STATEMENT FROM THE PUBLIC SERVICE CORPORATION  
11 CERTIFYING THAT IT IS A WILLING SELLER AND CONSENTING TO THE PROVISION OF  
12 FUNDING.

13 ~~J.~~ K. For the purposes of this section:

14 1. "City" includes both cities formed pursuant to this title and  
15 charter cities.

16 2. "Nonpoint source project" has the same meaning prescribed in  
17 section 49-1201.

18 Sec. 2. Title 49, chapter 8, article 1, Arizona Revised Statutes,  
19 is amended by adding section 49-1205, to read:

20 49-1205. Financial assistance; cities; towns; counties;  
21 sanitary districts

22 A. NOTWITHSTANDING SECTIONS 9-571, 11-671, 48-1019 AND 48-2011.01,  
23 DURING FISCAL YEARS 2022-2023, 2023-2024, 2024-2025, 2025-2026 AND  
24 2026-2027, THE POLITICAL SUBDIVISIONS DESCRIBED IN SUBSECTION B OF THIS  
25 SECTION MAY ENTER INTO A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT  
26 WITH THE AUTHORITY WITHOUT SUBMITTING THE QUESTION OF ENTERING AND  
27 PERFORMING THE FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT TO THE  
28 QUALIFIED ELECTORS OF THE POLITICAL SUBDIVISION IF THE AGREEMENT IS  
29 FINANCED WITH FUNDING MADE AVAILABLE TO THE AUTHORITY UNDER THE  
30 INFRASTRUCTURE INVESTMENT AND JOBS ACT, DIVISION J, TITLE VI (P.L. 117-58)  
31 AND THE FINANCIAL ASSISTANCE AGREEMENT IS NOT PAYABLE FROM SECONDARY  
32 PROPERTY TAX REVENUE.

33 B. THE FOLLOWING POLITICAL SUBDIVISIONS MAY ENTER INTO A FINANCIAL  
34 ASSISTANCE LOAN REPAYMENT AGREEMENT DESCRIBED IN SUBSECTION A OF THIS  
35 SECTION:

36 1. A CITY OR TOWN, WITHOUT REGARD TO THE CITY OR TOWN'S POPULATION.

37 2. A COUNTY, WITHOUT REGARD TO THE COUNTY'S POPULATION.

38 3. A SANITARY DISTRICT THAT CONTAINS A POPULATION OF FEWER THAN  
39 FIFTY THOUSAND PERSONS.

40 4. A DOMESTIC WATER OR WASTEWATER IMPROVEMENT DISTRICT, WITHOUT  
41 REGARD TO THE POPULATION OF THAT DISTRICT.

APPROVED BY THE GOVERNOR APRIL 13, 2022.

S.B. 1067

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2022.