

Senate Engrossed

water infrastructure finance authority; amendments

State of Arizona
Senate
Fifty-sixth Legislature
First Regular Session
2023

SENATE BILL 1390

AN ACT

AMENDING SECTIONS 45-105, 49-1203, 49-1206, 49-1207, 49-1270, 49-1307, 49-1309 AND 49-1333, ARIZONA REVISED STATUTES; AMENDING LAWS 2022, CHAPTER 366, SECTION 28; RELATING TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-105, Arizona Revised Statutes, is amended to
3 read:

4 45-105. Powers and duties of director

5 A. The director may:

6 1. Formulate plans and develop programs for the practical and
7 economical development, management, conservation and use of surface water,
8 groundwater and the watersheds in this state, including the management of
9 water quantity and quality.

10 2. Investigate works, plans or proposals pertaining to surface
11 water and groundwater, including management of watersheds, and acquire,
12 preserve, publish and disseminate related information the director deems
13 advisable.

14 3. Collect and investigate information on and prepare and devise
15 means and plans for the development, conservation and use of all
16 waterways, watersheds, surface water, groundwater and groundwater basins
17 in this state and of all related matters and subjects, including
18 irrigation, drainage, water quality maintenance, regulation of flow,
19 diversion of running streams adapted for development in cooperating with
20 the United States or by this state independently, flood control, use of
21 water power, prevention of soil waste and storage, conservation and
22 development of water for every useful purpose.

23 4. Measure, survey and investigate the water resources of this
24 state and their potential development and cooperate and contract with
25 agencies of the United States for such purposes.

26 5. Acquire, hold and dispose of property, including land,
27 rights-of-way, water and water rights, as necessary or convenient for the
28 performance of the groundwater and water quality management functions of
29 the department.

30 6. Acquire, other than by condemnation, construct, improve,
31 maintain and operate early warning systems for flood control purposes and
32 works for the recovery, storage, treatment and delivery of water.

33 7. Accept grants, gifts or donations of money or other property
34 from any source, which may be used for any purpose consistent with this
35 title. All property acquired by the director is public property and is
36 subject to the same tax exemptions, rights and privileges granted to
37 municipalities, public agencies and other public entities.

38 8. Enter into an interagency contract or agreement with any public
39 agency pursuant to title 11, chapter 7, article 3 and contract, act
40 jointly or cooperate with any person to carry out the purposes of this
41 title.

42 9. Prosecute and defend all rights, claims and privileges of this
43 state respecting interstate streams.

44 10. Initiate and participate in conferences, conventions or
45 hearings, including congressional hearings, court hearings or hearings of

1 other competent judicial or quasi-judicial departments, agencies or
2 organizations, and negotiate and cooperate with agencies of the United
3 States or of any state or government and represent this state concerning
4 matters within the department's jurisdiction.

5 11. Apply for and hold permits and licenses from the United States
6 or any agency of the United States for reservoirs, dam sites and
7 rights-of-way.

8 12. Receive and review all reports, proposed contracts and
9 agreements from and with the United States or any agencies, other states
10 or governments or their representatives and recommend to the governor and
11 the legislature action to be taken on such reports, proposed contracts and
12 agreements. The director shall take action on such reports, if authorized
13 by law, and review and coordinate the preparation of formal comments of
14 this state on both the preliminary and final reports relating to water
15 resource development of the United States army corps of engineers, the
16 United States secretary of the interior and the United States secretary of
17 agriculture, as provided for in the flood control act of 1944 (58 Stat.
18 887; 33 United States Code section 701-1).

19 13. Contract with any person for imported water or for the
20 acquisition of water rights or rights to withdraw, divert or use surface
21 water or groundwater as necessary for the performance of the groundwater
22 management functions of the director prescribed by chapter 2 of this
23 title. If water becomes available under any contract executed under this
24 paragraph, the director may contract with any person for its delivery or
25 exchange for any other water available.

26 14. Recommend to the administrative heads of agencies, boards and
27 commissions of this state, and political subdivisions of this state, rules
28 to promote and protect the rights and interests of this state and its
29 inhabitants in any matter relating to the surface water and groundwater in
30 this state.

31 15. Conduct feasibility studies and remedial investigations
32 relating to groundwater quality and enter into contracts and cooperative
33 agreements under section 104 of the comprehensive environmental response,
34 compensation, and liability act of 1980 (P.L. 96-510) to conduct such
35 studies and investigations.

36 16. Dispose informally by stipulation, agreed settlement, consent
37 order or alternative means of dispute resolution, including arbitration,
38 if the parties and director agree, or by default of any case in which a
39 hearing before the director is required or allowed by law.

40 17. Cooperate and coordinate with the appropriate governmental
41 entities in Mexico regarding water planning in areas near the border
42 between Mexico and Arizona and for the exchange of relevant hydrological
43 information.

1 B. The director shall:

2 1. Exercise and perform all powers and duties vested in or imposed
3 on the department and adopt and issue rules necessary to carry out the
4 purposes of this title.

5 2. Administer all laws relating to groundwater, as provided in this
6 title.

7 3. Be responsible for the supervision and control of reservoirs and
8 dams of this state and, when deemed necessary, conduct investigations to
9 determine whether the existing or anticipated condition of any dam or
10 reservoir in this state is or may become a menace to life and property.

11 4. Coordinate and confer with and may contract with:

12 (a) The Arizona power authority, the game and fish commission, the
13 state land department, the Arizona outdoor recreation coordinating
14 commission, the Arizona commerce authority, the department of health
15 services, active management area water authorities or districts and
16 political subdivisions of this state with respect to matters within their
17 jurisdiction relating to surface water and groundwater and the development
18 of state water plans.

19 (b) The department of environmental quality with respect to title
20 49, chapter 2 for its assistance in the development of state water plans.

21 (c) The department of environmental quality regarding water plans,
22 water resource planning, water management, wells, water rights and
23 permits, and other appropriate provisions of this title pertaining to
24 remedial investigations, feasibility studies, site prioritization,
25 selection of remedies and implementation of the water quality assurance
26 revolving fund program pursuant to title 49, chapter 2, article 5.

27 (d) The department of environmental quality regarding coordination
28 of databases that are necessary for activities conducted pursuant to title
29 49, chapter 2, article 5.

30 5. Cooperate with the Arizona power authority in the performance of
31 the duties and functions of the authority.

32 6. Maintain a permanent public depository for existing and future
33 records of stream flow, groundwater levels and water quality and other
34 data relating to surface water and groundwater.

35 7. Maintain a public docket of all matters before the department
36 that may be subject to judicial review pursuant to this title.

37 8. Investigate and take appropriate action on any complaints
38 alleging withdrawals, diversions, impoundments or uses of surface water or
39 groundwater that may violate this title or the rules adopted pursuant to
40 this title.

41 9. Adopt an official seal for the authentication of records,
42 orders, rules and other official documents and actions.

43 10. Provide staff support to the Arizona water protection fund
44 commission established ~~pursuant to~~ BY chapter 12 of this title.

1 11. Exercise and perform all powers and duties invested in the
2 chairperson of the Arizona water banking authority commission as
3 prescribed by chapter 14 of this title.

4 12. Provide staff support to the Arizona water banking authority
5 established ~~pursuant to~~ BY chapter 14 of this title.

6 13. In the year following each regular general election, present
7 information to the committees with jurisdiction over water issues in the
8 house of representatives and the senate. A written report is not required
9 but the presentation shall include information concerning the following:

10 (a) The current status of the water supply in this state and any
11 likely changes in that status.

12 (b) Issues of regional and local drought effects, short-term and
13 long-term drought management efforts and the adequacy of drought
14 preparation throughout the state.

15 (c) The status of current water conservation programs in this
16 state.

17 (d) The current state of each active management area and the level
18 of progress toward management goals in each active management area.

19 (e) Issues affecting management of the Colorado river and the
20 reliability of this state's two million eight hundred thousand acre-foot
21 allocation of Colorado river water, including the status of water supplies
22 in and issues related to the Colorado river basin states and Mexico.

23 (f) The status of any pending or likely litigation regarding
24 surface water adjudications or other water-related litigation and the
25 potential impacts on this state's water supplies.

26 (g) The status of Indian water rights settlements and related
27 negotiations that affect this state.

28 (h) Other matters related to the reliability of this state's water
29 supplies, the responsibilities of the department and the adequacy of the
30 department's and other entities' resources to meet this state's water
31 management needs.

32 14. Not later than December 1, 2023 and on or before December 1 of
33 each year thereafter, prepare and issue a water supply and demand
34 assessment for at least six of the ~~forty-six~~ FIFTY-ONE groundwater basins
35 established pursuant to section 45-403. The director shall ensure that a
36 water supply and demand assessment is completed for all groundwater basins
37 AND INITIAL ACTIVE MANAGEMENT AREAS at least once every five years. The
38 director may contract with outside entities to perform some or all of the
39 assessments and those outside entities shall be identified in the
40 assessment.

41 Sec. 2. Section 49-1203, Arizona Revised Statutes, is amended to
42 read:

43 49-1203. Powers and duties of authority; definition

44 A. The authority is a corporate and politic body and shall have an
45 official seal that shall be judicially noticed. The authority may sue and

1 be sued, contract and acquire, hold, operate and dispose of property.
2 Notwithstanding any other law and unless expressly waived by the
3 authority, the authority is not subject to any statutory requirement to
4 pay another party's attorney fees or costs in any administrative or
5 judicial proceeding. THE AUTHORITY IS NOT A PUBLIC SERVICE CORPORATION
6 SUBJECT TO REGULATION BY THE CORPORATION COMMISSION.

7 B. The authority, through its board, may:

8 1. Issue negotiable water quality bonds pursuant to section 49-1261
9 for the following purposes:

10 (a) To generate the state match required by the clean water act for
11 the clean water revolving fund and to generate the match required by the
12 safe drinking water act for the drinking water revolving fund.

13 (b) To provide financial assistance to political subdivisions,
14 Indian tribes and eligible drinking water facilities for constructing,
15 acquiring or improving wastewater treatment facilities, drinking water
16 facilities, nonpoint source projects and other related water quality
17 facilities and projects.

18 2. Issue water supply development bonds for the purpose of
19 providing financial assistance to eligible entities for water supply
20 development purposes pursuant to sections 49-1274 and 49-1275.

21 3. Provide financial assistance to political subdivisions and
22 Indian tribes from monies in the clean water revolving fund to finance
23 wastewater treatment projects.

24 4. Provide financial assistance to drinking water facilities from
25 monies in the drinking water revolving fund to finance these facilities.

26 5. Provide financial assistance from monies in the water supply
27 development revolving fund to finance water supply development as
28 prescribed by this article.

29 6. Guarantee debt obligations of, and provide linked deposit
30 guarantees through third-party lenders to:

31 (a) Political subdivisions that are issued to finance wastewater
32 treatment projects.

33 (b) Drinking water facilities that are issued to finance these
34 facilities.

35 7. Provide linked deposit guarantees through third-party lenders to
36 political subdivisions and drinking water facilities.

37 8. Apply for, accept and administer grants and other financial
38 assistance from the United States government and from other public and
39 private sources.

40 9. Enter into capitalization grant agreements with the United
41 States environmental protection agency.

42 10. Adopt rules pursuant to title 41, chapter 6 governing the
43 application for and awarding of wastewater treatment facility, drinking
44 water facility and nonpoint source project financial assistance under this

1 chapter, administering the clean water revolving fund and the drinking
2 water revolving fund and issuing water quality bonds.

3 11. Hire a director who serves at the pleasure of the board and who
4 shall hire staff for the authority. THE BOARD MAY PRESCRIBE THE TERMS AND
5 CONDITIONS OF THE DIRECTOR'S AND STAFF'S EMPLOYMENT AS NECESSARY TO CARRY
6 OUT THE PURPOSES OF THE AUTHORITY. THE BOARD SHALL ADOPT WRITTEN
7 POLICIES, PROCEDURES AND GUIDELINES, SIMILAR TO THOSE ADOPTED BY THE
8 DEPARTMENT OF ADMINISTRATION, REGARDING OFFICER AND EMPLOYEE COMPENSATION,
9 OBSERVED HOLIDAYS, LEAVE AND REIMBURSEMENT OF TRAVEL EXPENSES. THE
10 OFFICERS AND EMPLOYEES OF THE AUTHORITY MAY PARTICIPATE IN THE STATE
11 RETIREMENT SYSTEM PRESCRIBED BY TITLE 38, CHAPTER 5, ARTICLE 2, AND THE
12 BOARD, CONSISTENT WITH SECTION 38-656, SUBSECTION A, MAY PROVIDE THAT THE
13 AUTHORITY'S OFFICERS AND EMPLOYEES PARTICIPATE IN THE STATE EMPLOYEE
14 HEALTH, DISABILITY AND ACCIDENT INSURANCE PRESCRIBED BY TITLE 38, CHAPTER
15 4, ARTICLE 4. THE OFFICERS AND EMPLOYEES OF THE AUTHORITY ARE EXEMPT FROM
16 ANY LAWS REGULATING STATE EMPLOYMENT, INCLUDING THE FOLLOWING:

17 (a) TITLE 41, CHAPTER 4, ARTICLE 4, RELATING TO THE STATE PERSONNEL
18 SYSTEM.

19 (b) TITLE 41, CHAPTER 4, ARTICLES 5 AND 6, RELATING TO STATE
20 SERVICE.

21 12. Contract for or employ the services of outside advisors,
22 attorneys, engineers, financial and other consultants and aides reasonably
23 necessary or desirable to allow the authority to adequately perform its
24 duties.

25 13. Contract and incur obligations as reasonably necessary or
26 desirable within the general scope of authority activities and operations
27 to allow the authority to adequately perform its duties.

28 14. Assess financial assistance origination fees and annual fees to
29 cover the reasonable costs of administering the authority and the monies
30 administered by the authority. Any fees collected pursuant to this
31 paragraph constitute governmental revenue and may be used for any purpose
32 consistent with the mission and objectives of the authority.

33 15. Perform any function of a fund manager under the CERCLA
34 Brownfields cleanup revolving loan fund program as requested by the
35 department. The board shall perform any action authorized under this
36 article on behalf of the Brownfields cleanup revolving loan fund program
37 established pursuant to chapter 2, article 1.1 of this title at the
38 request of the department. In order to perform these functions, the board
39 shall enter into a written agreement with the department.

40 16. Provide grants, staff assistance or technical assistance in the
41 form of loan repayment agreements and other professional assistance to
42 political subdivisions, any county with a population of less than five
43 hundred thousand persons, Indian tribes and community water systems in
44 connection with developing or financing wastewater, drinking water, water
45 reclamation or related water infrastructure. Assistance provided under a

1 technical assistance loan repayment agreement shall be in a form and under
2 terms determined by the authority and shall be repaid not more than three
3 years after the date that the monies are advanced to the applicant.
4 Technical assistance provided by the authority does not create any
5 liability for the authority or this state regarding designing,
6 constructing or operating any infrastructure project.

7 17. Provide grants, staff assistance or technical assistance in the
8 form of loan repayment agreements and other professional assistance in
9 accordance with section 49-1273. Assistance provided under a technical
10 assistance loan repayment agreement shall be repaid not more than three
11 years after the date that the monies are advanced to the applicant.
12 Technical assistance provided by the authority does not create any
13 liability for the authority or this state regarding designing,
14 constructing or operating any water supply development project.

15 C. The authority may adopt rules pursuant to title 41, chapter 6
16 governing the application for and awarding of assistance under this
17 chapter and the administration of the funds established by this chapter.

18 D. The board shall deposit, pursuant to sections 35-146 and 35-147,
19 any monies received pursuant to subsection B, paragraph 8 of this section
20 in the appropriate fund as prescribed by the grant or other financial
21 assistance agreement.

22 E. The ~~water infrastructure finance~~ authority ~~of Arizona~~ is not
23 subject to title 41, chapter 23. In coordination with the department of
24 administration, the authority shall establish procurement procedures by
25 rule to administer the long-term water augmentation fund.

26 F. For the purposes of the safe drinking water act and the clean
27 water act, the department is the state agency with primary responsibility
28 for administering this state's public water system supervision program and
29 water pollution control program and, in consultation with other
30 appropriate state agencies as appropriate, is the lead agency in
31 establishing assistance priorities as prescribed by section 49-1224,
32 subsection B, paragraph 3, section 49-1243, subsection A, paragraph 6 and
33 section 49-1244, subsection B, paragraph 3.

34 G. For the purposes of this section, "CERCLA" has the same meaning
35 prescribed in section 49-201.

36 Sec. 3. Section 49-1206, Arizona Revised Statutes, is amended to
37 read:

38 49-1206. Water infrastructure finance authority board;
39 membership; fingerprinting; conduct of office;
40 definition

41 A. The water infrastructure finance authority board is established
42 to evaluate and approve funding requests for monies from the clean water
43 revolving fund, the safe drinking water revolving fund, the water supply
44 development revolving fund, the long-term water augmentation fund and the

1 water conservation grant fund and to perform other duties as prescribed in
2 this chapter.

3 B. The board consists of the following members:

4 1. Four persons from a county with a population of four hundred
5 thousand persons or more.

6 2. Four persons from a county with a population of less than four
7 hundred thousand persons.

8 3. One person who specializes in finance or statewide water needs.

9 4. The following as advisory members without the power to vote but
10 who may attend executive sessions of the board:

11 (a) The president of the senate or the president's designee.

12 (b) The speaker of the house of representatives or the speaker's
13 designee.

14 (c) The minority leader of the senate or the minority leader's
15 designee.

16 (d) The minority leader of the house of representatives or the
17 minority leader's designee.

18 (e) The director of water resources or the director's designee.

19 (f) The director of the department of environmental quality or the
20 director's designee.

21 (g) The state land commissioner or the commissioner's designee.

22 (h) The director of the department of administration or the
23 director's designee.

24 (i) The chief executive officer of the Arizona commerce authority
25 or the chief executive officer's designee.

26 C. The following apply to the eight members appointed pursuant to
27 subsection B, paragraphs 1 and 2 of this section:

28 1. No three appointed members of the board may be residents of the
29 same county, and at least one appointed member of the board shall be a
30 resident of each county with a population of four hundred thousand persons
31 or more.

32 2. Members must have a substantial knowledge of and experience with
33 water or finance, including public finance.

34 D. The following apply to all members appointed pursuant to
35 subsection B, paragraphs 1 through 3 of this section:

36 1. The governor shall appoint two of the members from a county with
37 a population of four hundred thousand persons or more, **SHALL APPOINT** two
38 of the members from a county with a population of less than four hundred
39 thousand persons and shall appoint the member who specializes in finance
40 or statewide water needs from the joint list of at least five qualified
41 applicants submitted by the president of the senate and the speaker of the
42 house of representatives.

43 2. The president of the senate and minority leader of the senate
44 shall appoint one of the members from a county with a population of four
45 hundred thousand persons or more and one of the members from a county with

1 a population of less than four hundred thousand persons. The president of
2 the senate and minority leader of the senate shall alternate the terms in
3 which these members are appointed.

4 3. The speaker of the house of representatives and minority leader
5 of the house of representatives shall appoint one of the members from a
6 county with a population of four hundred thousand persons or more and one
7 of the members from a county with a population of less than four hundred
8 thousand persons. The speaker of the house of representatives and
9 minority leader of the house of representatives shall alternate the terms
10 in which these members are appointed.

11 4. Appointed members serve five-year terms of office beginning and
12 ending on the third Monday in January and are eligible for reappointment.
13 A member may be removed only for cause by the person who then holds the
14 same office as the person who appointed that member.

15 5. Members shall be residents of this state for at least two years.

16 6. The order in which the members are appointed pursuant to
17 subsection B, paragraphs 1 and 2 is:

18 (a) For the initial term and every third term thereafter, the
19 president of the senate and the minority leader of the senate shall
20 appoint first, the governor shall appoint second and the speaker of the
21 house of representatives and the minority leader of the house of
22 representatives shall appoint third.

23 (b) For the second term and every third term thereafter, the
24 governor shall appoint first, the speaker of the house of representatives
25 and the minority leader of the house of representatives shall appoint
26 second and the president of the senate and the minority leader of the
27 senate shall appoint third.

28 (c) For the third term and every third term thereafter, the speaker
29 of the house of representatives and the minority leader of the house of
30 representatives shall appoint first, the president of the senate and the
31 minority leader of the senate shall appoint second and the governor shall
32 appoint third.

33 E. Before a member is appointed to the board pursuant to subsection
34 C or D of this section, the prospective member shall submit a full set of
35 fingerprints to the governor for the purpose of obtaining a state and
36 federal criminal records check pursuant to section 41-1750 and Public Law
37 92-544. The governor shall submit the fingerprints to the department of
38 public safety. The department of public safety may exchange this
39 fingerprint data with the federal bureau of investigation.

40 F. The board shall elect a chairperson of the board from among the
41 voting members. The chairperson may appoint subcommittees as necessary.

42 G. The board may request assistance from representatives of other
43 state agencies. The department of water resources shall provide technical
44 assistance to the board.

1 H. Board members serve without compensation but are eligible for
2 reimbursement of expenses pursuant to title 38, chapter 4, article 2. A
3 board member who is otherwise employed as a public officer may not receive
4 reimbursement pursuant to this subsection if it is otherwise prohibited by
5 law.

6 I. A majority of the voting members constitutes a quorum for the
7 purpose of an official meeting for conducting business. An affirmative
8 vote of a majority of the voting members present at an official meeting is
9 sufficient for the board to take any action, except that approval of
10 funding or other financial assistance from the water conservation grant
11 fund ESTABLISHED BY SECTION 49-1331, ~~the clean water revolving fund~~
12 ~~established by section 49-1221, the drinking water revolving fund~~
13 ~~established by section 49-1241,~~ the water supply development revolving
14 fund established by section 49-1271 or the long-term water augmentation
15 fund requires the affirmative vote of at least six of the voting members
16 present at an official meeting of the board.

17 J. The board shall keep and maintain a complete and accurate record
18 of all board proceedings.

19 K. The board, committees and any subcommittees are subject to title
20 38, chapter 3, article 3.1, relating to public meetings, except advisory
21 nonvoting members of the board may attend executive sessions of the board.

22 L. The board, its subcommittees and the officers and any employees
23 of the board are subject to title 38, chapter 3, article 8, relating to
24 conflicts of interest. In addition to the conflict of interest provisions
25 in title 38, chapter 3, article 8, and except for employees of this state
26 or a political subdivision of this state, the following apply:

27 1. A person is not eligible for appointment to the board if the
28 person or the person's ~~spouse~~ RELATIVE meets any of the following
29 criteria:

30 (a) Is employed by or participates in the management of a business
31 entity or other organization that receives monies from the authority.

32 (b) Owns, controls or has, directly or indirectly, more than a ten
33 percent interest in a business entity or other organization that receives
34 monies from the authority.

35 (c) Uses or receives a substantial amount of tangible goods,
36 services or monies from the authority.

37 (d) Has a personal financial interest in the award or expenditure.
38 The person or the person's ~~spouse~~ RELATIVE does not have a personal
39 financial interest if the person or the person's ~~spouse~~ RELATIVE is a
40 member of a class of persons and it reasonably appears that a majority of
41 the total membership of that class is to be affected by the action.

42 2. A person may not be a voting member of the board or act as the
43 general counsel to the board or authority if the person is required to
44 register as a lobbyist.

1 3. A person may not be a member of the board or an employee of the
2 authority if the person or the person's relative is an officer, employee
3 or paid consultant for a water users' association or trade association.

4 M. An employee of a political subdivision of this state who serves
5 on the board may not participate in the consideration of or a vote
6 concerning any award or expenditure by the authority for projects that
7 will directly benefit the political subdivision.

8 N. The board shall adopt written policies, procedures and
9 guidelines for standards of conduct, including a gift policy, for members
10 of the board and for officers and employees of the board.

11 O. The board is a public body that is subject to title 38, chapter
12 3, article 3. The board shall operate on the state fiscal year.

13 P. All state agencies shall cooperate with the board and make
14 available data pertaining to the functions of the board as requested by
15 the board.

16 Q. For the purposes of this section, "trade association" means any
17 cooperative, association or business organization, whether or not
18 incorporated under federal or state law, that is designed to assist its
19 members, industry or profession in advocating for or promoting their
20 common interest.

21 Sec. 4. Section 49-1207, Arizona Revised Statutes, is amended to
22 read:

23 49-1207. Federal water programs committee; membership;
24 recommendations

25 A. The federal water programs committee is established to advise
26 the board and consists of the following voting members who are appointed
27 by the board:

28 1. One member who represents a public water system that serves five
29 hundred or more connections.

30 2. One member who represents a public water system that serves less
31 than five hundred connections.

32 3. One member who represents a domestic water improvement district
33 or sanitary district in a county with a population of less than five
34 hundred thousand persons.

35 4. One member who represents a domestic ~~wastewater~~ WATER
36 improvement district or sanitary district in a county with a population of
37 five hundred thousand or more persons.

38 5. One member who represents a city or town with a population of
39 less than fifty thousand persons.

40 6. One member who represents a city or town with a population of
41 fifty thousand or more persons.

42 7. One member who represents a county with a population of five
43 hundred thousand or more persons.

44 8. The director of environmental quality or the director's
45 designee.

1 9. The director of water resources or the director's designee.

2 10. The executive director of the corporation commission or the
3 executive director's designee.

4 11. The chief executive officer of the Arizona commerce authority
5 or the chief executive officer's designee.

6 B. The federal water programs committee shall review applications
7 for financial or other assistance from the clean water revolving fund
8 program, the safe drinking water revolving fund program and the hardship
9 grant fund program and shall make recommendations to the board regarding
10 those applications for assistance.

11 Sec. 5. Section 49-1270, Arizona Revised Statutes, is amended to
12 read:

13 49-1270. Definitions

14 In this article, unless the context otherwise requires:

15 1. "Eligible entity" means any of the following:

16 (a) A water provider that distributes or sells water outside of the
17 boundaries of an INITIAL active management area ~~located in Maricopa, Pima~~
18 ~~or Pinal county~~ IN WHICH PART OF THE CENTRAL ARIZONA PROJECT AQUEDUCT IS
19 LOCATED.

20 (b) Any city, town, county, district, commission, authority or
21 other public entity that is organized and that exists under the statutory
22 law of this state or under a voter-approved charter or initiative of this
23 state that is located outside of the boundaries of an INITIAL active
24 management area ~~located in Maricopa, Pima or Pinal county~~ IN WHICH PART OF
25 THE CENTRAL ARIZONA PROJECT AQUEDUCT IS LOCATED.

26 2. "Loan" means leases, loans or other evidence of indebtedness for
27 water supply development purposes issued from the water supply development
28 revolving fund.

29 3. "Loan repayment agreement" means an agreement to repay a loan
30 issued from the water supply development revolving fund entered into by an
31 eligible entity.

32 4. "Water supply development revolving fund" or "fund" means the
33 water supply development revolving fund established by section 49-1271.

34 Sec. 6. Section 49-1307, Arizona Revised Statutes, is amended to
35 read:

36 49-1307. Financial assistance from the long-term water
37 augmentation fund; terms

38 A. The authority shall consider applications for financial
39 assistance from the long-term water augmentation fund in accordance with
40 section 49-1304 and shall consider the recommendations of the long-term
41 water augmentation committee established by section 49-1208.

42 B. The authority may provide financial assistance from the
43 long-term water augmentation fund for water supply development projects
44 inside or outside this state. The financial assistance may include:

45 1. Loans as provided in this section.

1 2. Credit enhancements purchased for an eligible entity's bonds or
2 other forms of indebtedness.

3 C. A loan shall be evidenced by a loan repayment agreement or lease
4 purchase agreement or, to the extent an eligible entity is a political
5 subdivision of this state and has bonding authority, bonds of the eligible
6 entity that are delivered to and held by the authority.

7 D. A loan under this section:

8 1. Shall be repaid during a period approved by the authority.

9 2. Shall require that interest payments begin not later than the
10 next date that either principal or interest must be paid by the authority
11 to holders of any of the authority's long-term water augmentation bonds
12 that provided funding for the loan. The authority may provide that loan
13 interest accruing during construction of the eligible entity's water
14 supply development project and up to one year after completion of the
15 construction of the water supply development project be capitalized in the
16 loan.

17 3. Shall clearly specify the amount of principal, interest and
18 redemption premium, if any, that is due on any payment date.

19 4. Shall be conditioned on the identification of pledged revenues
20 for repaying the loan. If the water supply development project financed
21 or refinanced by the loan is part of a municipal utility and the city or
22 town pledges revenues of the utility to repay the loan, the loan may be
23 treated under section 9-530, subsection B as a lawful long-term obligation
24 incurred for a specific purpose.

25 5. To the extent allowed by law, shall be secured by a debt service
26 reserve account that is held in trust and that is in an amount, if any, as
27 determined by the authority.

28 6. Shall contain the covenants and conditions pertaining to
29 constructing, acquiring, improving or equipping water supply development
30 projects and repaying the loan as the authority deems proper.

31 7. May provide for paying interest on the unpaid principal balance
32 of the loan at the rates established in the loan repayment agreement.

33 8. May provide for paying the eligible entity's proportionate share
34 of the expenses of administering the long-term water augmentation fund and
35 may provide that the eligible entity pay financing and loan administration
36 fees approved by the authority. The costs may be included in the levy,
37 assessment, rates or charges of the pledged revenues pledged by the
38 eligible entity to repay the loan.

39 E. The authority shall prescribe the rate or rates of interest on
40 loans made under this section, but the rate or rates may not exceed the
41 prevailing market rate for similar types of loans. An eligible entity
42 that is a political subdivision of this state may negotiate the sale of
43 its bonds to, or a loan repayment agreement with, the authority without
44 complying with any public or accelerated bidding requirements imposed by
45 any other law for the sale of its bonds.

1 F. The approval of a loan shall be conditioned on a written
2 commitment by the eligible entity to complete all applicable reviews and
3 approvals and to secure all required permits in a timely manner.

4 G. By resolution of the board, the authority may impose any
5 additional requirements it considers necessary to ensure that the loan
6 principal and interest are timely paid.

7 H. All monies received from eligible entities as loan repayments,
8 interest and penalties shall be deposited, pursuant to sections 35-146 and
9 35-147, in the long-term water augmentation fund.

10 I. If requested by the authority, the attorney general shall take
11 whatever actions are necessary to enforce the loan repayment agreement and
12 achieve repayment of loans provided by the authority pursuant to this
13 article.

14 J. For eligible entities that are political subdivisions of this
15 state, the revenues of the eligible entities' utility system or systems
16 may be pledged to the payment of a loan repayment agreement without an
17 election, if the pledge of revenues does not violate any covenant
18 pertaining to the utility system or systems or the revenues pledged to
19 secure outstanding bonds or other obligations or indebtedness of the
20 eligible entities.

21 K. For an eligible entity that is a political subdivision of this
22 state, and notwithstanding sections 9-571 and 11-671, if the revenues from
23 a secondary property tax levy constitute pledged revenues, the eligible
24 entity is not required to submit to a vote the question of entering and
25 performing a loan repayment agreement.

26 L. Payments made pursuant to a loan repayment agreement are not
27 subject to section 42-17106.

28 M. For eligible entities that are political subdivisions of this
29 state, a loan repayment agreement under this section does not create a
30 debt of the eligible entities, and the authority may not require that
31 payment of a loan repayment agreement be made from other than the pledged
32 revenues pledged by the eligible entities.

33 N. An eligible entity may employ attorneys, accountants, financial
34 consultants and other experts in their fields as deemed necessary to
35 perform services with respect to a loan repayment agreement.

36 O. At the direction of the authority, the eligible entity shall
37 pay, and is hereby authorized to pay, the authority's costs in issuing
38 long-term water augmentation bonds or otherwise borrowing to fund a loan.

39 P. A loan made to an eligible entity that is a political
40 subdivision of this state may be secured additionally by an irrevocable
41 pledge of any shared state revenues due to the eligible entity for the
42 duration of the loan as prescribed by the authority. As applicable to
43 loans additionally secured with shared state revenues, the authority may
44 enter into agreements to specify the allocation of shared state revenues
45 in relation to individual borrowers from such authorities. If a pledge of

1 shared state revenues as additional security for a loan is required and
2 the eligible entity fails to make any payment due to the authority under
3 its loan repayment agreement or the eligible entity's bonds, the authority
4 shall certify to the state treasurer and notify the governing body of the
5 defaulting eligible entity that the eligible entity has failed to make the
6 required payment and shall direct a withholding of shared state revenues
7 as prescribed in subsection Q of this section. The certificate of default
8 shall be in the form determined by the authority, except that the
9 certificate shall specify the amount required to satisfy the unpaid
10 payment obligation of the eligible entity.

11 Q. On receipt of a certificate of default from the authority, the
12 state treasurer, to the extent not expressly prohibited by law, shall
13 withhold any monies due to the defaulting eligible entity from the next
14 succeeding distribution of monies pursuant to section 42-5029. In the
15 case of an eligible entity that is a city or town, the state treasurer
16 shall also withhold from the monies due to the defaulting city or town
17 from the next succeeding distribution of monies pursuant to section 43-206
18 the amount specified in the certificate of default and shall immediately
19 deposit the monies in the ~~water supply development revolving~~ LONG-TERM
20 WATER AUGMENTATION fund established by section ~~49-1271~~ 49-1302. The state
21 treasurer shall continue to withhold and deposit monies until the
22 authority certifies to the state treasurer that the default has been
23 cured. The state treasurer may not withhold any amount that is necessary
24 to make any required deposits then due for the payment of principal and
25 interest on bonds or indebtedness of the eligible entity if so certified
26 by the defaulting eligible entity to the state treasurer and the
27 authority. The defaulting eligible entity may not certify deposits as
28 necessary for payment for bonds or indebtedness unless the bonds were
29 issued or the indebtedness incurred before the date of the loan repayment
30 agreement and the bonds or indebtedness was secured by a pledge of
31 distribution made pursuant to sections 42-5029 and 43-206.

32 Sec. 7. Section 49-1309, Arizona Revised Statutes, is amended to
33 read:

34 49-1309. Long-term water augmentation bonds; requirements;
35 authority; exemption from liability

36 A. The authority, through the board, may issue negotiable long-term
37 water augmentation bonds in a principal amount that, in its opinion, is
38 necessary to do all of the following:

- 39 1. Provide sufficient monies for water supply development projects
40 and financial assistance for water supply development projects approved
41 under this chapter.
- 42 2. Refund long-term water augmentation bonds, when the authority
43 deems it expedient to do so.
- 44 3. Increase the capitalization of the long-term water augmentation
45 fund.

1 4. Maintain sufficient reserves in the long-term water augmentation
2 fund to secure the long-term water augmentation bonds.

3 5. Pay the necessary costs of issuing, selling and redeeming the
4 long-term water augmentation bonds.

5 6. Pay other expenditures of the authority incidental to and
6 necessary and convenient to carry out the purposes of this article.

7 B. The board shall authorize long-term water augmentation bonds by
8 resolution. The resolution shall prescribe all of the following:

9 1. The rate or rates of interest and the denominations of the
10 long-term water augmentation bonds.

11 2. The date or dates and maturity of the long-term water
12 augmentation bonds.

13 3. The coupon or registered form of the long-term water
14 augmentation bonds.

15 4. The manner of executing the long-term water augmentation bonds.

16 5. The medium and place of payment.

17 6. The terms of redemption.

18 C. The long-term water augmentation bonds shall be sold at public
19 or private sale at the price and on the terms determined by the board.
20 All proceeds from the issuance of long-term water augmentation bonds,
21 except any amounts used to pay costs associated with the issuance and sale
22 of the long-term water augmentation bonds, shall be deposited in the
23 long-term water augmentation fund or a separately held account as
24 specified in the resolution.

25 D. To secure any long-term water augmentation bonds authorized by
26 this section, the board by resolution may:

27 1. Require that long-term water augmentation bonds issued under
28 this section be secured by a lien on all or a part of the monies paid into
29 the appropriate account or subaccount of the long-term water augmentation
30 fund and provide the priority of the lien.

31 2. Pledge or assign to or in trust to be held by the state
32 treasurer for the benefit of the holder or holders of the long-term water
33 augmentation bonds any part of the appropriate account or subaccount of
34 the long-term water augmentation fund monies as is necessary to pay the
35 principal and interest of the long-term water augmentation bonds as the
36 bonds come due.

37 3. Set aside, regulate and dispose of reserves and sinking funds.

38 4. Require that sufficient amounts of the proceeds from the sale of
39 the long-term water augmentation bonds be used to fully or partly fund any
40 reserves or sinking funds established by the board resolution authorizing
41 the long-term water augmentation bonds.

42 5. Prescribe the procedure, if any, by which the terms of any
43 contract with bondholders may be amended or abrogated, the amount of
44 long-term water augmentation bonds the holders of which must consent to
45 and the manner in which consent may be given.

1 6. Provide for payment from the proceeds of the sale of the
2 long-term water augmentation bonds of all legal, financial and other
3 expenses incurred by the authority in issuing, selling, delivering and
4 paying the long-term water augmentation bonds.

5 7. Provide terms necessary to secure credit enhancement or other
6 sources of payment or security.

7 8. Provide any other terms and conditions that in any way may
8 affect the security and protection of the long-term water augmentation
9 bonds.

10 E. The pledge of pledged revenues by an eligible entity, or the
11 pledge of any other revenues by the authority **OR PURSUANT TO A**
12 **PUBLIC-PRIVATE PARTNERSHIP AGREEMENT**, under this article is valid and
13 binding from the time the pledge is made. The monies pledged and received
14 by the state treasurer to be placed in the long-term water augmentation
15 fund or in any account or subaccount in the long-term water augmentation
16 fund are immediately subject to the lien of the pledge without any future
17 physical delivery or further act, and any such lien of any pledge is valid
18 or binding against all parties having claims of any kind in tort, contract
19 or otherwise against the board or the authority regardless of whether the
20 parties have notice of the lien. The official resolution or trust
21 indenture or any instrument by which this pledge is created, when placed
22 in the board's records, is notice to all concerned of the creation of the
23 pledge, and those instruments need not be recorded in any other place.

24 F. A member of the board or any person executing the long-term
25 water augmentation bonds is not personally liable for the payment of the
26 long-term water augmentation bonds. The long-term water augmentation
27 bonds are valid and binding obligations notwithstanding that before the
28 delivery of the long-term water augmentation bonds any of the persons
29 whose signatures appear on the long-term water augmentation bonds cease to
30 be members of the board. From and after the sale and delivery of the
31 long-term water augmentation bonds, the bonds are incontestable by the
32 board.

33 G. The board, out of any available monies, may purchase long-term
34 water augmentation bonds, which may then be canceled, at a price not
35 exceeding either of the following:

36 1. If the long-term water augmentation bonds are then redeemable,
37 the redemption price then applicable plus accrued interest to the date of
38 redemption.

39 2. If the long-term water augmentation bonds are not then
40 redeemable, the redemption price applicable on the first date after
41 purchase by the authority on which the long-term water augmentation bonds
42 become subject to redemption plus accrued interest to the date of
43 redemption.

1 Sec. 8. Section 49-1333, Arizona Revised Statutes, is amended to
2 read:

3 49-1333. Water conservation grant fund; procedures

4 A. In compliance with any applicable requirements, ~~a city, town,~~
5 ~~county, district, commission, authority or other public entity that is~~
6 ~~organized and that exists under the statutory law of this state or under a~~
7 ~~voter-approved charter or initiative of this state~~ AN ELIGIBLE ENTITY AS
8 DEFINED IN SECTION 49-1301 may apply to the authority for and accept
9 grants from the water conservation grant fund for a water conservation
10 program or project that complies with the requirements of sections 49-1332
11 and 49-1334. A nongovernment organization that focuses on water
12 conservation or environmental protection may apply to the authority for
13 and accept grants from the water conservation grant fund for a water
14 conservation program or project if it partners with ~~a city, town, county,~~
15 ~~district, commission, authority or other public entity that is organized~~
16 ~~and that exists under the statutory law of this state or under a~~
17 ~~voter-approved charter or initiative of this state~~ AN ELIGIBLE ENTITY AS
18 DEFINED IN SECTION 49-1301.

19 B. The authority shall:

20 1. Prescribe a simplified form and procedure to apply for and
21 approve assistance.

22 2. Establish by rule criteria that ~~is~~ ARE consistent with this
23 article by which assistance will be awarded.

24 3. Determine the order and priority of water conservation programs
25 or projects assisted under this section based on the merits of the
26 application with respect to the requirements of sections 49-1332 and
27 49-1334.

28 4. Provide that a single water conservation program grant may not
29 exceed \$3,000,000, a single water conservation project grant may not
30 exceed \$250,000 and at least a twenty-five percent match is required for
31 each water conservation program or project. Monies from any other source
32 may satisfy the match requirement.

33 Sec. 9. Laws 2022, chapter 366, section 28 is amended to read:

34 Sec. 28. Initial terms of members of the water infrastructure
35 finance authority board

36 A. Notwithstanding section 49-1206, Arizona Revised Statutes, ~~as~~
37 ~~added by this act,~~ the terms of initial appointees to the water
38 infrastructure finance authority board are as follows:

39 1. The initial terms of the ~~three~~ FOUR members from a county with a
40 population of four hundred thousand persons or more end on January 31,
41 2026.

42 2. The initial terms of the ~~three~~ FOUR members from a county with a
43 population of less than four hundred thousand persons and the one member
44 who specializes in finance or statewide water needs end on January 31,
45 2028.

1 B. For the initial term, the president of the senate and the
2 minority leader of the senate shall appoint first, the governor shall
3 appoint second and the speaker of the house of representatives and the
4 minority leader of the house of representatives shall appoint third.

5 C. All subsequent appointments shall be for five-year terms as
6 prescribed by statute.

7 (EMERGENCY NOT ENACTED)

8 Sec. 10. Emergency

9 This act is an emergency measure that is necessary to preserve the
10 public peace, health or safety and is operative immediately as provided by
11 law.