

House Engrossed Senate Bill  
water infrastructure finance authority; amendments

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

**CHAPTER 197**  
**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           Sec. 10. Emergency  
8           This act is an emergency measure that is necessary to preserve the  
9 public peace, health or safety and is operative immediately as provided by  
10 law.

APPROVED BY THE GOVERNOR JUNE 20, 2023.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 20, 2023.