



ARIZONA STATE SENATE

Fifty-Seventh Legislature, First Regular Session

FACT SHEET FOR H.B. 2679

power; utilities; UCC; securities

Purpose

Establishes a process for a public power entity to initiate a securitization transaction by providing public notice of the public power entity's intent to adopt a financial resolution or for an applicant to request permission to initiate a securitization transaction from the Arizona Corporation Commission (ACC) by submitting an application for a financing order.

Background

The Arizona Constitution deems all corporations, other than municipal, engaged in furnishing gas, oil or electricity for light, fuel, power, water for irrigation, fire protection or other public purposes, or in furnishing, for profit, hot or cold air or steam for heating or cooling purposes as public service corporations. Corporations, other than municipal, that engage in collecting, transporting, treating, purifying and disposing of sewage through a system for profit or that transmit messages or furnish public telegraph or telephone service, and all corporations other than municipal, operating as common carriers are also deemed public service corporations ([Ariz. Const. art. 15 § 2](#)).

Public power entity means any municipal corporation, city, town or other political subdivision that is organized under state law, that generates, transmits, distributes or otherwise provides electricity and that is not a public service corporation ([A.R.S. § 30-801](#)).

The ACC regulates investor-owned or privately-owned utilities that provide gas, water, electricity or telephone service ([ACC](#)). The ACC has the power to inspect and investigate the property, books, papers, business, methods and affairs of any corporation whose stock is offered for sale to the public and any public service corporation doing business within Arizona ([Ariz. Const. art. 15 § 4](#)). The ACC has the power and authority to enforce its rules, regulations and orders by the imposition of such fines as the ACC may deem just ([Ariz. Const. art. 15 § 19](#)). The Arizona Constitution allows the Legislature to enlarge the powers and extend the duties of the ACC and to prescribe rules and regulations to govern proceedings by and before the ACC ([Ariz. Const. art. 15 § 6](#)).

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

Securitization Transactions for Public Power Entities

1. Allows a public power entity to initiate a securitization transaction by providing public notice of the public power entity's intent to adopt a financing resolution.
2. Requires the public notice to identify the date, time and location of the public meeting of the governing body, which must occur not less than 30 days and not more than 60 days after the notice is published.

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3. Requires the public power entity, after the public notice is published, to make the securitization proposal available at the public power entity's main office and on its publicly accessible website.
4. Requires the public power entity to provide the outlined public notice by completing the following:
 - a) issuing one publication in one or more newspapers of general circulation within the public power entity's electric service area;
 - b) sending notice by U.S. mail to the public power entity's standard electric rate schedule customers of record; and
 - c) sending notice to the governing body of each city, town or county where a public power entity is located in whole or in part.
5. Requires the securitization proposal to:
 - a) identify, as applicable, any transition assets, transition asset retirement costs, unrecovered fuel costs and significant event recovery costs;
 - b) estimate the transition costs and financing costs;
 - c) describe the expected characteristics of the transition bonds;
 - d) provide the projected financing charges and explain how the financing charges will result in the collection of financing revenues in amounts sufficient but not greater than necessary to enable the timely and complete recovery and payment of all ongoing financing costs;
 - e) estimate the financing charges and unit financing charges before the first application of the true-up mechanism;
 - f) describe the proposed true-up mechanism and how the true-up mechanism will adjust the financing charges and unit financing charges over time to correct for any overcollection or undercollection of financing revenues;
 - g) identify the qualified special purpose entity;
 - h) provide a report that concludes that the transition bonds are expected to satisfy the current published criteria for an AAA rating or the equivalent that is prepared by a securities firm experienced in underwriting and bond issuance;
 - i) identify any anticipated ancillary agreements, individually or by description;
 - j) describe how the public power entity proposed to permanently reduce or offset the value of either:
 - i. any undepreciated transition assets and any associated regulatory assets or recorded liabilities with respect to an offering of transition bonds to recover transition asset retirement costs; or
 - ii. any regulatory asset or recorded liability that is associated with transition bonds to recover unrecovered fuel costs or significant event recovery costs in exchange for the net proceeds of the transition bonds;
 - k) include a proposed transition billing services tariff if the proposed initial servicer is a public power entity;
 - l) describe the process to notify the public of the final structure and pricing of the transition bonds;
 - m) commit to providing a statement of actual upfront financing costs;
 - n) commit to providing an updated calculation of the estimated financing charges and unit financing charges over the life of the transition bonds; and
 - o) provide a proposed form of financing resolution.

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6. Stipulates that the unit financing charges may differ between customers and groups of customers, but if that occurs, each customer group and how the group is defined must be described in the securitization proposal.
7. Stipulates that unit financing charges are determined and imposed without regard to whether, or to what extent, a customer uses the services of any public power entity during the period in which a particular unit financing charge will apply.
8. Allows interested persons to file written comments with the public power entity's governing body at any time during or before the public meeting of the governing body.
9. Requires the board of directors, at the public meeting, to provide:
 - a) the representatives of the public power entity's management with an opportunity to explain the securitization proposal and answer questions;
 - b) any consultants that were retained by the public power entity with an opportunity to comment on the securitization proposal; and
 - c) any interested persons with a reasonable opportunity to submit written comments or make oral presentations of views, questions and comments on the securitization proposal.
10. Requires the governing body of a public power entity, on review of the information and comments, to adopt a financing resolution that approves, approves with conditions or rejects the initiation of the proposed transaction.
11. Allows the governing body to approve or approve with conditions the initiation of the proposed transaction only if the governing body finds that:
 - a) the securitization proposal complies with the outlined requirements relating to the securitization proposal;
 - b) the transition benefit test has been satisfied;
 - c) any proposed transition billing services tariff supports affordability and reliability, is in the public interest and must be placed into effect;
 - d) for a securitization proposal that involves a transition asset that is an electric power generation facility that will be or has been retired, sold, abandoned, disposed of or otherwise removed from service of the applicant's customers, in whole or in part, the replacement means of satisfying the customer load served by the electric power generation facility that will be or has been removed from service is more cost-effective for the applicant's customers than continued reliance on or operation of the electric power generation facility that will be or has been removed from service; and
 - e) the securitization proposal is just and reasonable, is in the public interest and should be placed into effect.
12. Determines that the transition benefit test is satisfied on showing that the proposed structure and pricing of the transition bonds are reasonably expected to result, on a net present value basis over the life of the transition bonds, in the lowest financing charges that are commercially available consistent with market conditions at the time the transition bonds are priced and with the terms of the financing resolution.
13. Prescribes how cost-effectiveness must be determined.

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14. Requires the cost-effectiveness evaluation to include a description of a portfolio that contains new and existing resources that will provide reliable replacement generation of equivalent resource adequacy as the electric power generation that will be or has been removed from service.

Securitization Transactions for Public Service Corporations

15. Allows an applicant to request permission to initiate a securitization transaction from the ACC by submitting an application for a financing order.
16. Requires the outlined application to:
 - a) identify, as applicable, any transition assets, transition asset retirement costs, unrecovered dual costs or significant event recovery costs;
 - b) estimate the transition costs and financing costs;
 - c) describe the expected characteristics of the transition bonds;
 - d) project the financing charges and explain how the financing charges will result in the collection of financing revenues in amounts sufficient but not greater than necessary to enable the timely and complete recovery and payment of all ongoing financing costs;
 - e) estimate the financing charges and unit financing charges before the first application of the true-up mechanism;
 - f) describe the proposed true-up mechanism and how the true-up mechanism will adjust the financing charges and unit financing charges over time to correct for any overcollection or undercollection of financing revenues;
 - g) identify the qualified special purpose entity;
 - h) include a report that is prepared by a securities firm experienced in underwriting and bond issuance and that concludes the transition bonds are expected to satisfy the current published criteria for an AAA rating or the equivalent;
 - i) identify any anticipated ancillary agreements, individually or by description;
 - j) describe how the applicant proposes to permanently reduce or offset the value of:
 - i. undepreciated transition assets in rate base or recovered through rates and any associated regulatory assets or recorded liabilities with respect to an offering of transition bonds to recover transition asset retirement costs; or
 - ii. any regulatory asset or recorded liability that is associated with transition bonds to recover unrecovered fuel costs or significant event recovery costs in exchange for the net proceeds of the bonds;
 - k) include a proposed transition billing services tariff if the proposed initial servicer is a public service corporation;
 - l) commit to making an informational filing with the ACC that will describe the final structure and pricing of the transition bonds, a statement of actual upfront financing costs and an updated calculation of the estimated financing charges and unit financing charges over the life of the transition bonds; provide a proposed financing order; and
 - m) for a combined cooperative securitization, describe the allocation of financing costs or financing charges and unit financing charges to each cooperative applicant's customers, and how the true-up mechanism will allocate or reallocate financing costs to the cooperative applicant's customers over time.
17. Requires the ACC to issue a financing order that approves, approves with conditions or rejects the initiation of the proposed transaction.

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18. Allows the ACC to approve or approve with conditions the proposed transaction only if the ACC finds that:
 - a) the application complies with all of the requirements in the outlined application;
 - b) the transition benefit test is satisfied;
 - c) the proposed transition billing services tariff is just and reasonable, is in the public interest and should be in effect; or
 - d) the proposed transaction, as described in the application for financing order, is just and reasonable, is in the public interest and should be put into effect.
19. Stipulates that the transition benefit test is satisfied on showing:
 - a) the projected net present value over the term of the transition bonds of the financing charges minus, to the extent applicable, the revenue requirement credits that arise from any deferred income tax balances associated with the transition cost will be smaller in absolute value than the projected net present value that is calculated at the same discount rate of the portion of the annual revenue requirements of the applicant that is associated with the transition cost, if the cost were to be financed directly by the applicant;
 - b) the proposed structure and projected pricing of the transition bonds are reasonably expected to result, on a net present value basis over the life of the transition bonds, in the lowest financing charges that are commercially available consistent with market conditions at the time the transition bonds are priced and with the terms of the financing order; and
 - c) for a financing application that involves a transition asset that is an electric power generation facility that will be or has been retired, sold, abandoned, disposed of or otherwise removed from service of the applicant's customers, in whole or in part, the replacement means of satisfying the customer load served by the electric power generation facility that will be or has been removed from service is more cost-effective for the applicant's customers than continued reliance on or operation of the electric power generation facility that will be or has been removed from service.
20. Prescribes how cost-effectiveness must be determined.
21. Requires the ACC to issue a final decision regarding the application for a financing order within 120 days after the date the application for financing was filed.
22. Allows the ACC to extend the time for an additional 90 days for good cause shown.
23. Prohibits the parent, holding or other direct beneficial owner of an applicant that is also a public service company from purchasing transition bonds.

Authority of the ACC

24. Grants the ACC, on an applicant's receipt of the net proceeds of the issuance of the transition bonds, the authority to ensure that:
 - a) any undepreciated value of the transition assets on the applicant's books are reduced by the corresponding account, including any reductions in associated regulatory assets or recorded liabilities, as applicable;

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- b) any regulatory assets that are related to unrecovered fuel costs or significant event recovery costs are reduced by that corresponding amount; and
- c) any incurred costs of a recorded liability that are incurred and associated with unrecovered fuel costs or significant event recovery costs are reduced by that corresponding amount.

25. Stipulates that the outlined requirements relating to utility securitization does not abrogate or prevent the ACC's authority to:

- a) establish and regulate rates of public service corporations;
- b) investigate the practices of public service corporations;
- c) review and audit the books and records of public service corporations, including the actions taken under a transition billing services tariff and the receipt, handling and remittance to the qualified special purpose entity of financing revenues;
- d) investigate an applicant's compliance with the terms and conditions of a financing order and to require that the applicant comply with the financing order; and
- e) impose regulatory sanctions on an applicant for the willful failure to comply with a financing order.

26. Prohibits the ACC from ordering or requiring, directly or as a condition for any other action or finding, a public service corporation to apply for permission to initiate or engage in a securitization transaction.

27. Stipulates that the outlined requirements relating to utility securitization do not preclude the ACC from considering the bill impact of unit financing charges when determining the design of the rates within its jurisdiction or the allocation of the costs to and among people or groups of people paying the rates.

Transition Property

28. Stipulates that a transition property is immediately created by operation of law on the latter of the approval of a financing order or financing resolution, the creation and capitalization of a qualified special purpose entity and the issuance and receipt of value for the applicable transition bonds.

29. Determines that transition property continues to exist until the corresponding transition bonds and all ongoing financing costs related to the transition bonds have been fully paid.

30. Determines that on creation, transition property belongs to the qualified special purpose entity.

31. Prohibits a qualified special purpose entity from providing utility service.

32. Determines that a qualified special purpose entity is not a public service corporation, public power entity or cooperative.

33. Prohibits a qualified special purpose entity from conducting any business unrelated to owning, protecting and administering the transition property or issuing, marketing, placing, authorizing, repaying, refinancing, servicing, administering or refunding transition bonds.

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34. Determines that transition property constitutes a vested, existing, present, continuing and irrevocable property right for all purposes, regardless of the fact that the value of the transition property may depend on, or be affected by, events or actions that have not yet occurred.
35. Prohibits transition property from being an asset of the public power entity, the applicant or any other public service corporation.
36. Prohibits a public power entity from having an ownership or beneficial interest or any claim of right in the transition property, other than the requirement to calculate, impose, charge, collect and receive the financing charges as a servicer and transfer the resulting financing revenues to the qualified special purpose entity that is entitled to receive those financing revenues.
37. Allows the qualified special purpose entity to pledge all or any portion of the transition property to secure the timely and complete payment of transition bonds and financing costs.
38. Stipulates that transition property, financing charges, financing revenues and the interests of a financing party or any other person in transition property or in financing revenues are not subject to offset, counterclaim, surcharge or defense by a servicer, a customer, an applicant, a public power entity, a creditor of a public power entity, a creditor of an applicant, a creditor of the qualified special purpose entity or any other person, or in connection with any default, bankruptcy, reorganization or other insolvency proceeding of any such person.
39. Determines that if there is a default on the transition bonds, both of the following apply:
 - a) any secured party has the right to foreclose on transition property or otherwise enforce its rights as to the transition property in the same manner as if it were a secured party under the uniform commercial code; and
 - b) on application by an interest party, and without limiting the outlined rights or any other remedies available to the applying party, a court must order the sequestration and payment of the monies arising from the transition property to the person that is entitled to receive the monies.
40. Requires the outlined order to remain in full force and effect regardless of any bankruptcy, reorganization or other insolvency or receivership proceedings of a public power entity, an applicant or the qualified special purpose entity.
41. Requires transition property to be in existence regardless of whether the revenues or proceeds with respect to the transition property have accrued and regardless of whether the value of the property right is dependent on customers receiving service.
42. Stipulates that the outlined requirements relating to transition property apply to all purported transfers of, grants of liens on or security interests in transition property.
43. Stipulates that the creation, perfection and enforcement of a security interest in transition property that is pledged to secure the payment of the ongoing financing costs are governed by the outlined requirements relating to transition property.

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44. Determines that the description of or reference to transition property in a transfer or security agreement and a financing statement is sufficient if the description or reference refer to outlined statute and the financing resolution or financing order describing the transition property.
45. Determines that a security transition property is created, valid, binding and enforceable at the latest of:
 - a) when the transition bonds are issued by the qualified special purpose entity;
 - b) when a security agreement is executed and delivered by the qualified special purpose entity; and
 - c) when value is received by the qualified special purpose entity for the transition bonds.
46. Determines that the security interest in transition property is a statutory lien that attaches automatically in favor of the applicable financing party when the transition bond is issued and value for the transition bond is received.
47. Determines that the security interest attaches without any physical delivery of any collateral or other act, and the security interest is valid, binding and perfected against all parties that have claims of any kind against the person granting the security interest, regardless of whether the parties have notice of a lien, on the filing of a financing statement with the Secretary of State.
48. Requires the Secretary of State to maintain the financing statement in the same manner and in the same recordkeeping system maintained for financing statements that meet statutorily outlined filing cabinets.
49. Stipulates that outlined financing statements are effective without the need to file a continuation statement until a termination statement is filed.
50. Determines that a transfer of an interest, including a grant of a lien or security interest, in transition property is perfected against all third parties.
51. Determines that a security interest in transition property is a continuously perfected security interest and has priority over any other lien that may subsequently attach to the transition property unless the holder of the security interest has agreed in writing otherwise.
52. Determines that the priority of a security interest in transition property is not affected by the commingling of financing revenues with other funds.
53. Determines that any pledge or secured party has a perfected security interest in the amount of all financing revenues that are deposited in any account of the amount of all financing revenues that are deposited in any account of the servicer in which financing revenues have been commingled with other monies, and any other security interest that may apply to such financing revenues is terminated when those funds are transferred to a segregated account for a financing party or assignee of a financing party.
54. States that the true-up mechanism does not affect the validity, perfection or priority of a security interest in or transfer of transition property.

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55. Determines that the validity, perfection or priority of a lien and security interest is not impaired by any later modification of a financing resolution or financing order or changes in a customer's financing charges.

Transition Bonds

56. Authorizes a qualified special purpose entity, after approval of a financing resolution or financing order, to issue one or more series, classes or tranches of transition bonds and to pledge transition property to secure the payment of ongoing financing costs.
57. Requires the qualified special purpose entity, on issuance of the transition bonds, to transfer to the public power entity or the applicant the net proceeds of the transition bonds minus the upfront financing costs paid by the qualified special purpose entity.
58. Stipulates that the approval of a financing resolution or financing order does not obligate a public power entity, applicant or a qualified special purpose entity to engage in the approved transaction.
59. Stipulates that neither a public power entity, applicant or a qualified special purpose be subject to any regulatory conditions, sanction or other penalties for not engaging in an approved transaction.
60. Requires the public power entity or applicant, if the qualified special purpose entity determines not to issue transition bonds authorized by a financing resolution or financing order, to reimburse the qualified special purpose entity for any costs paid by the qualified special purpose entity that would have constituted upfront financing costs had the transition bonds been issued.
61. Stipulates that delaying the issuance of transition bonds pending final resolution of any appeals from the financing resolution or financing order or any legal challenges is not deemed to be such a determination.
62. Stipulates that on or after the issuance of transition bonds, the transition property, the true-up mechanism and the financing charges are irrevocable, final, nondiscretionary and effective without the need for further action by the governing body, this state, the ACC or any other person.
63. Stipulates that the outlined financing charges are not subject to a rescission, alteration, amendment, reduction, impairment or adjustment by further action of this state, the ACC or any other body or person, except pursuant to the true-up mechanism.
64. Declares that this state, including all agencies, public corporations, municipalities or other instrumentalities of this state, pledges to and agrees with the financing parties, including present and future holders of transition bonds, the public power entity, the applicant, the qualified special purpose entity and any other person that enter into an ancillary agreement that after the issuance of transition bonds and until all financing costs, including the principal and interest on the transition bonds and all amounts to be paid under an ancillary agreement, are fully met and discharged.

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65. Prohibits this state or any agency, public corporation, municipality or other instrumentality of this state from taking or allowing any action to be taken to limit, reduce, alter, impare, delay or terminate any of the following:
 - a) the rights conferred by outlined statutes relating to securitization, including the rights in transition property or transition bonds;
 - b) the imposition of financing charges and unit financing charges by the qualified special purpose entity;
 - c) the operation of the true-up mechanism to adjust financing charges and unit financing charges;
 - d) the collection of financing revenues in payment of financing charges and unit financing charges; or
 - e) the payment of financing costs.
66. States that it is the intention of this state that the outlined pledges can and will be relied on by a public power entity, the applicant, the qualified special purpose entity, other persons that enter into an ancillary agreement and any financing party.
67. Allows the outlined pledges to be included in transition bonds, ancillary agreements and other documentation relating to issuing, rating and marketing the transition bonds.
68. Stipulates that on and after the issuance of the transition bonds, the failure of a public power entity, the applicant or a qualified special purpose entity to comply with outlined requirements or the financing resolution or financing order do not invalidate, impair or affect the financing resolution or financing order, the transition property, financing charges, transition bonds or financing costs.
69. Stipulates that a financing resolution, financing order, transition property and financing charges is not affected by:
 - a) the bankruptcy, reorganization, sale, dissolution or insolvency of the public power entity, the applicant or the qualified special purpose entity or the successors or assigns of the public power entity, the applicant or the qualified special purpose entity; or
 - b) the commencement of any proceeding for bankruptcy or the appointment of a receiver as to either the public power entity, the applicant, the qualified special purpose entity or the successors of the public power entity, the applicant or the qualified special purpose entity.
70. Stipulates that transition bonds are not a public debt, a lien nor a pledge of the revenues, faith and credit or taxing power of a public power entity, this state or any county, municipality or other local government unit of this state.
71. Stipulates that the approval of a financing resolution or financing order does not obligate this state or any county, municipality or political subdivision of this state to levy any tax or make any appropriation for payment of any financing cost, including the principal and interest on transition bonds.
72. Prohibits this state or a county, municipality or political subdivision of this state from levying any tax on holders of transition bonds or owners of transition property.
73. Stipulates that holders of transition bonds or owners of transition property do not have a right to have taxes levied by this state or the taxing authority of any county, municipality or political subdivision of this state for the payment of the principal of interest on or premium on transition bonds.

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74. Stipulates that transition bonds are not an obligation, debt, lien or pledge of the assets or revenues of the public power entity.
75. Stipulates that transition bonds are not an obligation of an applicant or a pledge of the assets of the applicant.
76. Stipulates that approval is not required or for the approval of a financing resolution or financing order, for the issuance of transition bonds, for the sale or issuance of transition bonds or for an assignment or transfer transition property or any interest in transition property.
77. Authorizes a customer that is a cooperative to include the costs of paying financing charges in the costs it is authorized to recover from people who use the cooperative's services.
78. Stipulates that transition bonds are legal investments for all governmental units, permanent funds of this state, finance authorities, financial institutions, insurance companies, fiduciaries and other persons requiring statutory authority regarding legal investments.

Financing Charges and the True-Up Mechanism

79. Stipulates that financing charges are nonbypassable, are mandatory and apply to all customers.
80. Requires financing revenues to be used solely for the payment of ongoing financing costs.
81. Requires the true-up mechanism to correct for any overcollection or under collection of financing revenues and provide for timely and complete payment of ongoing financing costs.
82. Requires adjustments to financing charges that are made in accordance with the true-up mechanism to be applied through an equal percentage change to all unit financing charges or through an alternative nondiscretionary mathematical process of adjusting unit financing charges that is included in the true-up mechanism and that is described in the financing resolution.
83. Allows the true-up mechanism, for combined cooperative securitization, to also allocate or reallocate financing costs or financing charges and unit financing charges to the customers of the cooperative applicants.
84. Stipulates that adjustments to the financing charges and unit financing charges resulting from the application of the true-up mechanism are not subject to regulation by the ACC and are effective without any order or action of the governing body or the ACC of the public power entity or any other body.
85. Stipulates that when transition bonds are issued, the determination and imposition of financing charges, the recovery of financing revenues and the adjustment of the financing charges through the true-up mechanism are not subject to review or approval by any government entity, including state agencies, public corporations, municipalities or other instrumentalities of Arizona.
86. Stipulates that the superior court has exclusive jurisdiction to and, on commencement of a suit against the qualified special purpose entity by a customer, review and determine whether there has been a mathematical or administrative error in the calculation or application of the true-up mechanism or the calculation of the resulting financing charges and unit financing charges.

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87. Stipulates that the jurisdiction and authority of the superior court is limited to determining the financing charges and unit financing charges that result from the correct calculation and application of the true-up mechanism.
88. Prohibits the superior court from ordering or requiring any modification to the true-up mechanism or limiting, reducing, altering, impairing, delaying or terminating the application of the true-up mechanism or the collection and remittance of financing revenues.
89. Prohibits a party from bringing any action to enjoin, restrain, stay or delay the validity, calculation and imposition of financing charges or the collection of financing revenues, including the establishment and application of the true-up mechanism and the collection and remittance of financing revenues.
90. Requires an outlined action to be filed within 10 days after the qualified special purpose entity or servicer files notice with the public power entity or the ACC.
91. Prohibits the time for bringing action from being tolled or extended for any reason.
92. Requires the superior court, within 60 days after the filing of an action, to hear and issue a decision on the matter.
93. Stipulates that the decision is appealable only to the supreme court.
94. Requires the notice of appeal to be filed within five days after the decision of the superior court in the action.
95. Requires the supreme court to render a decision on the appeal promptly but not later than 90 days after the notice of appeal is filed with the supreme court.
96. Prohibits a court from enjoining, restraining, staying or delaying the application of the true-up mechanism or the collection and remittance of financing revenues.
97. Requires the servicer, if the final judgement of the superior court, after all appeals are exhausted, requires a modification of any adjustment made under the true-up mechanism, to make that modification at the time of and as part of the next periodic adjustment of the financing charges following the outlined final judgement and on the exhaustion of all appeals through the true-up mechanism.
98. Prohibits any adjustments that are made pursuant to the true-up mechanism, any review of the calculations of those adjustments or any action brought to determine whether there has been a mathematical or administrative error in the application of the true-up mechanism from affecting the irrevocability of the transition property, the financing resolution, the financing charges, the financing order, the nobypassability of the financing charges or the outlined nonimpairment pledges.
99. Stipulates that regardless of whether financing charges are administered, billed or collected by a servicer that is a public power entity or a public service corporation, the financing charges are not rates or charges imposed by or made by a public power entity for utility service or a public service corporation for electric service.

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100. Stipulates that the right to receive financing charges and to collect financing revenues is independent of any rate that is established, made or charged by a public power entity for public utility services or a public service corporation for electric services, including collected revenues.
101. Stipulates that financing revenues are the property of the qualified special purpose entity and are not the property of the servicer or any other public power entity or public service corporation.
102. Requires the servicer, as agent for the qualified special purpose entity, at a minimum semiannually and quarterly during the two-year period preceding the final maturity date of the transition bonds or the final maturity date of the series, class or tranche of such bonds with the latest final maturity date, if more than one series, class or tranche has been issued, to perform calculations for:
 - a) estimating whether the existing financing charges and resulting financing revenues are sufficient to provide for a timely and complete payment of any ongoing financing costs or whether an overcollection or undercollection of financing revenues is projected; and
 - b) undertaking the processes used in the true-up mechanism to determine the adjustment to the financing charges that are projected to correct for any overcollection or undercollection of financing revenues.
103. Requires the qualified special purpose entity or the servicer as agent for the qualified special purpose entity to file with the governing body of the public power entity or the ACC an informational notice that identifies the adjusted unit financing charges that are to be included on a customer's bills under the transition services tariff.
104. Stipulates that the outlined notice is required to inform the customer and must be provided not later than 15 days before the date the unit financing charges become effective.
105. Requires the outlined notice to provide sufficient information to verify the mathematical calculation of the adjusted financing charges and the unit financing charges that result from applying the true-up mechanism.
106. Allows the qualified special purpose entity or the servicer as agent of the qualified special purpose entity, if a customer does not pay any unit financing charge, to bring suit in any court of competent jurisdiction against the customer to collect the unpaid unit financing charges.
107. Requires reasonable attorney fees and costs to be awarded to the prevailing party.
108. Stipulates that commencement of the suit does not affect the calculation of any adjustment that is authorized by the true-up mechanism until the net proceeds are recovered and paid to the qualified special purpose entity as financing revenues.

Public Power Entities and Public Service Corporations as Servicers

109. Requires the public power entity or public service corporation, if a servicer is a public power entity or public service corporation, to use its resources and systems to perform the duties of a servicer under a transition billing services tariff.
110. Stipulates that the ACC has continuing jurisdiction over the terms of a transition billing services tariff that is filed and maintained by a public service corporation.

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111. Stipulates that if a service collects payment made by a customer for financing charges, whether under a transition billing services tariff or otherwise, the monies collected are financing revenues when the monies are paid by the customer, and the servicer has no right, title or interest in the revenues other than as an agent for the qualified special purpose entity.
112. Requires the partial payment, if the customer pays only a portion of the charges stated on a bill provided by the servicer that includes the financing charges, to be first applied to paying the financing charges.
113. Allows the qualified special purpose entity or the holders of the transition bonds, if a servicer fails to make any required payment of financing revenues to a qualified special purpose entity or fails to fulfill its service obligations under an applicable transition billing services tariff, to request that the superior court order the sequestration and payment of the financing revenues for the benefit of any financing parties or their assignees and to request any other applicable relief.
114. Requires the order to remain in full force and effect regardless of any bankruptcy, reorganization or other insolvency or receivership proceedings of the service or the qualified special purpose entity.
115. Requires the authorization, if this state, through the governing body of the public power entity, order of the ACC or otherwise, allows the billing, collection and remittance by a third party of sums that would otherwise be billed, collected or remitted by a public power entity or public service corporation that acts as a servicer, to be consistent with the rating agencies requirements that are necessary for the transition bonds to receive and maintain a AAA or equivalent rating.

Financing Resolutions and Financing Orders

116. Allows a party to the proceeding who is dissatisfied with a governing body or the ACC's decision as to an outlined financing resolution or an application for a financing order or the Attorney General on behalf of this state to apply to the governing body for rehearing.
117. Requires the rehearing to be filed by 20 days after the governing body's decision on the financing resolution or the ACC's decision on an application for a financing order.
118. Deems that if the governing body or the ACC do not grant the application for rehearing within 20 days after the application is filed, the application is denied.
119. Allows a party that files a rehearing application, within 10 days after a rehearing is denied or granted and not afterwards, to file, in the superior court in the county in which the governing body or the ACC has its office, an action that seeks to vacate, set aside, affirm in part, reverse in part or remand the governing body or ACC's decision regarding the financing resolution.
120. Prohibits the time for bringing any outlined action from being tolled or extended for any reason.
121. Determines that a party that seeks to vacate, set aside or otherwise challenge a financing resolution, financing order or other governing body or ACC decision, in whole or in part, bears the burden of proof.

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122. Allows relief to be awarded in an action that challenges a financing resolution, financing order or related decision that resulted from a financing resolution or an application for a financing order, only if the superior court determines, based on clear and satisfactory evidence, that:
 - a) the financing resolution, financing order or other governing body or ACC decision is unlawful; or
 - b) the factual findings made in the financing resolution or financing order or other ACC decision are unsupported by the financing resolution, application or evidence in the proceeding that was presented before the governing body or ACC.
123. Requires the superior court, within 60 days after the filing of the action, to hear and issue a decision on the matter.
124. Allows the superior court to extend the timeframe to issue a decision by up to 30 days for good cause.
125. Allows a party to appeal a decision in an outlined action only to the Arizona Supreme Court.
126. Requires the party to file the outlined notice of appeal within five days after the decision of the superior court in the action.
127. Prohibits the time for filing the notice of appeal from being tolled or extended for any reason.
128. Requires the Arizona Supreme Court to issue a decision on the appeal promptly.
129. Stipulates that a court in this state does not have jurisdiction to review, enjoin, restrain, suspend, stay or delay any of the following:
 - a) a financing resolution or financing order;
 - b) the creation of transition property;
 - c) the issuance of transition bonds; or
 - d) a governing body or the ACC's performance of its duties.
130. Requires an order or decree that is issued by a governing body in the performance of its duties or that are fixed by the ACC to remain in force pending the decision of the court.

Fees and Taxes

131. Stipulates that financing charges are not subject to either:
 - a) a franchise fee that is imposed by a municipality, county or other local government unit as a result of a franchise agreement or lawful ordinance; or
 - b) taxes that are applicable to services provided by the rates of a public power entity or public service corporation.

Miscellaneous

132. Requires any successor to a public power entity or an applicant, whether pursuant to any bankruptcy, reorganization or other insolvency proceeding or pursuant to any merger, acquisition, sale or transfer or other business combination by operation of law or agreement of the public power entity or applicant or otherwise, to perform and satisfy all obligations of and have the same rights and obligations or any financing resolution as the public power entity or financing order as the applicant in the same manner and to the same extent as the public power entity or applicant, including acting as a servicer and collecting and paying to the person entitled to receive the financing charges and financing revenues.

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133. Stipulates that the laws of this state govern the validity, enforceability, attachment, perfection, priority and exercise of remedies with respect to the creation or transfer of, or of any interest in, transition property financing charges for financing revenues.
134. Stipulates that the outlined requirements relating to securitization, if there is any conflict between the requirements relating to securitization and any other law regarding the creation, attachment, transfer, assignment or perfection of, or the effect of perfection on or the priority of any security interest in transition property, financing charges or financing revenues, govern to the extent of the conflict.
135. Stipulates that if all or any part of the requirements relating to securitization are invalidated, superseded, replaced, repealed or expires for any reason, that occurrence does not affect the validity of any prior action whether taken by a public power entity, the ACC, a public service corporation, a qualified special purpose entity or any other person, and does not affect transition bonds that were already issued or transition property that was already created.
136. Defines *applicant* as any of the following in each case that files an application for a financing order with the ACC:
 - a) a public service corporation that provides electric service, including a member-owned cooperative corporation; and
 - b) a group of two or more member-owned cooperatives seeking approval of a combined cooperative securitization.
137. Defines *combined cooperative securitization* as a securitization transaction that involves two or more member-owned cooperatives acting together including a generation and transmission cooperative and one or more of its member distribution cooperatives even if all applicable transition costs are incurred or will be passed down to the distribution cooperatives.
138. Stipulates that a *qualified special purpose entity* relating to public service corporation securitization transactions:
 - a) is a legal entity that does not provide electric service and is not a public service corporation;
 - b) may not conduct any business that is unrelated to owning, protecting and administering the transition property or issuing, marketing, placing, authorizing, supporting, replaying, refinancing, servicing, administering or refunding transition bonds; and
 - c) for a combined cooperative securitization, the ownership interests in a qualified special purpose entity may be allocated to the relevant cooperative applicants in proportion to the transition costs that are allocated to each of them or in any other manner approved by the financing order.
139. Stipulates that *significant event recovery costs* and *transaction asset retirement costs* relating to public service corporation securitization transactions for a combined cooperative securitization, may include costs that have been incurred by a generation and transmission cooperative applicant that would otherwise be passed on to distribution cooperative applicants in wholesale power or similar charges, regardless of whether the costs have been passed through to distribution cooperative applicants at any given time.

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140. Stipulates that *unrecovered fuel costs* relating to public service corporation securitization transactions for a combined cooperative securitization, may include unrecovered fuel costs that have been incurred by a generation and transmission cooperative applicant that otherwise would be passed on to distribution cooperative applicants in wholesale power or similar charges regardless of whether the unrecovered fuel costs have been passed through to distribution cooperative applicants at any given time.
141. Defines *transition bonds* as bonds, notes or other evidences of indebtedness that are issued by a qualified special purpose entity and that are described in an application for a financing order, the proceeds of which are used, directly or indirectly, to recover, finance, refinance or refund transition costs and upfront financing costs and that are directly or indirectly payable from, or secured by, transition property, financing charges or financing revenues.
142. Defines *true-up mechanism* as:
 - a) a formula, described in the application for a financing order and established before or concurrent with the issuance of transition bonds, that adjusts financing charges over time to correct for any overcollection or undercollection of financing revenues so that a qualified special purpose entity timely and completely recovered all ongoing financing costs; and
 - b) for a combined cooperative securitization and in addition to the outlined mechanism, is a mechanism that may also be used to allocate or reallocate financing costs to the customers of the cooperative applicants.
143. Defines terms.
144. Contains statements of public policy.
145. Becomes effective on the general effective date.

House Action

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3 rd Read	3/12/25		35-21-4

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