

State of Arizona
House of Representatives
Forty-fifth Legislature
First Regular Session
2001

HOUSE BILL 2408

AN ACT

CHANGING THE DESIGNATION OF TITLE 9, CHAPTER 5, ARTICLE 6, ARIZONA REVISED STATUTES, TO "FINANCIAL ASSISTANCE FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA"; AMENDING SECTION 9-571, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 11, CHAPTER 4, ARTICLE 4, ARIZONA REVISED STATUTES, TO "FINANCIAL ASSISTANCE FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA"; AMENDING SECTIONS 11-671, 48-909.01, 48-1019, 48-2011.01, 49-1201, 49-1203, 49-1224, 49-1225, 49-1244, 49-1245 AND 49-1262, ARIZONA REVISED STATUTES; RELATING TO WATER INFRASTRUCTURE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 9, chapter 5, article 6, Arizona Revised
4 Statutes is changed from "WASTEWATER TREATMENT FACILITIES FINANCING" to
5 "FINANCIAL ASSISTANCE FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF
6 ARIZONA".

7 Sec. 2. Section 9-571, Arizona Revised Statutes, is amended to read:

8 9-571. Wastewater treatment and drinking water treatment
9 facilities and nonpoint source projects; financial
10 assistance loan repayment agreements; definitions

11 A. Notwithstanding any other law, a city or town may construct,
12 acquire from a willing ~~provider~~ SELLER or improve a wastewater treatment
13 facility, drinking water facility or nonpoint source project with monies
14 borrowed from or financial assistance including forgivable principal provided
15 by the water infrastructure finance authority of Arizona.

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

24 C. The governing body of a city or town shall submit the question of
25 entering and performing a FINANCIAL ASSISTANCE loan repayment agreement to
26 the qualified electors voting at a regular or special general election in the
27 city or town. An election is not required if voter approval has previously
28 been obtained for substantially the same project with another funding source
29 or if the project is constructed with an improvement district. If a majority
30 of the qualified electors voting on the question:

31 1. Approves, the governing body may execute, deliver and perform the
32 FINANCIAL ASSISTANCE loan repayment agreement.

33 2. Disapproves, the governing body shall not execute a FINANCIAL
34 ASSISTANCE loan repayment agreement ~~and shall not resubmit the issue to the~~
35 ~~voters for two years.~~

36 D. Payments made pursuant to a FINANCIAL ASSISTANCE loan repayment
37 agreement are not subject to section 42-17106.

38 E. A FINANCIAL ASSISTANCE loan repayment agreement entered into
39 pursuant to this section shall contain the covenants and conditions
40 pertaining to the construction, acquisition or improvement of a wastewater
41 treatment or drinking water facility or nonpoint source project and repayment
42 of the loan as the water infrastructure finance authority of Arizona deems
43 proper. FINANCIAL ASSISTANCE loan agreements may provide for the payment of
44 interest on the unpaid principal balance of such agreement at the rates
45 established in the agreement. The agreement may also provide for payment of

1 the city's or town's proportionate share of the expenses of administering the
2 clean water and drinking water revolving funds established by sections
3 49-1221 and 49-1241 and may provide that the city or town pay financing and
4 loan administration fees approved by the water infrastructure finance
5 authority. These costs may be included in the levy or assessment amounts
6 pledged to repay the ~~loan~~ FINANCIAL ASSISTANCE. Cities and towns are bound
7 by and shall fully perform the loan repayment agreements, and the agreements
8 are incontestable after the loan is funded by the water infrastructure
9 finance authority of Arizona. The city or town shall also agree to pay the
10 authority's costs in issuing bonds or otherwise borrowing to fund a loan.

11 F. A FINANCIAL ASSISTANCE loan repayment agreement under this section
12 does not create a debt of the city or town, and the authority shall not
13 require that payment of a FINANCIAL ASSISTANCE loan REPAYMENT agreement be
14 made from other than those sources permitted in subsection B of this section
15 AND AS PRESCRIBED BY SECTIONS 49-1225 AND 49-1245.

16 G. A city or town may employ attorneys, accountants, financial
17 consultants and such other experts in their field as deemed necessary to
18 perform services with respect to the FINANCIAL ASSISTANCE loan repayment
19 agreement.

20 H. This section is supplemental and alternative to any other law under
21 which a city or town may borrow money or issue bonds. This section shall not
22 be construed as the exclusive authorization to enter into loan agreements
23 with the authority.

24 I. A CITY OR TOWN MAY BORROW ADDITIONAL MONIES OR ENTER INTO
25 ADDITIONAL FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE WATER
26 INFRASTRUCTURE FINANCE AUTHORITY IN AN AMOUNT UP TO THE AMOUNT APPROVED BY
27 THE VOTERS PURSUANT TO SUBSECTION C OF THIS SECTION LESS THE AMOUNT THAT THE
28 CITY OR TOWN IS ALREADY OBLIGATED TO REPAY TO THE WATER INFRASTRUCTURE
29 FINANCE AUTHORITY PURSUANT TO A FINANCIAL ASSISTANCE LOAN REPAYMENT
30 AGREEMENT.

31 ~~I.~~ J. For purposes of this section:

32 1. "City" includes both cities formed pursuant to this title and
33 charter cities.

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

36 Sec. 3. Heading change

37 The article heading of title 11, chapter 4, article 4, Arizona Revised
38 Statutes, is changed from "WASTEWATER TREATMENT FACILITIES FINANCING" to
39 "FINANCIAL ASSISTANCE FROM THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF
40 ARIZONA".

1 Sec. 4. Section 11-671, Arizona Revised Statutes, is amended to read:
2 11-671. Financing wastewater treatment facilities and nonpoint
3 source projects; financial assistance loan repayment
4 agreements; definition

5 A. Notwithstanding any other law, a county authorized to operate a
6 sewage system pursuant to section 11-264 may construct or improve a
7 wastewater treatment facility or nonpoint source project with monies borrowed
8 from or financial assistance provided by the water infrastructure finance
9 authority of Arizona.

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

18 C. The county board of supervisors shall submit the question of
19 entering and performing a FINANCIAL ASSISTANCE loan repayment agreement to
20 the qualified electors voting at a regular or special general election in the
21 county. An election is not required if voter approval has previously been
22 obtained for substantially the same project with another funding source. If
23 a majority of the qualified electors voting on the question:

24 1. Approves, the board of supervisors may execute, deliver and perform
25 the FINANCIAL ASSISTANCE loan repayment agreement.

26 2. Disapproves, the board of supervisors shall not execute a FINANCIAL
27 ASSISTANCE loan repayment agreement ~~and shall not resubmit the issue to the~~
28 ~~voters for two years.~~

29 D. Payments made pursuant to a FINANCIAL ASSISTANCE loan repayment
30 agreement are not subject to section 42-17106.

31 E. A FINANCIAL ASSISTANCE loan repayment agreement entered into
32 pursuant to this section shall contain the covenants and conditions
33 pertaining to the construction of a wastewater treatment facility or nonpoint
34 source project and repayment of the loan as the water infrastructure finance
35 authority of Arizona deems proper. FINANCIAL ASSISTANCE loan agreements may
36 provide for the payment of interest on the unpaid principal balance of such
37 agreement at the rates established in the agreement. The agreement may also
38 provide for payment of the county's proportionate share of the expenses of
39 administering the clean water revolving fund established by section 49-1221
40 and may provide that the county pay financing and loan administration fees
41 approved by the water infrastructure finance authority. These costs may be
42 included in the levy or assessment amounts pledged to repay the ~~loan~~
43 FINANCIAL ASSISTANCE. Counties are bound by and shall fully perform the loan
44 repayment agreements, and the agreements are incontestable after the loan is
45 funded by the water infrastructure finance authority of Arizona. The county

1 shall also agree to pay the authority's costs in issuing bonds or otherwise
2 borrowing to fund a loan.

3 F. A FINANCIAL ASSISTANCE loan repayment agreement under this section
4 does not create a debt of the county, and the authority shall not require
5 that payment of a FINANCIAL ASSISTANCE loan agreement be made from other than
6 those sources permitted in subsection B of this section.

7 G. A county may employ attorneys, accountants, financial consultants
8 and such other experts in their field as deemed necessary to perform services
9 with respect to the FINANCIAL ASSISTANCE loan repayment agreement.

10 H. This section is supplemental and alternative to any other law under
11 which a county may borrow money or issue bonds. This section shall not be
12 construed as the exclusive authorization to enter into loan agreements with
13 the authority.

14 I. A COUNTY MAY BORROW ADDITIONAL MONIES OR ENTER INTO ADDITIONAL
15 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE WATER INFRASTRUCTURE
16 FINANCE AUTHORITY IN AN AMOUNT UP TO THE AMOUNT APPROVED BY THE VOTERS
17 PURSUANT TO SUBSECTION C OF THIS SECTION LESS THE AMOUNT THAT THE COUNTY IS
18 ALREADY OBLIGATED TO REPAY TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY
19 PURSUANT TO A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT.

20 ~~I.~~ J. For purposes of this section, "nonpoint source project" has the
21 same meaning as prescribed in section 49-1201.

22 Sec. 5. Section 48-909.01, Arizona Revised Statutes, is amended to
23 read:

24 48-909.01. Wastewater treatment facility; sewer collection
25 system and nonpoint source projects; financial
26 assistance loan repayment agreements; definition

27 A. Notwithstanding any other law, a county improvement district
28 including a domestic wastewater improvement district may construct or improve
29 a wastewater treatment facility, sewer collection system or nonpoint source
30 project or any combination of those projects with monies borrowed from or
31 financial assistance provided by the water infrastructure finance authority
32 of Arizona pursuant to title 49, chapter 8.

33 B. To repay ~~a loan~~ FINANCIAL ASSISTANCE from the water infrastructure
34 finance authority of Arizona, a county improvement district including a
35 domestic wastewater improvement district may enter into a FINANCIAL
36 ASSISTANCE loan repayment agreement with the authority. A FINANCIAL
37 ASSISTANCE loan repayment agreement is payable from any revenues otherwise
38 authorized by law to be pledged to repay long-term indebtedness. A FINANCIAL
39 ASSISTANCE loan repayment agreement may be secured either by assessments or
40 by a pledge of revenues of the district or any combination of those
41 sources. If the FINANCIAL ASSISTANCE loan repayment agreement is secured in
42 whole or in part by assessments levied pursuant to this article, the
43 FINANCIAL ASSISTANCE loan repayment agreement shall be treated as a series of
44 bonds to the extent that they are secured by those assessments and the board
45 of directors of the district has all powers and duties to collect assessment

1 installments and enforce delinquent assessments through sale and eventual
2 issuance of deeds in the same manner as if the assessments were evidenced by
3 bonds.

4 C. The board of directors of the district shall obtain approval for
5 the FINANCIAL ASSISTANCE loan repayment agreement in the same manner provided
6 by law for approving and issuing bonds or other long-term indebtedness that
7 is secured by those assessments or revenues or a combination of assessments
8 and revenues that are to be pledged to repay the loan.

9 D. A FINANCIAL ASSISTANCE loan repayment agreement entered into
10 pursuant to this section shall contain the covenants and conditions
11 pertaining to constructing a wastewater treatment facility, sewer collection
12 system or nonpoint source project or any combination of those projects and
13 repaying the loan as the water infrastructure finance authority of Arizona
14 deems proper. FINANCIAL ASSISTANCE loan REPAYMENT agreements may provide for
15 paying interest on the unpaid principal balance of the agreement at the rates
16 established in the agreement. The agreement may also provide for paying the
17 district's proportionate share of the expenses of administering the clean
18 water revolving fund established by section 49-1221 and may provide that the
19 district pay financing and loan administration fees approved by the water
20 infrastructure authority of Arizona. These costs may be included in the
21 assessment and revenue amounts pledged to repay the FINANCIAL ASSISTANCE loan
22 REPAYMENT AGREEMENT. Districts are bound by and shall fully perform the
23 FINANCIAL ASSISTANCE loan repayment agreements, and the agreements are
24 incontestable after the loan is funded by the water infrastructure finance
25 authority of Arizona. The district shall also agree to pay the authority's
26 costs in issuing bonds or otherwise borrowing to fund a loan.

27 E. The water infrastructure finance authority of Arizona shall not
28 require that payment of a FINANCIAL ASSISTANCE loan repayment agreement be
29 made from other than those sources permitted in subsection B of this
30 section. The FINANCIAL ASSISTANCE loan repayment agreement may also include
31 covenants concerning the operation of the system, the setting of rates and
32 provisions for the appointment of a receiver to take charge of and operate a
33 sewer collection and wastewater treatment system if the FINANCIAL ASSISTANCE
34 loan repayment agreement is not paid in a timely manner and, in the sole
35 discretion of the water infrastructure finance authority of Arizona, if the
36 district will not be able to cure the default.

37 F. A district may employ or contract for the services of attorneys,
38 accountants, financial consultants and other experts in their fields as
39 deemed necessary to perform services with respect to the FINANCIAL ASSISTANCE
40 loan repayment agreement. These costs are incidental expenses and shall be
41 included in any assessments.

42 G. This section is supplemental and alternative to any other law under
43 which a district may borrow money or issue bonds. This section shall not be
44 construed as the exclusive authorization to enter into loan agreements with
45 the water infrastructure finance authority of Arizona.

1 H. A DISTRICT MAY BORROW ADDITIONAL MONIES OR ENTER INTO ADDITIONAL
2 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE WATER INFRASTRUCTURE
3 FINANCE AUTHORITY IN AN AMOUNT UP TO THE AMOUNT APPROVED PURSUANT TO
4 SUBSECTION C OF THIS SECTION LESS THE AMOUNT THAT THE DISTRICT IS OBLIGATED
5 TO REPAY TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY PURSUANT TO A
6 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT.

7 ~~H.~~ I. For purposes of this section, "nonpoint source project" has the
8 same meaning prescribed in section 49-1202.

9 Sec. 6. Section 48-1019, Arizona Revised Statutes, is amended to read:

10 ~~48-1019.~~ Drinking water facility projects; financial assistance
11 loan repayment agreements; definitions

12 A. Notwithstanding any other law, a domestic water improvement
13 district may construct, acquire, or improve a drinking water facility with
14 monies borrowed from or financial assistance, including forgivable principal,
15 provided by the water infrastructure finance authority of Arizona pursuant to
16 title 49, chapter 8.

17 B. To repay ~~a loan~~ FINANCIAL ASSISTANCE from the authority a district
18 may enter into a FINANCIAL ASSISTANCE loan repayment agreement with the
19 authority. A FINANCIAL ASSISTANCE loan repayment agreement is payable from
20 any revenues otherwise authorized by law to be used to pay long-term
21 obligations.

22 C. The board shall obtain approval for the FINANCIAL ASSISTANCE loan
23 repayment agreement in the same manner provided by law for approving and
24 issuing other obligations payable from those revenues that are to be used to
25 pay the loan.

26 D. A FINANCIAL ASSISTANCE loan repayment agreement entered into
27 pursuant to this section shall contain the covenants and conditions
28 pertaining to the construction, acquisition or improvement of a drinking
29 water facility and repayment of the loan as the authority deems
30 proper. FINANCIAL ASSISTANCE loan REPAYMENT agreements may provide for the
31 payment of interest on the unpaid principal balance of the agreement at the
32 rates established in the agreement. The agreement may also provide for
33 payment of the domestic water improvement district's proportionate share of
34 the expenses of administering the drinking water revolving fund established
35 by section 49-1241 and may provide that the domestic water improvement
36 district pay financing and loan administration fees approved by the
37 authority. These costs may be included in the assessment amounts pledged to
38 repay the loan. Districts are bound by and shall fully perform the loan
39 repayment agreements, and the agreements are incontestable after the loan is
40 funded by the authority. The domestic water improvement district shall also
41 agree to pay the authority's costs in issuing bonds or otherwise borrowing to
42 fund a loan.

43 E. A FINANCIAL ASSISTANCE loan repayment agreement under this section
44 does not create a debt of the domestic water improvement district, and the

1 authority shall not require that payment of a loan agreement be made from
2 other than those sources permitted in subsection B of this section.

3 F. A domestic water improvement district may employ or contract for
4 the services of attorneys, accountants, financial consultants and other
5 experts in their field as deemed necessary to perform services with respect
6 to the FINANCIAL ASSISTANCE loan repayment agreement.

7 G. This section is supplemental and alternative to any other law under
8 which a district may borrow money or issue bonds. This section shall be
9 construed as the exclusive authorization to enter into loan agreements with
10 the authority.

11 H. A DISTRICT MAY BORROW ADDITIONAL MONIES OR ENTER INTO ADDITIONAL
12 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE WATER INFRASTRUCTURE
13 FINANCE AUTHORITY IN AN AMOUNT UP TO THE AMOUNT APPROVED PURSUANT TO
14 SUBSECTION C OF THIS SECTION LESS THE AMOUNT THAT THE DISTRICT IS OBLIGATED
15 TO REPAY TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY PURSUANT TO A
16 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT.

17 ~~H.~~ I. For the purposes of this section:

18 1. "Authority" means the water infrastructure finance authority of
19 Arizona.

20 2. "Board" means the water infrastructure finance authority of Arizona
21 board of directors.

22 Sec. 7. Section 48-2011.01, Arizona Revised Statutes, is amended to
23 read:

24 48-2011.01. Wastewater treatment facility and nonpoint source
25 projects; financial assistance loan repayment
26 agreements; definition

27 A. Notwithstanding any other law, a sanitary district may construct or
28 improve a wastewater treatment facility or nonpoint source project with
29 monies borrowed from or financial assistance provided by the water
30 infrastructure finance authority of Arizona.

31 B. To repay ~~a loan~~ FINANCIAL ASSISTANCE from the water infrastructure
32 finance authority of Arizona, a sanitary district may enter into a FINANCIAL
33 ASSISTANCE loan repayment agreement with the authority. A FINANCIAL
34 ASSISTANCE loan repayment agreement is payable from any revenues otherwise
35 authorized by law to be used to pay long-term obligations including a special
36 assessment on a designated area that is levied and collected pursuant to
37 article 2 of this chapter.

38 C. The board of directors shall submit the question of entering and
39 performing a FINANCIAL ASSISTANCE loan repayment agreement to the qualified
40 electors voting at a regular or special general election in the district. An
41 election is not required if voter approval has previously been obtained for
42 substantially the same project with another funding source or if the project
43 is constructed with an assessment levied against a designated area pursuant
44 to article 2 of this chapter. If a majority of the qualified electors voting
45 on the question:

1 1. Approves, the board of directors may execute, deliver and perform
2 the FINANCIAL ASSISTANCE loan repayment agreement.

3 2. Disapproves, the board of directors shall not execute a FINANCIAL
4 ASSISTANCE loan repayment agreement ~~and shall not resubmit the issue to the~~
5 ~~voters for two years.~~

6 D. A FINANCIAL ASSISTANCE loan repayment agreement entered into
7 pursuant to this section shall contain the covenants and conditions
8 pertaining to the construction of a wastewater treatment facility or nonpoint
9 source project and repayment of the loan as the water infrastructure finance
10 authority of Arizona deems proper. FINANCIAL ASSISTANCE loan REPAYMENT
11 agreements may provide for the payment of interest on the unpaid principal
12 balance of such agreement at the rates established in the agreement. The
13 agreement may also provide for payment of the sanitary district's
14 proportionate share of the expenses of administering the clean water
15 revolving fund established by section 49-1221 and may provide that the
16 sanitary district pay financing and loan administration fees approved by the
17 water infrastructure finance authority. These costs may be included in the
18 levy or assessment amounts pledged to repay the ~~loan~~ FINANCIAL
19 ASSISTANCE. Districts are bound by and shall fully perform the loan
20 repayment agreements, and the agreements are incontestable after the loan is
21 funded by the water infrastructure finance authority of Arizona. The
22 sanitary district shall also agree to pay the authority's costs in issuing
23 bonds or otherwise borrowing to fund a loan.

24 E. A FINANCIAL ASSISTANCE loan repayment agreement under this section
25 does not create a debt of the sanitary district, and the authority shall not
26 require that payment of a loan agreement be made from other than those
27 sources permitted in subsection B of this section.

28 F. A sanitary district may employ or contract for the services of
29 attorneys, accountants, financial consultants and such other experts in their
30 field as deemed necessary to perform services with respect to the FINANCIAL
31 ASSISTANCE loan repayment agreement. Charges for these services may be
32 included in the assessment amounts pledged to repay the loan.

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

37 H. Any FINANCIAL ASSISTANCE loan repayment agreement between the
38 district and the water infrastructure finance authority of Arizona may be
39 secured by unpaid assessments certified in the manner prescribed by section
40 48-2067. The FINANCIAL ASSISTANCE loan repayment agreement may provide for
41 different due dates for annual installments of principal, different interest
42 payment dates, different dates of delinquency and different dates for holding
43 sales of delinquent properties than otherwise provided for in article 2 of
44 this chapter. The FINANCIAL ASSISTANCE loan repayment agreement may also

1 provide for mailed notice to property owners in lieu of the publication
2 requirement prescribed by section 48-2068 and section 48-2069.

3 I. A DISTRICT MAY BORROW ADDITIONAL MONIES OR ENTER INTO ADDITIONAL
4 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE WATER INFRASTRUCTURE
5 FINANCE AUTHORITY IN AN AMOUNT UP TO THE AMOUNT APPROVED PURSUANT TO
6 SUBSECTION C OF THIS SECTION LESS THE AMOUNT THAT THE DISTRICT IS OBLIGATED
7 TO REPAY TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY PURSUANT TO A
8 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT.

9 ~~I.~~ J. For purposes of this section, "nonpoint source project" has the
10 same meaning prescribed in section 49-1201.

11 Sec. 8. Section 49-1201, Arizona Revised Statutes, is amended to read:

12 49-1201. Definitions

13 In this article, unless the context otherwise requires:

14 1. "Authority" means the water infrastructure finance authority of
15 Arizona.

16 2. "Board" means the board of directors of the authority.

17 3. "Bonds of a political subdivision" means bonds issued by a ~~city or~~
18 ~~town pursuant to title 9, chapter 5, article 3, title 35, chapter 3, article~~
19 ~~3, title 48, chapter 4, article 2 or title 48, chapter 4, article 6, by a~~
20 ~~county pursuant to sections 11-264 and 11-264.01 through 11-264.06 or by any~~
21 ~~special district if the special district's bonds are authorized by an~~
22 ~~election in the manner provided by law or are payable from special~~
23 ~~assessments levied pursuant to title 48, chapter 6, article 1, title 48,~~
24 ~~chapter 6, article 4, title 48, chapter 14, article 2 or title 48, chapter~~
25 ~~19, article 10~~ POLITICAL SUBDIVISION AS AUTHORIZED BY LAW.

26 4. "Clean water act" means the federal water pollution control act
27 amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water
28 quality act of 1987 (P.L. 100-4; 101 Stat. 7).

29 5. "Drinking water facility" means a community water system or a
30 nonprofit noncommunity water system as defined in the safe drinking water act
31 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110
32 Stat. 1613) that is located in this state. For purposes of this article,
33 drinking water facility does not include water systems owned by federal
34 agencies.

35 6. "FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT" MEANS AN AGREEMENT
36 TO REPAY A LOAN PROVIDED TO DESIGN, CONSTRUCT, ACQUIRE, REHABILITATE OR
37 IMPROVE WATER OR WASTEWATER INFRASTRUCTURE, RELATED PROPERTY AND
38 APPURTENANCES.

39 ~~6.~~ 7. "Indian tribe" means any Indian tribe, band, group or community
40 that is recognized by the United States secretary of the interior and that
41 exercises governmental authority within the limits of any Indian reservation
42 under the jurisdiction of the United States government, notwithstanding the
43 issuance of any patent and including rights-of-way running through the
44 reservation.

1 ~~7. "Loan repayment agreement" means an agreement to repay a loan~~
2 ~~entered into by a city, town, county, sanitary district, drinking water~~
3 ~~facility or Indian tribe pursuant to title 9, chapter 5, article 6, title 11,~~
4 ~~chapter 4, article 4 or title 48, chapter 14, article 1 or any other~~
5 ~~applicable law.~~

6 8. "Nonpoint source project" means a project designed to implement a
7 certified water quality management plan.

8 9. "Political subdivision" means a county, city, town or special
9 taxing district authorized by law to construct wastewater treatment
10 facilities, drinking water facilities or nonpoint source projects.

11 10. "Safe drinking water act" means the federal safe drinking water act
12 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110
13 Stat. 1613), as amended in 1996.

14 11. "TECHNICAL ASSISTANCE LOAN REPAYMENT AGREEMENT" MEANS AN AGREEMENT
15 TO REPAY A LOAN PROVIDED TO DEVELOP, PLAN AND DESIGN WATER OR WASTEWATER
16 INFRASTRUCTURE, RELATED PROPERTY AND APPURTENANCES. THE AGREEMENT SHALL BE
17 FOR A TERM OF NOT MORE THAN THREE YEARS AND THE MAXIMUM AMOUNT THAT MAY BE
18 BORROWED IS LIMITED TO NOT MORE THAN FIVE HUNDRED THOUSAND DOLLARS.

19 ~~11.~~ 12. "Wastewater treatment facility" means a treatment works, as
20 defined in section 212 of the clean water act, that is located in this state
21 and that is designed to hold, cleanse or purify or to prevent the discharge
22 of untreated or inadequately treated sewage or other polluted waters for
23 purposes of complying with the clean water act.

24 Sec. 9. Section 49-1203, Arizona Revised Statutes, is amended to read:

25 49-1203. Powers and duties of authority; definition

26 A. The authority is a corporate and politic body and shall have an
27 official seal that shall be judicially noticed. The authority may sue and be
28 sued, contract and acquire, hold, operate and dispose of property.

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

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

32 (a) To generate the state match required by the clean water act for
33 the clean water revolving fund and to generate the match required by the safe
34 drinking water act for the drinking water revolving fund.

35 (b) To provide financial assistance to political subdivisions, Indian
36 tribes and eligible drinking water facilities for constructing, acquiring or
37 improving wastewater treatment facilities, drinking water facilities,
38 nonpoint source projects and other related water quality facilities and
39 projects.

40 2. Provide financial assistance to political subdivisions and Indian
41 tribes from monies in the clean water revolving fund to finance wastewater
42 treatment projects.

43 3. Provide financial assistance to drinking water facilities from
44 monies in the drinking water revolving fund to finance these facilities.

- 1 4. Guarantee debt obligations of, and provide linked deposit
2 guarantees through third party lenders to:
- 3 (a) Political subdivisions that are issued to finance wastewater
4 treatment projects.
- 5 (b) Drinking water facilities that are issued to finance these
6 facilities.
- 7 5. Provide linked deposit guarantees through third party lenders to
8 political subdivisions and drinking water facilities.
- 9 6. Apply for, accept and administer grants and other financial
10 assistance from the United States government and from other public and
11 private sources.
- 12 7. Enter into capitalization grant agreements with the United States
13 environmental protection agency.
- 14 8. Adopt rules pursuant to title 41, chapter 6 governing the
15 application for and awarding of wastewater treatment facility, drinking water
16 facility and nonpoint source project financial assistance under this article,
17 the administration of the clean water revolving fund and the drinking water
18 revolving fund and the issuance of water quality bonds.
- 19 9. Hire a director and staff for the authority.
- 20 10. Contract for the services of outside advisors, attorneys,
21 consultants and aides reasonably necessary or desirable to allow the
22 authority to adequately perform its duties.
- 23 11. Contract and incur obligations as reasonably necessary or desirable
24 within the general scope of authority activities and operations to allow the
25 authority to adequately perform its duties.
- 26 12. Assess financial assistance origination fees and annual fees to
27 cover the reasonable costs of administering the authority and the monies
28 administered by the authority. Any fees collected pursuant to this paragraph
29 constitute governmental revenue and may be used for any purpose consistent
30 with the mission and objectives of the authority.
- 31 13. Perform any function of a fund manager under the CERCLA Brownfields
32 cleanup revolving loan fund program as requested by the department. The
33 board shall perform any action authorized under this article on behalf of the
34 Brownfields cleanup revolving loan fund program established pursuant to
35 chapter 2, article 1.1 of this title at the request of the department. In
36 order to perform these functions, the board shall enter into a written
37 agreement with the department.
- 38 14. PROVIDE GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE IN THE
39 FORM OF LOAN REPAYMENT AGREEMENTS AND OTHER PROFESSIONAL ASSISTANCE TO
40 POLITICAL SUBDIVISIONS, INDIAN TRIBES AND COMMUNITY WATER SYSTEMS IN
41 CONNECTION WITH THE DEVELOPMENT OR FINANCING OF WASTEWATER, DRINKING WATER,
42 WATER RECLAMATION OR RELATED WATER INFRASTRUCTURE. ASSISTANCE PROVIDED UNDER
43 A TECHNICAL ASSISTANCE LOAN REPAYMENT AGREEMENT SHALL BE IN A FORM AND UNDER
44 TERMS DETERMINED BY THE AUTHORITY AND SHALL BE REPAYED NOT MORE THAN THREE
45 YEARS AFTER THE DATE THAT THE MONIES ARE ADVANCED TO THE APPLICANT. THE

1 PROVISION OF TECHNICAL ASSISTANCE BY THE AUTHORITY DOES NOT CREATE ANY
2 LIABILITY FOR THE AUTHORITY OR THIS STATE REGARDING THE DESIGN, CONSTRUCTION
3 OR OPERATION OF ANY INFRASTRUCTURE PROJECT.

4 C. The board shall deposit, pursuant to sections 35-146 and 35-147,
5 any monies received pursuant to subsection B, paragraph 6 of this section in
6 the appropriate fund as prescribed by the grant or other financial assistance
7 agreement.

8 D. Disbursements of monies by the water infrastructure finance
9 authority pursuant to a financial assistance agreement are not subject to
10 title 41, chapter 23.

11 E. For purposes of this section, "CERCLA" has the same meaning
12 prescribed in section 49-201.

13 Sec. 10. Section 49-1224, Arizona Revised Statutes, is amended to
14 read:

15 49-1224. Clean water revolving fund financial assistance;
16 procedures; rules

17 A. In compliance with any applicable requirements, a political
18 subdivision may apply to the authority for, accept and incur indebtedness as
19 a result of a loan, or other financial assistance under section 49-1223,
20 subsection A, paragraphs 1, 2 and 3, from the clean water revolving fund to
21 support a wastewater treatment facility or nonpoint source project owned by
22 the political subdivision. An Indian tribe may apply to the authority for,
23 accept and incur indebtedness as a result of a loan or refinancing under
24 section 49-1223, subsection A, paragraphs 1 and 2 from the clean water
25 revolving fund to support a wastewater treatment facility or nonpoint source
26 project owned by the Indian tribe. To qualify for financial assistance under
27 this section the wastewater treatment facility or nonpoint source project
28 must appear on this state's priority list pursuant to section 212 of the
29 clean water act.

30 B. In compliance with any applicable requirements, the board shall:

31 1. Prescribe a simplified form and procedure to apply for and approve
32 assistance.

33 2. Establish by rule criteria by which assistance will be awarded,
34 including requirements for local participation in project costs, if deemed
35 advisable. The criteria shall include a determination of the ability of the
36 applicant to repay a loan according to the terms and conditions established
37 by this section. At the option of the board, the existence of a current
38 investment grade rating on existing debt of the applicant that is secured by
39 the same revenues to be pledged to secure repayment under the loan repayment
40 agreement constitutes evidence regarding ability to repay a loan.

41 3. Determine the order and priority of projects assisted under this
42 section based on the merits of the application with respect to water quality
43 issues.

44 C. The authority shall review on its merits each application received
45 and shall inform the applicant of the board's determination within **sixty**

1 NINETY days after receipt of a complete and correct application. If the
2 application is not approved, the board shall notify the applicant, stating
3 the reasons. If the application is approved, the board may condition the
4 approval on assurances the board deems necessary to ensure that the financial
5 assistance will be used according to law and the terms of the application.

6 Sec. 11. Section 49-1225, Arizona Revised Statutes, is amended to
7 read:

8 49-1225. Clean water revolving fund financial assistance; terms

9 A. Financial assistance from the clean water revolving fund shall be
10 evidenced by a financial assistance agreement or bonds of a political
11 subdivision, delivered to and held by the authority.

12 B. A loan under this section:

13 1. Shall be repaid in not to exceed ~~twenty~~ THIRTY years from the date
14 incurred for wastewater treatment facility and nonpoint source loans.

15 2. Shall require that interest payments begin not later than the next
16 date that either principal or interest must be paid by the authority to the
17 holders of any of the authority's bonds that provided funding for the loan.
18 The authority may provide that loan interest accruing during construction and
19 one year beyond completion of the construction be capitalized in the loan.

20 3. Shall be conditioned on the establishment of a dedicated revenue
21 source for repaying the loan.

22 4. To an Indian tribe shall either be conditioned on the establishment
23 of a dedicated revenue source under the control of a tribally chartered
24 corporation, or any other tribal entity that is subject to suit by the
25 attorney general to enforce the loan contract, or be secured by assets that,
26 in the event of default of the loan contract, are subject to execution by the
27 attorney general without the waiver of any claim of sovereign immunity by the
28 tribe.

29 C. The authority shall prescribe the rate of interest on loans made
30 under this section, but the rate shall not exceed the prevailing market rate
31 for similar types of loans. The authority may also provide for flexible
32 interest rates and interest free loans under rules adopted by the authority.
33 All financial assistance agreements or bonds of a political subdivision shall
34 clearly specify the amount of principal and interest and any redemption
35 premium that is due on any payment date.

36 D. The approval of a loan is conditioned on a written commitment by
37 the political subdivision or Indian tribe to complete all applicable reviews
38 and approvals and to secure all required permits in a timely manner.

39 E. All monies received from political subdivisions or Indian tribes as
40 loan repayments, interest and penalties shall be deposited in the appropriate
41 accounts of the clean water revolving fund.

1 holders of any of the authority's bonds that provided funding for the loan.
2 The authority may provide that loan interest accruing during construction and
3 one year beyond completion of the construction be capitalized in the loan.

4 3. Shall be conditioned on the establishment of a dedicated revenue
5 source for repaying the loan.

6 ~~4. Shall not be made for the nonfederal share of any project that has
7 received a grant under section 201 of the clean water act.~~

8 ~~5.~~ 4. To an Indian tribe shall either be conditioned on the
9 establishment of a dedicated revenue source under the control of a tribally
10 chartered corporation, or any other tribal entity that is subject to suit by
11 the attorney general to enforce the loan contract, or be secured by assets
12 that, in the event of default of the loan contract, are subject to execution
13 by the attorney general without the waiver of any claim of sovereign immunity
14 by the tribe.

15 C. The authority shall prescribe the rate of interest on loans made
16 under this section, but the rate shall not exceed the prevailing market rate
17 for similar types of loans. The authority may also provide for flexible
18 interest rates, interest free loans and forgivable principal under rules
19 adopted by the authority. All financial assistance agreements or bonds of a
20 political subdivision shall clearly specify the amount of principal and
21 interest and any redemption premium that is due on any payment date.

22 D. The approval of a loan is conditioned on a written commitment by
23 the political subdivision or Indian tribe to complete all applicable reviews
24 and approvals and to secure all required permits in a timely manner.

25 E. All monies received from political subdivisions or Indian tribes as
26 loan repayments, interest and penalties shall be deposited in the appropriate
27 accounts of the drinking water revolving fund.

28 Sec. 14. Section 49-1262, Arizona Revised Statutes, is amended to
29 read:

30 49-1262. Water quality bonds; purpose

31 ~~A. Bonds may be issued to provide matching state monies for the clean
32 water revolving fund and the drinking water revolving fund. These bonds
33 shall be designated as "revolving fund capitalization bonds". Proceeds from
34 the sale of revolving fund capitalization bonds shall be deposited in the
35 appropriate separate accounts of the clean water revolving fund and the
36 drinking water revolving fund. When the initial issue of bonds has been
37 fully paid or amounts sufficient to pay all such bonds have been set aside
38 and are held in trust solely for the holders of the outstanding bonds, the
39 special account or accounts of the clean water revolving fund and the
40 drinking water revolving fund established to service revolving fund
41 capitalization bonds shall be dissolved, and all monies and investments not
42 needed to pay the remaining debt service on these bonds shall be transferred
43 to the unrestricted funds account.~~

44 ~~B.~~ A. Water quality bonds may be issued to provide financial
45 assistance, **TO PROVIDE MATCHING STATE MONIES FOR THE CLEAN WATER REVOLVING**

1 **FUND AND THE DRINKING WATER REVOLVING FUND**, to increase the capitalization of
2 the clean water revolving fund and to increase the capitalization of the
3 drinking water revolving fund to accomplish the purposes stated in sections
4 49-1223 and 49-1243. These bonds may be secured by any monies received or to
5 be received in the clean water revolving fund and the drinking water
6 revolving fund ~~except those receipts and anticipated receipts of interest or~~
7 ~~early redemption premiums on loan repayment agreements or bonds of a~~
8 ~~political subdivision that may be pledged to the repayment of revolving fund~~
9 ~~capitalization bonds~~. Amounts in the clean water revolving fund may be used
10 to cure defaults on loans made from the drinking water revolving fund and
11 amounts in the drinking water revolving fund may be used to cure defaults on
12 loans made from the clean water revolving fund to the extent permitted by
13 applicable federal law.

14 ~~C.~~ B. Any pledge made under this article is valid and binding from
15 the time when the pledge is made. The monies pledged and received to be
16 placed in the appropriate fund are immediately subject to the lien of the
17 pledge without any future physical delivery or further act, and any such lien
18 of any pledge is valid or binding against all parties having claims of any
19 kind in tort, contract or otherwise against the board regardless of whether
20 the parties have notice of the lien. The official resolution or trust
21 indenture or any instrument by which this pledge is created, when placed in
22 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 ~~D.~~ C. The bonds issued under this section, their transfer and the
25 income they produce are exempt from taxation by this state or by any
26 political subdivision of this state.