

REFERENCE TITLE: water infrastructure finance authority

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

## HB 2408

Introduced by  
Representatives Huffman, Flake, Carruthers: Blendu, Cannell, Norris,  
Senators Arzberger, Brown, Guenther, Petersen, Richardson, Solomon,  
Verkamp

### 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"; 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 9-571, 11-671, 49-1203, 49-1223, 49-1224, 49-1225, 49-1243, 49-1244 AND 49-1245, ARIZONA REVISED STATUTES; RELATING TO THE WATER INFRASTRUCTURE FINANCE PROGRAM.

(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 AUTHORITY  
26 IN AN AMOUNT UP TO THE AMOUNT APPROVED BY THE VOTERS PURSUANT TO SUBSECTION C  
27 OF THIS SECTION LESS THE AMOUNT THAT THE CITY OR TOWN IS ALREADY OBLIGATED TO  
28 REPAY TO THE AUTHORITY PURSUANT TO A FINANCIAL ASSISTANCE LOAN REPAYMENT  
29 AGREEMENT.

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

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

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

35 Sec. 3. Heading change

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

40 Sec. 4. Section 11-671, Arizona Revised Statutes, is amended to read:

41 11-671. Financing wastewater treatment facilities and nonpoint  
42 source projects; financial assistance loan repayment  
43 agreements; definition

44 A. Notwithstanding any other law, a county authorized to operate a  
45 sewage system pursuant to section 11-264 may construct or improve a

1 wastewater treatment facility or nonpoint source project with monies borrowed  
2 from or financial assistance provided by the water infrastructure finance  
3 authority of Arizona.

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

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

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

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

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

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

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

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

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

8 I. A COUNTY MAY BORROW ADDITIONAL MONIES OR ENTER INTO ADDITIONAL  
9 FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS WITH THE AUTHORITY IN AN  
10 AMOUNT UP TO THE AMOUNT APPROVED BY THE VOTERS PURSUANT TO SUBSECTION C OF  
11 THIS SECTION LESS THE AMOUNT THAT THE COUNTY IS ALREADY OBLIGATED TO REPAY TO  
12 THE AUTHORITY PURSUANT TO A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT.

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

15 Sec. 5. Section 49-1203, Arizona Revised Statutes, is amended to read:

16 49-1203. Powers and duties of authority; definition

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

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

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

23 (a) To generate the state match required by the clean water act for  
24 the clean water revolving fund and to generate the match required by the safe  
25 drinking water act for the drinking water revolving fund.

26 (b) To provide financial assistance to political subdivisions, Indian  
27 tribes and eligible drinking water facilities for constructing, acquiring or  
28 improving wastewater treatment facilities, drinking water facilities,  
29 nonpoint source projects and other related water quality facilities and  
30 projects.

31 2. Provide financial assistance to political subdivisions and Indian  
32 tribes from monies in the clean water revolving fund to finance wastewater  
33 treatment projects.

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

36 4. Guarantee debt obligations of, and provide linked deposit  
37 guarantees through third party lenders to:

38 (a) Political subdivisions that are issued to finance wastewater  
39 treatment projects.

40 (b) Drinking water facilities that are issued to finance these  
41 facilities.

42 5. Provide linked deposit guarantees through third party lenders to  
43 political subdivisions and drinking water facilities.

1           6. Apply for, accept and administer grants and other financial  
2 assistance from the United States government and from other public and  
3 private sources.

4           7. Enter into capitalization grant agreements with the United States  
5 environmental protection agency.

6           8. Adopt rules pursuant to title 41, chapter 6 governing the  
7 application for and awarding of wastewater treatment facility, drinking water  
8 facility and nonpoint source project financial assistance under this article,  
9 the administration of the clean water revolving fund and the drinking water  
10 revolving fund and the issuance of water quality bonds.

11           9. Hire a director and staff for the authority.

12           10. Contract for the services of outside advisors, attorneys,  
13 consultants and aides reasonably necessary or desirable to allow the  
14 authority to adequately perform its duties.

15           11. Contract and incur obligations as reasonably necessary or desirable  
16 within the general scope of authority activities and operations to allow the  
17 authority to adequately perform its duties.

18           12. Assess financial assistance origination fees and annual fees to  
19 cover the reasonable costs of administering the authority and the monies  
20 administered by the authority. Any fees collected pursuant to this paragraph  
21 constitute governmental revenue and may be used for any purpose consistent  
22 with the mission and objectives of the authority.

23           13. Perform any function of a fund manager under the CERCLA brownfields  
24 cleanup revolving loan fund program as requested by the department. The  
25 board shall perform any action authorized under this article on behalf of the  
26 brownfields cleanup revolving loan fund program established pursuant to  
27 chapter 2, article 1.1 of this title at the request of the department. In  
28 order to perform these functions, the board shall enter into a written  
29 agreement with the department.

30           14. PROVIDE GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE IN THE  
31 FORM OF LOANS, REPAYMENT AGREEMENTS AND OTHER PROFESSIONAL ASSISTANCE TO  
32 POLITICAL SUBDIVISIONS INCLUDING SPECIAL DISTRICTS, INDIAN TRIBES AND  
33 COMMUNITY WATER SYSTEMS IN CONNECTION WITH THE DEVELOPMENT OR FINANCING OF  
34 WASTEWATER, DRINKING WATER, WATER RECLAMATION OR RELATED WATER  
35 INFRASTRUCTURE. ASSISTANCE PROVIDED UNDER A TECHNICAL ASSISTANCE LOAN  
36 REPAYMENT AGREEMENT SHALL BE IN A FORM AND UNDER TERMS DETERMINED BY THE  
37 AUTHORITY AND SHALL BE REPAYED NOT MORE THAN THREE YEARS AFTER THE DATE THAT  
38 THE MONIES ARE ADVANCED TO THE APPLICANT. THE PROVISION OF TECHNICAL  
39 ASSISTANCE BY THE AUTHORITY DOES NOT CREATE ANY LIABILITY FOR THE AUTHORITY  
40 OR THIS STATE REGARDING THE DESIGN, CONSTRUCTION OR OPERATION OF ANY  
41 INFRASTRUCTURE PROJECT.

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

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

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

6 Sec. 6. Section 49-1223, Arizona Revised Statutes, is amended to read:  
7 49-1223. Clean water revolving fund; purposes; capitalization  
8 grants

9 A. Monies in the clean water revolving fund may be used for the  
10 following purposes:

11 1. Making wastewater treatment facility and nonpoint source project  
12 loans to political subdivisions and Indian tribes under section 49-1225.

13 2. Purchasing or refinancing debt obligations of political  
14 subdivisions or refinancing debt obligations of Indian tribes at or below  
15 market rates, provided that the debt obligation was issued after March 7,  
16 1985 for the purpose of constructing, acquiring or improving wastewater  
17 treatment facilities or nonpoint source projects.

18 3. Providing financial assistance to political subdivisions to  
19 purchase insurance for local wastewater treatment facility or nonpoint source  
20 project bond obligations.

21 4. Paying the costs to administer the fund, but no more than four per  
22 cent of the aggregate of federal capitalization grants may be used to pay  
23 these costs. Monies from other sources may be used without limit to pay  
24 these costs.

25 5. Funding other programs that are authorized for federal monies  
26 deposited in the fund including programs relating to nonpoint source  
27 discharges.

28 6. Providing linked deposit guarantees through third party lenders by  
29 depositing monies with the lender on the condition that the lender make a  
30 loan on terms approved by the board, at a rate of return on the deposit  
31 approved by the board ~~and the state treasurer~~ and by giving the lender  
32 recourse against the deposit of loan repayments that are not made when due.

33 B. If the monies pledged to secure water quality bonds become  
34 insufficient to pay the principal and interest on the water quality bonds  
35 that are guaranteed by the clean water revolving fund, the board shall direct  
36 the state treasurer to liquidate securities in the fund as may be necessary  
37 and apply those proceeds to make current all payments then due on the bonds.  
38 The state treasurer shall immediately notify the attorney general and auditor  
39 general of the insufficiency. The auditor general shall audit the  
40 circumstances surrounding the depletion of the fund and report the findings  
41 to the attorney general. The attorney general shall conduct an investigation  
42 and report those findings to the governor and the legislature.

43 C. All proceeds of capitalization grants received from the United  
44 States pursuant to the clean water act shall be deposited in the  
45 capitalization grant transfer account and shall be used solely to provide

1 financial assistance to political subdivisions and Indian tribes to  
2 construct, acquire, restore or rebuild wastewater treatment facilities, to  
3 purchase bond insurance or for any other purpose permitted by the clean water  
4 act including nonpoint source projects. All principal received on loan  
5 repayments made by borrowers pursuant to this section shall be deposited in  
6 the clean water revolving fund and shall be invested and used to provide  
7 additional financial assistance or shall be used to support the  
8 administration of the fund subject to the limits prescribed by the clean  
9 water act.

10 Sec. 7. Section 49-1224, Arizona Revised Statutes, is amended to read:

11 49-1224. Clean water revolving fund financial assistance;  
12 procedures; rules

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

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

27 1. Prescribe a simplified form and procedure to apply for and approve  
28 assistance.

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

37 3. Determine the order and priority of projects assisted under this  
38 section based on the merits of the application with respect to water quality  
39 issues.

40 C. The authority shall review on its merits each application received  
41 and shall inform the applicant of the board's determination within ~~sixty~~  
42 **NINETY** days after receipt of a complete and correct application. If the  
43 application is not approved, the board shall notify the applicant, stating  
44 the reasons. If the application is approved, the board may condition the

1 approval on assurances the board deems necessary to ensure that the financial  
2 assistance will be used according to law and the terms of the application.

3 Sec. 8. Section 49-1225, Arizona Revised Statutes, is amended to read:

4 49-1225. Clean water revolving fund financial assistance; terms

5 A. Financial assistance from the clean water revolving fund shall be  
6 evidenced by a financial assistance agreement or bonds of a political  
7 subdivision, ~~THAT ARE~~ delivered to and held by the authority.

8 B. A loan under this section:

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

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

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

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

25 5. TO A POLITICAL SUBDIVISION SHALL BE SECURED ADDITIONALLY BY AN  
26 IRREVOCABLE PLEDGE OF THE SHARED STATE REVENUES DUE THE POLITICAL SUBDIVISION  
27 FOR THE DURATION OF THE LOAN AS PRESCRIBED BY A RESOLUTION OF THE AUTHORITY'S  
28 BOARD.

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.

42 F. IF A POLITICAL SUBDIVISION FAILS TO MAKE ANY PAYMENT DUE TO THE  
43 AUTHORITY UNDER ITS LOAN REPAYMENT AGREEMENT OR BONDS, THE AUTHORITY SHALL  
44 CERTIFY TO THE STATE TREASURER AND NOTIFY THE GOVERNING BODY OF THE  
45 DEFAULTING POLITICAL SUBDIVISION THAT THE POLITICAL SUBDIVISION HAS FAILED TO

1 MAKE THE REQUIRED PAYMENT AND SHALL DIRECT A WITHHOLDING OF STATE SHARED  
2 REVENUES AS PRESCRIBED IN SUBSECTION G OF THIS SECTION. THE CERTIFICATE OF  
3 DEFAULT SHALL BE IN THE FORM DETERMINED BY THE AUTHORITY, EXCEPT THAT THE  
4 CERTIFICATE SHALL SPECIFY THE AMOUNT REQUIRED TO SATISFY THE UNPAID PAYMENT  
5 OBLIGATION OF THE POLITICAL SUBDIVISION.

6 G. ON RECEIPT OF A CERTIFICATE OF DEFAULT FROM THE AUTHORITY, THE  
7 STATE TREASURER TO THE EXTENT NOT EXPRESSLY PROHIBITED BY LAW SHALL WITHHOLD  
8 THE MONIES DUE TO THE DEFAULTING POLITICAL SUBDIVISION FROM THE NEXT  
9 SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029. IN THE CASE  
10 OF A CITY OR TOWN, THE STATE TREASURER SHALL ALSO WITHHOLD FROM THE MONIES  
11 DUE TO THE DEFAULTING CITY OR TOWN FROM THE NEXT SUCCEEDING DISTRIBUTION OF  
12 MONIES PURSUANT TO SECTION 43-206 THE AMOUNT SPECIFIED IN THE CERTIFICATE OF  
13 DEFAULT AND SHALL IMMEDIATELY DEPOSIT THE MONIES IN THE FUND. THE STATE  
14 TREASURER SHALL CONTINUE TO WITHHOLD AND DEPOSIT MONIES UNTIL THE AUTHORITY  
15 CERTIFIES TO THE STATE TREASURER THAT THE DEFAULT HAS BEEN CURED. THE STATE  
16 TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT IS NECESSARY TO MAKE ANY  
17 REQUIRED DEPOSITS THEN DUE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS  
18 OF THE POLITICAL SUBDIVISION IF SO CERTIFIED BY THE DEFAULTING POLITICAL  
19 SUBDIVISION TO THE STATE TREASURER AND THE AUTHORITY. THE POLITICAL  
20 SUBDIVISION SHALL NOT CERTIFY DEPOSITS AS NECESSARY FOR PAYMENT FOR BONDS  
21 UNLESS THE BONDS WERE ISSUED BEFORE THE DATE OF THE LOAN REPAYMENT AGREEMENT  
22 AND THE BONDS WERE SECURED BY A PLEDGE OF DISTRIBUTION MADE PURSUANT TO  
23 SECTIONS 42-5029 AND 43-206.

24 Sec. 9. Section 49-1243, Arizona Revised Statutes, is amended to read:  
25 49-1243. Drinking water revolving fund; purposes;  
26 capitalization grants

27 A. Monies in the drinking water revolving fund may be used for the  
28 following purposes:

29 1. Making drinking water facility loans including forgivable principal  
30 to political subdivisions of this state, Indian tribes under section 49-1245  
31 and other eligible entities as determined by the board pursuant to the safe  
32 drinking water act.

33 2. Making drinking water facility loans under section 49-1244.

34 3. Purchasing or refinancing debt obligations of drinking water  
35 facilities at or below market rate if the debt obligation was issued after  
36 July 1, 1993 for the purpose of constructing, acquiring or improving drinking  
37 water facilities.

38 4. Providing financial assistance to drinking water facilities to  
39 purchase insurance for local drinking water facility bond obligations.

40 5. Paying the costs to administer the fund but not more than four per  
41 cent of the aggregate of federal capitalization grants may be used to pay  
42 these costs. Monies from other sources may be used without limit to pay  
43 these costs.

44 6. Funding other programs that are authorized pursuant to the safe  
45 drinking water act.



1 investment grade rating on existing debt of the applicant that is secured by  
2 the same revenues to be pledged to secure repayment under the loan repayment  
3 agreement constitutes evidence regarding ability to repay a loan.

4 3. Determine the order and priority of projects assisted under this  
5 section based on the merits of the application with respect to water quality  
6 issues.

7 C. The authority shall review on its merits each application received  
8 and shall inform the applicant of the board's determination within ~~sixty~~  
9 **NINETY** days after receipt of a complete and correct application. If the  
10 application is not approved, the board shall notify the applicant, stating  
11 the reasons. If the application is approved, the board may condition the  
12 approval on assurances the board deems necessary to ensure that the financial  
13 assistance will be used according to law and the terms of the application.

14 Sec. 11. Section 49-1245, Arizona Revised Statutes, is amended to  
15 read:

16 **49-1245. Drinking water revolving fund financial assistance;**  
17 **terms**

18 A. A loan from the drinking water revolving fund shall be evidenced by  
19 a loan repayment agreement or bonds of a political subdivision, ~~THAT ARE~~  
20 delivered to and held by the authority.

21 B. A loan under this section:

22 1. Shall be repaid in not to exceed thirty years from the date  
23 incurred for drinking water facility loans.

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

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

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

33 ~~5.~~ 4. To an Indian tribe shall either be conditioned on the  
34 establishment of a dedicated revenue source under the control of a tribally  
35 chartered corporation, or any other tribal entity that is subject to suit by  
36 the attorney general to enforce the loan contract, or be secured by assets  
37 that, in the event of default of the loan contract, are subject to execution  
38 by the attorney general without the waiver of any claim of sovereign immunity  
39 by the tribe.

40 **5. TO A POLITICAL SUBDIVISION SHALL BE SECURED ADDITIONALLY BY AN**  
41 **IRREVOCABLE PLEDGE OF THE SHARED STATE REVENUES DUE THE POLITICAL SUBDIVISION**  
42 **FOR THE DURATION OF THE LOAN AS PRESCRIBED BY A RESOLUTION OF THE AUTHORITY'S**  
43 **BOARD.**

44 C. The authority shall prescribe the rate of interest on loans made  
45 under this section, but the rate shall not exceed the prevailing market rate

1 for similar types of loans. The authority may also provide for flexible  
2 interest rates, interest free loans and forgivable principal under rules  
3 adopted by the authority. All financial assistance agreements or bonds of a  
4 political subdivision shall clearly specify the amount of principal and  
5 interest and any redemption premium that is due on any payment date.

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

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

12 F. IF A POLITICAL SUBDIVISION FAILS TO MAKE ANY PAYMENT DUE TO THE  
13 AUTHORITY UNDER ITS LOAN REPAYMENT AGREEMENT OR BONDS, THE AUTHORITY SHALL  
14 CERTIFY TO THE STATE TREASURER AND NOTIFY THE GOVERNING BODY OF THE  
15 DEFAULTING POLITICAL SUBDIVISION THAT THE POLITICAL SUBDIVISION HAS FAILED TO  
16 MAKE THE REQUIRED PAYMENT AND SHALL DIRECT A WITHHOLDING OF STATE SHARED  
17 REVENUES AS PRESCRIBED IN SUBSECTION G OF THIS SECTION. THE CERTIFICATE OF  
18 DEFAULT SHALL BE IN THE FORM DETERMINED BY THE AUTHORITY, EXCEPT THAT THE  
19 CERTIFICATE SHALL SPECIFY THE AMOUNT REQUIRED TO SATISFY THE UNPAID PAYMENT  
20 OBLIGATION OF THE POLITICAL SUBDIVISION.

21 G. ON RECEIPT OF A CERTIFICATE OF DEFAULT FROM THE AUTHORITY, THE  
22 STATE TREASURER TO THE EXTENT NOT EXPRESSLY PROHIBITED BY LAW SHALL WITHHOLD  
23 THE MONIES DUE TO THE DEFAULTING POLITICAL SUBDIVISION FROM THE NEXT  
24 SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029. IN THE CASE  
25 OF A CITY OR TOWN, THE STATE TREASURER SHALL ALSO WITHHOLD FROM THE MONIES  
26 DUE TO THE DEFAULTING CITY OR TOWN FROM THE NEXT SUCCEEDING DISTRIBUTION OF  
27 MONIES PURSUANT TO SECTION 43-206 THE AMOUNT SPECIFIED IN THE CERTIFICATE OF  
28 DEFAULT AND SHALL IMMEDIATELY DEPOSIT THE MONIES IN THE FUND. THE STATE  
29 TREASURER SHALL CONTINUE TO WITHHOLD AND DEPOSIT MONIES UNTIL THE AUTHORITY  
30 CERTIFIES TO THE STATE TREASURER THAT THE DEFAULT HAS BEEN CURED. THE STATE  
31 TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT IS NECESSARY TO MAKE ANY  
32 REQUIRED DEPOSITS THEN DUE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS  
33 OF THE POLITICAL SUBDIVISION IF SO CERTIFIED BY THE DEFAULTING POLITICAL  
34 SUBDIVISION TO THE STATE TREASURER AND THE AUTHORITY. THE POLITICAL  
35 SUBDIVISION SHALL NOT CERTIFY DEPOSITS AS NECESSARY FOR PAYMENT FOR BONDS  
36 UNLESS THE BONDS WERE ISSUED BEFORE THE DATE OF THE LOAN REPAYMENT AGREEMENT  
37 AND THE BONDS WERE SECURED BY A PLEDGE OF DISTRIBUTION MADE PURSUANT TO  
38 SECTIONS 42-5029 AND 43-206.