Senate Engrossed House Bill

FILED
JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 226

HOUSE BILL 2692

AN ACT

AMENDING SECTIONS 41-3014.06, 49-1201, 49-1202, 49-1203, 49-1261, 49-1263, 49-1264, 49-1265 AND 49-1267, ARIZONA REVISED STATUTES; CHANGING THE DESIGNATION OF TITLE 49, CHAPTER 8, ARTICLE 2, ARIZONA REVISED STATUTES, TO "CLEAN WATER REVOLVING FUND, DRINKING WATER REVOLVING FUND AND HARDSHIP GRANT FUND FINANCIAL PROVISIONS"; AMENDING TITLE 49, CHAPTER 8, ARIZONA REVISED STATUTES. BY ADDING ARTICLE 3; RELATING TO THE WATER INFRASTRUCTURE FINANCE PROGRAM; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 41-3014.06, Arizona Revised Statutes, is amended to read:

41-3014.06. Water infrastructure finance authority; termination July 1, 2014

A. The water infrastructure finance authority terminates on July 1, 2014.

B. Sections 49-1201 through 49-1204, 49-1224 through 49-1226, 49-1244, 49-1245, 49-1246, ~~and~~ 49-1261 through ~~49-1268~~ 49-1269 AND 49-1274 THROUGH 49-1282 are repealed on January 1, 2015, if the authority:

1. Has no outstanding contractual obligations with the United States or any United States agency.

2. Has no debts, obligations or guarantees that were issued for the purposes of title 49, chapter 8.

3. Has otherwise provided for paying or retiring such debts or obligations.

C. If any debt or obligation listed in subsection B of this section exists and no satisfactory provision has been made to pay or retire the debt or obligation, the authority and statutes shall continue in existence until the debt or obligation is fully satisfied.

Sec. 2. Section 49-1201, Arizona Revised Statutes, is amended to read:

49-1201. Definitions

In this ~~article~~ CHAPTER, unless the context otherwise requires:

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

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

3. "Bonds of a political subdivision" means bonds issued by a political subdivision as authorized by law.

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

5. "COMMITTEE" MEANS THE WATER SUPPLY DEVELOPMENT FUND COMMITTEE ESTABLISHED BY SECTION 49-1202, SUBSECTION B.

~~5.~~ 6. "Drinking water facility" means a community water system or a nonprofit noncommunity water system as defined in the safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in this state. For purposes of this article, drinking water facility does not include water systems owned by federal agencies.

~~6.~~ 7. "Financial assistance loan repayment agreement" means an agreement to repay a loan provided to design, construct, acquire, rehabilitate or improve water or wastewater infrastructure, related property and appurtenances OR A LOAN PROVIDED TO FINANCE A WATER SUPPLY DEVELOPMENT PROJECT.

~~7.~~ 8. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.

~~8.~~ 9. "Nonpoint source project" means a project designed to implement a certified water quality management plan.

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

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

~~11.~~ 12. "Technical assistance loan repayment agreement" means EITHER OF THE FOLLOWING:

(a) An agreement to repay a loan provided to develop, plan and design water or wastewater infrastructure, related property and appurtenances. The agreement shall be for a term of not more than three years and the maximum amount that may be borrowed is limited to not more than five hundred thousand dollars.

(b) AN AGREEMENT TO REPAY A LOAN PROVIDED TO DEVELOP, PLAN OR DESIGN A WATER SUPPLY DEVELOPMENT PROJECT.

~~12.~~ 13. "Wastewater treatment facility" means a treatment works, as defined in section 212 of the clean water act, that is located in this state and that is designed to hold, cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the clean water act.

14. "WATER PROVIDER" MEANS ANY OF THE FOLLOWING:

(a) A MUNICIPAL WATER DELIVERY SYSTEM AS DEFINED IN SECTION 42-5301, PARAGRAPHS 1 AND 3.

(b) A MUNICIPAL WATER DELIVERY SYSTEM AS DEFINED IN SECTION 42-5301, PARAGRAPH 2, WHICH HAS ENTERED INTO A PARTNERSHIP WITH A CITY, TOWN OR COUNTY FOR A WATER SUPPLY AUGMENTATION PLAN.

(c) A COUNTY WATER AUGMENTATION AUTHORITY ESTABLISHED UNDER TITLE 45, CHAPTER 11.

(d) A COUNTY WATER AUTHORITY ESTABLISHED UNDER TITLE 45, CHAPTER 13.

(e) AN INDIAN TRIBE.

(f) A COMMUNITY FACILITIES DISTRICT AS ESTABLISHED BY TITLE 48, CHAPTER 4.

15. "WATER SUPPLY DEVELOPMENT" MEANS EITHER OF THE FOLLOWING:

(a) THE ACQUISITION OF WATER OR RIGHTS TO OR CONTRACTS FOR WATER TO AUGMENT THE WATER SUPPLY OF A WATER PROVIDER.

(b) THE DEVELOPMENT OF FACILITIES FOR ANY OF THE FOLLOWING PURPOSES:

(i) CONVEYANCE, STORAGE OR RECOVERY OF WATER.

(ii) RECLAMATION AND REUSE OF WATER.

(iii) REPLENISHMENT OF GROUNDWATER.

Sec. 3. Section 49-1202, Arizona Revised Statutes, is amended to read:

49-1202. Water infrastructure finance authority of Arizona; board; water supply development fund committee; violation; classification

A. The water infrastructure finance authority of Arizona is established. A board of directors shall govern the authority. The board of directors consists of:

1. The director of environmental quality, or the director's representative, who serves as chairman.

2. The director of the department of commerce or the director's representative.

3. The state treasurer or the treasurer's representative.

4. One member WHO IS appointed by the governor to represent municipalities with populations of fifty thousand persons or more ~~according to the most recent United States decennial census~~.

5. One member WHO IS appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons ~~according to the most recent United States decennial census~~.

6. One member WHO IS appointed by the governor to represent counties with populations of five hundred thousand persons or more ~~according to the most recent United States decennial census~~.

7. One member WHO IS appointed by the governor to represent sanitary districts in counties with populations of less than five hundred thousand persons ~~according to the most recent United States decennial census~~.

8. The director of water resources or the director's representative.

9. The chairman of the Arizona corporation commission or the chairman's representative.

10. One member WHO IS appointed by the governor from a public water system that serves five hundred persons or more.

11. One member WHO IS appointed by the governor from a public water system that serves fewer than five hundred persons.

12. One member WHO IS appointed by the governor to represent Indian tribes.

B. THE WATER SUPPLY DEVELOPMENT FUND COMMITTEE OF THE AUTHORITY IS ESTABLISHED. THE COMMITTEE CONSISTS OF:

1. THE DIRECTOR OF WATER RESOURCES, OR THE DIRECTOR'S REPRESENTATIVE, WHO SERVES AS CHAIRPERSON OF THE COMMITTEE.

2. THE DIRECTOR OF ENVIRONMENTAL QUALITY, OR THE DIRECTOR'S REPRESENTATIVE, WHO SERVES AS VICE CHAIRPERSON OF THE COMMITTEE.

3. THE CHAIRMAN OF THE CORPORATION COMMISSION OR THE CHAIRMAN'S REPRESENTATIVE.

4. THE STATE TREASURER OR THE TREASURER'S REPRESENTATIVE.

5. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT MUNICIPALITIES WITH POPULATIONS OF FIFTY THOUSAND PERSONS OR MORE BUT LESS THAN ONE HUNDRED THOUSAND PERSONS.

6. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT MUNICIPALITIES WITH POPULATIONS OF LESS THAN FIFTY THOUSAND PERSONS FROM A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS.

7. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF LESS THAN TWO HUNDRED THOUSAND PERSONS.

8. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF TWO HUNDRED THOUSAND PERSONS OR MORE BUT LESS THAN ONE MILLION PERSONS.

9. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF ONE MILLION PERSONS OR MORE.

10. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT CITIES WITH POPULATIONS OF MORE THAN ONE HUNDRED THOUSAND PERSONS IN COUNTIES WITH POPULATIONS OF MORE THAN ONE MILLION PERSONS.

11. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A PUBLIC SERVICE CORPORATION THAT SERVES ONE THOUSAND EIGHT HUNDRED FIFTY PERSONS OR MORE.

12. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR FROM A PUBLIC WATER SYSTEM THAT SERVES FEWER THAN ONE THOUSAND EIGHT HUNDRED FIFTY PERSONS.

13. ONE MEMBER WHO IS APPOINTED BY THE GOVERNOR TO REPRESENT INDIAN TRIBES.

~~B.~~ C. Members OF THE BOARD AND THE COMMITTEE WHO ARE appointed by the governor serve at the governor's pleasure and serve staggered five year terms. Members of the board AND THE COMMITTEE are not eligible to receive compensation for their services but are eligible for reimbursement for travel and other expenses pursuant to title 38, chapter 4, article 2. Members of the board AND THE COMMITTEE are public officers for purposes of title 38, and the authority ~~is a~~ AND THE COMMITTEE ARE public ~~body~~ BODIES for purposes of title 38, chapter 3, article 3.1.

~~C.~~ D. Members of the board shall not have any direct or indirect personal financial interest in any clean water or drinking water project financed under this article. MEMBERS OF THE COMMITTEE SHALL NOT HAVE ANY DIRECT OR INDIRECT PERSONAL FINANCIAL INTEREST IN ANY WATER SUPPLY DEVELOPMENT PROJECT FINANCED UNDER THIS ARTICLE. For THE purposes of this subsection, a member of the board OR THE COMMITTEE who is a full-time employee of a participant in or applicant for a loan does not have a direct or indirect personal financial interest in a project. A violation of this subsection is a class 1 misdemeanor.

~~D.~~ E. The department of environmental quality shall provide clerical support and office and meeting space to the board.

F. THE DEPARTMENT OF WATER RESOURCES SHALL PROVIDE TECHNICAL ASSISTANCE TO THE COMMITTEE AS REQUESTED BY THE COMMITTEE.

Sec. 4. Section 49-1203, Arizona Revised Statutes, is amended to read:

49-1203. Powers and duties of authority; definition

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

B. The authority, through its board, may:

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

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

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

2. ISSUE WATER SUPPLY DEVELOPMENT BONDS FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE TO WATER PROVIDERS FOR WATER SUPPLY DEVELOPMENT PURPOSES PURSUANT TO SECTIONS 49-1274 AND 49-1275.

~~2.~~ 3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

~~3.~~ 4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. PROVIDE FINANCIAL ASSISTANCE TO WATER PROVIDERS FROM MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO FINANCE WATER SUPPLY DEVELOPMENT.

~~4.~~ 6. Guarantee debt obligations of, and provide linked deposit guarantees through third party lenders to:

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

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

(c) WATER PROVIDERS THAT ARE ISSUED TO FINANCE WATER SUPPLY DEVELOPMENT PROJECTS.

~~5.~~ 7. Provide linked deposit guarantees through third party lenders to political subdivisions, ~~and~~ drinking water facilities AND WATER PROVIDERS.

~~6.~~ 8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

~~7.~~ 9. Enter into capitalization grant agreements with the United States environmental protection agency.

~~8.~~ 10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility and nonpoint source project financial assistance under this ~~article~~

CHAPTER, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

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

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

~~11.~~ 13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

~~12.~~ 14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

~~13.~~ 15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

~~14.~~ 16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. PROVIDE GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE IN THE FORM OF LOAN REPAYMENT AGREEMENTS AND OTHER PROFESSIONAL ASSISTANCE TO WATER PROVIDERS IN CONNECTION WITH THE PLANNING OR DESIGN OF WATER SUPPLY DEVELOPMENT PROJECTS AS DETERMINED BY THE COMMITTEE PURSUANT TO SECTION 49-1274. A SINGLE GRANT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. ASSISTANCE PROVIDED UNDER A TECHNICAL ASSISTANCE LOAN REPAYMENT AGREEMENT SHALL BE IN A FORM AND UNDER TERMS DETERMINED BY THE COMMITTEE AND SHALL BE REPAID NOT MORE THAN THREE YEARS AFTER THE DATE THAT THE MONIES ARE ADVANCED TO THE APPLICANT. THE PROVISION OF TECHNICAL ASSISTANCE BY THE AUTHORITY OR THE COMMITTEE DOES NOT CREATE ANY LIABILITY FOR THE AUTHORITY, THE COMMITTEE OR THIS STATE REGARDING THE DESIGN, CONSTRUCTION OR OPERATION OF ANY WATER SUPPLY DEVELOPMENT PROJECT.

C. THE AUTHORITY, IN CONSULTATION WITH THE COMMITTEE, MAY:

1. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 GOVERNING THE APPLICATION FOR AND AWARDING OF WATER SUPPLY DEVELOPMENT FUND PROJECT FINANCIAL ASSISTANCE UNDER THIS CHAPTER AND THE ADMINISTRATION OF THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

2. APPOINT A TECHNICAL ADVISORY SUBCOMMITTEE OF NOT MORE THAN FIVE PERSONS WITH EXPERTISE IN WATER RESOURCE PLANNING AND DEVELOPMENT TO ADVISE THE COMMITTEE REGARDING THE TECHNICAL FEASIBILITY OF WATER SUPPLY DEVELOPMENT PROJECTS.

~~C.~~ D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph ~~6~~ 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

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

~~E.~~ F. For THE purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

~~F.~~ G. For THE purposes of this section, "CERCLA" has the same meaning prescribed in section 49-201.

Sec. 5. Heading change

The article heading of title 49, chapter 8, article 2, Arizona Revised Statutes, is changed from "FINANCIAL PROVISIONS" to "CLEAN WATER REVOLVING FUND, DRINKING WATER REVOLVING FUND AND HARDSHIP GRANT FUND FINANCIAL PROVISIONS."

Sec. 6. Section 49-1261, Arizona Revised Statutes, is amended to read:

49-1261. Water quality bonds

A. The authority, through the board of directors, may issue negotiable water quality bonds in a principal amount that in its opinion is necessary to provide sufficient monies for financial assistance under this ~~chapter~~ ARTICLE, maintaining sufficient reserves to secure the bonds, to pay the necessary costs of issuing, selling and redeeming the bonds and to pay other expenditures of the authority incidental to and necessary and convenient to carry out the purposes of this article.

B. The board must authorize the bonds by resolution. The resolution shall prescribe:

1. The rate or rates of interest and the denominations of the bonds.
2. The date or dates of the bonds and maturity.
3. The coupon or registered form of the bonds.
4. The manner of executing the bonds.
5. The medium and place of payment.

6. The terms of redemption.

C. The bonds shall be sold at public or private sale at the price and on the terms determined by the board. All proceeds from the issuance of bonds shall be deposited in the appropriate accounts of the funds administered by the board.

D. The board shall publish a notice of its intention to issue bonds under this article for at least five consecutive days in a newspaper published in this state. The last day of publication must be at least ten days before issuing the bonds. The notice shall state the amount of the bonds to be sold and the intended date of issuance. A copy of the notice shall be hand delivered or sent, by certified mail, return receipt requested, to the director of the department of administration on or before the last day of publication.

E. To secure any bonds authorized by this section, the board by resolution may:

1. Provide that bonds issued under this section may be secured by a first lien on all or part of the monies paid into the appropriate account or subaccount of the funds administered by the authority.

2. Pledge or assign to or in trust for the benefit of the holder or holders of the bonds any part or appropriate account or subaccount of the monies in the funds as is necessary to pay the principal and interest of the bonds as they come due.

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

4. Provide that sufficient amounts of the proceeds from the sale of the bonds may be used to fully or partly fund any reserves or sinking funds set up by the bond resolution.

5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which consent may be given.

6. Provide for payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the board in issuing, selling, delivering and paying the bonds.

7. Do any other matters that in any way may affect the security and protection of the bonds.

F. The members of the board or any person executing the bonds are not personally liable for the payment of the bonds. The bonds are valid and binding obligations notwithstanding that before the delivery of the bonds any of the persons whose signatures appear on the bonds cease to be members of the board. From and after the sale and delivery of the bonds, they are incontestable by the board.

G. The board, out of any available monies, may purchase bonds, which may be canceled, at a price not exceeding either of the following:

1. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.

2. If the bonds are not then redeemable, the redemption price applicable on the first date after purchase on which the bonds become subject to redemption plus accrued interest to that date.

Sec. 7. Section 49-1263, Arizona Revised Statutes, is amended to read:

49-1263. Bond obligations of the authority

Bonds issued under this ~~chapter~~ ARTICLE are obligations of the water infrastructure finance authority of Arizona, are payable only according to their terms and are not obligations general, special or otherwise of this state. The bonds do not constitute a legal debt of this state and are not enforceable against this state. Payment of the bonds is not enforceable out of any state monies other than the income and revenue pledged and assigned to, or in trust for the benefit of, the holder or holders of the bonds.

Sec. 8. Section 49-1264, Arizona Revised Statutes, is amended to read:

49-1264. Certification of bonds by attorney general

The board may submit any water quality bonds issued under this ~~chapter~~ ARTICLE to the attorney general after all proceedings for their authorization have been completed. On submission the attorney general shall examine and pass on the validity of the bonds and the regularity of the proceedings. If the proceedings comply with this article, and if the attorney general determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of the board, the attorney general shall certify on the back of each bond, in substance, that it is issued according to the constitution and laws of this state.

Sec. 9. Section 49-1265, Arizona Revised Statutes, is amended to read:

49-1265. Water quality bonds as legal investments

Water quality bonds issued under this ~~chapter~~ ARTICLE are securities in which public officers and bodies of this state and of municipalities and political subdivisions of this state, all companies, associations and other persons carrying on an insurance business, all financial institutions, investment companies and other persons carrying on a banking business, all fiduciaries and all other persons who are authorized to invest in obligations of this state may properly and legally invest. The bonds are also securities that may be deposited with public officers or bodies of this state and municipalities and political subdivisions of this state for purposes that require the deposit of state bonds or obligations.

Sec. 10. Section 49-1267, Arizona Revised Statutes, is amended to read:

49-1267. Hardship grant fund

A. The hardship grant fund is established to be administered by the authority consisting of:

1. Monies received for that purpose from the United States government, including monies that are awarded to this state pursuant to title II of the clean water act and that are no longer obligated to the construction grants program.

2. Gifts, grants and other donations received for that purpose from public or private sources.

3. Monies appropriated by the legislature for the hardship grant program.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The board shall administer the fund pursuant to rule and in compliance with this section and guidance from the United States government.

D. Monies in the fund may be used for the following purposes:

1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.

2. Providing training and technical assistance related to the operation and maintenance of wastewater systems.

E. The board shall use the monies and other assets in the fund only for the purposes authorized by this ~~chapter~~ ARTICLE.

F. The board shall establish a hardship grant program account and as many other accounts and subaccounts as required to administer the hardship grant fund.

G. All proceeds of hardship grant program monies that are received from the United States shall be deposited in the hardship grant fund and shall be used only to provide grants and technical assistance to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.

Sec. 11. Title 49, chapter 8, Arizona Revised Statutes, is amended by adding article 3, to read:

ARTICLE 3. WATER SUPPLY DEVELOPMENT
REVOLVING FUND FINANCIAL PROVISIONS

49-1271. <u>Water supply development revolving fund; legislative intent</u>

A. THE WATER SUPPLY DEVELOPMENT REVOLVING FUND IS ESTABLISHED TO BE MAINTAINED IN PERPETUITY CONSISTING OF:

1. MONIES RECEIVED FROM THE ISSUANCE AND SALE OF WATER SUPPLY DEVELOPMENT BONDS UNDER SECTION 49-1278.

2. MONIES APPROPRIATED BY THE LEGISLATURE TO THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

3. MONIES RECEIVED FOR WATER SUPPLY DEVELOPMENT PURPOSES FROM THE UNITED STATES GOVERNMENT.

4. MONIES RECEIVED FROM WATER PROVIDERS AS LOAN REPAYMENTS, INTEREST AND PENALTIES.

5. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE FUND.

6. GIFTS, GRANTS AND DONATIONS RECEIVED FOR WATER SUPPLY DEVELOPMENT PURPOSES FROM ANY PUBLIC OR PRIVATE SOURCE.

B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

C. THE LEGISLATURE FINDS THAT MANY WATER PROVIDERS IN THIS STATE, PARTICULARLY IN RURAL AREAS, LACK ACCESS TO SUFFICIENT WATER SUPPLIES TO MEET THEIR LONG-TERM WATER DEMANDS AND NEED FINANCIAL ASSISTANCE TO CONSTRUCT WATER SUPPLY PROJECTS AND OBTAIN ADDITIONAL WATER SUPPLIES. IT IS THE INTENT OF THE LEGISLATURE THAT THE WATER SUPPLY DEVELOPMENT REVOLVING FUND ESTABLISHED BY THIS SECTION BE USED TO PROVIDE FINANCIAL ASSISTANCE TO THESE WATER PROVIDERS UNDER THE TERMS SET FORTH IN THIS ARTICLE.

49-1272. Water supply development revolving fund; administration

A. THE BOARD SHALL ADMINISTER THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

B. ON NOTICE FROM THE BOARD, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

C. MONIES AND OTHER ASSETS IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

49-1273. Water supply development revolving fund; purposes; limitation

A. MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

1. MAKING WATER SUPPLY DEVELOPMENT LOANS TO WATER PROVIDERS IN THIS STATE UNDER SECTION 49-1274 FOR WATER SUPPLY DEVELOPMENT PURPOSES.

2. MAKING LOANS OR GRANTS TO WATER PROVIDERS FOR THE PLANNING OR DESIGN OF WATER SUPPLY DEVELOPMENT PROJECTS. A SINGLE GRANT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

3. PURCHASING OR REFINANCING DEBT OBLIGATIONS OF WATER PROVIDERS AT OR BELOW MARKET RATE IF THE DEBT OBLIGATION WAS ISSUED FOR A WATER SUPPLY DEVELOPMENT PURPOSE.

4. PROVIDING FINANCIAL ASSISTANCE TO WATER PROVIDERS WITH BONDING AUTHORITY TO PURCHASE INSURANCE FOR LOCAL BOND OBLIGATIONS INCURRED BY THEM FOR WATER SUPPLY DEVELOPMENT PURPOSES.

5. PAYING THE COSTS TO ADMINISTER THE FUND.

6. PROVIDING LINKED DEPOSIT GUARANTEES THROUGH THIRD PARTY LENDERS BY DEPOSITING MONIES WITH THE LENDER ON THE CONDITION THAT THE LENDER MAKE A LOAN ON TERMS APPROVED BY THE COMMITTEE, AT A RATE OF RETURN ON THE DEPOSIT APPROVED BY THE COMMITTEE AND THE STATE TREASURER AND BY GIVING THE LENDER RECOURSE AGAINST THE DEPOSIT OF LOAN REPAYMENTS THAT ARE NOT MADE WHEN DUE.

B. IF THE MONIES PLEDGED TO SECURE WATER SUPPLY DEVELOPMENT BONDS ISSUED PURSUANT TO SECTION 49-1278 BECOME INSUFFICIENT TO PAY THE PRINCIPAL AND INTEREST ON THE WATER SUPPLY DEVELOPMENT BONDS GUARANTEED BY THE WATER SUPPLY DEVELOPMENT REVOLVING FUND, THE AUTHORITY SHALL DIRECT THE STATE TREASURER TO LIQUIDATE SECURITIES IN THE FUND AS MAY BE NECESSARY AND SHALL APPLY THOSE PROCEEDS TO MAKE CURRENT ALL PAYMENTS THEN DUE ON THE BONDS. THE

STATE TREASURER SHALL IMMEDIATELY NOTIFY THE ATTORNEY GENERAL AND AUDITOR GENERAL OF THE INSUFFICIENCY. THE AUDITOR GENERAL SHALL AUDIT THE CIRCUMSTANCES SURROUNDING THE DEPLETION OF THE FUND AND REPORT THE FINDINGS TO THE ATTORNEY GENERAL. THE ATTORNEY GENERAL SHALL CONDUCT AN INVESTIGATION AND REPORT THOSE FINDINGS TO THE GOVERNOR AND THE LEGISLATURE.

C. MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND SHALL NOT BE USED TO PROVIDE FINANCIAL ASSISTANCE TO A WATER PROVIDER, OTHER THAN AN INDIAN TRIBE, UNLESS ONE OF THE FOLLOWING APPLIES:

1. THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE WATER PROVIDER IS LOCATED HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F.

2. THE WATER PROVIDER IS LOCATED IN A CITY OR TOWN AND THE LEGISLATIVE BODY OF THE CITY OR TOWN HAS ENACTED THE ORDINANCE AUTHORIZED BY SECTION 9-463.01, SUBSECTION O.

3. THE WATER PROVIDER IS LOCATED IN AN ACTIVE MANAGEMENT AREA ESTABLISHED PURSUANT TO TITLE 45, CHAPTER 2, ARTICLE 2.

49-1274. <u>Water supply development revolving fund financial assistance; procedures</u>

A. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, A WATER PROVIDER MAY APPLY TO THE AUTHORITY FOR AND ACCEPT AND INCUR INDEBTEDNESS AS A RESULT OF A LOAN OR ANY OTHER FINANCIAL ASSISTANCE PURSUANT TO SECTION 49-1273 FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND FOR WATER SUPPLY DEVELOPMENT PURPOSES. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, A WATER PROVIDER MAY ALSO APPLY TO THE AUTHORITY FOR AND ACCEPT GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE FOR THE PLANNING OR DESIGN OF A WATER SUPPLY DEVELOPMENT PROJECT. A WATER PROVIDER THAT APPLIES FOR AND ACCEPTS A LOAN OR OTHER FINANCIAL ASSISTANCE UNDER THIS ARTICLE IS NOT PRECLUDED FROM APPLYING FOR AND ACCEPTING A LOAN OR OTHER FINANCIAL ASSISTANCE UNDER ARTICLE 2 OF THIS CHAPTER OR UNDER ANY OTHER LAW.

B. THE AUTHORITY, IN CONSULTATION WITH THE COMMITTEE, SHALL:

1. PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO APPLY FOR AND APPROVE ASSISTANCE.

2. ESTABLISH BY RULE CRITERIA BY WHICH ASSISTANCE WILL BE AWARDED, INCLUDING REQUIREMENTS FOR LOCAL PARTICIPATION IN PROJECT COSTS, IF DEEMED ADVISABLE. THE CRITERIA SHALL INCLUDE:

(a) A DETERMINATION OF THE ABILITY OF THE APPLICANT TO REPAY A LOAN ACCORDING TO THE TERMS AND CONDITIONS ESTABLISHED BY THIS SECTION. AT THE OPTION OF THE COMMITTEE, THE EXISTENCE OF A CURRENT INVESTMENT GRADE RATING ON EXISTING DEBT OF THE APPLICANT THAT IS SECURED BY THE SAME REVENUES TO BE PLEDGED TO SECURE REPAYMENT UNDER THE LOAN REPAYMENT AGREEMENT CONSTITUTES EVIDENCE REGARDING ABILITY TO REPAY A LOAN.

(b) A DETERMINATION OF THE APPLICANT'S LEGAL CAPABILITY TO ENTER INTO A LOAN REPAYMENT AGREEMENT.

(c) A DETERMINATION OF THE APPLICANT'S FINANCIAL ABILITY TO CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT IF IT RECEIVES THE FINANCIAL ASSISTANCE.

(d) A DETERMINATION OF THE APPLICANT'S ABILITY TO MANAGE THE PROJECT.

(e) A DETERMINATION OF THE APPLICANT'S ABILITY TO MEET ANY APPLICABLE ENVIRONMENTAL REQUIREMENTS IMPOSED BY FEDERAL OR STATE AGENCIES.

(f) A DETERMINATION OF THE APPLICANT'S ABILITY TO ACQUIRE ANY NECESSARY REGULATORY PERMITS.

3. DETERMINE THE ORDER AND PRIORITY OF PROJECTS ASSISTED UNDER THIS SECTION BASED ON THE MERITS OF THE APPLICATION WITH RESPECT TO WATER SUPPLY DEVELOPMENT ISSUES, INCLUDING THE FOLLOWING:

(a) EXISTING, NEAR-TERM AND LONG-TERM WATER DEMANDS OF THE WATER PROVIDER COMPARED TO THE EXISTING WATER SUPPLIES OF THE WATER PROVIDER.

(b) EXISTING AND PLANNED CONSERVATION AND WATER MANAGEMENT PROGRAMS OF THE WATER PROVIDER.

(c) BENEFITS OF THE PROJECT.

(d) THE SUSTAINABILITY OF THE WATER SUPPLY TO BE DEVELOPED THROUGH THE PROJECT.

(e) THE WATER PROVIDER'S NEED FOR FINANCIAL ASSISTANCE.

(f) THE COST-EFFECTIVENESS OF THE PROJECT.

C. THE COMMITTEE SHALL REVIEW ON ITS MERITS EACH APPLICATION RECEIVED AND SHALL INFORM THE APPLICANT OF THE COMMITTEE'S DETERMINATION WITHIN NINETY DAYS AFTER RECEIPT OF A COMPLETE AND CORRECT APPLICATION. IF THE APPLICATION IS NOT APPROVED, THE COMMITTEE SHALL NOTIFY THE APPLICANT, STATING THE REASONS. IF THE APPLICATION IS APPROVED, THE COMMITTEE MAY CONDITION THE APPROVAL ON ASSURANCES THE COMMITTEE DEEMS NECESSARY TO ENSURE THAT THE FINANCIAL ASSISTANCE WILL BE USED ACCORDING TO LAW AND THE TERMS OF THE APPLICATION.

D. ON APPROVAL OF AN APPLICATION UNDER THIS SECTION BY THE COMMITTEE, THE AUTHORITY SHALL USE MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO FINANCE THE PROJECT.

49-1275. <u>Water supply development revolving fund financial assistance; terms</u>

A. A LOAN FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND SHALL BE EVIDENCED BY BONDS, IF THE WATER PROVIDER HAS BONDING AUTHORITY, OR BY A FINANCIAL ASSISTANCE AGREEMENT, DELIVERED TO AND HELD BY THE AUTHORITY.

B. A LOAN UNDER THIS SECTION SHALL:

1. BE REPAID NOT MORE THAN THIRTY YEARS AFTER THE DATE INCURRED.

2. REQUIRE THAT INTEREST PAYMENTS BEGIN NOT LATER THAN THE NEXT DATE THAT EITHER PRINCIPAL OR INTEREST MUST BE PAID BY THE AUTHORITY TO THE HOLDERS OF ANY OF THE AUTHORITY'S BONDS THAT PROVIDED FUNDING FOR THE LOAN. IF THE LOAN IS FOR CONSTRUCTION OF WATER SUPPLY DEVELOPMENT FACILITIES, THE AUTHORITY MAY PROVIDE THAT LOAN INTEREST ACCRUING DURING CONSTRUCTION AND ONE YEAR AFTER COMPLETION OF THE CONSTRUCTION BE CAPITALIZED IN THE LOAN.

3. BE CONDITIONED ON THE ESTABLISHMENT OF A DEDICATED REVENUE SOURCE FOR REPAYING THE LOAN.

C. THE AUTHORITY, IN CONSULTATION WITH THE COMMITTEE, SHALL PRESCRIBE THE RATE OF INTEREST ON LOANS MADE UNDER THIS SECTION, BUT THE RATE SHALL NOT EXCEED THE PREVAILING MARKET RATE FOR SIMILAR TYPES OF LOANS. THE AUTHORITY, UPON RECOMMENDATIONS FROM THE COMMITTEE, MAY ADOPT RULES WHICH PROVIDE FOR FLEXIBLE INTEREST RATES AND INTEREST FREE LOANS. ALL FINANCIAL ASSISTANCE AGREEMENTS OR BONDS OF A WATER PROVIDER SHALL CLEARLY SPECIFY THE AMOUNT OF PRINCIPAL AND INTEREST AND ANY REDEMPTION PREMIUM THAT IS DUE ON ANY PAYMENT DATE.

D. THE APPROVAL OF A LOAN IS CONDITIONED ON A WRITTEN COMMITMENT BY THE WATER PROVIDER TO COMPLETE ALL APPLICABLE REVIEWS AND APPROVALS AND TO SECURE ALL REQUIRED PERMITS IN A TIMELY MANNER.

E. A LOAN MADE TO A WATER PROVIDER UNDER THIS SECTION MAY BE SECURED ADDITIONALLY BY AN IRREVOCABLE PLEDGE OF ANY SHARED STATE REVENUES DUE TO THE WATER PROVIDER FOR THE DURATION OF THE LOAN AS PRESCRIBED BY A RESOLUTION OF THE COMMITTEE. IF THE COMMITTEE REQUIRES AN IRREVOCABLE PLEDGE OF THE SHARED STATE REVENUES FOR FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS, THE AUTHORITY SHALL ENTER INTO AN INTERCREDITOR AGREEMENT WITH THE GREATER ARIZONA DEVELOPMENT AUTHORITY TO DEFINE THE ALLOCATION OF SHARED STATE REVENUES IN RELATION TO INDIVIDUAL BORROWERS. IF A PLEDGE IS REQUIRED AND A WATER PROVIDER FAILS TO MAKE ANY PAYMENT DUE TO THE AUTHORITY UNDER ITS LOAN REPAYMENT AGREEMENT OR BONDS, THE AUTHORITY SHALL CERTIFY TO THE STATE TREASURER AND NOTIFY THE GOVERNING BODY OF THE DEFAULTING WATER PROVIDER THAT THE WATER PROVIDER HAS FAILED TO MAKE THE REQUIRED PAYMENT AND SHALL DIRECT A WITHHOLDING OF STATE SHARED REVENUES AS PRESCRIBED IN SUBSECTION F OF THIS SECTION. THE CERTIFICATE OF DEFAULT SHALL BE IN THE FORM DETERMINED BY THE AUTHORITY, EXCEPT THAT THE CERTIFICATE SHALL SPECIFY THE AMOUNT REQUIRED TO SATISFY THE UNPAID PAYMENT OBLIGATION OF THE WATER PROVIDER.

F. ON RECEIPT OF A CERTIFICATE OF DEFAULT FROM THE AUTHORITY, THE STATE TREASURER, TO THE EXTENT NOT EXPRESSLY PROHIBITED BY LAW, SHALL WITHHOLD ANY MONIES DUE TO THE DEFAULTING WATER PROVIDER FROM THE NEXT SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029. IN THE CASE OF A CITY OR TOWN, THE STATE TREASURER SHALL ALSO WITHHOLD FROM THE MONIES DUE TO THE DEFAULTING CITY OR TOWN FROM THE NEXT SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 43-206 THE AMOUNT SPECIFIED IN THE CERTIFICATE OF DEFAULT AND SHALL IMMEDIATELY DEPOSIT THE MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD AND DEPOSIT MONIES UNTIL THE AUTHORITY CERTIFIES TO THE STATE TREASURER THAT THE DEFAULT HAS BEEN CURED. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT IS NECESSARY TO MAKE ANY REQUIRED DEPOSITS THEN DUE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS OF THE WATER PROVIDER IF SO CERTIFIED BY THE DEFAULTING WATER PROVIDER TO THE STATE TREASURER AND THE AUTHORITY. THE WATER PROVIDER SHALL NOT CERTIFY DEPOSITS AS NECESSARY FOR PAYMENT FOR BONDS UNLESS THE BONDS WERE ISSUED BEFORE THE DATE OF THE LOAN REPAYMENT AGREEMENT AND THE BONDS WERE SECURED BY A PLEDGE OF DISTRIBUTION MADE PURSUANT TO SECTIONS 42-5029 AND 43-206.

49-1276. Enforcement; attorney general

THE ATTORNEY GENERAL MAY TAKE ACTIONS NECESSARY TO ENFORCE THE LOAN CONTRACT AND ACHIEVE REPAYMENT OF LOANS PROVIDED BY THE AUTHORITY PURSUANT TO SECTIONS 49-1274 AND 49-1275.

49-1277. Water supply development bonds

A. THE AUTHORITY MAY ISSUE NEGOTIABLE WATER SUPPLY DEVELOPMENT BONDS IN A PRINCIPAL AMOUNT NECESSARY TO PROVIDE SUFFICIENT MONIES FOR THOSE PROJECTS APPROVED UNDER THIS ARTICLE AND INCLUDING SUCH ITEMS AS MAINTAINING SUFFICIENT RESERVES TO SECURE THE BONDS, TO PAY THE NECESSARY COSTS OF ISSUING, SELLING AND REDEEMING THE BONDS AND TO PAY OTHER EXPENDITURES OF THE AUTHORITY INCIDENTAL TO AND NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE. THE BOARD SHALL ISSUE THE BONDS PURSUANT TO SUBSECTIONS C AND D.

B. THE BOARD SHALL AUTHORIZE THE BONDS BY RESOLUTION. THE RESOLUTION SHALL PRESCRIBE:

1. THE RATE OR RATES OF INTEREST AND THE DENOMINATIONS OF THE BONDS.
2. THE DATE OR DATES OF THE BONDS AND MATURITY.
3. THE COUPON OR REGISTERED FORM OF THE BONDS.
4. THE MANNER OF EXECUTING THE BONDS.
5. THE MEDIUM AND PLACE OF PAYMENT.
6. THE TERMS OF REDEMPTION.

C. THE BONDS SHALL BE SOLD AT PUBLIC OR PRIVATE SALE AT THE PRICE AND ON THE TERMS DETERMINED BY THE BOARD. ALL PROCEEDS FROM THE ISSUANCE OF BONDS SHALL BE DEPOSITED IN THE APPROPRIATE ACCOUNTS OF THE FUNDS ADMINISTERED BY THE AUTHORITY.

D. THE BOARD SHALL PUBLISH A NOTICE OF ITS INTENTION TO ISSUE BONDS UNDER THIS ARTICLE FOR AT LEAST FIVE CONSECUTIVE DAYS IN A NEWSPAPER PUBLISHED IN THIS STATE. THE LAST DAY OF PUBLICATION MUST BE AT LEAST TEN DAYS BEFORE ISSUING THE BONDS. THE NOTICE SHALL STATE THE AMOUNT OF THE BONDS TO BE SOLD AND THE INTENDED DATE OF ISSUANCE. A COPY OF THE NOTICE SHALL BE HAND DELIVERED OR SENT, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION ON OR BEFORE THE LAST DAY OF PUBLICATION.

E. TO SECURE ANY BONDS AUTHORIZED BY THIS SECTION, THE BOARD BY RESOLUTION MAY:

1. PROVIDE THAT BONDS ISSUED UNDER THIS SECTION MAY BE SECURED BY A FIRST LIEN ON ALL OR PART OF THE MONIES PAID INTO THE APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE FUNDS ADMINISTERED BY THE AUTHORITY.
2. PLEDGE OR ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS ANY PART OR APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE MONIES IN THE FUNDS AS IS NECESSARY TO PAY THE PRINCIPAL AND INTEREST OF THE BONDS AS THEY COME DUE.
3. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING FUNDS.

4. PROVIDE THAT SUFFICIENT AMOUNTS OF THE PROCEEDS FROM THE SALE OF THE BONDS MAY BE USED TO FULLY OR PARTLY FUND ANY RESERVES OR SINKING FUNDS SET UP BY THE BOND RESOLUTION.

5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH CONSENT MAY BE GIVEN.

6. PROVIDE FOR PAYMENT FROM THE PROCEEDS OF THE SALE OF THE BONDS OF ALL LEGAL AND FINANCIAL EXPENSES INCURRED BY THE BOARD IN ISSUING, SELLING, DELIVERING AND PAYING THE BONDS.

7. DO ANY OTHER MATTERS THAT IN ANY WAY MAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS.

F. ANY MEMBER OF THE BOARD, ANY MEMBER OF THE COMMITTEE OR ANY PERSON EXECUTING THE BONDS IS NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS. THE BONDS ARE VALID AND BINDING OBLIGATIONS NOTWITHSTANDING THAT BEFORE THE DELIVERY OF THE BONDS ANY OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE BONDS CEASE TO BE MEMBERS OF THE BOARD. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE INCONTESTABLE BY THE BOARD AND THE COMMITTEE.

G. THE BOARD, OUT OF ANY AVAILABLE MONIES, MAY PURCHASE BONDS, WHICH MAY BE CANCELED, AT A PRICE NOT EXCEEDING EITHER OF THE FOLLOWING:

1. IF THE BONDS ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

2. IF THE BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

49-1278. Water supply development bonds; purpose

A. WATER SUPPLY DEVELOPMENT BONDS MAY BE ISSUED TO PROVIDE FINANCIAL ASSISTANCE UNDER THIS ARTICLE AND TO INCREASE THE CAPITALIZATION OF THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO ACCOMPLISH THE PURPOSES STATED IN SECTION 49-1273. THESE BONDS MAY BE SECURED BY ANY MONIES RECEIVED OR TO BE RECEIVED IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND. AMOUNTS IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND MAY BE USED TO CURE DEFAULTS ON LOANS MADE FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO THE EXTENT OTHERWISE PERMITTED BY LAW.

B. ANY PLEDGE MADE UNDER THIS ARTICLE IS VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE MONIES PLEDGED AND RECEIVED TO BE PLACED IN THE APPROPRIATE FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT, AND ANY SUCH LIEN OF ANY PLEDGE IS VALID OR BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE BOARD REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR TRUST INDENTURE OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED, WHEN PLACED IN THE BOARD'S RECORDS, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE.

C. THE BONDS ISSUED UNDER THIS SECTION, THEIR TRANSFER AND THE INCOME THEY PRODUCE ARE EXEMPT FROM TAXATION BY THIS STATE OR BY ANY POLITICAL SUBDIVISION OF THIS STATE.

49-1279. Bond obligations of the authority

BONDS ISSUED UNDER THIS ARTICLE ARE OBLIGATIONS OF THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA, ARE PAYABLE ONLY ACCORDING TO THEIR TERMS AND ARE NOT GENERAL OBLIGATIONS, SPECIAL OBLIGATIONS OR OTHERWISE OF THIS STATE. THE BONDS DO NOT CONSTITUTE A LEGAL DEBT OF THIS STATE AND ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE BONDS IS NOT ENFORCEABLE OUT OF ANY STATE MONIES OTHER THAN THE INCOME AND REVENUE PLEDGED AND ASSIGNED TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE BONDS.

49-1280. Certification of bonds by attorney general

THE BOARD MAY SUBMIT ANY WATER SUPPLY DEVELOPMENT BONDS ISSUED UNDER THIS ARTICLE TO THE ATTORNEY GENERAL AFTER ALL PROCEEDINGS FOR THEIR AUTHORIZATION HAVE BEEN COMPLETED. ON SUBMISSION, THE ATTORNEY GENERAL SHALL EXAMINE AND PASS ON THE VALIDITY OF THE BONDS AND THE REGULARITY OF THE PROCEEDINGS. IF THE PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE ATTORNEY GENERAL DETERMINES THAT, WHEN DELIVERED AND PAID FOR, THE BONDS WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE BOARD, THE ATTORNEY GENERAL SHALL CERTIFY ON THE BACK OF EACH BOND, IN SUBSTANCE, THAT IT IS ISSUED ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE.

49-1281. Water supply development bonds as legal investments

WATER SUPPLY DEVELOPMENT BONDS ISSUED UNDER THIS ARTICLE ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN OBLIGATIONS OF THIS STATE MAY PROPERLY AND LEGALLY INVEST. THE BONDS ARE ALSO SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT REQUIRE THE DEPOSIT OF STATE BONDS OR OBLIGATIONS.

49-1282. Agreement of state

THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS THAT THIS STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED IN THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA OR ANY SUCCESSOR AGENCY TO COLLECT THE MONIES NECESSARY TO PRODUCE SUFFICIENT REVENUE TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED UNDER THIS ARTICLE, TOGETHER WITH INTEREST, INCLUDING INTEREST ON ANY UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE FULLY MET AND DISCHARGED. THE BOARD AS AGENT FOR THIS STATE MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES SECURING ITS BONDS.

1 Sec. 12. Initial terms of members of the water supply
2 development fund committee
3 A. Notwithstanding section 49-1202, Arizona Revised Statutes, as
4 amended by this act, the initial terms of water supply development fund
5 committee members appointed by the governor are:
6 1. One term ending January 31, 2009.
7 2. Two terms ending January 31, 2010.
8 3. Two terms ending January 31, 2011.
9 4. Two terms ending January 31, 2012.
10 5. Two terms ending January 31, 2013.
11 B. The governor shall make all subsequent appointments as prescribed
12 by statute.
13 Sec. 13. Conditional enactment
14 This act does not become effective unless Senate Bill 1575,
15 forty-eighth legislature, first regular session, relating to water adequacy
16 provisions, becomes law.

APPROVED BY THE GOVERNOR MAY 24, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 24, 2007.