

State of Arizona
Senate
Fiftieth Legislature
Second Regular Session
2012

SENATE BILL 1131

AN ACT

AMENDING SECTIONS 9-500.17, 11-269.03, 28-7671 AND 28-7677, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 21, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; AMENDING SECTION 48-5122, ARIZONA REVISED STATUTES; RELATING TO TRANSPORTATION PROJECT ADVANCEMENT NOTES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-500.17, Arizona Revised Statutes, is amended to
3 read:

4 9-500.17. Acceleration agreements; loan repayment agreements

5 A. Pursuant to section 28-7677, a city or town may enter into
6 agreements with the department of transportation for the acceleration of
7 right-of-way acquisition, design or construction of an eligible highway
8 project or an eligible transit capital project as defined in section 28-7671
9 and may advance monies to the department of transportation pursuant to those
10 agreements.

11 B. A loan repayment agreement as defined in section 28-7671 entered
12 into by a city or town may be paid from and may be secured by a pledge of
13 highway user revenues received by the city or town from this state pursuant
14 to title 28, chapter 18, article 2 and section 42-6107. The pledge may be on
15 a parity with any pledge previously or hereafter made by the city or town
16 pursuant to section 48-690. If a city or town pledges those highway user
17 revenues to a loan repayment agreement, the principal and interest
18 requirements on the loan repayment agreement may be treated as if they were
19 principal and interest on bonds issued under title 48, chapter 4, article 4
20 for all purposes of sections 48-689 and 48-691.

21 C. PURSUANT TO TITLE 28, CHAPTER 21, ARTICLE 7, A CITY OR TOWN MAY DO
22 BOTH OF THE FOLLOWING:

23 1. ENTER INTO AGREEMENTS WITH THE DEPARTMENT OF TRANSPORTATION, A
24 REGIONAL PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF
25 GOVERNMENTS, A REGIONAL PUBLIC TRANSPORTATION AUTHORITY ESTABLISHED PURSUANT
26 TO SECTION 48-5102 OR A DESIGNATED GRANT RECIPIENT FOR THE ACCELERATION OF A
27 TRANSPORTATION PROJECT AS DEFINED IN SECTION 28-7671.

28 2. ADVANCE MONIES TO THE DEPARTMENT OF TRANSPORTATION, A REGIONAL
29 PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF
30 GOVERNMENTS, A REGIONAL PUBLIC TRANSPORTATION AUTHORITY OR A DESIGNATED GRANT
31 RECIPIENT PURSUANT TO THE AGREEMENTS DESCRIBED IN PARAGRAPH 1 OF THIS
32 SUBSECTION.

33 Sec. 2. Section 11-269.03, Arizona Revised Statutes, is amended to
34 read:

35 11-269.03. Acceleration agreements; loan repayment agreements

36 A. A county may enter into agreements with the department of
37 transportation for the acceleration of right-of-way acquisition, design or
38 construction of an eligible highway project or an eligible transit capital
39 project as defined in section 28-7671 and may advance monies to the
40 department of transportation pursuant to those agreements. Any political
41 subdivision may pledge excise taxes to the repayment of all or any part of
42 the principal, premium, if any, and interest on any borrowing to fund the
43 advance.

44 B. A county may assign the right to receive payment under the
45 agreement entered into pursuant to subsection A of this section to a trustee.

1 C. A county may pledge its excise taxes to the repayment of all or any
2 part of the principal, premium, if any, and interest on any borrowing to fund
3 the advance and make such other covenants and agreements as may be
4 appropriate.

5 D. A loan repayment agreement as defined in section 28-7671 entered
6 into by a county may be paid from and may be secured by a pledge of highway
7 user revenues received by the county from this state pursuant to title 28,
8 chapter 18, article 2 and section 42-6107. The pledge may be on a parity
9 with any pledge previously or hereafter made by the county pursuant to
10 section 11-379. If a county pledges those highway user revenues to a loan
11 repayment agreement, the principal and interest requirements on the loan
12 repayment agreement may be treated as if they were principal and interest on
13 bonds issued under article 12 of this chapter for all purposes of sections
14 11-378 and 11-380.

15 E. PURSUANT TO TITLE 28, CHAPTER 21, ARTICLE 7, A COUNTY MAY DO ALL OF
16 THE FOLLOWING:

17 1. ENTER INTO AGREEMENTS WITH THE DEPARTMENT OF TRANSPORTATION, A
18 REGIONAL PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF
19 GOVERNMENTS, A REGIONAL PUBLIC TRANSPORTATION AUTHORITY ESTABLISHED PURSUANT
20 TO SECTION 48-5102 OR A DESIGNATED GRANT RECIPIENT FOR THE ACCELERATION OF A
21 TRANSPORTATION PROJECT, AS DEFINED IN SECTION 28-7671.

22 2. ADVANCE MONIES TO THE DEPARTMENT OF TRANSPORTATION, A REGIONAL
23 PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF
24 GOVERNMENTS, A REGIONAL PUBLIC TRANSPORTATION AUTHORITY OR A DESIGNATED GRANT
25 RECIPIENT PURSUANT TO THE AGREEMENTS DESCRIBED IN PARAGRAPH 1 OF THIS
26 SUBSECTION.

27 3. PLEDGE EXCISE TAXES TO THE REPAYMENT OF ALL OR ANY PART OF THE
28 PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON ANY BORROWING TO FUND THE ADVANCE
29 DESCRIBED IN PARAGRAPH 2 OF THIS SUBSECTION.

30 Sec. 3. Section 28-7671, Arizona Revised Statutes, is amended to read:
31 28-7671. Definitions

32 In this article, unless the context otherwise requires:

33 1. "Advisory committee" means the highway expansion and extension loan
34 program advisory committee established by section 28-7672.

35 2. "Eligible highway project" means a highway project that is both:
36 (a) On the federal aid system, national highway system or state route
37 or state highway system.

38 (b) Included in either:

39 (i) The department's state highway construction plan.

40 (ii) The transportation improvement plan of a regional association of
41 governments.

42 3. "Eligible transit capital project" means land, buildings or motor
43 vehicles or a combination of land, buildings and motor vehicles that is
44 included in the transportation improvement plan of a regional association of
45 governments and that is part of the federal transit administration's rural

1 public transportation program for entities that are eligible pursuant to
2 section 28-7676 and that have populations of less than fifty thousand
3 persons.

4 4. "ELIGIBLE TRANSPORTATION PROJECT" MEANS A TRANSPORTATION PROJECT
5 THAT IS ELIGIBLE PURSUANT TO SECTION 28-7676.

6 ~~4-~~ 5. "Federal SIB act" means section 350 of the national highway
7 system designation act of 1995 (P.L. 104-59; 109 Stat. 618), any regulations
8 adopted pursuant to that section and any other provisions of federal law
9 providing for state infrastructure banks, infrastructure credit programs and
10 other grant programs for highway purposes and any regulations adopted
11 pursuant to those laws.

12 ~~5-~~ 6. "Fund" means the highway expansion and extension loan program
13 fund established by section 28-7674.

14 ~~6-~~ 7. "Indian tribe" means any Indian tribe, band, group or community
15 that is recognized by the United States secretary of the interior and that
16 exercises governmental authority within the limits of any Indian reservation
17 under the jurisdiction of the United States government, notwithstanding the
18 issuance of any patent and including rights-of-way running through the
19 reservation.

20 ~~7-~~ 8. "Loan repayment agreement" means one or more loan agreements,
21 instruments or other agreements providing for repayment of a loan or other
22 financial assistance and entered into by this state or its agencies,
23 including the department, or a political subdivision or Indian tribe.

24 ~~8-~~ 9. "Political subdivision" means a county, city, town or special
25 taxing district authorized by law to construct OR ASSIST IN THE CONSTRUCTION
26 OF an eligible HIGHWAY project OR A COUNTY, CITY, TOWN OR SPECIAL TAXING
27 DISTRICT ESTABLISHED PURSUANT TO SECTION 48-5102 TO CONSTRUCT OR ASSIST IN
28 THE CONSTRUCTION OF A TRANSPORTATION PROJECT.

29 ~~9-~~ 10. "SIB cooperative agreement" means a cooperative agreement or
30 agreements entered into by the Arizona department of transportation with the
31 United States department of transportation pursuant to this article and the
32 federal SIB act.

33 11. "TRANSPORTATION PROJECT" MEANS ALL OR A PORTION OF A PROJECT THAT
34 IS INCLUDED IN THE STATE'S TRANSPORTATION IMPROVEMENT PROGRAM OR A REGIONAL
35 TRANSPORTATION PLAN, AS DEFINED IN SECTION 28-6351, INCLUDING THE PROJECT
36 PLANNING, ENVIRONMENTAL WORK, DESIGN, RIGHT-OF-WAY ACQUISITION OR
37 CONSTRUCTION FOR THE TRANSPORTATION PROJECT AND ASSOCIATED ROLLING STOCK AND
38 OPERATING SYSTEMS BUT NOT INCLUDING AN ELIGIBLE HIGHWAY PROJECT.

39 Sec. 4. Section 28-7677, Arizona Revised Statutes, is amended to read:
40 28-7677. Acceleration of right-of-way acquisition, design or
41 construction of eligible highway and transportation
42 projects

43 A. If the department enters into an agreement with a political
44 subdivision or Indian tribe for accelerated right-of-way acquisition, design
45 or construction of an eligible HIGHWAY project, the agreement may provide for

1 the advancing to the department by the political subdivision or Indian tribe
2 of monies needed for the right-of-way acquisition, design or construction and
3 for the repayment by the department of the advanced monies, with interest, if
4 any, at the agreed on rate, to the political subdivision or Indian tribe.
5 The political subdivision or Indian tribe may make an advance from any
6 available monies, and any advance constitutes an eligible investment for
7 sinking funds or other funds of the political subdivision or Indian tribe.

8 B. The department shall repay the political subdivision or Indian
9 tribe for an advance, together with interest, if any, on the advance at the
10 agreed on rate, from monies available to the department for the eligible
11 project pursuant to a mutually agreed on repayment schedule. The period for
12 repayment shall not be more than five years from the date of the advance.
13 Notwithstanding chapters 17 and 18 of this title, an advance, together with
14 interest on the advance, may be repaid by the department from monies in a
15 regional area road fund construction account and from revenues distributed
16 pursuant to section 28-6538, subsection B.

17 C. IF THE DEPARTMENT ENTERS INTO AN AGREEMENT WITH A POLITICAL
18 SUBDIVISION, REGIONAL PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR
19 COUNCIL OF GOVERNMENTS OR DESIGNATED GRANT RECIPIENT TO ACCELERATE A
20 TRANSPORTATION PROJECT, THE AGREEMENT MAY PROVIDE THAT THE POLITICAL
21 SUBDIVISION MAY ADVANCE TO THE DEPARTMENT MONIES NEEDED FOR THE
22 TRANSPORTATION PROJECT. THE AGREEMENT MAY ALSO PROVIDE FOR THE DEPARTMENT'S
23 REPAYMENT OF THE ADVANCED MONIES TO THE POLITICAL SUBDIVISION WITH INTEREST
24 AT A SPECIFIED RATE. THE POLITICAL SUBDIVISION MAY MAKE AN ADVANCE FROM ANY
25 AVAILABLE MONIES. ANY ADVANCE CONSTITUTES AN ELIGIBLE INVESTMENT FOR SINKING
26 FUNDS OR OTHER FUNDS OF THE POLITICAL SUBDIVISION.

27 D. THE DEPARTMENT'S REPAYMENT AS DESCRIBED IN SUBSECTION C OF THIS
28 SECTION SHALL BE MADE FROM MONIES AVAILABLE TO THE DEPARTMENT FOR THE
29 TRANSPORTATION PROJECT PURSUANT TO THE MUTUALLY AGREED ON REPAYMENT SCHEDULE.
30 AN ADVANCE, TOGETHER WITH INTEREST ON THE ADVANCE, MAY BE REPAYED BY THE
31 DEPARTMENT FROM ANY LAWFULLY AVAILABLE MONIES.

32 Sec. 5. Title 28, chapter 21, Arizona Revised Statutes, is amended by
33 adding article 7, to read:

34 ARTICLE 7. TRANSPORTATION PROJECT ADVANCEMENT NOTES

35 28-7691. Definitions

36 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

37 1. "EXCISE TAXES" MEANS ALL UNRESTRICTED EXCISE, TRANSACTION,
38 FRANCHISE, PRIVILEGE AND BUSINESS TAXES, STATE SHARED SALES AND INCOME TAXES,
39 FEES FOR LICENSES AND PERMITS AND STATE REVENUE SHARING THAT ARE LEVIED AND
40 PAID BY A POLITICAL SUBDIVISION OR CONTRIBUTED, LEVIED OR PAID TO THE
41 POLITICAL SUBDIVISION AND NOT EARMARKED BY THE CONTRIBUTOR OR THE POLITICAL
42 SUBDIVISION FOR A CONTRARY OR INCONSISTENT PURPOSE.

43 2. "POLITICAL SUBDIVISION" MEANS A COUNTY, CITY, TOWN OR SPECIAL
44 TAXING DISTRICT ESTABLISHED PURSUANT TO SECTION 48-5102 TO CONSTRUCT OR
45 ASSIST IN THE CONSTRUCTION OF A TRANSPORTATION PROJECT.

1 REPAYMENT OF PRINCIPAL, PREMIUM, IF ANY, AND INTEREST ON TRANSPORTATION
2 PROJECT ADVANCEMENT NOTES.

3 28-7693. Limitations

4 THE AGGREGATE OUTSTANDING PRINCIPAL AMOUNT OF TRANSPORTATION PROJECT
5 ADVANCEMENT NOTES ISSUED BY A POLITICAL SUBDIVISION AND SECURED BY
6 TRANSPORTATION PROJECT ADVANCE REVENUES SHALL NOT BE MORE THAN THE AGGREGATE
7 OF ALL UNCOLLECTED TRANSPORTATION PROJECT ADVANCE REVENUES TO BE RECEIVED BY
8 THE POLITICAL SUBDIVISION UNDER TRANSPORTATION PROJECT ADVANCE AGREEMENTS
9 UNLESS THE POLITICAL SUBDIVISION HAS PLEDGED OTHER MONIES LAWFULLY AVAILABLE
10 FOR APPLICATION TO THAT PURPOSE TO COVER ANY AMOUNT IN EXCESS OF THE
11 UNCOLLECTED TRANSPORTATION PROJECT ADVANCE REVENUES.

12 28-7694. Application of revenues; transportation project
13 advancement notes; payment of notes

14 AFTER ISSUANCE OF TRANSPORTATION PROJECT ADVANCEMENT NOTES, THE
15 REVENUES THE POLITICAL SUBDIVISION RECEIVES UNDER THE APPLICABLE
16 TRANSPORTATION PROJECT ADVANCE AGREEMENT SHALL BE USED AS SET FORTH IN THE
17 AGREEMENT, INCLUDING THE PAYMENT WHEN DUE OR ON REDEMPTION IN ADVANCE OF
18 MATURITY, OF ALL PRINCIPAL, INTEREST AND REDEMPTION PREMIUMS ON THE NOTES.

19 28-7695. Use of proceeds

20 A POLITICAL SUBDIVISION SHALL USE THE PROCEEDS FROM THE SALE OF
21 TRANSPORTATION PROJECT ADVANCEMENT NOTES FOR PAYMENT OF ANY OF THE FOLLOWING:

22 1. ADVANCES FOR A TRANSPORTATION PROJECT INCLUDED IN THE STATE'S
23 TRANSPORTATION IMPROVEMENT PROGRAM OR A REGIONAL TRANSPORTATION PLAN, AS
24 DEFINED IN SECTION 28-6351, UNDER THE TRANSPORTATION PROJECT ADVANCE
25 AGREEMENT THAT RELATES TO THE TRANSPORTATION PROJECT ADVANCEMENT NOTES.

26 2. LEGAL AND FINANCIAL COSTS AND EXPENSES INCURRED IN ISSUING AND
27 ADMINISTERING THE NOTES.

28 3. REIMBURSEMENT TO THE POLITICAL SUBDIVISION FOR MONIES PREVIOUSLY
29 ADVANCED TO THE DEPARTMENT, A REGIONAL PLANNING AGENCY, METROPOLITAN PLANNING
30 ORGANIZATION OR COUNCIL OF GOVERNMENTS, A REGIONAL PUBLIC TRANSPORTATION
31 AUTHORITY OR A DESIGNATED GRANT RECIPIENT UNDER THE TRANSPORTATION PROJECT
32 ADVANCE AGREEMENT THAT RELATES TO THE TRANSPORTATION PROJECT ADVANCEMENT
33 NOTES.

34 4. IF AUTHORIZED BY THE POLITICAL SUBDIVISION, PAYMENT OF INTEREST
35 THAT ACCRUES ON THE NOTES BEFORE MATURITY.

36 5. PAYMENT OF THE PRINCIPAL, PREMIUM OR INTEREST ON OTHER OBLIGATIONS
37 OF THE POLITICAL SUBDIVISION TO THE EXTENT THAT PROCEEDS OF THOSE OBLIGATIONS
38 ARE APPLIED TO THE FINANCING OF THE TRANSPORTATION PROJECT THAT RELATES TO
39 THE TRANSPORTATION PROJECT ADVANCE AGREEMENT.

40 28-7696. Refunding

41 A POLITICAL SUBDIVISION MAY ISSUE TRANSPORTATION PROJECT ADVANCEMENT
42 NOTES TO REFUND TRANSPORTATION PROJECT ADVANCEMENT NOTES PREVIOUSLY ISSUED
43 AND OTHER OBLIGATIONS IF THE PROCEEDS OF THE PREVIOUSLY ISSUED TRANSPORTATION
44 PROJECT ADVANCEMENT NOTES AND OTHER OBLIGATIONS ARE APPLIED TO THE FINANCING
45 OF THE ADVANCE THAT RELATES TO THE TRANSPORTATION PROJECT ADVANCE AGREEMENT.

1 28-7697. Nature of transportation project advancement notes:
2 limited obligation

3 A. TRANSPORTATION PROJECT ADVANCEMENT NOTES ISSUED PURSUANT TO THIS
4 ARTICLE ARE NOT GENERAL OBLIGATIONS OF A POLITICAL SUBDIVISION, ANY PUBLIC
5 OFFICER OR EMPLOYEE OF A POLITICAL SUBDIVISION OR THIS STATE.

6 B. TRANSPORTATION PROJECT ADVANCEMENT NOTES ARE LIMITED OBLIGATIONS OF
7 THE ISSUER OF THE NOTES AND ARE PAYABLE SOLELY FROM TRANSPORTATION PROJECT
8 ADVANCE REVENUES RECEIVED BY THE POLITICAL SUBDIVISION AND, IF PROVIDED BY
9 THE POLITICAL SUBDIVISION AT THE TIME OF AUTHORIZING THE ISSUANCE OF THOSE
10 TRANSPORTATION PROJECT ADVANCEMENT NOTES, OTHER MONIES LAWFULLY AVAILABLE FOR
11 APPLICATION TO THAT PURPOSE AND PLEDGED TO THE PAYMENT OF THE PRINCIPAL,
12 PREMIUM, IF ANY, AND INTEREST ON THE NOTES.

13 C. A HOLDER OF A TRANSPORTATION PROJECT ADVANCEMENT NOTE MAY NOT
14 COMPEL THE PAYMENT OF TRANSPORTATION PROJECT ADVANCE REVENUES TO THE
15 POLITICAL SUBDIVISION.

16 Sec. 6. Section 48-5122, Arizona Revised Statutes, is amended to read:
17 48-5122. Board powers and duties

18 The board shall:

19 1. Implement the ~~regional~~ public transportation element of the
20 REGIONAL transportation plan funded by the public transportation fund.

21 2. Determine whether to operate public transportation systems or to
22 let contracts for their operation.

23 3. Adopt an annual budget and fix the compensation of its employees.

24 4. Adopt an administrative code by ordinance that:

25 (a) Prescribes the powers and duties of the employees of the authority
26 that are not inconsistent with this chapter.

27 (b) Prescribes the method of appointing board employees.

28 (c) Prescribes methods, procedures and systems of operating and
29 managing the board.

30 (d) May provide for, among other things, appointing a general manager
31 and organizing the employees of the board into units for administration,
32 design and construction, planning and operation, property acquisition and
33 community relations and other units as the board deems necessary.

34 5. Cause a postaudit of the financial transactions and records of the
35 board to be made at least annually by a certified public accountant.

36 6. Adopt all ordinances and make all rules proper or necessary to:

37 (a) Regulate the use, operation and maintenance of its property and
38 facilities, including its public transportation systems and related
39 transportation facilities and services operating in its area of jurisdiction.

40 (b) Carry into effect the powers granted to the board.

41 7. Appoint advisory commissions as it deems necessary.

42 8. ENTER INTO AGREEMENTS WITH THE DEPARTMENT OF TRANSPORTATION, A
43 REGIONAL PLANNING AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF
44 GOVERNMENTS, A COUNTY, CITY OR TOWN OR A DESIGNATED GRANT RECIPIENT FOR THE
45 ACCELERATION OF A TRANSPORTATION PROJECT AS DEFINED IN SECTION 28-7671, AND

1 MAY ADVANCE MONIES TO THE DEPARTMENT OF TRANSPORTATION, A REGIONAL PLANNING
2 AGENCY, METROPOLITAN PLANNING ORGANIZATION OR COUNCIL OF GOVERNMENTS, A
3 COUNTY, CITY OR TOWN OR A DESIGNATED GRANT RECIPIENT PURSUANT TO THOSE
4 AGREEMENTS. THE BOARD MAY PLEDGE ANY LAWFULLY AVAILABLE MONIES, INCLUDING
5 EXCISE TAXES, TO THE REPAYMENT OF ALL OR ANY PART OF THE PRINCIPAL, PREMIUM,
6 IF ANY, AND INTEREST ON ANY BORROWING TO FUND THE ADVANCE.
7 ~~8.~~ 9. Do all things necessary to carry out the purposes of this
8 chapter.