

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 230
HOUSE BILL 2544

AN ACT

AMENDING SECTIONS 45-1702, 45-1703 AND 45-1707, ARIZONA REVISED STATUTES;
RELATING TO THE ARIZONA POWER AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-1702, Arizona Revised Statutes, is amended to
3 read:

4 45-1702. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Authority" means the Arizona power authority created pursuant to
7 title 30, chapter 1.

8 2. "Bonds" and "notes" means bonds and notes, respectively, of the
9 authority issued pursuant to this article.

10 3. "District" means any irrigation district, power district,
11 electrical district, agricultural improvement district or water users
12 association now or hereafter organized under the laws of this state ~~which~~
13 ~~THAT~~ is directly engaged in the sale, distribution or delivery of municipal,
14 industrial or irrigation water or in the sale, distribution or use of
15 electric power or energy.

16 4. "Municipality" means any incorporated city or town or other
17 corporation organized for municipal purposes.

18 5. "Power" means electric power or electric energy or both.

19 6. "Project" or "work" means:

20 (a) Any of the projects or works authorized by this article or
21 hereafter authorized, including each and every facility or improvement
22 necessary or incidental thereto and all rights-of-way, lands or interests in
23 lands, the use or occupancy of which is necessary or appropriate in the
24 construction, reconstruction, replacement, extension, betterment,
25 development, improvement or operation and maintenance of such facilities and
26 improvements.

27 (b) FINANCING OR REFINANCING AUTHORIZED BY SECTION 45-1703, SUBSECTION
28 A, PARAGRAPH 5.

29 7. "Public utility" means any person, corporation, district, electric
30 cooperative, public agency or political subdivision of the state that
31 provides electrical service to the public by means of electric facilities or
32 provides water for municipal, industrial, irrigation, recreation and fish and
33 wildlife purposes to the public.

34 8. "Real property" means lands, rights in lands, interests in land,
35 including lands under water, appurtenances, improvements and any and all
36 other things and rights usually included within the term and includes also
37 any and all interest in such property less than full title, such as
38 easements, permanent or temporary rights-of-way, uses, leases, licenses and
39 other such incorporeal hereditaments.

40 9. "Retail" means sales to persons, corporations, firms, partnerships
41 or other entities for their use and not for resale.

42 10. "State" means the state of Arizona.

43 11. "State water and power development fund" means the fund by that
44 name established ~~in~~ BY section 45-1711.

45 12. "State water and power plan" means the plan established pursuant to
46 section 45-1703.

1 13. "Wholesale" means sales to municipalities, districts or public
2 utilities for resale or distribution.

3 Sec. 2. Section 45-1703, Arizona Revised Statutes, is amended to read:
4 45-1703. State water and power plan

5 A. A water and power plan for the state is established, ~~—~~ consisting of
6 all or part of the following works and facilities:

7 1. Central Arizona project, including:

8 (a) Granite Reef aqueduct to extend from Lake Havasu to a point in
9 central Arizona on the Salt river near the city of Phoenix, together with
10 pumping plants therefor.

11 (b) The Salt-Gila aqueduct to extend from the terminus of the Granite
12 Reef aqueduct in central Arizona to the Tucson aqueduct, Colorado source, in
13 the vicinity of Picacho reservoir, together with pumping plants therefor.

14 (c) The following alternative to Orme dam:

15 (i) New Waddell dam.

16 (ii) Cliff dam.

17 (iii) Modifications to Roosevelt dam.

18 (d) Buttes dam and reservoir on the Gila river east of the town of
19 Florence.

20 (e) Tucson aqueduct to extend from the terminus of the Salt-Gila
21 aqueduct in the vicinity of Picacho reservoir to and beyond the city of
22 Tucson, together with pumping plants and terminal storage therefor.

23 2. Montezuma pumped storage power project to be located approximately
24 twenty-five miles south of the city of Phoenix.

25 3. The authority's interest in or rights to capacity and any
26 associated energy of the Hoover power plant modifications project consisting
27 of an additional powerhouse or powerhouses at the Hoover dam and power plant
28 located on the Colorado river in Clark county, Nevada and Mohave county,
29 Arizona and Lake Mead, the reservoir formed behind Hoover dam.

30 4. The authority's interest in or rights to capacity and any
31 associated energy of the Hoover power plant uprating project consisting of an
32 increase in capacity of existing generating units at Hoover dam and power
33 plant as a result of replacement and improvement of equipment for such units.
34 In each case the project shall include any improvements thereto and any
35 incidental or associated capacity, energy, buildings, structures,
36 transmission lines or mains, and all other appurtenances and facilities
37 necessary or appropriate thereto.

38 5. THE FINANCING OR REFINANCING OF THIS STATE'S PROPORTIONATE SHARE OF
39 THE COSTS INCURRED BY THE UNITED STATES WITH RESPECT TO THE HOOVER VISITOR
40 FACILITIES AS DEFINED IN SECTION 101(a) OF THE HOOVER POWER PLANT ACT OF 1984
41 (P.L. 98-381; 98 STAT. 1333; 43 UNITED STATES CODE SECTION 619) AND THIS
42 STATE'S PROPORTIONATE SHARE OF THE COSTS INCURRED BY THE BUREAU OF
43 RECLAMATION WITH RESPECT TO THE AIR SLOT TREASURY LOAN FOR THE CONSTRUCTION
44 OF AIR SLOTS AT HOOVER DAM.

45 B. The state water and power plan may also include such further water
46 and power projects, either in addition to or in substitution of the projects

1 set forth above, or any portion thereof, as the Arizona legislature may from
2 time to time authorize. However, in no event may such further power projects
3 include thermal generating plants or interests therein, except that the
4 authority may enter into an agreement with other electric power interests
5 proposing to construct a thermal generating power plant whereby the state
6 shall acquire the right to such portion of the capacity of such plant,
7 including delivery of power and energy over appurtenant transmission
8 facilities to mutually agreed ~~upon~~ ON delivery points as is required to
9 provide central Arizona project pumping. Power and energy acquired
10 thereunder may be disposed of intermittently by the authority when not
11 required in connection with the central Arizona project.

12 C. Except as otherwise provided in this subsection, nothing in this
13 article shall authorize the inclusion in the state water and power plan of
14 the power and energy under the Hoover energy contract 1-1r-1455 dated
15 November 23, 1945 as it may be supplemented, amended, renewed or replaced and
16 the rights to deliver such power and energy under the 1964 Wheeling contract
17 14-06-0300-1444 dated January 1, 1965 as it may be supplemented, amended,
18 renewed or replaced which power and energy and Wheeling rights shall continue
19 to be administered under ~~chapter 1 of~~ title 30, CHAPTER 1. Power and energy
20 of the authority from the Hoover power plant modifications project and the
21 Hoover power plant uprating project shall be sold by the authority pursuant
22 to this article. The contracts for the sale of the power and energy of the
23 authority from such projects shall be treated as contracts under this
24 article. Notwithstanding title 30, chapter 1, the authority may pledge its
25 contracts, rights and interests in or to power and energy from the Hoover
26 power plant modifications project, the Hoover power plant uprating project,
27 the 1945 Hoover energy contract or the 1964 Wheeling contract, or any
28 supplements, amendments, renewals or replacements of such contracts, or any
29 other contract or contracts for the purchase or transmission of power and
30 energy from the United States or any United States agency as security for any
31 bonds or notes of the authority issued under this article for the purpose of
32 the Hoover power plant modifications project, ~~or~~ the Hoover power plant
33 uprating project, THE HOOVER VISITOR FACILITIES OR THE AIR SLOTS AT HOOVER
34 DAM.

35 Sec. 3. Section 45-1707, Arizona Revised Statutes, is amended to read:
36 45-1707. Issuance of bonds and notes

37 A. The authority:

38 1. Shall have the power and is authorized from time to time to issue
39 its negotiable bonds and notes in such principal amount as, in the opinion of
40 the authority, shall be necessary to provide sufficient monies for the
41 construction, reconstruction and improvement of the projects included in the
42 state water and power plan or any portion thereof, or for payments REQUIRED
43 with respect to ~~the acquisition of interests or capacity and associated~~
44 ~~energy rights which constitute~~ any such project, together with suitable
45 facilities and appurtenances, the cost of acquisition of all real property,
46 the expense of maintenance and operation, interest on bonds and notes during

1 construction and for a reasonable period thereafter, establishment of
2 reserves to secure bonds or notes, and all other expenditures of the
3 authority incident to and necessary or convenient to carry out the aforesaid
4 purpose. Notwithstanding any other provision herein, the director shall
5 determine whether bonds or notes shall be offered for public or private sale
6 for the central Arizona project or any part thereof, or any future water
7 projects, the time of the offering, the amount, and the terms and conditions
8 thereof. When such determination has been made, the authority shall proceed
9 to offer the bonds or notes, or cause the same to be offered for sale in
10 accordance with the determination of the director. In the event the
11 authority fails to do so, the director may proceed to issue the bonds or
12 notes for the water features of the state water and power plan. In such
13 event the director shall have all of the rights and powers invested in the
14 authority under the terms of this article to issue such bonds or notes.

15 2. Shall have power from time to time to issue renewal notes, to issue
16 bonds to pay notes, and whenever it deems refunding expedient, to refund any
17 bonds by the issuance of new bonds, whether the bonds to be refunded have or
18 have not matured, and may issue bonds partly to refund bonds then outstanding
19 and partly for any other purpose. Whether or not the bonds or notes are of
20 such form and character as to be negotiable instruments under the terms of
21 the uniform commercial code, title 47, chapter 3, the bonds or notes shall be
22 and are hereby made negotiable instruments within the meaning of and for all
23 the purposes of the negotiable instrument law, subject only to the provisions
24 of the bonds for registration.

25 B. The bonds and notes shall be authorized by resolution of the
26 authority, shall bear such date or dates and mature at such time or times, in
27 the case of notes and any renewals thereof within five years after their
28 respective dates and in the case of bonds not exceeding sixty years from
29 their respective dates, as such resolution or resolutions may provide. The
30 bonds and notes shall bear interest at such rate or rates, be in such
31 denominations, be in such form, either coupon or registered, carry such
32 registration privileges, be executed in such manner, be payable in such
33 medium of payment, at such place or places, and be subject to such terms of
34 redemption as such resolution or resolutions may provide. The bonds and
35 notes shall be sold at public or private sale at such price and on such terms
36 as the authority may determine, provided that bonds or notes to fund or
37 refund other bonds or notes may be exchanged with the holders of such bonds
38 or notes being funded or refunded on such terms as the authority may
39 determine.

40 C. Any resolution or resolutions or trust indenture or indentures
41 authorizing or securing any bonds or notes or any issue thereof may contain
42 provisions, which shall be a part of the contract with the holders thereof,
43 as to:

44 1. Pledging all or any part of the fees, charges, gifts, grants,
45 rents, revenues or other monies received or to be received by the authority
46 or the director from or in connection with the ownership or operation of the

1 projects included in the state water and power plan and leases or agreements
2 to secure the payment of the bonds or notes or of any issue thereof,
3 including any amounts deposited in the state water and power development
4 fund, subject to such agreements with bondholders or noteholders as may then
5 exist.

6 2. The rates of the fees, charges or rents to be established for the
7 projects included in the state water and power plan, and the amounts to be
8 raised in each year thereby and the use and disposition of the fees, charges,
9 gifts, grants, rents, revenues or other monies received or to be received
10 therefrom.

11 3. The setting aside of reserves or sinking funds, and the regulation
12 and disposition thereof.

13 4. Notwithstanding the provisions of section 30-203, the custody,
14 collection, securing, investment and payment of any monies held pursuant to
15 any such resolution or trust indenture in trust or otherwise for the payment
16 of bonds or notes or in any way to secure bonds or notes. Such monies and
17 the deposits thereof may be secured in the same manner as monies of the
18 authority, and all banks and trust companies are authorized to give such a
19 security for such deposits.

20 5. Limitations on the purpose to which the proceeds of sale of any
21 issue of bonds or notes then or thereafter to be issued may be applied and
22 pledging such proceeds to secure the payment of the bonds or notes or of any
23 issue thereof.

24 6. Limitations on the issuance of additional bonds or notes, the terms
25 upon which additional bonds or notes may be issued and secured and the
26 refunding of outstanding or other bonds or notes.

27 7. The procedure, if any, by which the terms of any contract with
28 bondholders or noteholders may be amended or abrogated, the amount of bonds
29 or notes the holders of which must consent thereto, and the manner in which
30 such consent may be given.

31 8. Limitations on the amount of monies to be expended for operating,
32 administrative or other expenses with respect to the projects included in the
33 state water and power plan.

34 9. Vesting in a trustee or trustees such property, rights, powers and
35 duties in trust as the authority may determine which may include any or all
36 of the rights, powers and duties of the trustee appointed by the bondholders
37 pursuant to this article, and limiting or abrogating the right of the
38 bondholders to appoint a trustee under this article or limiting the rights,
39 duties and powers of such trustee.

40 10. Any other matters, of like or different character, which in any way
41 affect the security or protection of the bonds or notes.

42 D. It is the intention in the enactment of this article:

43 1. That any pledge made pursuant to this article of all or any part of
44 the fees, charges, gifts, grants, rents, revenues or other monies received or
45 to be received by the authority or the director from or in connection with

1 the ownership or operation of the projects included in the state water and
2 power plan shall be valid and binding from the time when the pledge is made.

3 2. That the monies so pledged and thereafter received by the authority
4 or the director shall immediately be subject to the lien of such pledge
5 without any physical delivery thereof or further act, and that the lien of
6 any such pledge shall be valid and binding as against all parties having
7 claims of any kind in tort, contract or otherwise against the authority or
8 the director irrespective of whether such parties have notice
9 thereof. Neither the resolution nor trust indenture nor any other instrument
10 by which a pledge is created need be recorded.

11 E. Neither the members of the authority nor any person executing the
12 bonds or notes shall be liable personally on the bonds or notes or be subject
13 to any personal liability or accountability by reason of the issuance
14 thereof. In case any one or more of the officers who shall have signed
15 manually or by facsimile or sealed any of the bonds or notes shall cease to
16 be such officer before the bonds or notes so signed and sealed shall have
17 been delivered, such bonds or notes may, nevertheless, be issued as if the
18 persons who signed or sealed such bonds or notes had not ceased to hold such
19 offices. Any bonds or notes may be signed and sealed on behalf of the
20 authority by such persons as at the actual time of the execution of such
21 bonds or notes shall be duly authorized or hold the proper office in the
22 authority, although at the date of such bonds or notes such persons may not
23 have been so authorized or held such office.

24 F. The authority shall have power out of any funds available therefor
25 to purchase bonds or notes, which shall thereupon be cancelled, at a price
26 not exceeding either of the following:

27 1. If the bonds or notes are then redeemable, the redemption price
28 then applicable plus accrued interest to the next interest payment date
29 thereon.

30 2. If the bonds or notes are not then redeemable, the redemption price
31 applicable on the first date after such purchase upon which the bonds or
32 notes become subject to redemption plus accrued interest to such date.

APPROVED BY THE GOVERNOR JUNE 19, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.