

State of Arizona  
House of Representatives  
Fifty-first Legislature  
Second Regular Session  
2014

**CHAPTER 212**  
**HOUSE BILL 2523**

AN ACT

REPEALING SECTION 49-867, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-1201, 49-1273, 49-1274 AND 49-1275, ARIZONA REVISED STATUTES; RELATING TO WATER SUPPLY DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 49-867, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 49-1201, Arizona Revised Statutes, is amended to read:  
5 49-1201. Definitions

6 In this chapter, unless the context otherwise requires:

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

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

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

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

15 5. "Committee" means the water supply development fund committee  
16 established by section 49-1202, subsection B.

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

23 7. "Financial assistance loan repayment agreement" means an agreement  
24 to repay a loan provided to design, construct, acquire, rehabilitate or  
25 improve water or wastewater infrastructure, related property and  
26 appurtenances or a loan provided to finance a water supply development  
27 project.

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

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

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

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

42 12. "Technical assistance loan repayment agreement" means either of the  
43 following:

44 (a) An agreement to repay a loan provided to develop, plan and design  
45 water or wastewater infrastructure, related property and appurtenances. The  
46 agreement shall be for a term of not more than three years and the maximum

1 amount that may be borrowed is limited to not more than five hundred thousand  
2 dollars.

3 (b) An agreement to repay a loan provided to develop, plan or design a  
4 water supply development project.

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

10 14. "Water provider" means any of the following:

11 (a) A municipal water delivery system as defined in section 42-5301,  
12 paragraphs 1 and 3.

13 (b) A municipal water delivery system as defined in section 42-5301,  
14 paragraph 2, which has entered into a partnership with a city, town or county  
15 for a water supply augmentation plan.

16 (c) A county water augmentation authority established under title 45,  
17 chapter 11.

18 (d) A county water authority established under title 45, chapter 13.

19 (e) An Indian tribe.

20 (f) A community facilities district as established by title 48,  
21 chapter 4.

22 (g) FOR PURPOSES OF FUNDING FROM THE WATER SUPPLY DEVELOPMENT  
23 REVOLVING FUND PURSUANT TO ARTICLE 3 OF THIS CHAPTER ONLY, A COUNTY THAT  
24 ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT OR OTHER FORMAL WRITTEN AGREEMENT  
25 WITH A CITY, TOWN OR OTHER WATER PROVIDER REGARDING A WATER SUPPLY  
26 DEVELOPMENT PROJECT.

27 15. "Water supply development" means either of the following:

28 (a) The acquisition of water or rights to or contracts for water to  
29 augment the water supply of a water provider, INCLUDING ANY ENVIRONMENTAL OR  
30 OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THAT ACQUISITION.

31 (b) The development of facilities, INCLUDING ANY ENVIRONMENTAL OR  
32 OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THOSE FACILITIES,  
33 for any of the following purposes:

34 (i) Conveyance, storage or recovery of water.

35 (ii) Reclamation and reuse of water.

36 (iii) Replenishment of groundwater.

37 Sec. 3. Section 49-1273, Arizona Revised Statutes, is amended to read:  
38 49-1273. Water supply development revolving fund; purposes;

39 limitation

40 A. Monies in the water supply development revolving fund may be used  
41 for the following purposes:

42 1. Making water supply development loans to water providers in this  
43 state under section 49-1274 for water supply development purposes.

44 2. Making loans or grants to water providers for the planning or  
45 design of water supply development projects. A single grant shall not exceed  
46 one hundred thousand dollars.



1           A. In compliance with any applicable requirements, a water provider  
2 may apply to the authority for and accept and incur indebtedness as a result  
3 of a loan or any other financial assistance pursuant to section 49-1273 from  
4 the water supply development revolving fund for water supply development  
5 purposes. In compliance with any applicable requirements, a water provider  
6 may also apply to the authority for and accept grants, staff assistance or  
7 technical assistance for the planning or design of a water supply development  
8 project. A water provider that applies for and accepts a loan or other  
9 financial assistance under this article is not precluded from applying for  
10 and accepting a loan or other financial assistance under article 2 of this  
11 chapter or under any other law.

12           B. The authority, in consultation with the committee, shall:

13           1. Prescribe a simplified form and procedure to apply for and approve  
14 assistance.

15           2. Establish by rule criteria by which assistance will be awarded,  
16 including requirements for local participation in project costs, if deemed  
17 advisable. The criteria shall include:

18           (a) A determination of the ability of the applicant to repay a loan  
19 according to the terms and conditions established by this section. At the  
20 option of the committee, the existence of a current investment grade rating  
21 on existing debt of the applicant that is secured by the same revenues to be  
22 pledged to secure repayment under the loan repayment agreement constitutes  
23 evidence regarding ability to repay a loan.

24           (b) A determination of the applicant's legal capability to enter into  
25 a loan repayment agreement.

26           (c) A determination of the applicant's financial ability to construct,  
27 operate and maintain the project if it receives the financial assistance.

28           (d) A determination of the applicant's ability to manage the project.

29           (e) A determination of the applicant's ability to meet any applicable  
30 environmental requirements imposed by federal or state agencies.

31           (f) A determination of the applicant's ability to acquire any  
32 necessary regulatory permits.

33           3. Determine the order and priority of projects assisted under this  
34 section based on the merits of the application with respect to water supply  
35 development issues, including the following:

36           (a) Existing, near-term and long-term water demands of the water  
37 provider compared to the existing water supplies of the water provider.

38           (b) Existing and planned conservation and water management programs of  
39 the water provider, **INCLUDING WATERSHED MANAGEMENT OR PROTECTION.**

40           (c) Benefits of the project.

41           (d) The sustainability of the water supply to be developed through the  
42 project.

43           (e) The water provider's need for financial assistance.

44           (f) The cost-effectiveness of the project.

45           C. The committee shall review on its merits each application received  
46 and shall inform the applicant of the committee's determination within ninety

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

7 D. On approval of an application under this section by the committee,  
8 the authority shall use monies in the water supply development revolving fund  
9 to finance the project.

10 Sec. 5. Section 49-1275, Arizona Revised Statutes, is amended to read:

11 49-1275. Water supply development revolving fund financial  
12 assistance; terms

13 A. A loan from the water supply development revolving fund shall be  
14 evidenced by bonds, if the water provider has bonding authority, or by a  
15 financial assistance agreement, delivered to and held by the authority.

16 B. A loan under this section shall:

17 1. Be repaid not more than ~~thirty~~ FORTY years after the date incurred.

18 2. Require that interest payments begin not later than the next date  
19 that either principal or interest must be paid by the authority to the  
20 holders of any of the authority's bonds that provided funding for the loan.  
21 If the loan is for construction of water supply development facilities, the  
22 authority may provide that loan interest accruing during construction and one  
23 year after completion of the construction be capitalized in the loan.

24 3. Be conditioned on the establishment of a dedicated revenue source  
25 for repaying the loan.

26 C. The authority, in consultation with the committee, shall prescribe  
27 the rate of interest on loans made under this section, but the rate shall not  
28 exceed the prevailing market rate for similar types of loans. The authority,  
29 ~~upon~~ ON recommendations from the committee, may adopt rules ~~which~~ THAT  
30 provide for flexible interest rates and interest free loans. All financial  
31 assistance agreements or bonds of a water provider shall clearly specify the  
32 amount of principal and interest and any redemption premium that is due on  
33 any payment date.

34 D. The approval of a loan is conditioned on a written commitment by  
35 the water provider to complete all applicable reviews and approvals and to  
36 secure all required permits in a timely manner.

37 E. A loan made to a water provider under this section may be secured  
38 additionally by an irrevocable pledge of any shared state revenues due to the  
39 water provider for the duration of the loan as prescribed by a resolution of  
40 the committee. If the committee requires an irrevocable pledge of the shared  
41 state revenues for financial assistance loan repayment agreements, the  
42 authority shall enter into an intercreditor agreement with the greater  
43 Arizona development authority to define the allocation of shared state  
44 revenues in relation to individual borrowers. If a pledge is required and a  
45 water provider fails to make any payment due to the authority under its loan  
46 repayment agreement or bonds, the authority shall certify to the state

1 treasurer and notify the governing body of the defaulting water provider that  
2 the water provider has failed to make the required payment and shall direct a  
3 withholding of state shared revenues as prescribed in subsection F of this  
4 section. The certificate of default shall be in the form determined by the  
5 authority, except that the certificate shall specify the amount required to  
6 satisfy the unpaid payment obligation of the water provider.

7 F. On receipt of a certificate of default from the authority, the  
8 state treasurer, to the extent not expressly prohibited by law, shall  
9 withhold any monies due to the defaulting water provider from the next  
10 succeeding distribution of monies pursuant to section 42-5029. In the case  
11 of a city or town, the state treasurer shall also withhold from the monies  
12 due to the defaulting city or town from the next succeeding distribution of  
13 monies pursuant to section 43-206 the amount specified in the certificate of  
14 default and shall immediately deposit the monies in the water supply  
15 development revolving fund. The state treasurer shall continue to withhold  
16 and deposit monies until the authority certifies to the state treasurer that  
17 the default has been cured. The state treasurer shall not withhold any  
18 amount that is necessary to make any required deposits then due for the  
19 payment of principal and interest on bonds of the water provider if so  
20 certified by the defaulting water provider to the state treasurer and the  
21 authority. The water provider shall not certify deposits as necessary for  
22 payment for bonds unless the bonds were issued before the date of the loan  
23 repayment agreement and the bonds were secured by a pledge of distribution  
24 made pursuant to sections 42-5029 and 43-206.

25 Sec. 6. Rural water supply development and contamination  
26 prevention study committee; members; report; delayed  
27 repeal

28 A. The rural water supply development and contamination prevention  
29 study committee is established consisting of the following members:

30 1. Three members of the house of representatives who are appointed by  
31 the speaker of the house of representatives, not more than two of whom are  
32 members of the same political party.

33 2. Three members of the senate who are appointed by the president of  
34 the senate, not more than two of whom are members of the same political  
35 party.

36 B. The committee shall meet and consider the possible effects of waste  
37 treatment, storage and disposal facilities on the development of long-term  
38 water supplies for rural areas that are under consideration for funding from  
39 the water supply development revolving fund and may consult with the  
40 department of water resources, the department of environmental quality and  
41 the water infrastructure finance authority of Arizona, as the committee deems  
42 appropriate. The committee shall prepare a report on its findings and  
43 recommendations by November 1, 2014 and submit it electronically to the  
44 speaker of the house of representatives, the president of the senate and the  
45 governor and shall provide access to this report to the secretary of state.

46 C. This section is repealed from and after December 31, 2014.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.