

REFERENCE TITLE: water infrastructure finance authority; prepayment

State of Arizona
House of Representatives
Fifty-second Legislature
First Regular Session
2015

HB 2142

Introduced by
Representatives Borrelli, Barton, Cardenas, Cobb, Coleman, Fann, Senator
Ward: Representatives Ackerley, Bowers, Boyer, Campbell, Carter, Finchem,
Hale, Kern, Larkin, Lawrence, Mitchell, Pratt, Shope, Thorpe, Townsend,
Senators Griffin, Yee

AN ACT

AMENDING SECTIONS 49-1225 AND 49-1245, ARIZONA REVISED STATUTES; RELATING TO
THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 49-1225, Arizona Revised Statutes, is amended to
3 read:

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

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

8 B. A loan under this section:

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

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

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

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

25 C. The authority shall prescribe the rate of interest on loans made
26 under this section, but the rate shall not exceed the prevailing market rate
27 for similar types of loans. The authority may also provide for flexible
28 interest rates and interest free loans under rules adopted by the authority.
29 All financial assistance agreements or bonds of a political subdivision shall
30 clearly specify the amount of principal and interest and any redemption
31 premium that is due on any payment date. THE AUTHORITY SHALL NOT
32 UNILATERALLY AMEND A FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND AFTER ITS
33 EXECUTION. THE AUTHORITY SHALL NOT IMPOSE A REDEMPTION PREMIUM AS A
34 CONDITION OF REFINANCING OR RECEIVING PREPAYMENT ON A FINANCIAL ASSISTANCE
35 AGREEMENT, LOAN OR BOND IF THE FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND
36 DID NOT CONTAIN A REDEMPTION PREMIUM.

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

40 E. All monies received from political subdivisions or Indian tribes as
41 loan repayments, interest and penalties shall be deposited in the appropriate
42 accounts of the clean water revolving fund.

43 F. A loan made to a political subdivision under this section after
44 June 30, 2001 may be secured additionally by an irrevocable pledge of the
45 shared state revenues due to the political subdivision for the duration of

1 the loan as prescribed by a resolution of the authority's board. If the
2 authority's board requires an irrevocable pledge of the shared state revenues
3 for financial assistance loan repayment agreements after June 30, 2001, the
4 authority's board shall enter into an intercreditor agreement with the
5 greater Arizona development authority to define the allocation of shared
6 state revenues in relation to individual borrowers. If a pledge is required
7 and a political subdivision fails to make any payment due to the authority
8 under its loan repayment agreement or bonds, the authority shall certify to
9 the state treasurer and notify the governing body of the defaulting political
10 subdivision that the political subdivision has failed to make the required
11 payment and shall direct a withholding of state shared revenues as prescribed
12 in subsection G of this section. The certificate of default shall be in the
13 form determined by the authority, except that the certificate shall specify
14 the amount required to satisfy the unpaid payment obligation of the political
15 subdivision.

16 G. On receipt of a certificate of default from the authority, the
17 state treasurer to the extent not expressly prohibited by law shall withhold
18 the monies due to the defaulting political subdivision from the next
19 succeeding distribution of monies pursuant to section 42-5029. In the case
20 of a city or town, the state treasurer shall also withhold from the monies
21 due to the defaulting city or town from the next succeeding distribution of
22 monies pursuant to section 43-206 the amount specified in the certificate of
23 default and shall immediately deposit the monies in the fund. The state
24 treasurer shall continue to withhold and deposit monies until the authority
25 certifies to the state treasurer that the default has been cured. The state
26 treasurer shall not withhold any amount that is necessary to make any
27 required deposits then due for the payment of principal and interest on bonds
28 of the political subdivision if so certified by the defaulting political
29 subdivision to the state treasurer and the authority. The political
30 subdivision shall not certify deposits as necessary for payment for bonds
31 unless the bonds were issued before the date of the loan repayment agreement
32 and the bonds were secured by a pledge of distribution made pursuant to
33 sections 42-5029 and 43-206.

34 Sec. 2. Section 49-1245, Arizona Revised Statutes, is amended to read:

35 49-1245. Drinking water revolving fund financial assistance:
36 terms

37 A. A loan from the drinking water revolving fund shall be evidenced by
38 a loan repayment agreement or bonds of a political subdivision, delivered to
39 and held by the authority.

40 B. A loan under this section:

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

43 2. Shall require that interest payments begin not later than the next
44 date that either principal or interest must be paid by the authority to the
45 holders of any of the authority's bonds that provided funding for the loan.

1 The authority may provide that loan interest accruing during construction and
2 one year beyond completion of the construction be capitalized in the loan.

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

5 4. To an Indian tribe shall either be conditioned on the establishment
6 of a dedicated revenue source under the control of a tribally chartered
7 corporation, or any other tribal entity that is subject to suit by the
8 attorney general to enforce the loan contract, or be secured by assets that,
9 in the event of default of the loan contract, are subject to execution by the
10 attorney general without the waiver of any claim of sovereign immunity by the
11 tribe.

12 C. The authority shall prescribe the rate of interest on loans made
13 under this section, but the rate shall not exceed the prevailing market rate
14 for similar types of loans. The authority may also provide for flexible
15 interest rates, interest free loans and forgivable principal under rules
16 adopted by the authority. All financial assistance agreements or bonds of a
17 political subdivision shall clearly specify the amount of principal and
18 interest and any redemption premium that is due on any payment date. **THE**
19 **AUTHORITY SHALL NOT UNILATERALLY AMEND THE FINANCIAL ASSISTANCE AGREEMENT,**
20 **LOAN OR BOND AFTER ITS EXECUTION. THE AUTHORITY SHALL NOT IMPOSE A**
21 **REDEMPTION PREMIUM AS A CONDITION OF REFINANCING OR RECEIVING PREPAYMENT ON A**
22 **FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND IF THE FINANCIAL ASSISTANCE**
23 **AGREEMENT, LOAN OR BOND DID NOT CONTAIN A REDEMPTION PREMIUM.**

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

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

30 F. A loan made to a political subdivision under this section after
31 June 30, 2001 may be secured additionally by an irrevocable pledge of the
32 shared state revenues due to the political subdivision for the duration of
33 the loan as prescribed by a resolution of the authority's board. If the
34 authority's board requires an irrevocable pledge of the shared state revenues
35 for financial assistance loan repayment agreements after June 30, 2001, the
36 authority's board shall enter into an intercreditor agreement with the
37 greater Arizona development authority to define the allocation of shared
38 state revenues in relation to individual borrowers. If a pledge is required
39 and a political subdivision fails to make any payment due to the authority
40 under its loan repayment agreement or bonds, the authority shall certify to
41 the state treasurer and notify the governing body of the defaulting political
42 subdivision that the political subdivision has failed to make the required
43 payment and shall direct a withholding of state shared revenues as prescribed
44 in subsection G of this section. The certificate of default shall be in the
45 form determined by the authority, except that the certificate shall specify

1 the amount required to satisfy the unpaid payment obligation of the political
2 subdivision.

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

21 Sec. 3. Applicability

22 This act applies to all financial assistance agreements, loans or bonds
23 issued or executed by the water infrastructure financial authority of Arizona
24 whether issued or executed before or after the effective date of this act.

25 Sec. 4. Emergency

26 This act is an emergency measure that is necessary to preserve the
27 public peace, health or safety and is operative immediately as provided by
28 law.