

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

HOUSE BILL 2142

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 OR IMPLEMENT ANY POLICY THAT MODIFIES TERMS AND CONDITIONS OR
34 AFFECTS A PREVIOUSLY EXECUTED FINANCIAL AGREEMENT, LOAN OR BOND. THE
35 AUTHORITY SHALL NOT IMPOSE A REDEMPTION PREMIUM OR INTEREST PAYMENT BEYOND
36 THE DATE THE PRINCIPAL IS PAID AS A CONDITION OF REFINANCING OR RECEIVING
37 PREPAYMENT ON A FINANCIAL ASSISTANCE AGREEMENT, LOAN OR BOND IF THE FINANCIAL
38 ASSISTANCE AGREEMENT, LOAN OR BOND DID NOT ORIGINALLY CONTAIN A REDEMPTION
39 PREMIUM OR INTEREST PAYMENT BEYOND THE DATE THE PRINCIPAL IS PAID.

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

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

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

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

37 Sec. 2. Section 49-1245, Arizona Revised Statutes, is amended to read:
38 49-1245. Drinking water revolving fund financial assistance;
39 terms

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

43 B. A loan under this section:

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

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

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

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

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

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

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

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

1 payment and shall direct a withholding of state shared revenues as prescribed
2 in subsection G of this section. The certificate of default shall be in the
3 form determined by the authority, except that the certificate shall specify
4 the amount required to satisfy the unpaid payment obligation of the political
5 subdivision.

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

24 Sec. 3. Applicability

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

28 (EMERGENCY NOT ENACTED)

29 Sec. 4. Emergency

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