

REFERENCE TITLE: greater Arizona development authority

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
First Regular Session  
2007

## **HB 2754**

Introduced by  
Representatives McLain, Mason, Senator O'Halleran: Representatives Brown,  
Konopnicki, Lopes, Reagan, Senators Arzberger, Flake

AN ACT

AMENDING SECTIONS 41-1554, 41-1554.01, 41-1554.02, 41-1554.03, 41-1554.04 AND  
41-1554.06, ARIZONA REVISED STATUTES; MAKING APPROPRIATIONS; RELATING TO THE  
GREATER ARIZONA DEVELOPMENT AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 41-1554, Arizona Revised Statutes, is amended to  
3 read:  
4 41-1554. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Authority" means the greater Arizona development authority.  
7 2. "Board" means the board of directors of the authority.  
8 3. "Financial assistance" means assistance provided by the authority  
9 to eligible political subdivisions, special districts and Indian tribes  
10 pursuant to section 41-1554.06.  
11 4. "Fund" means the greater Arizona development authority revolving  
12 fund established by section 41-1554.03.  
13 5. "Indian tribe" means any Indian tribe, band, group or community  
14 that is recognized by the United States secretary of the interior and that  
15 exercises governmental authority within the limits of any Indian reservation  
16 under the jurisdiction of the United States government, notwithstanding the  
17 issuance of any patent and including rights-of-way running through the  
18 reservation.  
19 6. "Infrastructure" means any LAND, BUILDING OR OTHER IMPROVEMENT AND  
20 EQUIPMENT OR OTHER PERSONAL PROPERTY THAT WILL MAKE UP PART OF A facility  
21 THAT IS located in this state for public use and THAT IS owned by a political  
22 subdivision, special district or Indian tribe that retains ultimate  
23 responsibility for its operation and maintenance.  
24 7. "Loan" means bonds, leases, loans or other evidences of  
25 indebtedness.  
26 8. "Loan repayment agreement" means an agreement to repay a loan  
27 entered into by a political subdivision, special district or Indian tribe.  
28 9. "Pledged revenues" means any monies to be received by a political  
29 subdivision, SPECIAL DISTRICT OR INDIAN TRIBE, including property taxes,  
30 other local taxes, fees, assessments or charges pledged by a political  
31 subdivision, SPECIAL DISTRICT OR INDIAN TRIBE as a source for repayment of a  
32 loan repayment agreement.  
33 10. "Political subdivision" means a county, city or town.  
34 11. "Short-term assistance" means assistance provided by the authority  
35 to political subdivisions, special districts and Indian tribes in connection  
36 with the financing of infrastructure.  
37 12. "Special district" means any of the following entities established  
38 pursuant to title 48:  
39 (a) Municipal improvement district.  
40 (b) Fire district.  
41 (c) County improvement district.  
42 (d) Special road district.  
43 (e) Sanitary district.  
44 (f) Drainage or flood protection district.  
45 (g) County flood control district.

- 1 (h) County jail district.  
2 (i) Regional public transportation authority.  
3 (j) Regional transportation authority.  
4 (k) REGIONAL BROADBAND DISTRICT.
- 5 13. "Technical assistance" means assistance provided pursuant to  
6 section 41-1554.05.
- 7 14. "Technical assistance repayment agreement" means an agreement to  
8 repay assistance provided pursuant to section 41-1554.05.
- 9 15. "Tribal subdivision" means any chapter, district or village that is  
10 recognized by an Indian tribe by resolution or through tribal constitution  
11 and that receives technical assistance.
- 12 Sec. 2. Section 41-1554.01, Arizona Revised Statutes, is amended to  
13 read:
- 14 41-1554.01. Greater Arizona development authority; board;  
15 staff; conflict of interest prohibited;  
16 violation; classification
- 17 A. The greater Arizona development authority is established. The  
18 authority shall be governed by a board of directors consisting of the  
19 following members:
- 20 1. The director of the department of commerce or the director's  
21 designee who shall serve as the ~~chairman~~ CHAIRPERSON.
- 22 2. The director of the department of environmental quality or the  
23 director's designee.
- 24 3. The director of the department of transportation or the director's  
25 designee.
- 26 4. The state treasurer or the state treasurer's designee.
- 27 5. Five members, one of whom is a ~~member of an Indian tribe~~  
28 REPRESENTATIVE OF A TRIBAL NATION of Arizona, appointed by the governor  
29 pursuant to section 38-211. All appointed members shall reside in different  
30 counties, and no more than three members may be members of the same political  
31 party.
- 32 B. Members appointed by the governor serve staggered five year terms.
- 33 C. Members of the board are not eligible to receive compensation for  
34 their services but are eligible for reimbursement of expenses pursuant to  
35 title 38, chapter 4, article 2.
- 36 D. Members of the board are public officers for purposes of title 38,  
37 chapter 3, article 8 and the authority is a public body for purposes of title  
38 38, chapter 3, article 3.1.
- 39 E. No appointed member may serve more than two consecutive terms,  
40 except that service for a partial term of less than three years shall not be  
41 counted toward the two term limitation.
- 42 F. The department of commerce shall provide general administrative  
43 support, equipment and office and meeting space to the authority.

1 G. The department of commerce may hire staff to provide administrative  
2 and technical assistance on behalf of the authority. Earnings on the monies  
3 in the fund may be used to pay for staff services.

4 H. Members of the board shall not participate in any direct  
5 discussions or actions related to any project financed under this article in  
6 which the member has any direct or indirect personal financial interest. For  
7 purposes of this subsection, a member of the board who is an employee or  
8 official of a participant in or applicant for a loan shall not be considered  
9 to have a direct or indirect personal financial interest in a project by  
10 virtue of the member's services alone. A violation of this subsection is a  
11 class 1 misdemeanor.

12 Sec. 3. Section 41-1554.02, Arizona Revised Statutes, is amended to  
13 read:

14 41-1554.02. Powers and duties of authority

15 A. The authority is a body corporate and politic and shall have an  
16 official seal that is judicially noticed. The authority may sue and be sued,  
17 contract and acquire, hold, operate and dispose of property as necessary to  
18 carry out its responsibilities under this article.

19 B. The authority, through its board, may:

20 1. Issue bonds to provide financial assistance to political  
21 subdivisions, special districts and Indian tribes for ~~ACQUIRING,~~  
22 ~~constructing, or~~ improving OR EQUIPPING infrastructure or for refinancing  
23 outstanding bonds or other obligations of the political subdivisions, special  
24 districts or Indian tribes that were issued to ACQUIRE, construct, ~~or~~ improve  
25 OR EQUIP infrastructure. The bonds shall be in the name of the authority.

26 2. Provide financial assistance to political subdivisions, special  
27 districts and Indian tribes to finance or refinance infrastructure projects.

28 3. Guarantee debt obligations of political subdivisions, special  
29 districts and Indian tribes that are issued to finance or refinance  
30 infrastructure projects.

31 4. Provide technical assistance or short-term assistance to political  
32 subdivisions, special districts, Indian tribes and tribal subdivisions  
33 ~~through staff or other professional assistance.~~

34 5. Apply for, accept and administer grants and other ~~financial~~  
35 MONETARY assistance from the United States government and from other public  
36 and private sources to carry out its responsibilities under this article.

37 6. Hire professional assistance as needed to carry out ~~the provisions~~  
38 ~~of~~ this article.

39 C. The board shall:

40 1. Approve all policies and procedures of the authority.

41 2. Approve which projects receive technical and financial assistance.

42 3. Approve loan repayment agreements entered into with political  
43 subdivisions, special districts and Indian tribes.

1 D. The authority may impose administrative fees and penalties that are  
2 necessary to recover the costs incurred in connection with entering into or  
3 enforcing a loan repayment agreement or providing financial or technical  
4 assistance.

5 E. The board shall deposit, pursuant to sections 35-146 and 35-147,  
6 any monies received pursuant to subsection B, paragraph 5 OF THIS SECTION in  
7 the fund.

8 Sec. 4. Section 41-1554.03, Arizona Revised Statutes, is amended to  
9 read:

10 41-1554.03. Greater Arizona development authority revolving  
11 fund

12 A. The greater Arizona development authority revolving fund is  
13 established consisting of:

14 1. Monies appropriated by the legislature.

15 2. Monies received from the United States government to carry out  
16 ~~the provisions of~~ this article.

17 3. Monies received from political subdivisions, Indian tribes,  
18 tribal subdivisions and special districts as loan repayments, technical  
19 assistance repayments, interest, administrative fees and penalties.

20 4. Interest and other income received from investing monies in the  
21 fund.

22 5. Gifts, grants and donations received from any public or private  
23 source to carry out ~~the provisions of~~ this article.

24 6. Any other monies received by the authority.

25 B. The board shall administer the fund in compliance with the  
26 requirements of this article. **MONIES IN THE FUND ARE CONTINUOUSLY**  
27 **APPROPRIATED.** The board shall separately account for monies received from  
28 each source listed in subsection A of this section. Monies received  
29 pursuant to subsection A, paragraph 1 of this section shall not be used  
30 for any purpose except securing bonds issued by the authority and  
31 providing assistance under technical assistance repayment agreements if  
32 the amount used for providing this assistance is not more than eight  
33 hundred thousand dollars. This subsection does not limit the power of the  
34 authority to pledge other monies in the fund to secure bonds issued by the  
35 authority or to provide assistance under technical assistance repayment  
36 agreements.

37 C. The board may establish accounts and subaccounts as necessary to  
38 properly account for and use monies received by the authority.

39 D. Monies in the fund may be used for securing bonds of the  
40 authority.

41 E. Monies in the fund received pursuant to subsection A, paragraphs  
42 2, 3, 4, 5 and 6 of this section may be used for:

43 1. Providing technical assistance to political subdivisions,  
44 special districts, Indian tribes and tribal subdivisions.

1           2. Providing financial assistance to political subdivisions,  
2 special districts and Indian tribes.

3           3. Paying the compensation and employment related expenses  
4 associated with the employees hired pursuant to section 41-1554.01,  
5 subsection G.

6           4. Paying the costs to operate the authority, to administer the  
7 fund and to carry out the requirements of this article.

8           5. Paying the costs of professional assistance hired by the  
9 authority pursuant to section 41-1554.02, subsection B, paragraph 6.

10          F. On notice from the board, the state treasurer shall invest and  
11 divest monies in the fund as provided by section 35-313, and monies earned  
12 from investment shall be credited to the fund.

13          G. If the monies pledged to secure the bonds become insufficient to  
14 pay the principal and interest on the bonds, the board ~~shall~~ MAY direct  
15 the state treasurer to divest monies in the fund as may be necessary and  
16 ~~shall~~ MAY apply those proceeds to make current all payments then due on  
17 the bonds. The state treasurer shall immediately notify the attorney  
18 general and auditor general of the insufficiency. The auditor general  
19 shall audit the circumstances surrounding the depletion of the fund and  
20 shall report these findings to the attorney general. The attorney general  
21 shall conduct an investigation and report these findings to the governor  
22 and the legislature.

23          Sec. 5. Section 41-1554.04, Arizona Revised Statutes, is amended to  
24 read:

25           41-1554.04. Project application and prioritization

26           A. The authority shall:

27           1. Establish an application form for technical and financial  
28 assistance.

29           2. Establish a procedure to review and approve or disapprove on its  
30 merits each administratively complete application for technical and financial  
31 assistance.

32           3. Establish by rule criteria by which technical and financial  
33 assistance will be awarded. For financial assistance the criteria shall  
34 include a determination of the ability of the applicant to repay a loan  
35 according to its terms and other conditions established by this article.

36           4. Adopt rules to prioritize applications for technical and financial  
37 assistance.

38           5. Inform the applicant of the board's determination within ninety  
39 days after the application date established by the authority pursuant to  
40 paragraph 2 of this subsection.

41           B. The board shall:

42           1. Approve or disapprove applications for financial and technical  
43 assistance.

44           2. Determine the order and priority of projects assisted under this  
45 article based on the merits of the applications.

1 C. If the application is approved, the board may condition the  
2 approval on assurances the board deems necessary to ensure that the technical  
3 assistance or financial assistance will be used according to law and the  
4 terms of the application. The loan repayment agreement shall include any  
5 conditions concerning financial assistance deemed necessary by the board.

6 D. The authority shall only make financial assistance or short-term  
7 assistance available when ~~projects are ready for construction and~~ the  
8 applicant is ready to proceed or, if the financial assistance is for  
9 refinancing outstanding bonds or other obligations, when the outstanding  
10 bonds or other obligations are to be refunded. The authority may provide  
11 technical assistance on an as needed basis. The authority may charge the  
12 applicant fees sufficient to cover the authority's costs related to the  
13 project.

14 E. A political subdivision, a special district or an Indian tribe may  
15 apply to the authority for financial assistance and may accept assistance in  
16 connection with an infrastructure project owned by the political subdivision,  
17 special district or Indian tribe. The existence of a current investment  
18 grade rating on existing debt of the applicant that is secured by the same  
19 revenues to be pledged to secure repayment under the loan repayment agreement  
20 may be accepted by the board as evidence regarding the ability of the  
21 applicant to repay a loan.

22 F. The authority shall only make financial assistance available upon a  
23 determination of the ability of the applicant to repay the financial  
24 assistance according to its terms and conditions.

25 G. Applications for financial assistance shall:

26 1. Be solicited annually, semiannually, quarterly or monthly as  
27 determined by the authority pursuant to subsection A, paragraph 2.

28 2. Be administratively complete before being reviewed by the  
29 authority.

30 3. Include documentation concerning the ability of the applicant to  
31 repay the financial assistance according to its terms and conditions.

32 4. Include a resolution from the governing body of the political  
33 subdivision, special district or Indian tribe that the project is in the best  
34 interests of the residents.

35 H. Applications for technical assistance shall:

36 1. Be solicited annually or semiannually as determined by the  
37 authority pursuant to subsection A, paragraph 2, except that an application  
38 for short-term assistance may be solicited at those times as the authority  
39 determines.

40 2. Be administratively complete before being reviewed by the  
41 authority.

42 3. Include a resolution from the governing body of the political  
43 subdivision, special district or Indian tribe that the project is in the best  
44 interests of the residents.

1           Sec. 6. Section 41-1554.06, Arizona Revised Statutes, is amended to  
2 read:

3           41-1554.06. Financial assistance

4           A. The authority may provide financial assistance to political  
5 subdivisions, special districts and Indian tribes in developing, **ACQUIRING**,  
6 constructing, **IMPROVING, EQUIPPING** or refinancing infrastructure. The  
7 financial assistance shall include:

8           1. Loans as provided in this section.

9           2. Credit enhancements purchased for a political subdivision's,  
10 special district's or Indian tribe's bonds or other forms of indebtedness.

11           B. A loan shall be evidenced by a loan repayment agreement, **LEASE**  
12 **PURCHASE AGREEMENT** or bonds of a political subdivision, special district or  
13 Indian tribe that are delivered to and held by the authority.

14           C. The authority shall prescribe a principal repayment schedule for  
15 each loan made. Loan principal payments may be rescheduled at the discretion  
16 of the authority but may not be forgiven.

17           D. A loan under this section:

18           1. Shall be repaid not more than thirty years after the date it is  
19 incurred.

20           2. Shall require that interest payments begin not later than the next  
21 date that either principal or interest must be paid by the authority to  
22 holders of any of the authority's bonds that provided funding for the loan.  
23 The authority may provide that loan interest accruing during construction of  
24 the borrower's infrastructure project and up to one year after completion of  
25 the construction be capitalized in the loan.

26           3. Shall be repayable in at least annual principal installments and at  
27 least semiannual interest installments.

28           4. Shall be conditioned on the identification of pledged revenues for  
29 repaying the loan. If the infrastructure financed by the loan is part of a  
30 municipal utility and the city or town pledges revenues of the utility to  
31 repay the loan, the loan shall be treated under section 9-530, subsection B  
32 as a lawful long-term obligation incurred for a specific capital purpose.

33           5. To the extent permitted by law, shall be secured by a debt service  
34 reserve account that is held in trust and that is in such amount, if any, as  
35 determined by the authority.

36           6. Shall be either:

37           (a) For a political subdivision, additionally secured by an  
38 irrevocable pledge of the shared state revenues due the political subdivision  
39 for the life of the loan as provided by a resolution of the board.

40           (b) For an Indian tribe, conditioned on the establishment of a  
41 dedicated revenue source under the control of a tribally chartered  
42 corporation or other tribal entity that is subject to suit by the attorney  
43 general to enforce the loan contract or be secured by assets that, in the  
44 event of default of the loan contract, are subject to execution by the



1 attorney general ~~without the waiver of any claim of sovereign immunity by the~~  
2 ~~tribe.~~

3 E. The authority shall prescribe the rate or rates of interest on  
4 loans made under this section, but the rate or rates shall not exceed the  
5 prevailing market rate for similar types of loans. A political subdivision  
6 OR SPECIAL DISTRICT may negotiate the sale of its bonds to or a loan  
7 repayment agreement with the authority without complying with any public or  
8 accelerated bidding requirements imposed by any other law for the sale of its  
9 bonds.

10 F. The approval of a loan is conditioned on a written commitment by  
11 the political subdivision or special district to complete all applicable  
12 reviews and approvals and to secure all required permits in a timely manner.

13 G. The approval of financial assistance to a city or town having a  
14 population of more than fifty thousand persons shall be conditioned upon ON  
15 approval of its voters. An election is not required if voter approval has  
16 previously been received for substantially the same project ~~with a different~~  
17 ~~financing source.~~

18 H. The approval of financial assistance to a county having a  
19 population of more than two hundred thousand persons ~~but less than one~~  
20 ~~million persons~~ shall be conditioned on approval of its voters. An election  
21 is not required if voter approval has previously been received for  
22 substantially the same project ~~with a different financing source.~~

23 I. By resolution of the board, the authority may impose any additional  
24 requirements it considers necessary to ensure that the loan principal and  
25 interest are timely paid.

26 J. All monies received from political subdivisions, special districts  
27 and Indian tribes as loan repayments, interest and penalties shall be  
28 deposited, pursuant to sections 35-146 and 35-147, in the fund.

29 K. The attorney general may take whatever actions are necessary to  
30 enforce the loan contract and achieve repayment of loans provided by the  
31 authority pursuant to this article.

32 L. If a political subdivision fails to make any payment due to the  
33 authority under its loan repayment agreement or bonds, the authority shall  
34 certify to the state treasurer and notify the governing body of the  
35 defaulting political subdivision that the political subdivision has failed to  
36 make the required payment and direct a withholding of state shared revenues  
37 as provided in subsection M of this section. The certificate of default  
38 shall be in the form determined by the authority, provided the certificate  
39 specifies the amount required to satisfy the unpaid payment obligation of the  
40 political subdivision.

41 M. On receipt of a certificate of default from the authority, the  
42 state treasurer, to the extent not otherwise expressly prohibited by law,  
43 shall withhold the monies from the next succeeding distribution of monies  
44 pursuant to section 42-5029 due to the defaulting political subdivision. In  
45 the case of a city or town, the state treasurer shall also withhold from the

1 next succeeding distribution of monies pursuant to section 43-206 due to the  
2 defaulting city or town the amount specified in the certificate of default  
3 and immediately deposit the amount withheld in the fund. The state treasurer  
4 shall continue to withhold and deposit the monies until the authority  
5 certifies to the state treasurer that the default has been cured. In no  
6 event shall the state treasurer withhold any amount that is necessary, as  
7 certified by the defaulting political subdivision to the state treasurer and  
8 the authority, to make any required deposits then due for the payment of  
9 principal and interest on bonds of the political subdivision that were issued  
10 prior to the date of the loan repayment agreement or bonds and that have been  
11 secured by a pledge of distributions made pursuant to sections 42-5029 and  
12 43-206.

13 Sec. 7. Appropriations; greater Arizona development authority;  
14 exemption

15 A. The sum of \$5,000,000 is appropriated from the state general fund  
16 in each of fiscal years 2007-2008 and 2008-2009 to the greater Arizona  
17 development authority revolving fund established by section 41-1554.03,  
18 Arizona Revised Statutes, as amended by this act.

19 B. The appropriations made in subsection A of this section are exempt  
20 from the provisions of section 35-190, Arizona Revised Statutes, relating to  
21 lapsing of appropriations.