SENATE BILL 1067

AN ACT

AMENDING SECTION 9-571, ARIZONA REVISED STATUTES; AMENDING TITLE 49, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1205; RELATING TO MUNICIPAL WATER INFRASTRUCTURE FINANCING.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 9-571, Arizona Revised Statutes, is amended to read:

9-571. Wastewater treatment and drinking water treatment facilities and nonpoint source projects; financial assistance loan repayment agreements; definitions

A. Notwithstanding any other law, a city or town may construct, acquire from a willing seller or improve a wastewater treatment facility, drinking water facility or nonpoint source project with monies borrowed from or financial assistance including forgivable principal provided by the water infrastructure finance authority of Arizona.

B. To repay financial assistance from the water infrastructure finance authority of Arizona a city or town may enter into a financial assistance loan repayment agreement with the authority. A financial assistance loan repayment agreement is payable from any revenues otherwise authorized by law to be used to repay long-term obligations. If revenue from a property tax assessment is the designated source of repayment under the agreement, the property tax assessed and levied is a secondary property tax levy for purposes of article IX, Constitution of Arizona.

C. For any city or town, the following apply:

1. For a city or town with a population of more than one hundred fifty thousand persons, the governing body of the city or town shall submit the question of entering and performing a financial assistance loan repayment agreement to the qualified electors voting at a regular or special election in the city or town, except that if revenue from a secondary property tax levy is the designated source of repayment or if the project is constructed with an improvement district, the question shall be submitted to the qualified electors at an election held on the first Tuesday following the first Monday in November.

2. For a city or town with a population of one hundred fifty thousand persons or less, the revenues of the city's or town's utility system or systems may be pledged to the payment of the repayment agreement without an election, if the pledge of revenues does not violate any covenant pertaining to the utility system or systems or the revenues pledged to secure outstanding bonds or other obligations of the city or town.

3. An election is not required if voter approval has previously been obtained for substantially the same project with another funding source.

4. If a majority of the qualified electors voting on the question:
   (a) Approves, the governing body may execute, deliver and perform the financial assistance loan repayment agreement.
   (b) Disapproves, the governing body shall not execute a financial assistance loan repayment agreement.
D. Payments made pursuant to a financial assistance loan repayment agreement are not subject to section 42-17106.

E. A financial assistance loan repayment agreement entered into pursuant to this section shall contain the covenants and conditions pertaining to the construction, acquisition constructing, acquiring or improvement of improving a wastewater treatment or drinking water facility or nonpoint source project and repayment of repaying the loan as the water infrastructure finance authority of Arizona deems proper. Financial assistance loan repayment agreements may provide for the payment of paying interest on the unpaid principal balance of such agreement at the rates established in the agreement. The agreement may also provide for payment of paying the city's or town's proportionate share of the expenses of administering the clean water and drinking water revolving funds established by sections 49-1221 and 49-1241 and may provide that the city or town pay financing and loan administration fees approved by the water infrastructure finance authority. These costs may be included in the levy or assessment amounts pledged to repay the financial assistance. Cities and towns are bound by and shall fully perform the loan repayment agreements, and the agreements are incontestable after the loan is funded by the water infrastructure finance authority of Arizona. The city or town shall also agree to pay the authority's costs in issuing bonds or otherwise borrowing to fund a loan.

F. A financial assistance loan repayment agreement under this section does not create a debt of the city or town, and the authority shall not require that payment of a financial assistance loan repayment agreement be made from other than those sources permitted allowed in subsection B of this section and as prescribed by sections 49-1225 and 49-1245.

G. A city or town may employ attorneys, accountants, financial consultants and such other experts in their field as deemed necessary to perform services with respect to the financial assistance loan repayment agreement.

H. This section is supplemental and alternative to any other law under which a city or town may borrow money or issue bonds. This section shall not be construed as is not the exclusive authorization to enter into loan agreements with the authority.

I. A city or town may borrow additional monies or enter into additional financial assistance loan repayment agreements with the water infrastructure finance authority in an amount up to the amount approved by the voters pursuant to subsection C of this section less the amount that the city or town is already obligated to repay to the water infrastructure finance authority pursuant to a financial assistance loan repayment agreement.
THE WATER INFRASTRUCTURE FINANCE AUTHORITY MAY NOT PROVIDE FUNDS TO A CITY OR TOWN TO EITHER:

1. CONDEMN OR ACQUIRE THROUGH EMINENT DOMAIN ANY ASSETS OF A PUBLIC SERVICE CORPORATION THAT IS REGULATED BY THE CORPORATION COMMISSION WITHOUT A WRITTEN STATEMENT FROM THE PUBLIC SERVICE CORPORATION CERTIFYING THAT IT IS A WILLING SELLER AND CONSENTING TO THE PROVISION OF FUNDING.

2. REFINANCE ANY LOAN, BOND OR OTHER FINANCING ARRANGEMENT USED BY A CITY OR TOWN TO CONDEMN OR ACQUIRE THROUGH EMINENT DOMAIN ANY ASSETS OF A PUBLIC SERVICE CORPORATION THAT IS REGULATED BY THE CORPORATION COMMISSION WITHOUT A WRITTEN STATEMENT FROM THE PUBLIC SERVICE CORPORATION CERTIFYING THAT IT IS A WILLING SELLER AND CONSENTING TO THE PROVISION OF FUNDING.

K. For the purposes of this section:

1. "City" includes both cities formed pursuant to this title and charter cities.

2. "Nonpoint source project" has the same meaning prescribed in section 49-1201.

Sec. 2. Title 49, chapter 8, article 1, Arizona Revised Statutes, is amended by adding section 49-1205, to read:

49-1205. Financial assistance; cities; towns; counties; sanitary districts


B. THE FOLLOWING POLITICAL SUBDIVISIONS MAY ENTER INTO A FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENT DESCRIBED IN SUBSECTION A OF THIS SECTION:

1. A CITY OR TOWN, WITHOUT REGARD TO THE CITY OR TOWN'S POPULATION.

2. A COUNTY, WITHOUT REGARD TO THE COUNTY'S POPULATION.

3. A SANITARY DISTRICT THAT CONTAINS A POPULATION OF FEWER THAN FIFTY THOUSAND PERSONS.

4. A DOMESTIC WATER OR WASTEWATER IMPROVEMENT DISTRICT, WITHOUT REGARD TO THE POPULATION OF THAT DISTRICT.

APPROVED BY THE GOVERNOR APRIL 13, 2022.
S.B. 1067