CHAPTER 366

SENATE BILL 1740

AN ACT

AMENDING SECTION 41-192, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3002.09, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3027.05; REPEALING SECTION 41-3031.01, ARIZONA REVISED STATUTES; AMENDING SECTIONS 41-5355, 41-5356, 45-105, 45-111 AND 48-6415, ARIZONA REVISED STATUTES; REPEALING SECTIONS 49-193, 49-193.02, 49-193.03, 49-193.04 AND 49-193.05, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-1201 AND 49-1202, ARIZONA REVISED STATUTES; AMENDING SECTION 49-1203, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 63, ARTICLE 1; AMENDING TITLE 49, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1203.01; PROVIDING FOR TRANSFERRING AND RENUMBERING; AMENDING SECTION 49-1205, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING TITLE 49, CHAPTER 8, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 49-1206, 49-1207, 49-1208, 49-1209, 49-1210, 49-1211, 49-1212, 49-1213, 49-1214 AND 49-1215; AMENDING TITLE 49, CHAPTER 8, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1270; AMENDING SECTION 49-1271, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-1272, 49-1273, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 63, SECTION 2; AMENDING SECTION 49-1274, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 63, SECTION 3; AMENDING SECTION 49-1275, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2022, CHAPTER 63, SECTION 4; AMENDING TITLE 49, CHAPTER 8, ARIZONA REVISED STATUTES, BY ADDING ARTICLES 4 AND 5; AMENDING LAWS 2021, CHAPTER 408, SECTION 115; APPROPRIATING MONIES; RELATING TO THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

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

Section 1. Section 41-192, Arizona Revised Statutes, is amended to read:

41-192. Powers and duties of attorney general; restrictions on state agencies as to legal counsel; exceptions; compromise and settlement monies

A. The attorney general shall have charge of and direct the department of law and shall serve as chief legal officer of the state. The attorney general shall:

1. Be the legal advisor of the departments of this state and render such legal services as the departments require.
2. Establish administrative and operational policies and procedures within his department.
3. Approve long-range plans for developing departmental programs therein, and coordinate the legal services required by other departments of this state or other state agencies.
4. Represent school districts and governing boards of school districts in any lawsuit involving a conflict of interest with other county offices.
5. Represent political subdivisions, school districts and municipalities in suits to enforce state or federal statutes pertaining to antitrust, restraint of trade or price-fixing activities or conspiracies, if the attorney general notifies in writing the political subdivisions, school districts and municipalities of the attorney general's intention to bring any such action on its behalf. At any time within thirty days after the notification, a political subdivision, school district or municipality, by formal resolution of its governing body, may withdraw the authority of the attorney general to bring the intended action on its behalf.
6. In any action brought by the attorney general pursuant to state or federal statutes pertaining to antitrust, restraint of trade, or price-fixing activities or conspiracies for the recovery of damages by this state or any of its political subdivisions, school districts or municipalities, in addition to the attorney general's other powers and authority, the attorney general on behalf of this state may enter into contracts relating to the investigation and prosecution of such action with any other party plaintiff who has brought a similar action for the recovery of damages and with whom the attorney general finds it advantageous to act jointly or to share common expenses or to cooperate in any manner relative to such action. In any such action, notwithstanding any other laws to the contrary, the attorney general may undertake, among other things, to render legal services as special counsel or to obtain the legal services of special counsel from any department or agency of the United States, of this state or any other state or any department or agency thereof or any county, city, public corporation or public district.
in this state or in any other state that has brought or intends to bring a similar action for the recovery of damages or their duly authorized legal representatives in such action.

7. Organize the civil rights division within the department of law and administer such division pursuant to the powers and duties provided in chapter 9 of this title.

8. Compile, publish and distribute to all state agencies, departments, boards, commissions and councils, and to other persons and government entities on request, at least every ten years, the Arizona agency handbook that sets forth and explains the major state laws that govern state agencies, including information on the laws relating to bribery, conflicts of interest, contracting with the government, disclosure of public information, discrimination, nepotism, financial disclosure, gifts and extra compensation, incompatible employment, political activity by employees, public access and misuse of public resources for personal gain. A supplement to the handbook reflecting revisions to the information contained in the handbook shall be compiled and distributed by the attorney general as deemed necessary.

B. Except as otherwise provided by law, the attorney general may:

1. Organize the department into such bureaus, subdivisions or units as he deems most efficient and economical, and consolidate or abolish them.

2. Adopt rules for the orderly conduct of the business of the department.

3. Subject to chapter 4, article 4 of this title, employ and assign assistant attorneys general and other employees necessary to perform the functions of the department.

4. Compromise or settle any action or claim by or against this state or any department, board or agency of this state. If the compromise or settlement involves a particular department, board or agency of this state, the compromise or settlement shall be first approved by the department, board or agency. If no department or agency is named or otherwise materially involved, the approval of the governor shall be first obtained.

5. Charge reasonable fees for distributing official publications, including attorney general legal opinions and the Arizona agency handbook. The fees received shall be transmitted to the state treasurer for deposit in the state general fund.

C. The powers and duties of a bureau, subdivision or unit shall be limited to those assigned by law to the department.

D. Notwithstanding any law to the contrary, except as provided in subsections E and F of this section, no state agency other than the attorney general shall employ legal counsel or make an expenditure or incur an indebtedness for legal services, but the following are exempt from this section:
1. The director of water resources.
2. The residential utility consumer office.
3. The industrial commission.
4. The Arizona board of regents.
5. The auditor general.
6. The corporation commissioners and the corporation commission other than the securities division.
7. The office of the governor.
8. The constitutional defense council.
9. The office of the state treasurer.
10. The Arizona commerce authority.

11. THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

E. If the attorney general determines that he is disqualified from providing judicial or quasi-judicial legal representation or legal services on behalf of any state agency in relation to any matter, the attorney general shall give written notification to the state agency affected. If the agency has received written notification from the attorney general that the attorney general is disqualified from providing judicial or quasi-judicial legal representation or legal services in relation to any particular matter, the state agency is authorized to make expenditures and incur indebtedness to employ attorneys to provide the representation or services.

F. If the attorney general and the director of the department of agriculture cannot agree on the final disposition of a pesticide complaint under section 3-368, if the attorney general and the director determine that a conflict of interest exists as to any matter or if the attorney general and the director determine that the attorney general does not have the expertise or attorneys available to handle a matter, the director is authorized to make expenditures and incur indebtedness to employ attorneys to provide representation or services to the department with regard to that matter.

G. Any department or agency of this state authorized by law to maintain a legal division or incur expenses for legal services from funds derived from sources other than the general revenue of the state, or from any special or trust fund, shall pay from such source of revenue or special or trust fund into the general fund of the state, to the extent such funds are available and on a reimbursable basis for warrants drawn, the amount actually expended by the department of law within legislative appropriations for such legal division or legal services.

H. Appropriations made pursuant to subsection G of this section shall not be subject to lapsing provisions otherwise provided by law. Services for departments or agencies to which this subsection and subsection F of this section are applicable shall be performed by special or regular assistants to the attorney general.
I. Notwithstanding section 35-148, monies received by the attorney general from charges to state agencies and political subdivisions for legal services relating to interagency service agreements shall be deposited, pursuant to sections 35-146 and 35-147, in an attorney general agency services fund. Monies in the fund are subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

J. Unless otherwise provided by law, monies received for and belonging to the state and resulting from compromises and settlements entered into pursuant to subsection B of this section, excluding restitution and reimbursement to state agencies for costs or attorney fees, shall be deposited into the state treasury and credited to the state general fund pursuant to section 35-142. Monies received for and belonging to the state and resulting from a compromise or settlement are not considered custodial, private or quasi-private monies unless specifically provided by law. On or before January 15, April 15, July 15 and October 15, the attorney general shall file with the governor, with copies to the director of the department of administration, the president of the senate, the speaker of the house of representatives, the secretary of state and the staff director of the joint legislative budget committee, a full and complete account of the deposits into the state treasury made pursuant to this subsection in the previous calendar quarter. For the purposes of this subsection, "restitution" means monies intended to compensate a specific, identifiable person, including this state, for economic loss.

Sec. 2. Repeal
Section 41-3002.09, Arizona Revised Statutes, is repealed.

Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3027.05, to read:

41-3027.05. Water infrastructure finance authority of Arizona; termination July 1, 2027

A. THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA TERMINATES ON JULY 1, 2027.

B. TITLE 49, CHAPTER 8, ARTICLES 1 AND 3 AND SECTIONS 49-1224, 49-1225, 49-1226, 49-1244, 49-1245, 49-1246, 49-1261, 49-1262, 49-1263, 49-1264, 49-1265, 49-1266, 49-1267, 49-1268, 49-1269, 49-1301, 49-1303, 49-1304, 49-1305, 49-1306, 49-1307, 49-1308, 49-1309, 49-1310, 49-1311, 49-1312 AND 49-1313 ARE REPEALED ON JANUARY 1, 2028, IF THE AUTHORITY EITHER:

1. HAS NO OUTSTANDING CONTRACTUAL OBLIGATIONS WITH THE UNITED STATES OR ANY UNITED STATES AGENCY AND HAS NO DEBTS, OBLIGATIONS OR GUARANTEES THAT WERE ISSUED FOR THE PURPOSES OF TITLE 49, CHAPTER 8.

2. HAS OTHERWISE PROVIDED FOR PAYING OR RETIRING SUCH DEBTS OR OBLIGATIONS.
C. IF ANY DEBT OR OBLIGATION LISTED IN SUBSECTION B OF THIS SECTION EXITS AND NO SATISFACTORY PROVISION HAS BEEN MADE TO PAY OR RETIRE THE DEBT OR OBLIGATION, THE AUTHORITY AND STATUTES CONTINUE IN EXISTENCE UNTIL THE DEBT OR OBLIGATION IS FULLY SATISFIED.

Sec. 4. Repeal
Section 41-3031.01, Arizona Revised Statutes, is repealed.

Sec. 5. Section 41-5355, Arizona Revised Statutes, is amended to read:

41-5355. Assets; cost of operation and administration; taxation
A. Any monies, pledges or property issued or given to the Arizona finance authority, whether by appropriation, loan, gift or otherwise, constitute the assets of the Arizona finance authority.
B. This state is not responsible for any obligation incurred by the authority.
C. All costs and expenses of the Arizona Finance authority shall be paid from bond proceeds of bonds issued by any industrial development authority established by the Arizona finance authority or other monies of the Arizona Finance authority, and to the extent not prohibited by state or federal law or by contract, the monies of the greater Arizona development authority and the water infrastructure finance authority of Arizona that are available to pay the Arizona finance authority's costs and expenses.
D. The authority and its income are exempt from taxation in this state.

Sec. 6. Section 41-5356, Arizona Revised Statutes, is amended to read:

41-5356. Duties of board; annual report
A. The board shall:
1. Establish an industrial development authority under title 35, chapter 5 and, notwithstanding the requirements of section 35-705, serve as the board of the industrial development authority.
2. Serve as the board of the greater Arizona development authority and have all powers and authority to take action on behalf of the greater Arizona development authority pursuant to chapter 18 of this title.
3. Approve the authority's budget.
4. Establish a water and infrastructure finance authority advisory board to advise the board of directors of the authority consisting of relevant state agency representatives and the following additional members:
   a) One member who represents a public water system that serves five hundred or more connections.
(b) One member who represents a public water system that serves
less than five hundred connections.

(c) One member who represents a sanitary district in a county with
a population of less than five hundred thousand persons.

(d) One member who represents a sanitary district in a county with
a population of five hundred thousand or more persons.

(e) One member who represents a city or town with a population of
less than fifty thousand persons.

(f) One member who represents a city or town with a population of
fifty thousand or more persons.

(g) One member who represents a county with a population of five
hundred thousand or more persons.

B. On or before October 1 of each year, the industrial development
authority shall submit a report to the president of the senate, the
speaker of the house of representatives and the directors of the joint
legislative budget committee and the governor's office of strategic
planning and budgeting regarding the authority's revenues, expenditures
and program activity for the previous fiscal year.

Sec. 7. Section 45-105, Arizona Revised Statutes, is amended to
read:

45-105. Powers and duties of director

A. The director may:

1. Formulate plans and develop programs for the practical and
economical development, management, conservation and use of surface water,
groundwater and the watersheds in this state, including the management of
water quantity and quality.

2. Investigate works, plans or proposals pertaining to surface
water and groundwater, including management of watersheds, and acquire,
preserve, publish and disseminate related information the director deems
advisable.

3. Collect and investigate information on and prepare and devise
means and plans for the development, conservation and utilization USE of
all waterways, watersheds, surface water, groundwater and groundwater
basins in this state and of all related matters and subjects, including
irrigation, drainage, water quality maintenance, regulation of flow,
diversion of running streams adapted for development in cooperating with
the United States or by this state independently, flood control,
utilization USE of water power, prevention of soil waste and storage,
conservation and development of water for every useful purpose.

4. Measure, survey and investigate the water resources of this
state and their potential development and cooperate and contract with
agencies of the United States for such purposes.

5. Acquire, hold and dispose of property, including land,
rights-of-way, water and water rights, as necessary or convenient for the
6. Acquire, other than by condemnation, construct, improve, maintain and operate early warning systems for flood control purposes and works for the recovery, storage, treatment and delivery of water.

7. Accept grants, gifts or donations of money or other property from any source, which may be used for any purpose consistent with this title. All property acquired by the director is public property and is subject to the same tax exemptions, rights and privileges granted to municipalities, public agencies and other public entities.

8. Enter into an interagency contract or agreement with any public agency pursuant to title 11, chapter 7, article 3 and contract, act jointly or cooperate with any person to carry out the purposes of this title.

9. Prosecute and defend all rights, claims and privileges of this state respecting interstate streams.

10. Initiate and participate in conferences, conventions or hearings, including meetings of the Arizona water resources advisory board, congressional hearings, court hearings or hearings of other competent judicial or quasi-judicial departments, agencies or organizations, and negotiate and cooperate with agencies of the United States or of any state or government and represent this state concerning matters within the department's jurisdiction.

11. Apply for and hold permits and licenses from the United States or any agency of the United States for reservoirs, dam sites and rights-of-way.

12. Receive and review all reports, proposed contracts and agreements from and with the United States or any agencies, other states or governments or their representatives and recommend to the governor and the legislature action to be taken on such reports, proposed contracts and agreements. The director shall take action on such reports, if authorized by law, and review and coordinate the preparation of formal comments of this state on both the preliminary and final reports relating to water resource development of the United States army corps of engineers, the United States secretary of the interior and the United States secretary of agriculture, as provided for in the flood control act of 1944 (58 Stat. 887; 33 United States Code section 701-1).

13. Contract with any person for imported water or for the acquisition of water rights or rights to withdraw, divert or use surface water or groundwater as necessary for the performance of the groundwater management functions of the director prescribed by chapter 2 of this title. If water becomes available under any contract executed under this paragraph, the director may contract with any person for its delivery or exchange for any other water available.
14. Recommend to the administrative heads of agencies, boards and commissions of this state, and political subdivisions of this state, rules to promote and protect the rights and interests of this state and its inhabitants in any matter relating to the surface water and groundwater in this state.

15. Conduct feasibility studies and remedial investigations relating to groundwater quality and enter into contracts and cooperative agreements under section 104 of the comprehensive environmental response, compensation, and liability act of 1980 (P.L. 96-510) to conduct such studies and investigations.

16. Dispose informally by stipulation, agreed settlement, consent order or alternative means of dispute resolution, including arbitration, if the parties and director agree, or by default of any case in which a hearing before the director is required or allowed by law.

17. Cooperate and coordinate with the appropriate governmental entities in Mexico regarding water planning in areas near the border between Mexico and Arizona and for the exchange of relevant hydrological information.

B. The director shall:
   1. Exercise and perform all powers and duties vested in or imposed on the department and adopt and issue rules necessary to carry out the purposes of this title.
   2. Administer all laws relating to groundwater, as provided in this title.
   3. Be responsible for the supervision and control of reservoirs and dams of this state and, when deemed necessary, conduct investigations to determine whether the existing or anticipated condition of any dam or reservoir in this state is or may become a menace to life and property.
   4. Coordinate and confer with and may contract with:
      (a) The Arizona power authority, the game and fish commission, the state land department, the Arizona outdoor recreation coordinating commission, the Arizona commerce authority, the department of health services, active management area water authorities or districts and political subdivisions of this state with respect to matters within their jurisdiction relating to surface water and groundwater and the development of state water plans.
      (b) The department of environmental quality with respect to title 49, chapter 2 for its assistance in the development of state water plans.
      (c) The department of environmental quality regarding water plans, water resource planning, water management, wells, water rights and permits, and other appropriate provisions of this title pertaining to remedial investigations, feasibility studies, site prioritization, selection of remedies and implementation of the water quality assurance revolving fund program pursuant to title 49, chapter 2, article 5.
(d) The department of environmental quality regarding coordination of databases that are necessary for activities conducted pursuant to title 49, chapter 2, article 5.
5. Cooperate with the Arizona power authority in the performance of the duties and functions of the authority.
6. Maintain a permanent public depository for existing and future records of stream flow, groundwater levels and water quality and other data relating to surface water and groundwater.
7. Maintain a public docket of all matters before the department that may be subject to judicial review pursuant to this title.
8. Investigate and take appropriate action on any complaints alleging withdrawals, diversions, impoundments or uses of surface water or groundwater that may violate this title or the rules adopted pursuant to this title.
9. Report to and consult with the Arizona water resources advisory board at regular intervals.
10. Adopt an official seal for the authentication of records, orders, rules and other official documents and actions.
11. Provide staff support to the Arizona water protection fund commission established pursuant to chapter 12 of this title.
12. Exercise and perform all powers and duties invested in the chairperson of the Arizona water banking authority commission as prescribed by chapter 14 of this title.
13. Provide staff support to the Arizona water banking authority established pursuant to chapter 14 of this title.
14. In the year following each regular general election, present information to the committees with jurisdiction over water issues in the house of representatives and the senate. A written report is not required but the presentation shall include information concerning the following:
   (a) The current status of the water supply in this state and any likely changes in that status.
   (b) Issues of regional and local drought effects, short-term and long-term drought management efforts and the adequacy of drought preparation throughout the state.
   (c) The status of current water conservation programs in this state.
   (d) The current state of each active management area and the level of progress toward management goals in each active management area.
   (e) Issues affecting management of the Colorado river and the reliability of this state's two million eight hundred thousand acre-foot allocation of Colorado river water, including the status of water supplies in and issues related to the Colorado river basin states and Mexico.
The status of any pending or likely litigation regarding surface water adjudications or other water-related litigation and the potential impacts on this state's water supplies.

The status of Indian water rights settlements and related negotiations that affect this state.

Other matters related to the reliability of this state's water supplies, the responsibilities of the department and the adequacy of the department's and other entities' resources to meet this state's water management needs.

14. NOT LATER THAN DECEMBER 1, 2023 AND ON OR BEFORE DECEMBER 1 OF EACH YEAR THEREAFTER, PREPARE AND ISSUE A WATER SUPPLY AND DEMAND ASSESSMENT FOR AT LEAST SIX OF THE FORTY-SIX GROUNDWATER BASINS ESTABLISHED PURSUANT TO SECTION 45-403. THE DIRECTOR SHALL ENSURE THAT A WATER SUPPLY AND DEMAND ASSESSMENT IS COMPLETED FOR ALL GROUNDWATER BASINS AT LEAST ONCE EVERY FIVE YEARS. THE DIRECTOR MAY CONTRACT WITH OUTSIDE ENTITIES TO PERFORM SOME OR ALL OF THE ASSESSMENTS AND THOSE OUTSIDE ENTITIES SHALL BE IDENTIFIED IN THE ASSESSMENT.

Sec. 8. Section 45-111, Arizona Revised Statutes, is amended to read:

45-111. Annual report by director
On or before July 1 each year the director shall render to the governor and the legislature a full and true report of the department's operations under this title. The report shall include suggestions as to amending existing laws or enacting new legislation as the director and the Arizona water resources advisory board deem necessary and such other information, suggestions and recommendations as the director considers of value to the public. The report shall be published and made available to the public.

Sec. 9. Section 48-6415, Arizona Revised Statutes, is amended to read:

48-6415. District and municipal water delivery systems in the district eligible to receive financial assistance from water supply development revolving fund
The district is deemed to be a water provider for the purposes of title 49, chapter 8. The district and municipal water delivery systems serving water in the district are eligible to apply for and receive financial assistance from monies in the water supply development revolving fund established under section 49-1271 notwithstanding section 49-1273, subsection C.

Sec. 10. Heading repeal
The article heading of title 49, chapter 1, article 8, Arizona Revised Statutes, is repealed.

Sec. 11. Repeal
Sections 49-193, 49-193.02, 49-193.03, 49-193.04 and 49-193.05, Arizona Revised Statutes, are repealed.
Sec. 12. Section 49-1201, Arizona Revised Statutes, is amended to read:

49-1201. Definitions
In this chapter, unless the context otherwise requires:

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

2. "Board" means the WATER INFRASTRUCTURE FINANCE AUTHORITY board of directors of the Arizona finance authority established by title 41, chapter 53, article 2 SECTION 49-1206.

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


5. "CONCESSION AGREEMENT" MEANS ANY LEASE, GROUND LEASE, FRANCHISE, EASEMENT, PERMIT OR OTHER BINDING AGREEMENT TRANSFERRING RIGHTS FOR THE USE OR CONTROL, IN WHOLE OR IN PART, OF WATER-RELATED FACILITIES BY THE AUTHORITY TO A PRIVATE PARTNER IN ACCORDANCE WITH THIS CHAPTER.

6. "Drinking water facility":
(a) Means a community water system or a nonprofit noncommunity water system as defined in the safe drinking water act of 1974 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in this state. For purposes of this chapter, drinking water facility
(b) Does not include water systems owned by federal agencies.

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

8. "IMPORTED WATER" MEANS ANY WATER THAT ORIGINATES OUTSIDE OF THIS STATE AND THAT IS MADE AVAILABLE TO WATER USERS WITHIN THIS STATE BY CONVEYANCE, EXCHANGE OR OTHERWISE THROUGH PROJECTS THAT ARE FUNDED OR FINANCED IN WHOLE OR IN PART WITH MONIES FROM THE LONG-TERM WATER AUGMENTATION FUND.

9. "IMPORT WATER" MEANS TO MAKE WATER ORIGINATING OUTSIDE OF THIS STATE AVAILABLE TO WATER USERS WITHIN THIS STATE BY CONVEYANCE, EXCHANGE OR OTHERWISE THROUGH PROJECTS THAT ARE FUNDED OR FINANCED IN WHOLE OR IN PART WITH MONIES FROM THE LONG-TERM WATER AUGMENTATION FUND.

10. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.
11. "LONG-TERM WATER AUGMENTATION BONDS" MEANS BONDS THAT ARE
ISSUED BY THE AUTHORITY IN ACCORDANCE WITH ARTICLE 4 OF THIS CHAPTER.

12. "LONG-TERM WATER AUGMENTATION FUND" MEANS THE FUND ESTABLISHED
BY SECTION 49-1302.

13. "Nonpoint source project" means a project designed to
implement a certified water quality management plan.

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

15. "PRIVATE PARTNER" MEANS A PERSON, ENTITY OR ORGANIZATION THAT
IS NOT THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF
THIS STATE.

16. "PUBLIC-PRIVATE PARTNERSHIP PROJECT" MEANS ANY WATER SUPPLY
DEVELOPMENT PROJECT THAT IS THE SUBJECT OF A PUBLIC-PRIVATE PARTNERSHIP
AGREEMENT IN ACCORDANCE WITH THIS CHAPTER.

17. "Safe drinking water act" means the federal safe drinking

18. "Technical assistance loan repayment agreement" means
either of the following:
(a) An agreement to repay a loan provided to develop, plan and
design water or wastewater infrastructure, related property and
appurtenances. The agreement shall be for a term of not more than three
years and the maximum amount that may be borrowed is limited to not more
than $500,000.
(b) An agreement to repay a loan provided to develop, plan or
design a water supply development project.

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

20. "Water provider" means any of the following:
(a) A municipal water delivery system as defined in section
42-5301.
(b) A county water augmentation authority established under
title 45, chapter 11.
(c) A county water authority established under title 45,
chapter 13.
(d) An Indian tribe.
(e) A community facilities district as established by title 48,
chapter 4.
(f) A public water system as prescribed in section 49-352.
(g) A county with a population of less than three hundred thousand persons.

(h) A natural resource conservation district.

(i) For purposes of funding from the water supply development revolving fund pursuant to article 3 of this chapter only, a county that enters into an intergovernmental agreement or other formal written agreement with a city, town or other water provider regarding a water supply development project.

21. “WATER-RELATED FACILITIES” MEANS ANY FACILITY RELATED TO THE PRODUCTION, DELIVERY, CONSERVATION OR STORAGE OF WATER, INCLUDING ANY CANALS, PIPELINES, DESALINATION PLANTS, PUMPING STATIONS, STORAGE PROJECTS, RECOVERY WELLS, DELIVERY AND RETENTION PROJECTS, WATER AND WASTEWATER TREATMENT PLANTS, AND OTHER EQUIPMENT AND FACILITIES INSTALLED FOR WATER CONSERVATION PURPOSES, TOGETHER WITH ANY LAND, BUILDINGS OR OTHER IMPROVEMENTS AND EQUIPMENT OR PERSONAL PROPERTY RELATED THERETO.

22. “Water supply development” means either ANY of the following:

(a) Acquiring water or rights to or contracts for water to augment the water supply of a water provider, including any environmental or other reviews, permits or plans reasonably necessary for that acquisition.

(b) Planning, designing, building or developing WATER-RELATED facilities, including any environmental or other reviews, permits or plans reasonably necessary for those facilities, for ANY EITHER of the following purposes:

(i) Conveyance— OR DELIVERY OF WATER.

(ii) Storage or recovery of water UNDER TITLE 45, CHAPTER 3.1.

(iii) Reclamation and reuse of water.

(iv) Replenishment of groundwater.

(v) Active or passive stormwater recharge structures that increase water supplies.

(c) CONSERVATION THROUGH REDUCING EXISTING WATER USE OR MORE EFFICIENT USES OF EXISTING WATER SUPPLIES.

Sec. 13. Section 49-1202, Arizona Revised Statutes, is amended to read:

49-1202. Water infrastructure finance authority of Arizona

The water infrastructure finance authority of Arizona is established in the Arizona finance authority. The Arizona finance authority board of directors shall govern the water infrastructure finance authority of Arizona.

Sec. 14. Section 49-1203, Arizona Revised Statutes, as amended by Laws 2022, chapter 63, article 1, is amended to read:

49-1203. Powers and duties of authority; definition

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.
NOTWITHSTANDING ANY OTHER LAW AND UNLESS EXPRESSLY WAIVED BY THE
AUTHORITY, THE AUTHORITY IS NOT SUBJECT TO ANY STATUTORY REQUIREMENT TO
PAY ANOTHER PARTY’S ATTORNEY FEES OR COSTS IN ANY ADMINISTRATIVE OR
JUDICIAL PROCEEDING.

B. The authority, through its board, may:

1. Issue negotiable water quality bonds pursuant to section 49-1261
   for the following purposes:
   (a) To generate the state match required by the clean water act for
       the clean water revolving fund and to generate the match required by the
       safe drinking water act for the drinking water revolving fund.
   (b) To provide financial assistance to political subdivisions,
       Indian tribes and eligible drinking water facilities for constructing,
       acquiring or improving wastewater treatment facilities, drinking water
       facilities, nonpoint source projects and other related water quality
       facilities and projects.

2. Issue water supply development bonds for the purpose of
   providing financial assistance to water providers ELIGIBLE ENTITIES for
   water supply development purposes pursuant to sections 49-1274 and
   49-1275.

3. Provide financial assistance to political subdivisions and
   Indian tribes from monies in the clean water revolving fund to finance
   wastewater treatment projects.

4. Provide financial assistance to drinking water facilities from
   monies in the drinking water revolving fund to finance these facilities.

5. Provide financial assistance to water providers from monies in
   the water supply development revolving fund to finance water supply
   development AS PRESCRIBED BY THIS ARTICLE.

6. Guarantee debt obligations of, and provide linked deposit
   guarantees through third-party lenders to:
   (a) Political subdivisions that are issued to finance wastewater
       treatment projects.
   (b) Drinking water facilities that are issued to finance these
       facilities.
   (c) Water providers that are issued to finance water supply
       development projects.

7. Provide linked deposit guarantees through third-party lenders to
   political subdivisions, AND drinking water facilities and water
   providers.

8. Apply for, accept and administer grants and other financial
   assistance from the United States government and from other public and
   private sources.

9. Enter into capitalization grant agreements with the United
   States environmental protection agency.

10. Adopt rules pursuant to title 41, chapter 6 governing the
    application for and awarding OF wastewater treatment facility, drinking
water facility and nonpoint source project financial assistance under this chapter, administering the clean water revolving fund and the drinking water revolving fund and issuing water quality bonds.

11. Subject to title 41, chapter 4, article 4, Hire a director WHO SERVES AT THE PLEASURE OF THE BOARD and WHO SHALL HIRE staff for the authority.

12. Contract for OR EMPLOY the services of outside advisors, attorneys, ENGINEERS, FINANCIAL AND OTHER consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

14. Assess financial assistance origination fees and annual fees to cover the reasonable costs of administering the authority and the monies administered by the authority. Any fees collected pursuant to this paragraph constitute governmental revenue and may be used for any purpose consistent with the mission and objectives of the authority.

15. Perform any function of a fund manager under the CERCLA Brownfields cleanup revolving loan fund program as requested by the department. The board shall perform any action authorized under this article on behalf of the Brownfields cleanup revolving loan fund program established pursuant to chapter 2, article 1.1 of this title at the request of the department. In order to perform these functions, the board shall enter into a written agreement with the department.

16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with developing or financing wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. Technical assistance provided by the authority does not create any liability for the authority or this state regarding designing, constructing or operating any infrastructure project.

17. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to water providers in connection with the planning or design of water supply development projects IN ACCORDANCE WITH SECTION 49-1273. A single grant shall not exceed $250,000. Assistance provided under a technical assistance loan repayment agreement shall be repaid not more than three years after the date that the monies are advanced to the applicant. Technical assistance provided by the authority does not create any
liability for the authority or this state regarding designing, constructing or operating any water supply development project.

C. The authority may adopt rules pursuant to title 41, chapter 6 governing the application for and awarding water supply development fund project financial assistance under this chapter and administering the water supply development revolving fund of assistance under this chapter and the administration of the funds established by this chapter.

D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

E. Disbursements of monies by The water infrastructure finance authority pursuant to a financial assistance agreement are of Arizona is not subject to title 41, chapter 23. In coordination with the department of administration, the authority shall establish procurement procedures by rule to administer the long-term water augmentation fund.

F. For the purposes of the safe drinking water act and the clean water act, the department is the state agency with primary responsibility for administering this state’s public water system supervision program and water pollution control program and, in consultation with other appropriate state agencies as appropriate, is the lead agency in establishing assistance priorities as prescribed by section 49-1224, subsection B, paragraph 3, section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

G. For the purposes of this section, “CERCLA” has the same meaning prescribed in section 49-201.

Sec. 15. Title 49, chapter 8, article 1, Arizona Revised Statutes, is amended by adding section 49-1203.01, to read:

49-1203.01. Water infrastructure finance authority of Arizona; additional powers and duties

A. THE AUTHORITY, ACTING THROUGH ITS BOARD, SHALL:

1. ADMINISTER THE LONG-TERM WATER AUGMENTATION FUND IN ACCORDANCE WITH ARTICLE 4 OF THIS CHAPTER.

2. USE MONIES FROM THE LONG-TERM WATER AUGMENTATION FUND ESTABLISHED BY SECTION 49-1302 TO INVESTIGATE THE FEASIBILITY OF ENTERING INTO AGREEMENTS WITH PUBLIC OR PRIVATE ENTITIES FOR PROJECTS TO IMPORT WATER INTO THIS STATE. THE AUTHORITY MAY CONSIDER ANY EXISTING STUDIES OR PLANS IT DEEMS RELEVANT FOR THIS PURPOSE.

B. EXCEPT AS LIMITED IN THIS CHAPTER OR BY OTHER LAWS AND AS REASONABLE OR NECESSARY TO ADMINISTER OR CARRY OUT THE PURPOSES OF THE LONG-TERM WATER AUGMENTATION FUND AND WATER SUPPLY DEVELOPMENT REVERSING FUND ESTABLISHED BY SECTION 49-1271, THE AUTHORITY MAY:

1. ACQUIRE, SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF REAL AND PERSONAL PROPERTY OF EVERY KIND WITHIN THIS STATE.
2. Apply for and hold permits that are required by law to engage in any of the activities described in this chapter.

3. Negotiate and enter into intergovernmental agreements and agreements with private and public entities within and outside of this state.

4. Contract for or perform feasibility studies of water storage, storage facilities and recovery wells.

5. Apply for and accept grants, gifts or donations of monies or other property from any source that may be spent for any purpose consistent with this chapter.

6. Conduct any other activities that are reasonably necessary and related to the powers and duties described in this chapter.

C. Except as limited in this chapter or by other laws and as reasonable or necessary to administer or carry out the purposes of the long-term water augmentation fund, the authority may:

1. Issue long-term water augmentation bonds in accordance with article 4 of this chapter. The long-term water augmentation bonds shall be in the name of the authority, and the authority may pledge sources for security and payment of such bonds in accordance with article 4 of this chapter.

2. Issue refunding bonds if the authority deems refunding expedient.

3. Refund by issuing new bonds for any bonds issued by the authority if these bonds are secured from the same source of revenues as the bonds authorized by this chapter without regard to whether the bonds to be refunded have matured.

4. Take, hold and enforce a security interest in water-related facilities inside and outside of this state in connection with the terms of any agreement entered into by the authority if the authority determines that such a security interest is necessary to adequately protect this state's interests.

5. To the extent necessary to facilitate an approved water supply development project:
   
   (a) Plan, construct, acquire, own, improve and equip water-related facilities within this state to transport or deliver imported water within this state.

   (b) Negotiate and execute agreements to acquire, sell, lease, exchange, hold, sever or transfer imported water and rights to imported water. The authority may acquire imported water and rights to imported water in its own name.

   (c) Enter into and carry out contracts or subcontracts for the transport, treatment and delivery of imported water acquired by the authority.
(d) STORE IMPORTED WATER AND ACQUIRE, HOLD, ASSIGN OR OTHERWISE DISPOSE OF CREDITS FOR IMPORTED WATER REGISTERED TO STORAGE ACCOUNTS UNDER TITLE 45, CHAPTER 3.1.

(e) NEGOTIATE AND ENTER INTO AGREEMENTS TO USE EXISTING WATER-RELATED FACILITIES.

6. CONDUCT INVESTIGATIONS, INCLUDING PERFORMING ENVIRONMENTAL OR OTHER REVIEWS, IN ASSOCIATION WITH ANY OF THE ACTIVITIES PRESCRIBED BY PARAGRAPHS 4 AND 5 OF THIS SUBSECTION.

7. ASSESS FEES AND CHARGES IN CONNECTION WITH THE AUTHORITY'S DESIGN, CONSTRUCTION, ACQUISITION, IMPROVEMENT, EQUIPPING AND OWNERSHIP OF WATER-RELATED FACILITIES, INCLUDING FOR THE CONVEYANCE OR DELIVERY OF WATER AND IN CONNECTION WITH OPERATION AND MAINTENANCE AGREEMENTS ENTERED INTO BY THE AUTHORITY IN CONNECTION WITH WATER-RELATED FACILITIES. ANY FEES COLLECTED PURSUANT TO THIS PARAGRAPH CONSTITUTE GOVERNMENTAL REVENUE, MAY BE USED FOR ANY PURPOSE CONSISTENT WITH THE PURPOSES OF THE AUTHORITY AND MUST BE DEPOSITED IN THE LONG-TERM WATER AUGMENTATION FUND.

D. THIS CHAPTER DOES NOT REPLACE, SUPPLANT OR DIMINISH THE POWERS AND DUTIES OF THE DIRECTOR OF WATER RESOURCES SET FORTH IN TITLE 45, INCLUDING SECTIONS 45-105 AND 45-107.

Sec. 16. Section 49-193.01, Arizona Revised Statutes, is transferred and renumbered for placement in title 49, chapter 8, article 1, Arizona Revised Statutes, as section 49-1205 and as so renumbered, is amended to read:

49-1205. Water infrastructure finance authority board; legislative intent

A. The drought mitigation revolving fund is established to be maintained in perpetuity consisting of:

1. Monies appropriated by the legislature to the fund.
2. Monies received for drought mitigation purposes from the United States government.
3. Monies received as loan repayments, interest and penalties.
4. Interest and other income received from investing monies in the fund.
5. Gifts, grants and donations received for drought mitigation purposes from any public or private source.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. A. The legislature finds THAT:

1. NOW AND INTO THE FORESEEABLE FUTURE that many regions in this state lack access to sustainable THE NECESSARY water supplies to meet their CURRENT AND long-term water demands and need financial assistance to develop water supply and conservation projects. The legislature intends that the fund established by this section be used to provide financial
assistance for these projects under the terms set forth in this article.

2. Protecting current and future residents, the economy and the environment of this state is best achieved through a comprehensive water strategy that conserves water, improves the efficiency and reuse of existing water resources and augments existing water resources with new renewable supplies of water.

B. The authority is established for the benefit of current and future residents, the economy and the environment of this state.

C. The authority shall accomplish its purposes of helping to meet existing and future water needs of this state by developing or facilitating water conservation, reuse and augmentation projects.

D. The authority may accomplish its purpose individually, through collaboration or by partnering with public or private entities. If possible, the authority may leverage existing resources and infrastructure while not interfering with already available usable water resources.

Sec. 17. Title 49, chapter 8, article 1, Arizona Revised Statutes, is amended by adding sections 49-1206, 49-1207, 49-1208, 49-1209, 49-1210, 49-1211, 49-1212, 49-1213, 49-1214 and 49-1215, to read:

49-1206. Water infrastructure finance authority board; membership; fingerprinting; conduct of office; definition

A. The water infrastructure finance authority board is established to evaluate and approve funding requests for monies from the clean water revolving fund, the safe drinking water revolving fund, the water supply development revolving fund, the long-term water augmentation fund and the water conservation grant fund and to perform other duties as prescribed in this chapter.

B. The board consists of the following members:

1. Four persons from a county with a population of four hundred thousand persons or more.
2. Four persons from a county with a population of less than four hundred thousand persons.
3. One person who specializes in finance or statewide water needs.
4. The following as advisory members without the power to vote but who may attend executive sessions of the board:
   (a) The president of the senate or the president's设计ee.
   (b) The speaker of the house of representatives or the speaker's designee.
   (c) The minority leader of the senate or the minority leader's designee.
   (d) The minority leader of the house of representatives or the minority leader's designee.
   (e) The director of water resources or the director's designee.
(f) The Director of the Department of Environmental Quality or the Director's Designee.

(g) The State Land Commissioner or the Commissioner's Designee.

(h) The Director of the Department of Administration or the Director's Designee.

(i) The Chief Executive Officer of the Arizona Commerce Authority or the Chief Executive Officer's Designee.

C. The following apply to the eight members appointed pursuant to subsection B, paragraphs 1 and 2 of this section:

1. No three appointed members of the board may be residents of the same county, and at least one appointed member of the board shall be a resident of each county with a population of four hundred thousand persons or more.

2. Members must have a substantial knowledge of and experience with water or finance, including public finance.

D. The following apply to all members appointed pursuant to subsection B, paragraphs 1 through 3 of this section:

1. The Governor shall appoint two of the members from a county with a population of four hundred thousand persons or more, two of the members from a county with a population of less than four hundred thousand persons and shall appoint the member who specializes in finance or statewide water needs from the joint list of at least five qualified applicants submitted by the President of the Senate and the Speaker of the House of Representatives.

2. The President of the Senate and Minority Leader of the Senate shall appoint one of the members from a county with a population of four hundred thousand persons or more and one of the members from a county with a population of less than four hundred thousand persons. The President of the Senate and Minority Leader of the Senate shall alternate the terms in which these members are appointed.

3. The Speaker of the House of Representatives and Minority Leader of the House of Representatives shall appoint one of the members from a county with a population of four hundred thousand persons or more and one of the members from a county with a population of less than four hundred thousand persons. The Speaker of the House of Representatives and Minority Leader of the House of Representatives shall alternate the terms in which these members are appointed.

4. Appointed members serve five-year terms of office beginning and ending on the third Monday in January and are eligible for reappointment. A member may be removed only for cause by the person who then holds the same office as the person who appointed that member.

5. Members shall be residents of this state for at least two years.

6. The order in which the members are appointed pursuant to subsection B, paragraphs 1 and 2 is:
(a) For the initial term and every third term thereafter, the President of the Senate and the Minority Leader of the Senate shall appoint first, the Governor shall appoint second and the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall appoint third.

(b) For the second term and every third term thereafter, the Governor shall appoint first, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall appoint second and the President of the Senate and the Minority Leader of the Senate shall appoint third.

(c) For the third term and every third term thereafter, the Speaker of the House of Representatives and the Minority Leader of the House of Representatives shall appoint first, the President of the Senate and the Minority Leader of the Senate shall appoint second and the Governor shall appoint third.

E. Before a member is appointed to the board pursuant to subsection C or D of this section, the prospective member shall submit a full set of fingerprints to the Governor for the purpose of obtaining a state and federal criminal records check pursuant to section 41-1750 and Public Law 92-544. The Governor shall submit the fingerprints to the Department of Public Safety. The Department of Public Safety may exchange this fingerprint data with the Federal Bureau of Investigation.

F. The board shall elect a chairperson of the board from among the voting members. The chairperson may appoint subcommittees as necessary.

G. The board may request assistance from representatives of other state agencies. The Department of Water Resources shall provide technical assistance to the board.

H. Board members serve without compensation but are eligible for reimbursement of expenses pursuant to title 38, chapter 4, article 2. A board member who is otherwise employed as a public officer may not receive reimbursement pursuant to this subsection if it is otherwise prohibited by law.

I. A majority of the voting members constitutes a quorum for the purpose of an official meeting for conducting business. An affirmative vote of a majority of the voting members present at an official meeting is sufficient for the board to take any action, except that approval of funding or other financial assistance from the Water Conservation Grant Fund, the Clean Water Revolving Fund established by section 49-1221, the Drinking Water Revolving Fund established by section 49-1241, the Water Supply Development Revolving Fund established by section 49-1271 or the Long-Term Water Augmentation Fund requires the affirmative vote of at least six of the voting members present at an official meeting of the board.

J. The board shall keep and maintain a complete and accurate record of all board proceedings.
K. THE BOARD, COMMITTEES AND ANY SUBCOMMITTEES ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1, RELATING TO PUBLIC MEETINGS, EXCEPT ADVISORY NONVOTING MEMBERS OF THE BOARD MAY ATTEND EXECUTIVE SESSIONS OF THE BOARD.

L. THE BOARD, ITS SUBCOMMITTEES AND THE OFFICERS AND ANY EMPLOYEES OF THE BOARD ARE SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO CONFLICTS OF INTEREST. IN ADDITION TO THE CONFLICT OF INTEREST PROVISIONS IN TITLE 38, CHAPTER 3, ARTICLE 8, AND EXCEPT FOR EMPLOYEES OF THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE, THE FOLLOWING APPLY:

1. A PERSON IS NOT ELIGIBLE FOR APPOINTMENT TO THE BOARD IF THE PERSON OR THE PERSON'S SPOUSE MEETS ANY OF THE FOLLOWING CRITERIA:
   (a) IS EMPLOYED BY OR PARTICIPATES IN THE MANAGEMENT OF A BUSINESS ENTITY OR OTHER ORGANIZATION THAT RECEIVES MONIES FROM THE AUTHORITY.
   (b) OWNS, CONTROLS OR HAS, DIRECTLY OR INDIRECTLY, MORE THAN A TEN PERCENT INTEREST IN A BUSINESS ENTITY OR OTHER ORGANIZATION THAT RECEIVES MONIES FROM THE AUTHORITY.
   (c) USES OR RECEIVES A SUBSTANTIAL AMOUNT OF TANGIBLE GOODS, SERVICES OR MONIES FROM THE AUTHORITY.
   (d) HAS A PERSONAL FINANCIAL INTEREST IN THE AWARD OR EXPENDITURE.

   THE PERSON OR THE PERSON'S SPOUSE DOES NOT HAVE A PERSONAL FINANCIAL INTEREST IF THE PERSON OR THE PERSON'S SPOUSE IS A MEMBER OF A CLASS OF PERSONS AND IT REASONABLY APPEARS THAT A MAJORITY OF THE TOTAL MEMBERSHIP OF THAT CLASS IS TO BE AFFECTED BY THE ACTION.

2. A PERSON MAY NOT BE A VOTING MEMBER OF THE BOARD OR ACT AS THE GENERAL COUNSEL TO THE BOARD OR AUTHORITY IF THE PERSON IS REQUIRED TO REGISTER AS A LOBBYIST.

3. A PERSON MAY NOT BE A MEMBER OF THE BOARD OR AN EMPLOYEE OF THE AUTHORITY IF THE PERSON OR THE PERSON'S RELATIVE IS AN OFFICER, EMPLOYEE OR PAID CONSULTANT FOR A WATER USERS' ASSOCIATION OR TRADE ASSOCIATION.

M. AN EMPLOYEE OF A POLITICAL SUBDIVISION OF THIS STATE WHO SERVES ON THE BOARD MAY NOT PARTICIPATE IN THE CONSIDERATION OF OR A VOTE CONCERNING ANY AWARD OR EXPENDITURE BY THE AUTHORITY FOR PROJECTS THAT WILL DIRECTLY BENEFIT THE POLITICAL SUBDIVISION.

N. THE BOARD SHALL ADOPT WRITTEN POLICIES, PROCEDURES AND GUIDELINES FOR STANDARDS OF CONDUCT, INCLUDING A GIFT POLICY, FOR MEMBERS OF THE BOARD AND FOR OFFICERS AND EMPLOYEES OF THE BOARD.

O. THE BOARD IS A PUBLIC BODY THAT IS SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3. THE BOARD SHALL OPERATE ON THE STATE FISCAL YEAR.

P. ALL STATE AGENCIES SHALL COOPERATE WITH THE BOARD AND MAKE AVAILABLE DATA PERTAINING TO THE FUNCTIONS OF THE BOARD AS REQUESTED BY THE BOARD.

Q. FOR THE PURPOSES OF THIS SECTION, "TRADE ASSOCIATION" MEANS ANY COOPERATIVE, ASSOCIATION OR BUSINESS ORGANIZATION, WHETHER OR NOT INCORPORATED UNDER FEDERAL OR STATE LAW, THAT IS DESIGNED TO ASSIST ITS MEMBERS, INDUSTRY OR PROFESSION IN ADVOCATING FOR OR PROMOTING THEIR COMMON INTEREST.
49-1207. **Federal water programs committee; membership;**

A. THE FEDERAL WATER PROGRAMS COMMITTEE IS ESTABLISHED TO ADVISE THE BOARD AND CONSISTS OF THE FOLLOWING VOTING MEMBERS WHO ARE APPOINTED BY THE BOARD:

1. ONE MEMBER WHO REPRESENTS A PUBLIC WATER SYSTEM THAT SERVES FIVE HUNDRED OR MORE CONNECTIONS.
2. ONE MEMBER WHO REPRESENTS A PUBLIC WATER SYSTEM THAT SERVES LESS THAN FIVE HUNDRED CONNECTIONS.
3. ONE MEMBER WHO REPRESENTS A DOMESTIC WATER IMPROVEMENT DISTRICT OR SANITARY DISTRICT IN A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS.
4. ONE MEMBER WHO REPRESENTS A DOMESTIC WASTEWATER IMPROVEMENT DISTRICT OR SANITARY DISTRICT IN A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND OR MORE PERSONS.
5. ONE MEMBER WHO REPRESENTS A CITY OR TOWN WITH A POPULATION OF LESS THAN FIFTY THOUSAND PERSONS.
6. ONE MEMBER WHO REPRESENTS A CITY OR TOWN WITH A POPULATION OF FIFTY THOUSAND OR MORE PERSONS.
7. ONE MEMBER WHO REPRESENTS A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND OR MORE PERSONS.
8. THE DIRECTOR OF ENVIRONMENTAL QUALITY OR THE DIRECTOR'S DESIGNEE.
9. THE DIRECTOR OF WATER RESOURCES OR THE DIRECTOR'S DESIGNEE.
10. THE EXECUTIVE DIRECTOR OF THE CORPORATION COMMISSION OR THE EXECUTIVE DIRECTOR'S DESIGNEE.
11. THE CHIEF EXECUTIVE OFFICER OF THE ARIZONA COMMERCE AUTHORITY OR THE CHIEF EXECUTIVE OFFICER'S DESIGNEE.

B. THE FEDERAL WATER PROGRAMS COMMITTEE SHALL REVIEW APPLICATIONS FOR FINANCIAL OR OTHER ASSISTANCE FROM THE CLEAN WATER REVOLVING FUND PROGRAM, THE SAFE DRINKING WATER REVOLVING FUND PROGRAM AND THE HARDSHIP GRANT FUND PROGRAM AND SHALL MAKE RECOMMENDATIONS TO THE BOARD REGARDING THOSE APPLICATIONS FOR ASSISTANCE.

49-1208. **Water supply development committee; long-term water augmentation committee; membership;**

A. THE WATER SUPPLY DEVELOPMENT COMMITTEE IS ESTABLISHED CONSISTING OF SEVEN MEMBERS OF THE BOARD, INCLUDING THE FOUR MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF LESS THAN FOUR HUNDRED THOUSAND PERSONS, TWO MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF FOUR HUNDRED THOUSAND PERSONS OR MORE AND WHO ARE SELECTED BY A VOTE OF THE BOARD AND THE MEMBER OF THE BOARD WHO IS APPOINTED BY THE GOVERNOR AND WHO SPECIALIZES IN FINANCE OR STATEWIDE WATER NEEDS. THE WATER SUPPLY DEVELOPMENT COMMITTEE SHALL REVIEW APPLICATIONS FOR FINANCIAL ASSISTANCE FROM THE WATER SUPPLY
DEVELOPMENT REVOLVING FUND AND MAKE RECOMMENDATIONS TO THE BOARD REGARDING THOSE APPLICATIONS FOR ASSISTANCE.

B. THE LONG-TERM WATER AUGMENTATION COMMITTEE IS ESTABLISHED CONSISTING OF SEVEN MEMBERS OF THE BOARD, INCLUDING THE FOUR MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF FOUR HUNDRED THOUSAND PERSONS OR MORE, TWO MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF LESS THAN FOUR HUNDRED THOUSAND PERSONS AND WHO ARE SELECTED BY A VOTE OF THE BOARD AND THE MEMBER OF THE BOARD WHO IS APPOINTED BY THE GOVERNOR AND WHO SPECIALIZES IN FINANCE OR STATEWIDE WATER NEEDS. THE LONG-TERM WATER AUGMENTATION COMMITTEE SHALL REVIEW APPLICATIONS FOR FINANCIAL ASSISTANCE FROM THE LONG-TERM WATER AUGMENTATION FUND AND MAKE RECOMMENDATIONS TO THE BOARD REGARDING THOSE APPLICATIONS FOR ASSISTANCE.

49-1209. Cooperation with governmental entities

A. THE AUTHORITY MAY REQUEST ASSISTANCE FROM REPRESENTATIVES OF OTHER STATE AGENCIES, AND ALL STATE AGENCIES SHALL COOPERATE WITH THE AUTHORITY AND MAKE AVAILABLE DATA PERTAINING TO THE FUNCTIONS OF THE BOARD AS REQUESTED BY THE AUTHORITY.

B. IN THE ACQUISITION, CONSTRUCTION OR DEVELOPMENT OF WATER-RELATED FACILITIES, THE AUTHORITY SHALL COOPERATE WITH ESTABLISHED AND EXISTING STATE AGENCIES AND POLITICAL SUBDIVISIONS OF THIS STATE AND WITH THE UNITED STATES AND OTHER STATES.

C. THE AUTHORITY MAY NOT BEGIN NEGOTIATIONS REGARDING ANY AGREEMENT INVOLVING THE USE, STORAGE OR CONSERVATION OF COLORADO RIVER WATER OUTSIDE THIS STATE WITHOUT THE EXPRESS WRITTEN APPROVAL OF THE DIRECTOR OF WATER RESOURCES AND MAY NOT ENTER INTO ANY AGREEMENT INVOLVING THE USE, STORAGE OR CONSERVATION OF COLORADO RIVER WATER OUTSIDE THIS STATE WITHOUT THE DIRECTOR OF WATER RESOURCES' EXPRESS WRITTEN APPROVAL.

49-1210. Limitations on water activities

A. THE AUTHORITY MAY NOT PURCHASE ANY MAINSTREAM COLORADO RIVER WATER OR RIGHTS TO MAINSTREAM COLORADO RIVER WATER AND MAY NOT PROVIDE FUNDING OR FINANCIAL ASSISTANCE TO TRANSFER, PURCHASE OR LEASE ANY SUCH WATER OR RIGHTS TO SUCH WATER, EXCEPT THAT THIS PROHIBITION DOES NOT APPLY TO ANY WATER OR RIGHTS TO WATER HELD BY A FEDERALLY RECOGNIZED INDIAN TRIBE OR TO PURCHASES MADE WITH MONIES FROM THE CLEAN WATER REVOLVING FUND ESTABLISHED BY SECTION 49-1221 OR THE DRINKING WATER REVOLVING FUND ESTABLISHED BY SECTION 49-1241. FOR PURPOSES OF THIS SUBSECTION, "MAINSTREAM COLORADO RIVER WATER" MEANS COLORADO RIVER WATER THAT IS AVAILABLE TO SATISFY ENTITLEDMENTS IN THIS STATE BUT THAT IS NOT DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT.

B. THE AUTHORITY MAY NOT ENTER INTO ANY AGREEMENTS TO CONVEY OR DELIVER WATER TO A WATER USER WITHIN THE INCORPORATED BOUNDARIES OF A CITY OR TOWN, A CITY OR TOWN WATER SERVICE AREA OR WITHIN THE BOUNDARIES OF A CERTIFICATE OF CONVENIENCE AND NECESSITY OF A PRIVATE WATER COMPANY WITHOUT THE WRITTEN CONSENT OF THE CITY, TOWN OR PRIVATE WATER COMPANY.
C. THE AUTHORITY MAY NOT OPERATE OR MAINTAIN ANY WATER-RELATED FACILITIES BUT MAY ENTER INTO AGREEMENTS WITH PUBLIC OR PRIVATE ENTITIES TO OPERATE OR MAINTAIN WATER-RELATED FACILITIES OWNED OR CONSTRUCTED BY THE AUTHORITY.

D. EXCEPT AS PROVIDED IN SECTION 49-1203.01, SUBSECTION C, PARAGRAPH 4, THE AUTHORITY MAY NOT ACQUIRE OR OWN WATER-RELATED FACILITIES THAT ARE EITHER:
   1. LOCATED WITHIN THIS STATE AND USED TO CONVEY OR DELIVER WATER THAT IS NOT IMPORTED WATER.
   2. LOCATED OUTSIDE THIS STATE.

E. IF THE AUTHORITY ACQUIRES IMPORTED WATER OR LONG-TERM STORAGE CREDITS CREATED FROM IMPORTED WATER IN ITS OWN NAME, THE AUTHORITY MAY NOT SELL OR LEASE THAT WATER OR THOSE LONG-TERM STORAGE CREDITS FOR AMOUNTS GREATER THAN NECESSARY TO COMPLY WITH SECTION 49-1303, SUBSECTION E OR TO REPAY LONG-TERM WATER AUGMENTATION BONDS ISSUED TO FUND ANY PROJECT TO ACQUIRE THE IMPORTED WATER OR LONG-TERM STORAGE CREDITS.

49-1211. Project delivery methods

THE AUTHORITY MAY PROVIDE FOR THE DEVELOPMENT OR OPERATION OF WATER-RELATED FACILITIES USING A VARIETY OF PROJECT DELIVERY METHODS AND FORMS OF AGREEMENT. THE METHODS MAY INCLUDE:

1. PREDEVELOPMENT AGREEMENTS LEADING TO OTHER IMPLEMENTING AGREEMENTS.
   2. A DESIGN-BUILD AGREEMENT.
   3. A DESIGN-BUILD-MAINTAIN AGREEMENT.
   4. A DESIGN-BUILD-FINANCE-OPERATE AGREEMENT.
   5. A DESIGN-BUILD-OPERATE-MAINTAIN AGREEMENT.
   6. A DESIGN-BUILD-FINANCE-OPERATE-MAINTAIN AGREEMENT.
   7. A CONCESSION AGREEMENT PROVIDING FOR THE PRIVATE PARTNER TO DESIGN, BUILD, OPERATE, MAINTAIN, MANAGE OR LEASE A WATER-RELATED FACILITY.
   8. ANY OTHER PROJECT DELIVERY METHOD OR AGREEMENT OR COMBINATION OF METHODS OR AGREEMENTS THAT THE AUTHORITY DETERMINES ARE REASONABLE OR NECESSARY TO CARRY OUT THE AUTHORITY'S PURPOSES.

49-1212. Procurement for water-related facilities; insurance; evaluations; deviations

A. THE AUTHORITY MAY PROCURE SERVICES FOR THE DEVELOPMENT, DESIGN, ACQUISITION, CONSTRUCTION, IMPROVEMENT OR EQUIPPING OF WATER-RELATED FACILITIES USING ANY OF THE FOLLOWING:
   1. REQUESTS FOR PROJECT PROPOSALS IN WHICH THE AUTHORITY DESCRIBES A CLASS OF WATER-RELATED FACILITIES OR A GEOGRAPHIC AREA IN WHICH ENTITIES ARE INVITED TO SUBMIT PROPOSALS TO DEVELOP WATER-RELATED FACILITIES.
   2. SOLICITATIONS USING REQUESTS FOR QUALIFICATIONS, SHORT-LISTING OF QUALIFIED PROPOSERS, REQUESTS FOR PROPOSALS, NEGOTIATIONS, BEST AND FINAL OFFERS OR OTHER PROCUREMENT PROCEDURES.
3. PROCUREMENTS SEEKING DEVELOPMENT AND FINANCE PLANS THAT ARE MOST
SUITABLE FOR THE PROJECT.
4. BEST VALUE SELECTION PROCUREMENTS BASED ON PRICE OR FINANCIAL
PROPOSALS, OR BOTH, AND ANY OTHER RELEVANT FACTORS.
5. OTHER PROCEDURES THAT THE AUTHORITY DETERMINES MAY FURTHER THE
IMPLEMENTATION OF THIS CHAPTER.
B. FOR ANY PROCUREMENT IN WHICH THE AUTHORITY ISSUES A REQUEST FOR
QUALIFICATIONS, REQUEST FOR PROPOSALS OR SIMILAR SOLICITATION DOCUMENT,
THE REQUEST SHALL SET FORTH GENERALLY THE FACTORS THAT WILL BE EVALUATED
AND THE MANNER IN WHICH RESPONSES WILL BE EVALUATED. IF CONTRACTOR
INSURANCE IS REQUIRED FOR SERVICES PROCURED PURSUANT TO THIS SECTION, THE
INSURANCE SHALL BE PLACED WITH AN INSURER AUTHORIZED TO TRANSACT INSURANCE
IN THIS STATE PURSUANT TO TITLE 20, CHAPTER 2, ARTICLE 1 OR A SURPLUS
LINES INSURER APPROVED AND IDENTIFIED BY THE DIRECTOR OF THE DEPARTMENT OF
INSURANCE AND FINANCIAL INSTITUTIONS PURSUANT TO TITLE 20, CHAPTER 2,
ARTICLE 5.
C. IN EVALUATING PROPOSALS UNDER THIS SECTION, THE AUTHORITY SHALL
CONSIDER THE CRITERIA PRESCRIBED PURSUANT TO SECTION 49-1304.
D. THE AUTHORITY MAY DEVIATE FROM ANY REQUIREMENTS IN THIS SECTION
TO THE EXTENT NECESSARY TO MAKE USE OF ANY AVAILABLE FEDERAL FUNDING FOR
THE DESIGN, DEVELOPMENT, ACQUISITION, CONSTRUCTION, IMPROVEMENT OR
EQUIPPING OF WATER-RELATED FACILITIES.
49-1213. Public-private partnership agreements; private
partners; political subdivisions; tax exemptions;
prohibition
A. IN ANY PUBLIC-PRIVATE PARTNERSHIP UNDER THIS CHAPTER, THE
AUTHORITY MAY INCLUDE PROVISIONS THAT:
1. ALLOW THE AUTHORITY OR THE PRIVATE PARTNER TO ESTABLISH AND
COLLECT DELIVERY CHARGES, SERVICE CHARGES, OPERATION AND MAINTENANCE
CHARGES OR SIMILAR CHARGES, INCLUDING PROVISIONS THAT:
   (a) ESTABLISH CIRCUMSTANCES UNDER WHICH THE AUTHORITY MAY RECEIVE
ALL OR A SHARE OF REVENUES FROM SUCH CHARGES.
   (b) GOVERN ENFORCEMENT OF COLLECTION OF SUCH CHARGES.
   (c) ALLOW THE AUTHORITY TO CONTINUE OR CEASE COLLECTION OF CHARGES
AFTER THE END OF THE TERM OF THE AGREEMENT.
2. ALLOW FOR PAYMENTS TO BE MADE BY THIS STATE TO THE PRIVATE
PARTNER.
3. ALLOW THE AUTHORITY TO ACCEPT PAYMENTS OF MONIES AND SHARE
REVENUES WITH THE PRIVATE PARTNER.
4. ADDRESS HOW THE PARTNERS WILL SHARE MANAGEMENT OF THE RISKS OF
THE PUBLIC-PRIVATE PARTNERSHIP PROJECT, INCLUDING ANY RISKS ASSOCIATED
WITH PUBLIC-PRIVATE PARTNERSHIP PROJECTS THAT WILL ORIGINATE OUTSIDE OF
THIS STATE.
5. Specify how the partners will share the costs of the design, development, acquisition, construction, improvement and equipping of the public-private partnership project.

6. Allocate financial responsibility for cost overruns.

7. Establish the damages to be assessed for nonperformance.

8. Establish performance criteria or incentives, or both.

9. Address the acquisition of rights-of-way and other property interests that may be required.

10. Establish recordkeeping, accounting and auditing standards to be used for the public-private partnership project.

11. For a public-private partnership project that reverts to public ownership, address responsibility for reconstruction or renovations that are required in order for water-related facilities to meet all applicable government standards on reversion of the water-related facilities to this state.

12. Identify any authority specifications that must be satisfied, including provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a showing satisfactory to the authority.

13. Require a private partner to provide performance and payment bonds, parent company guarantees, letters of credit or other acceptable forms of security or a combination of any of these, the penal sum or amount of which may be less than one hundred percent of the value of the contract involved based on the authority's determination, made on a project-by-project basis, of what is required to adequately protect this state.

14. Allow the private partner in any concession agreement to establish and collect delivery charges, operation and maintenance charges or similar charges to cover its costs and provide for a reasonable rate of return on the private partner's investment, including any of the following provisions:

   (a) The charges may be collected directly by the private partner or by a third party engaged for that purpose.

   (b) A formula for the adjustment of charges during the term of the agreement.

   (c) For an agreement that does not include a formula described in subdivision (b) of this paragraph, provisions regulating the private partner's return on investment.

15. Specify remedies available and dispute resolution procedures, including forum selection and choice of law provisions and the right of the parties to institute legal proceedings to obtain an enforceable judgment or award and procedures for use of dispute review boards, mediation, facilitated negotiation, arbitration and other alternative dispute resolution procedures.
16. ALLOW THE AUTHORITY TO ACQUIRE REAL PROPERTY THAT IS NEEDED FOR WATER-RELATED FACILITIES, INCLUDING ACQUISITION BY EXCHANGE FOR OTHER REAL PROPERTY THAT IS OWNED BY THE AUTHORITY.

B. THE AUTHORITY MAY APPROVE ANY REQUEST FROM ANOTHER UNIT OF GOVERNMENT TO DEVELOP WATER-RELATED FACILITIES IN A MANNER SIMILAR TO THAT USED BY THE AUTHORITY FOR PUBLIC-PRIVATE PARTNERSHIPS.

C. NOTWITHSTANDING ANY OTHER LAW, AGREEMENTS UNDER THIS CHAPTER THAT ARE PROPERLY DEVELOPED, OPERATED OR HELD BY A PRIVATE PARTNER UNDER A CONCESSION AGREEMENT PURSUANT TO THIS CHAPTER ARE EXEMPT FROM ALL STATE AND LOCAL AD VALOREM AND PROPERTY TAXES THAT OTHERWISE MIGHT BE APPLICABLE.

D. A PUBLIC-PRIVATE PARTNERSHIP AGREEMENT UNDER THIS CHAPTER SHALL CONTAIN A PROVISION BY WHICH THE PRIVATE PARTNER EXPRESSLY AGREES THAT IT IS PROHIBITED FROM SEEKING INJUNCTIVE OR OTHER EQUITABLE RELIEF TO DELAY, PREVENT OR OTHERWISE HINDER THE AUTHORITY OR ANY JURISDICTION FROM DEVELOPING, CONSTRUCTING OR MAINTAINING ANY WATER-RELATED FACILITIES THAT WERE PLANNED AND THAT WOULD OR MIGHT IMPACT THE REVENUE THAT THE PRIVATE PARTNER WOULD OR MIGHT DERIVE FROM THE WATER-RELATED FACILITIES DEVELOPED UNDER THE AGREEMENT, EXCEPT THAT THE AGREEMENT MAY PROVIDE FOR REASONABLE COMPENSATION TO THE PRIVATE PARTNER FOR THE ADVERSE EFFECT ON REVENUES RESULTING FROM DEVELOPMENT, CONSTRUCTION AND MAINTENANCE OF AN UNPLANNED REVENUE IMPACTING WATER-RELATED FACILITIES.

E. A FOREIGN PRIVATE CORPORATION THAT ENTERS INTO AN AGREEMENT WITH THE AUTHORITY PURSUANT TO THIS SECTION MUST PROVIDE SATISFACTORY EVIDENCE TO THE BOARD THAT THE FOREIGN ENTITY IS IN COMPLIANCE WITH THE REQUIREMENTS OF TITLE 10, CHAPTER 38.

49-1214. Attorney general public-private partnership agreement certification

A. THE AUTHORITY SHALL SUBMIT TO THE ATTORNEY GENERAL ANY PUBLIC-PRIVATE PARTNERSHIP AGREEMENT ENTERED INTO BY THE AUTHORITY. ON THE SUBMISSION OF THE AGREEMENT TO THE ATTORNEY GENERAL, THE ATTORNEY GENERAL SHALL INVESTIGATE AND DETERMINE THE VALIDITY OF THE AGREEMENT.

B. IF THE AGREEMENT COMPLIES WITH THIS CHAPTER AND THE ATTORNEY GENERAL DETERMINES THAT THE AGREEMENT WILL CONSTITUTE A BINDING AND LEGAL OBLIGATION OF THE AUTHORITY THAT IS ENFORCEABLE ACCORDING TO THE TERMS OF THE AGREEMENT, THE ATTORNEY GENERAL SHALL CERTIFY, IN SUBSTANCE, THAT THE AGREEMENT HAS BEEN ENTERED INTO IN ACCORDANCE WITH THE CONSTITUTION AND LAWS OF THIS STATE.

49-1215. Joint legislative water committee; membership; duties

A. THE JOINT LEGISLATIVE WATER COMMITTEE IS ESTABLISHED CONSISTING OF THE FOLLOWING MEMBERS:

1. THE PRESIDENT OF THE SENATE OR THE PRESIDENT'S DESIGNEE.
2. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE SPEAKER'S DESIGNEE.
3. THE MINORITY LEADER OF THE SENATE OR THE MINORITY LEADER'S DESIGNEE.
4. THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES OR THE MINORITY LEADER'S DESIGNEE.
5. THE CHAIRPERSON OF THE SENATE COMMITTEE WITH JURISDICTION OVER WATER ISSUES.
6. THE CHAIRPERSON OF THE HOUSE OF REPRESENTATIVES COMMITTEE WITH JURISDICTION OVER WATER ISSUES.
7. THE RANKING MINORITY PARTY MEMBER OF THE SENATE COMMITTEE WITH JURISDICTION OVER WATER ISSUES.
8. THE RANKING MINORITY PARTY MEMBER OF THE HOUSE OF REPRESENTATIVES COMMITTEE WITH JURISDICTION OVER WATER ISSUES.
9. THE CHAIRPERSON OF THE JOINT LEGISLATIVE BUDGET COMMITTEE.

B. THE JOINT LEGISLATIVE WATER COMMITTEE SHALL REVIEW AWARDS OF $50,000,000 OR MORE FROM THE LONG-TERM WATER AUGMENTATION FUND ESTABLISHED BY SECTION 49-1302 AND THE BOARD SHALL PROVIDE THE JOINT LEGISLATIVE WATER COMMITTEE WITH THE RELEVANT INFORMATION.

Sec. 18. Title 49, chapter 8, article 3, Arizona Revised Statutes, is amended by adding section 49-1270, to read:

49-1270. Definitions

IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:
1. "ELIGIBLE ENTITY" MEANS ANY OF THE FOLLOWING:
   (a) A WATER PROVIDER THAT DISTRIBUTES OR SELLS WATER OUTSIDE OF THE BOUNDARIES OF AN ACTIVE MANAGEMENT AREA LOCATED IN MARICOPA, PIMA OR PINAL COUNTY.
   (b) ANY CITY, TOWN, COUNTY, DISTRICT, COMMISSION, AUTHORITY OR OTHER PUBLIC ENTITY THAT IS ORGANIZED AND THAT EXISTS UNDER THE STATUTORY LAW OF THIS STATE OR UNDER A VOTER-APPROVED CHARTER OR INITIATIVE OF THIS STATE THAT IS LOCATED OUTSIDE OF THE BOUNDARIES OF AN ACTIVE MANAGEMENT AREA LOCATED IN MARICOPA, PIMA OR PINAL COUNTY.

2. "LOAN" MEANS LEASES, LOANS OR OTHER EVIDENCE OF INDEBTEDNESS FOR WATER SUPPLY DEVELOPMENT PURPOSES ISSUED FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

3. "LOAN REPAYMENT AGREEMENT" MEANS AN AGREEMENT TO REPAY A LOAN ISSUED FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND ENTERED INTO BY AN ELIGIBLE ENTITY.

4. "WATER SUPPLY DEVELOPMENT REVOLVING FUND" OR "FUND" MEANS THE WATER SUPPLY DEVELOPMENT REVOLVING FUND ESTABLISHED BY SECTION 49-1271.

Sec. 19. Section 49-1271, Arizona Revised Statutes, is amended to read:

49-1271. Water supply development revolving fund

A. The water supply development revolving fund is established to be maintained in perpetuity consisting of ALL OF THE FOLLOWING:

1. Monies received from the issuance and sale of water supply development bonds under section 49-1278.
2. Monies appropriated by the legislature to the water supply development revolving fund.

3. Monies received for water supply development purposes from the United States government.

4. Monies received from water providers as loan repayments, interest and penalties.

5. Interest and other income received from investing monies in the fund.

6. Gifts, grants and donations received for water supply development purposes from any public or private source.

7. ANY OTHER MONIES RECEIVED BY THE AUTHORITY IN CONNECTION WITH THE PURPOSE OF THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The legislature finds that many water providers in this state, particularly in rural areas, lack access to sufficient water supplies to meet their long-term water demands and need financial assistance to construct water supply projects and obtain additional water supplies. It is the intent of the legislature that the water supply development revolving fund established by this section be used to provide financial assistance to these water providers under the terms set forth in this article.

C. ALL MONIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND 35-147, IN THE FUND AND SHALL BE HELD IN TRUST. ON NOTICE FROM THE AUTHORITY, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND. THE MONIES IN THE FUND MAY NOT BE APPROPRIATED OR TRANSFERRED BY THE LEGISLATURE TO FUND THE GENERAL OPERATIONS OF THIS STATE OR TO OTHERWISE MEET THE OBLIGATIONS OF THE STATE GENERAL FUND UNLESS APPROVED BY A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE. THIS SUBSECTION DOES NOT APPLY TO ANY TAXES OR OTHER LEVIES THAT ARE IMPOSED PURSUANT TO TITLE 42 OR 43.

D. THE AUTHORITY SHALL ADMINISTER THE FUND. THE AUTHORITY SHALL ESTABLISH AS MANY OTHER ACCOUNTS AND SUBACCOUNTS AS REQUIRED TO ADMINISTER THE FUND. IF ANY BONDS ARE ISSUED UNDER SECTION 49-1278, THE AUTHORITY SHALL ESTABLISH ONE OR MORE BOND PROCEEDS ACCOUNTS AND ONE OR MORE BOND DEBT SERVICE ACCOUNTS AS NECESSARY TO ACCURATELY RECORD AND TRACK BOND PROCEEDS AND DEBT SERVICE REVENUES.

E. MONIES AND OTHER ASSETS IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSES AUTHORIZED BY THIS CHAPTER.

F. MONIES IN THE FUND MAY BE USED TO SECURE WATER SUPPLY DEVELOPMENT BONDS OF THE AUTHORITY.
Sec. 20. Section 49-1273, Arizona Revised Statutes, as amended by
Laws 2022, chapter 63, section 2, is amended to read:
49-1273. Water supply development revolving fund; purposes
 A. Monies in the water supply development revolving fund may be
 used for the following purposes:
 1. Making water supply development loans to water providers
    ELIGIBLE ENTITIES in this state under section 49-1274 for water supply
    development purposes PROJECTS WITHIN THIS STATE. A SINGLE LOAN SHALL NOT
    EXCEED $3,000,000.
 2. Making loans or grants or providing technical assistance to
    water providers for planning or designing ELIGIBLE ENTITIES FOR water
    supply development projects IN THIS STATE. A single grant shall not
    exceed $250,000 $2,000,000.
 3. Purchasing or refinancing debt obligations of water providers at
    or below market rate if the debt obligation was issued for a water supply
    development purpose.
 4. Providing financial assistance to water providers with bonding
    authority to purchase insurance for local bond obligations incurred by
    them for water supply development purposes.
 5. Paying the costs to administer the fund.
 6. Providing linked deposit guarantees through third party lenders
    by depositing monies with the lender on the condition that the lender make
    a loan on terms approved by the board, at a rate of return on the deposit
    approved by the board and the state treasurer and by giving the lender
    recourse against the deposit of loan repayments that are not made when
    due.
 7. Conducting water supply studies.
 B. If the monies pledged to secure water supply development bonds
    issued pursuant to section 49-1278 become insufficient to pay the
    principal and interest on the water supply development bonds guaranteed by
    the water supply development revolving fund, the authority shall direct
    the state treasurer to liquidate securities in the fund as may be
    necessary and shall apply those proceeds to make current all payments then
    due on the bonds. The state treasurer shall immediately notify the
    attorney general and auditor general of the insufficiency. The auditor
    general shall audit the circumstances surrounding the depletion of the
    fund and report the findings to the attorney general. The attorney
    general shall conduct an investigation and report those findings to the
    governor and the legislature.
 C. Monies in the water supply development revolving fund shall not
    be used to provide financial assistance to a water provider, other than an
    Indian tribe, unless one of the following applies:
    1. The board of supervisors of the county in which the water
       provider is located has adopted the provision authorized by section
       11-823, subsection A.
2. The water provider is located in a city or town and the legislative body of the city or town has enacted the ordinance authorized by section 9-463.01, subsection 0.

3. The water provider is located in an active management area established pursuant to title 45, chapter 2, article 2.

4. The water provider is located outside of an active management area and either of the following applies:
   (a) The director of water resources has designated the water provider as having an adequate water supply pursuant to section 45-108.
   (b) The water provider will use the financial assistance for a water supply development project and the director of water resources has determined pursuant to section 45-108 that there is an adequate water supply for all subdivided land that will be served by the project and for which a public report was issued after July 24, 2014.

5. The water provider is located in a county with a population of less than one million five hundred thousand persons.

Sec. 21. Section 49-1274, Arizona Revised Statutes, as amended by Laws 2022, chapter 63, section 3, is amended to read:

49-1274. Water supply development revolving fund financial assistance; procedures

A. In compliance with any applicable requirements, a water provider AN ELIGIBLE ENTITY may apply to the authority for and accept and incur indebtedness as a result of a loan or any other financial assistance pursuant to section 49-1273 from the water supply development revolving fund for water supply development purposes PROJECTS IN THIS STATE. In compliance with any applicable requirements, a water provider AN ELIGIBLE ENTITY may also apply to the authority for and accept grants, staff assistance or technical assistance for the planning or design of a water supply development project IN THIS STATE. A water provider that applies for and accepts a loan or other financial assistance under this article is not precluded from applying for and accepting a loan or other financial assistance under article 2 of this chapter or under any other law.

B. The authority, in consultation with the board, shall DO ALL OF THE FOLLOWING:
   1. Prescribe a simplified form and procedure to apply for and approve assistance.
   2. Establish by rule criteria by which assistance will be awarded, including: requirements for local participation in project costs, if deemed advisable. The criteria shall include determining the following:
      (a) The ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of the board, the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.
(b) The applicant's legal capability to enter into a loan repayment agreement.
(c) The applicant's financial ability to construct, operate and maintain the project if it receives the financial assistance.
(d) The applicant's ability to manage the project.
(e) The applicant's ability to meet any applicable environmental requirements imposed by federal or state agencies.
(f) The applicant's ability to acquire any necessary regulatory permits.

(a) FOR ANY ASSISTANCE:
   (i) A determination of the applicant's financial ability to construct, operate and maintain the project if the applicant receives the assistance.
   (ii) A determination of the applicant's ability to manage the project.
   (iii) A determination of the applicant's ability to meet any applicable environmental requirements imposed by federal or state agencies.
   (iv) A determination of the applicant's ability to acquire any necessary regulatory permits.

(b) IF THE APPLICANT IS APPLYING FOR A LOAN:
   (i) A determination of the ability of the applicant to repay a loan according to the terms and conditions established by this section. At the option of the Authority, the existence of a current investment grade rating on existing debt of the applicant that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement constitutes evidence regarding ability to repay a loan.
   (ii) A determination of the applicant's legal capability to enter into a loan repayment agreement.

3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water supply development issues, including the following:
   (a) Existing, near-term and long-term water demands of the water provider compared to the existing water supplies of the water provider.
   (b) Existing and planned conservation and water management programs of the water provider, including watershed management or protection.
   (c) Benefits of the project.
   (d) The sustainability of the water supply to be developed through the project.
   (e) The water provider's need for financial assistance.
   (f) The cost-effectiveness of the project.

(a) THE ABILITY OF THE PROJECT TO PROVIDE MULTIPLE WATER SUPPLY DEVELOPMENT BENEFITS.
(b) THE COST-EFFECTIVENESS OF THE PROJECT.
(c) THE RELIABILITY AND LONG-TERM SECURITY OF THE WATER SUPPLY TO
BE DEVELOPED THROUGH THE PROJECT.
(d) THE DEGREE TO WHICH THE PROJECT WILL MAXIMIZE OR LEVERAGE
MULTIPLE AVAILABLE FUNDING SOURCES, INCLUDING FEDERAL FUNDING.
(e) THE FEASIBILITY OF THE PROJECT, INCLUDING THE FEASIBILITY OF
THE PROPOSED DESIGN AND OPERATION OF ANY PROJECT.
(f) COMMENTS FROM WATER USERS, LOCAL CITIZENS AND AFFECTED
JURISDICTIONS.
(g) EXISTING, NEAR-TERM AND LONG-TERM WATER DEMANDS COMPARED TO THE
VOLUME AND RELIABILITY OF EXISTING WATER SUPPLIES OF THE PROPOSED
RECIPIENTS OF THE WATER SUPPLY.
(h) EXISTING AND PLANNED CONSERVATION, BEST MANAGEMENT PRACTICES
AND WATER MANAGEMENT PROGRAMS OF THE APPLICANT OR THE PROPOSED RECIPIENTS
OF THE WATER SUPPLY.
(i) THE ABILITY OF THE PROJECT TO PROVIDE WATER SUPPLY DEVELOPMENT
BENEFITS TO MULTIPLE JURISDICTIONS WITHIN THE STATE.
(j) OTHER CRITERIA THAT THE AUTHORITY DEEMS APPROPRIATE.
C. THE AUTHORITY SHALL CONDUCT BACKGROUND CHECKS, FINANCIAL CHECKS
AND OTHER REVIEWS DEEMED APPROPRIATE FOR INDIVIDUAL APPLICANTS,
APPLICANTS' BOARDS OF DIRECTORS AND OTHER PARTNERS OF THE APPLICANTS.
D. The board AUTHORITY shall review on its merits each
application received and shall inform the applicant of the board's
AUTHORITY'S determination within ninety days after receipt of a complete
and correct application. If the application is not approved, the board
AUTHORITY shall notify the applicant, stating the reasons. If the
application is approved, the board AUTHORITY may condition the approval on
assurances the board AUTHORITY deems necessary to ensure that the
financial assistance will be used according to law and the terms of the
application.
D. On approval of an application under this section by the board,
the authority shall use monies in the water supply development revolving
fund to finance the project.
Sec. 22. Section 49-1275, Arizona Revised Statutes, as amended by
Laws 2022, chapter 63, section 4, is amended to read:
49-1275. Water supply development revolving fund financial
assistance; terms
A. A loan from the water supply development revolving fund shall be
evidenced by bonds, if the water provider ELIGIBLE ENTITY has bonding
authority, or by a financial assistance LOAN REPAYMENT agreement,
delivered to and held by the authority.
B. A loan under this section shall:
1. Be repaid not more than forty years after the date incurred.
2. Require that interest payments begin not later than the next
date that either principal or interest must be paid by the authority to
the holders of any of the authority's bonds that provided funding for the
S.B. 1740

loan. If the loan is for constructing water supply development facilities, the authority may provide that loan interest accruing during construction and one year after completing the construction be capitalized in the loan.

3. 1. Be conditioned on establishing a dedicated revenue source for repaying the loan.

2. BE REPAID IN A PERIOD AND ON TERMS DETERMINED BY THE AUTHORITY.

C. The authority, in consultation with the board, shall prescribe the rate of interest on loans made under this section, but the rate shall not exceed the prevailing market rate for similar types of loans. The authority, on recommendations from the board, may adopt rules that provide for flexible interest rates and interest-free loans. All financial assistance loan agreements or bonds of a water provider AN ELIGIBLE ENTITY shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date. THE AUTHORITY MAY NOT UNILATERALLY AMEND A LOAN REPAYMENT AGREEMENT, LOAN OR BOND AFTER ITS EXECUTION OR IMPLEMENT ANY POLICY THAT MODIFIES TERMS AND CONDITIONS OR AFFECTS A PREVIOUSLY EXECUTED LOAN REPAYMENT AGREEMENT, LOAN OR BOND. THE AUTHORITY MAY NOT IMPOSE A REDEMPTION PREMIUM OR AN INTEREST PAYMENT BEYOND THE DATE THE PRINCIPAL IS PAID AS A CONDITION OF REFINANCING OR RECEIVING PREPAYMENT ON A LOAN REPAYMENT AGREEMENT, LOAN OR BOND IF THE LOAN REPAYMENT AGREEMENT, LOAN OR BOND DID NOT ORIGINALLY CONTAIN A REDEMPTION PREMIUM OR INTEREST PAYMENT BEYOND THE DATE THE PRINCIPAL IS PAID.

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

E. A loan made to a water provider under this section AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS STATE may be secured additionally by an irrevocable pledge of any shared state revenues due to the water provider ELIGIBLE ENTITY for the duration of the loan as prescribed by a resolution of the board. If the board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements, the authority shall enter into an intercreditor agreement with the greater Arizona development authority to define the allocation of shared state revenues in relation to individual borrowers. THE AUTHORITY, AS APPLICABLE TO LOANS ADDITIONALLY SECURED WITH SHARED STATE REVENUES, THE AUTHORITY MAY ENTER INTO AGREEMENTS TO SPECIFY THE ALLOCATION OF SHARED STATE REVENUES IN RELATION TO INDIVIDUAL BORROWERS FROM SUCH AUTHORITIES. If a pledge OF SHARED STATE REVENUES AS ADDITIONAL SECURITY FOR A LOAN is required and a water provider THE ELIGIBLE ENTITY fails to make any payment due to the authority under its loan repayment agreement or THE ELIGIBLE ENTITY'S bonds, the authority shall certify to the state treasurer and notify the governing body of the defaulting water provider ELIGIBLE ENTITY that the water provider ELIGIBLE ENTITY has failed to make the required payment and shall direct a withholding of
shared state revenues as prescribed in subsection F of this section. The certificate of default shall be in the form determined by the authority, except that the certificate shall specify the amount required to satisfy the unpaid payment obligation of the water-provider ELIGIBLE ENTITY.

F. On receipt of a certificate of default from the authority, the state treasurer, to the extent not expressly prohibited by law, shall withhold any monies due to the defaulting water-provider ELIGIBLE ENTITY from the next succeeding distribution of monies pursuant to section 42-5029. In the case of AN ELIGIBLE ENTITY THAT IS a city or town, the state treasurer shall also withhold from the monies due to the defaulting city or town from the next succeeding distribution of monies pursuant to section 43-206 the amount specified in the certificate of default and shall immediately deposit the monies in the water supply development revolving fund. The state treasurer shall continue to withhold and deposit monies until the authority certifies to the state treasurer that the default has been cured. The state treasurer shall not withhold any amount that is necessary to make any required deposits then due for the payment of principal and interest on bonds OR INDEBTEDNESS of the water provider ELIGIBLE ENTITY if so certified by the defaulting water-provider ELIGIBLE ENTITY to the state treasurer and the authority. The water provider DEFAULTING ELIGIBLE ENTITY shall not certify deposits as necessary for payment for bonds OR INDEBTEDNESS unless the bonds were issued OR THE INDEBTEDNESS INCURRED before the date of the loan repayment agreement and the bonds were OR INDEBTEDNESS WAS secured by a pledge of distribution DISTRIBUTIONS made pursuant to sections 42-5029 and 43-206.

G. BY RESOLUTION OF THE BOARD, THE AUTHORITY MAY IMPOSE ANY ADDITIONAL REQUIREMENTS IT CONSIDERS NECESSARY TO ENSURE THAT THE LOAN PRINCIPAL AND INTEREST ARE TIMELY PAID.

H. ALL MONIES RECEIVED FROM ELIGIBLE ENTITIES AS LOAN REPAYMENTS, INTEREST AND PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONs 35-146 AND 35-147, IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

I. FOR AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS STATE, THE REVENUES OF THE ELIGIBLE ENTITY’S UTILITY SYSTEM OR SYSTEMS MAY BE PLEDGED TO THE PAYMENT OF A LOAN 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 OR INDEBTEDNESS OF THE ELIGIBLE ENTITY.

J. FOR AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS STATE, IF THE REVENUES FROM A SECONDARY PROPERTY TAX LEVY CONSTITUTE REVENUES PLEDGED BY THE ELIGIBLE ENTITY TO REPAY A LOAN, THE ELIGIBLE ENTITY SHALL SUBMIT THE QUESTION OF ENTERING AND PERFORMING A LOAN REPAYMENT AGREEMENT TO THE QUALIFIED ELECTORS OF THE ELIGIBLE ENTITY AT AN ELECTION HELD ON THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER.
K. An election is not required if voter approval has previously been obtained for substantially the same project with another funding source.

L. Payments made pursuant to a loan repayment agreement are not subject to section 42-17106.

M. For an eligible entity that is a political subdivision of this state, a loan repayment agreement under this section does not create a debt of the eligible entity, and the authority may not require that payment of a loan repayment agreement be made from other than the revenues pledged by the eligible entity.

N. An eligible entity may employ attorneys, accountants, financial consultants and other experts in their fields as deemed necessary to perform services with respect to a loan repayment agreement.

O. At the direction of the authority, an eligible entity shall pay, and is authorized to pay, the authority's costs in issuing water supply development bonds or otherwise borrowing to fund a loan.

Sec. 23. Title 49, chapter 8, Arizona Revised Statutes, is amended by adding articles 4 and 5, to read:

ARTICLE 4. LONG-TERM WATER AUGMENTATION FUND

49-1301. Definitions

In this article, unless the context otherwise requires:

1. "Eligible entity" means any of the following:

   (a) A water provider.

   (b) Any city, town, county, district, commission, authority or other public entity that is organized and that exists under the statutory law of this state or under a voter-approved charter or initiative of this state.

2. "Financial assistance" means loans provided by the authority to eligible entities and credit enhancements purchased for an eligible entity's bonds or other forms of indebtedness pursuant to section 49-1307.

3. "Loan" means a bond, lease, loan or other evidence of indebtedness pertaining to financial assistance for water supply development projects issued from the long-term water augmentation fund.

4. "Loan repayment agreement" means an agreement to repay a loan that is issued from the long-term water augmentation fund and that is entered into by an eligible entity.

5. "Pledged revenues" means any monies to be received by an eligible entity, including property taxes, other local taxes, fees, assessments, rates or charges that are pledged by the eligible entity as a source of repayment for a loan repayment agreement.

49-1302. Long-term water augmentation fund

A. The long-term water augmentation fund is established to be maintained in perpetuity consisting of all of the following:

1. Monies received from the issuance and sale of long-term water augmentation bonds under section 49-1309.
2. MONIES APPROPRIATED BY THE LEGISLATURE TO THE FUND.
3. MONIES RECEIVED FOR ANY ALLOWABLE PURPOSE OF THE FUND FROM THE
UNITED STATES GOVERNMENT.
4. MONIES RECEIVED AS LOAN REPAYMENTS, INTEREST, ADMINISTRATIVE
FEES AND PENALTIES.
5. MONIES FROM ANY LAWFUL ACTIVITIES OF THE AUTHORITY, INCLUDING
PUBLIC-PRIVATE PARTNERSHIP AGREEMENTS RELATING TO WATER SUPPLY DEVELOPMENT
PROJECTS.
6. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE
FUND.
7. GIFTS, GRANTS AND DONATIONS RECEIVED FOR PURPOSES OF THE FUND
FROM ANY PUBLIC OR PRIVATE SOURCE.
B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT
FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF
APPROPRIATIONS. ON NOTICE FROM THE AUTHORITY, THE STATE TREASURER SHALL
INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED IN SECTIONS 35-313 AND
35-314.03, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE
FUND.
C. ALL MONIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND
35-147, IN THE FUND AND SHALL BE HELD IN TRUST. THE MONIES IN THE FUND
MAY NOT BE APPROPRIATED OR TRANSFERRED BY THE LEGISLATURE TO FUND THE
GENERAL OPERATIONS OF THIS STATE OR TO OTHERWISE MEET THE OBLIGATIONS OF
THE STATE GENERAL FUND UNLESS APPROVED BY A THREE-FOURTHS VOTE OF THE
MEMBERS OF EACH HOUSE OF THE LEGISLATURE.
D. THE AUTHORITY SHALL ADMINISTER THE FUND. THE AUTHORITY SHALL
ESTABLISH AS MANY OTHER ACCOUNTS AND SUBACCOUNTS AS REQUIRED TO ADMINISTER
THE FUND. IF ANY LONG-TERM WATER AUGMENTATION BONDS ARE ISSUED UNDER
SECTION 49-1309, THE AUTHORITY SHALL ESTABLISH ONE OR MORE BOND PROCEEDS
ACCOUNTS AND ONE OR MORE BOND DEBT SERVICE ACCOUNTS AS NECESSARY TO
ACCURATELY RECORD AND TRACK BOND PROCEEDS AND DEBT SERVICE REVENUES.
E. THE AUTHORITY SHALL USE THE MONIES AND OTHER ASSETS IN THE FUND
SOLELY FOR THE PURPOSES AUTHORIZED BY THIS CHAPTER.
F. MONIES IN THE FUND MAY BE USED FOR SECURING LONG-TERM WATER
AUGMENTATION BONDS OF THE AUTHORITY.

49-1303. Long-term water augmentation fund; purposes;
limitation
A. MONIES AND OTHER ASSETS IN THE LONG-TERM WATER AUGMENTATION FUND
MAY BE USED FOR THE FOLLOWING PURPOSES:
1. FUNDING WATER SUPPLY DEVELOPMENT PROJECTS THAT IMPORT WATER FROM
OUTSIDE THE BOUNDARIES OF THIS STATE. AT LEAST SEVENTY-FIVE PERCENT OF
APPROPRIATIONS TO THE FUND SHALL BE RESERVED FOR ONE OR MORE PROJECTS WITH
THIS PURPOSE, AND THOSE MONIES SHALL BE ACCOUNTED FOR SEPARATELY.
2. PURCHASING IMPORTED WATER OR RIGHTS TO IMPORTED WATER.
3. Acquiring or constructing water-related facilities in this state to convey or deliver imported water within the state.

4. Conducting investigations, including performing environmental or other reviews.

5. Contracting for water needs assessments.

6. Providing financial assistance to eligible entities for the purposes of financing or refinancing water supply development projects within this state, including projects for conservation through reducing existing water use or more efficient uses of existing water supplies.

7. Guaranteeing debt obligations of eligible entities that are issued or incurred to finance or refinance water supply development projects within this state or providing credit enhancements in connection with these debt obligations.

8. Paying the costs to administer the fund.

9. Funding not more than ten full-time equivalent positions of the authority.

B. In providing financial assistance from the fund, the authority shall comply with section 49-1304.

C. Monies in the fund may not be used to purchase conservation or other similar easements on real property.

D. If the monies pledged to secure long-term water augmentation bonds issued pursuant to section 49-1309 become insufficient to pay the principal and interest on the long-term water augmentation bonds guaranteed by the fund, the authority shall direct the state treasurer to liquidate securities in the fund as may be necessary and shall apply those proceeds to make current all payments then due on the long-term water augmentation bonds. The state treasurer shall immediately notify the attorney general and auditor general of the insufficiency. The auditor general shall audit the circumstances surrounding the depletion of the fund and report the findings to the attorney general. The attorney general shall conduct an investigation and report those findings to the governor and the legislature.

E. The authority shall take necessary actions to obtain full repayment for monies or financial assistance provided from the fund by the recipients of the funding or financial assistance or the recipients of any water supply development project made available from monies from the fund through water subcontracts, loan repayments, rates, fees, charges or otherwise, as appropriate. This subsection does not apply to monies spent by the authority for investigations and studies or monies spent in connection with loan guarantees or credit enhancement.

49-1304. Evaluation criteria for projects from the long-term water augmentation fund

A. The authority shall determine the order and priority of water supply development projects proposed to be funded in whole or in part with monies from the long-term water augmentation fund, participation in
PROJECTS TO IMPORT WATER OR ALLOCATION OF IMPORTED WATER BASED ON THE FOLLOWING, AS APPLICABLE:

1. THE BENEFITS OF THE PROJECT TO CURRENT AND FUTURE RESIDENTS OF THIS STATE, INCLUDING THE ABILITY OF THE PROJECT TO IMPROVE ACCESS TO WATER SUPPLIES FOR USE WITHIN THIS STATE AND PROMOTE ECONOMIC GROWTH, IN RELATION TO THE PROJECTED COST OF THE PROJECT.

2. THE ABILITY OF THE PROJECT TO PROVIDE MULTIPLE WATER SUPPLY DEVELOPMENT BENEFITS.

3. THE PROJECTED COSTS OF THE PROJECT.

4. THE ABILITY OF THE PROJECT TO ADDRESS OR MITIGATE WATER SUPPLY REDUCTIONS TO EXISTING WATER USERS, CONSIDERING THE EXISTENCE, FEASIBILITY AND LONG-TERM RELIABILITY OF MITIGATION MEASURES AVAILABLE TO THE APPLICANT OR PROPOSED BENEFICIARIES, INCLUDING THE AVAILABILITY OF WATER SUPPLIES FROM THE ARIZONA WATER BANKING AUTHORITY.

5. THE COST-EFFECTIVENESS OF THE PROJECT.

6. THE RELIABILITY AND LONG-TERM SECURITY OF THE WATER SUPPLY TO BE DEVELOPED THROUGH THE PROJECT.

7. EXISTING AND PLANNED CONSERVATION, BEST MANAGEMENT PRACTICES AND WATER MANAGEMENT PROGRAMS OF THE APPLICANT OR POTENTIAL APPLICANT.

8. THE DEGREE TO WHICH THE PROJECT WILL MAXIMIZE OR LEVERAGE MULTIPLE AVAILABLE FUNDING SOURCES, INCLUDING FEDERAL FUNDING.

9. THE APPLICANT'S ABILITY TO MEET ANY APPLICABLE ENVIRONMENTAL REQUIREMENTS IMPOSED BY ANY FEDERAL OR STATE AGENCY.

10. THE QUALIFICATIONS, INDUSTRY EXPERIENCE, INCLUDING EXPERIENCE WITH SIMILAR PROJECTS, GENERAL REPUTATION AND FINANCIAL CAPACITY OF THE APPLICANT OR ANY PRIVATE PARTNER, BASED ON APPROPRIATE DUE DILIGENCE.


12. COMMENTS FROM WATER USERS, LOCAL CITIZENS AND AFFECTED JURISDICTIONS.

13. FOR PROJECTS INVOLVING THE CONSTRUCTION OR OPERATION OF WATER-RELATED FACILITIES, THE SAFETY RECORD OF ANY PRIVATE PARTNER.

14. EXISTING, NEAR-TERM AND LONG-TERM WATER DEMANDS COMPARED TO THE VOLUME AND RELIABILITY OF EXISTING WATER SUPPLIES OF THE BENEFICIARIES OF THE FUNDING OR PROJECT. IN EVALUATING THIS CRITERION, THE AUTHORITY SHALL CONSIDER INFORMATION CONTAINED IN ANY APPLICABLE WATER SUPPLY AND DEMAND ASSESSMENT THAT HAS BEEN ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-105, SUBSECTION B, PARAGRAPH 14, IN ADDITION TO ANY OTHER INFORMATION SUBMITTED TO EVALUATE THIS CRITERION.

15. POTENTIAL IMPACTS TO RATEPAYERS.

16. THE ABILITY OF THE APPLICANT AND ANY PUBLIC OR PRIVATE PARTNER TO FULLY REPAY ALL FINANCIAL OBLIGATIONS TO THE AUTHORITY.
17. FOR AGREEMENTS ENTERED INTO PURSUANT TO SECTION 49-1203.01, SUBSECTION C, PARAGRAPH 5, THE IMPACT OF ANY SUCH AGREEMENT ON THE ABILITY OF THE AUTHORITY TO COMPLY WITH THE REQUIREMENTS OF SECTION 49-1303, SUBSECTION E.

18. OTHER CRITERIA THAT THE AUTHORITY DEEMS APPROPRIATE.

B. THE BOARD SHALL CONDUCT BACKGROUND CHECKS, FINANCIAL CHECKS AND OTHER REVIEWS DEEMED APPROPRIATE FOR INDIVIDUAL APPLICANTS, APPLICANTS' BOARDS OF DIRECTORS AND OTHER PARTNERS OF THE APPLICANTS.

49-1305. Opportunity for participation by Colorado River water users

FOR ANY WATER SUPPLY DEVELOPMENT PROJECT TO IMPORT WATER THAT IS PROPOSED TO BE FUNDED BY THE AUTHORITY, THE AUTHORITY SHALL PROVIDE WRITTEN NOTICE OF THE PROPOSED PROJECT TO ALL ENTITIES IN THIS STATE WITH AN ENTITLEMENT TO WATER FROM THE COLORADO RIVER, INCLUDING WATER DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT. AN ENTITY THAT RECEIVES A NOTICE PRESCRIBED BY THIS SECTION SHALL SUBMIT TO THE AUTHORITY WITHIN THIRTY DAYS AFTER THE DATE OF THE NOTICE A STATEMENT OF THE ENTITY'S INTEREST IN PARTICIPATING IN THE PROJECT.

49-1306. Taxation exemption

A. THE AUTHORITY IS REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN CARRYING OUT THE PURPOSES OF THIS ARTICLE AND IS NOT REQUIRED TO PAY TAXES OR ASSESSMENTS ON ANY OF THE PROPERTY ACQUIRED OR CONSTRUCTED FOR THESE PURPOSES OR ON THE AGREEMENTS OF THE AUTHORITY PERTAINING TO MAINTAINING AND OPERATING WATER-RELATED FACILITIES OR IN THE REVENUES DERIVED FROM THE WATER-RELATED FACILITIES.

B. THE LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER THIS CHAPTER, THEIR TRANSFER AND THE INCOME THE BONDS PRODUCE ARE AT ALL TIMES EXEMPT FROM TAXATION BY THIS STATE OR BY ANY POLITICAL SUBDIVISION OF THIS STATE.

C. THE AUTHORITY IS AUTHORIZED UNDER THIS CHAPTER AND UNDER TITLE 35, CHAPTER 3, ARTICLE 7 TO TAKE ALL ACTIONS DETERMINED NECESSARY BY THE BOARD TO COMPLY WITH FEDERAL INCOME TAX LAWS, INCLUDING THE PAYMENT OF REBATES TO THE UNITED STATES TREASURY.

49-1307. Financial assistance from the long-term water augmentation fund; terms

A. THE AUTHORITY SHALL CONSIDER APPLICATIONS FOR FINANCIAL ASSISTANCE FROM THE LONG-TERM WATER AUGMENTATION FUND IN ACCORDANCE WITH SECTION 49-1304 AND SHALL CONSIDER THE RECOMMENDATIONS OF THE LONG-TERM WATER AUGMENTATION COMMITTEE ESTABLISHED BY SECTION 49-1208.

B. THE AUTHORITY MAY PROVIDE FINANCIAL ASSISTANCE FROM THE LONG-TERM WATER AUGMENTATION FUND FOR WATER SUPPLY DEVELOPMENT PROJECTS INSIDE OR OUTSIDE THIS STATE. THE FINANCIAL ASSISTANCE MAY INCLUDE:

1. LOANS AS PROVIDED IN THIS SECTION.

2. CREDIT ENHANCEMENTS PURCHASED FOR AN ELIGIBLE ENTITY'S BONDS OR OTHER FORMS OF INDEBTEDNESS.
C. A loan shall be evidenced by a loan repayment agreement or lease purchase agreement, or to the extent an eligible entity is a political subdivision of this state and has bonding authority, bonds of the eligible entity that are delivered to and held by the authority.

D. A loan under this section:
1. Shall be repaid during a period approved by the authority.
2. Shall require that interest payments begin not later than the next date that either principal or interest must be paid by the authority to holders of any of the authority's long-term water augmentation bonds that provided funding for the loan. The authority may provide that loan interest accruing during construction of the eligible entity's water supply development project and up to one year after completion of the construction of the water supply development project be capitalized in the loan.
3. Shall clearly specify the amount of principal, interest and redemption premium, if any, that is due on any payment date.
4. Shall be conditioned on the identification of pledged revenues for repaying the loan. If the water supply development project financed or refinanced by the loan is part of a municipal utility and the city or town pledges revenues of the utility to repay the loan, the loan may be treated under Section 9-530, Subsection B as a lawful long-term obligation incurred for a specific purpose.
5. To the extent allowed by law, shall be secured by a debt service reserve account that is held in trust and that is in an amount, if any, as determined by the authority.
6. Shall contain the covenants and conditions pertaining to constructing, acquiring, improving or equipping water supply development projects and repaying the loan as the authority deems proper.
7. May provide for paying interest on the unpaid principal balance of the loan at the rates established in the loan repayment agreement.
8. May provide for paying the eligible entity's proportionate share of the expenses of administering the long-term water augmentation fund and may provide that the eligible entity pay financing and loan administration fees approved by the authority. The costs may be included in the levy, assessment, rates or charges of the pledged revenues pledged by the eligible entity to repay the loan.
E. The authority shall prescribe the rate or rates of interest on loans made under this section, but the rate or rates may not exceed the prevailing market rate for similar types of loans. An eligible entity that is a political subdivision of this state may negotiate the sale of its bonds to, or a loan repayment agreement with, the authority without complying with any public or accelerated bidding requirements imposed by any other law for the sale of its bonds.
F. The approval of a loan shall be conditioned on a written commitment by the eligible entity to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

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

H. All monies received from eligible entities as loan repayments, interest and penalties shall be deposited, pursuant to sections 35-146 and 35-147, in the long-term water augmentation fund.

I. If requested by the authority, the attorney general shall take whatever actions are necessary to enforce the loan repayment agreement and achieve repayment of loans provided by the authority pursuant to this article.

J. For eligible entities that are political subdivisions of this state, the revenues of the eligible entities' utility system or systems may be pledged to the payment of a loan 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 or indebtedness of the eligible entities.

K. For an eligible entity that is a political subdivision of this state, and notwithstanding sections 9-571 and 11-671, if the revenues from a secondary property tax levy constitute pledged revenues, the eligible entity is not required to submit to a vote the question of entering and performing a loan repayment agreement.

L. Payments made pursuant to a loan repayment agreement are not subject to section 42-17106.

M. For eligible entities that are political subdivisions of this state, a loan repayment agreement under this section does not create a debt of the eligible entities, and the authority may not require that payment of a loan repayment agreement be made from other than the pledged revenues pledged by the eligible entities.

N. An eligible entity may employ attorneys, accountants, financial consultants and other experts in their fields as deemed necessary to perform services with respect to a loan repayment agreement.

O. At the direction of the authority, the eligible entity shall pay, and is hereby authorized to pay, the authority's costs in issuing long-term water augmentation bonds or otherwise borrowing to fund a loan.

P. A loan made to an eligible entity that is a political subdivision of this state may be secured additionally by an irrevocable pledge of any shared state revenues due to the eligible entity for the duration of the loan as prescribed by the authority. As applicable to loans additionally secured with shared state revenues, the authority may enter into agreements to specify the allocation of shared state revenues in relation to individual borrowers from such authorities. If a pledge of
SHARED STATE REVENUES AS ADDITIONAL SECURITY FOR A LOAN IS REQUIRED AND
THE ELIGIBLE ENTITY FAILS TO MAKE ANY PAYMENT DUE TO THE AUTHORITY UNDER
ITS LOAN REPAYMENT AGREEMENT OR THE ELIGIBLE ENTITY'S BONDS. THE AUTHORITY
SHALL CERTIFY TO THE STATE TREASURER AND NOTIFY THE GOVERNING BODY OF THE
DEFAULTING ELIGIBLE ENTITY THAT THE ELIGIBLE ENTITY HAS FAILED TO MAKE THE
REQUIRED PAYMENT AND SHALL DIRECT A WITHHOLDING OF SHARED STATE REVENUES
AS PRESCRIBED IN SUBSECTION Q OF THIS SECTION. THE CERTIFICATE OF DEFAULT
SHALL BE IN THE FORM DETERMINED BY THE AUTHORITY, EXCEPT THAT THE
CERTIFICATE SHALL SPECIFY THE AMOUNT REQUIRED TO SATISFY THE UNPAID
PAYMENT OBLIGATION OF THE ELIGIBLE ENTITY.

Q. ON RECEIPT OF A CERTIFICATE OF DEFAULT FROM THE AUTHORITY, THE
STATE TREASURER, TO THE EXTENT NOT EXPRESSLY PROHIBITED BY LAW, SHALL
WITHHOLD ANY MONIES DUE TO THE DEFAULTING ELIGIBLE ENTITY FROM THE NEXT
SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029. IN THE
CASE OF AN ELIGIBLE ENTITY THAT IS A CITY OR TOWN, THE STATE TREASURER
SHALL ALSO WITHHOLD FROM THE MONIES DUE TO THE DEFAULTING CITY OR TOWN
FROM THE NEXT SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 43-206
THE AMOUNT SPECIFIED IN THE CERTIFICATE OF DEFAULT AND SHALL IMMEDIATELY
DEPOSIT THE MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND
ESTABLISHED BY SECTION 49-1271. THE STATE TREASURER SHALL CONTINUE TO
WITHHOLD AND DEPOSIT MONIES UNTIL THE AUTHORITY CERTIFIES TO THE STATE
TREASURER THAT THE DEFAULT HAS BEEN CURED. THE STATE TREASURER MAY NOT
WITHHOLD ANY AMOUNT THAT IS NECESSARY TO MAKE ANY REQUIRED DEPOSITS THEN
DUE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS OR INDEBTEDNESS OF
THE ELIGIBLE ENTITY IF SO CERTIFIED BY THE DEFAULTING ELIGIBLE ENTITY TO
THE STATE TREASURER AND THE AUTHORITY. THE DEFAULTING ELIGIBLE ENTITY MAY
NOT CERTIFY DEPOSITS AS NECESSARY FOR PAYMENT FOR BONDS OR INDEBTEDNESS
UNLESS THE BONDS WERE ISSUED OR THE INDEBTEDNESS INCURRED BEFORE THE DATE
OF THE LOAN REPAYMENT AGREEMENT AND THE BONDS OR INDEBTEDNESS WAS SECURED
BY A PLEDGE OF DISTRIBUTION MADE PURSUANT TO SECTIONS 42-5029 AND 43-206.

49-1308. Long-term water augmentation financial assistance; procedures
A. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, AN ELIGIBLE
ENTITY MAY APPLY TO THE AUTHORITY FOR AND ACCEPT AND INCUR INDEBTEDNESS AS
A RESULT OF FINANCIAL ASSISTANCE FROM THE LONG-TERM WATER AUGMENTATION
FUND FOR WATER SUPPLY DEVELOPMENT PROJECTS.
B. THE AUTHORITY SHALL:
1. PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO APPLY FOR AND
APPROVE FINANCIAL ASSISTANCE.
2. ESTABLISH BY RULE CRITERIA BY WHICH FINANCIAL ASSISTANCE WILL BE
AWARDED, INCLUDING:
   (a) FOR ANY FINANCIAL ASSISTANCE:
       (i) A DETERMINATION OF THE APPLICANT'S FINANCIAL ABILITY TO
CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT IF IT RECEIVES THE ASSISTANCE.
(ii) A determination of the applicant's ability to manage the project.

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

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

(v) Requirements for local participation in project costs, if deemed advisable by the authority.

(b) If the applicant is applying for a loan:

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

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

3. Determine the order and priority of projects assisted under this article based on the merits of the application with respect to water supply development criteria set forth in section 49-1304.

C. The authority shall review on its merits each application received and shall inform the applicant of the authority's determination. If the application is not approved, the authority shall notify the applicant, stating the reasons. If the application is approved, the authority may condition the approval on assurances the authority deems necessary to ensure that the financial assistance will be used according to law and the terms of the application.

49-1309. Long-term water augmentation bonds; requirements; authority; exemption from liability

A. The authority, through the board, may issue negotiable long-term water augmentation bonds in a principal amount that, in its opinion, is necessary to do all of the following:

1. Provide sufficient monies for water supply development projects and financial assistance for water supply development projects approved under this chapter.

2. Refund long-term water augmentation bonds, when the authority deems it expedient to do so.

3. Increase the capitalization of the long-term water augmentation fund.

4. Maintain sufficient reserves in the long-term water augmentation fund to secure the long-term water augmentation bonds.

5. Pay the necessary costs of issuing, selling and redeeming the long-term water augmentation bonds.
6. Pay other expenditures of the Authority incidental to and necessary and convenient to carry out the purposes of this article.

B. The Board shall authorize long-term water augmentation bonds by resolution. The resolution shall prescribe all of the following:
   1. The rate or rates of interest and the denominations of the long-term water augmentation bonds.
   2. The date or dates and maturity of the long-term water augmentation bonds.
   3. The coupon or registered form of the long-term water augmentation bonds.
   4. The manner of executing the long-term water augmentation bonds.
   5. The medium and place of payment.
   6. The terms of redemption.

C. The long-term water augmentation bonds shall be sold at public or private sale at the price and on the terms determined by the Board. All proceeds from the issuance of long-term water augmentation bonds, except any amounts used to pay costs associated with the issuance and sale of the long-term water augmentation bonds, shall be deposited in the long-term water augmentation fund or a separately held account as specified in the resolution.

D. To secure any long-term water augmentation bonds authorized by this section, the Board by resolution may:
   1. Require that long-term water augmentation bonds issued under this section be secured by a lien on all or a part of the monies paid in to the appropriate account or subaccount of the long-term water augmentation fund and provide the priority of the lien.
   2. Pledge or assign to or in trust to be held by the State Treasurer for the benefit of the holder or holders of the long-term water augmentation bonds any part of the appropriate account or subaccount of the long-term water augmentation fund monies as is necessary to pay the principal and interest of the long-term water augmentation bonds as the bonds come due.
   3. Set aside, regulate and dispose of reserves and sinking funds.
   4. Require that sufficient amounts of the proceeds from the sale of the long-term water augmentation bonds be used to fully or partly fund any reserves or sinking funds established by the Board resolution authorizing the long-term water augmentation bonds.
   5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of long-term water augmentation bonds the holders of which must consent to and the manner in which consent may be given.
   6. Provide for payment from the proceeds of the sale of the long-term water augmentation bonds of all legal, financial and other expenses incurred by the Authority in issuing, selling, delivering and paying the long-term water augmentation bonds.
7. PROVIDE TERMS NECESSARY TO SECURE CREDIT ENHANCEMENT OR OTHER SOURCES OF PAYMENT OR SECURITY.

8. PROVIDE ANY OTHER TERMS AND CONDITIONS THAT IN ANY WAY MAY AFFECT THE SECURITY AND PROTECTION OF THE LONG-TERM WATER AUGMENTATION BONDS.

E. THE PLEDGE OF PLEDGED REVENUES BY AN ELIGIBLE ENTITY, OR THE PLEDGE OF ANY OTHER REVENUES BY THE AUTHORITY, UNDER THIS ARTICLE IS VALID AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE MONIES PLEDGED AND RECEIVED BY THE STATE TREASURER TO BE PLACED IN THE LONG-TERM WATER AUGMENTATION FUND OR IN ANY ACCOUNT OR SUBACCOUNT IN THE LONG-TERM WATER AUGMENTATION FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT, AND ANY SUCH LIEN OF ANY PLEDGE IS VALID OR BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE BOARD OR THE AUTHORITY REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR TRUST INDENTURE OR ANY INSTRUMENT BY WHICH THIS PLEDGE IS CREATED, WHEN PLACED IN THE BOARD’S RECORDS, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE.


G. THE BOARD, OUT OF ANY AVAILABLE MONIES, MAY PURCHASE LONG-TERM WATER AUGMENTATION BONDS, WHICH MAY THEN BE CANCELED, AT A PRICE NOT EXCEEDING EITHER OF THE FOLLOWING:

1. IF THE LONG-TERM WATER AUGMENTATION BONDS ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED INTEREST TO THE DATE OF REDEMPTION.

2. IF THE LONG-TERM WATER AUGMENTATION BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE FIRST DATE AFTER PURCHASE BY THE AUTHORITY ON WHICH THE LONG-TERM WATER AUGMENTATION BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THE DATE OF REDEMPTION.

49-1310. Long-term water augmentation bond obligations of the authority

LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER THIS ARTICLE ARE OBLIGATIONS OF THE AUTHORITY, ARE PAYABLE ONLY ACCORDING TO THEIR TERMS AND ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE. THE LONG-TERM WATER AUGMENTATION BONDS DO NOT CONSTITUTE A LEGAL DEBT OF THIS
STATE AND ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE
LONG-TERM WATER AUGMENTATION BONDS IS NOT ENFORCEABLE OUT OF ANY STATE
MONIES OTHER THAN THE INCOME AND REVENUE PLEDGE AND ASSIGNED TO, OR IN
TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE LONG-TERM WATER
AUGMENTATION BONDS.

49-1311. Certification of long-term water augmentation bonds
by attorney general
A. THE BOARD MAY SUBMIT ANY LONG-TERM WATER AUGMENTATION BONDS
ISSUED UNDER THIS ARTICLE TO THE ATTORNEY GENERAL AFTER ALL PROCEEDINGS
FOR THEIR AUTHORIZATION HAVE BEEN COMPLETED. WITHIN FIFTEEN DAYS AFTER
SUBMISSION, THE ATTORNEY GENERAL SHALL EXAMINE AND PASS ON THE VALIDITY OF
THE LONG-TERM WATER AUGMENTATION BONDS AND THE REGULARITY OF THE
PROCEEDINGS.
B. IF THE PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE ATTORNEY
GENERAL DETERMINES THAT, WHEN DELIVERED AND PAID FOR, THE LONG-TERM WATER
AUGMENTATION BONDS WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE
AUTHORITY, THE ATTORNEY GENERAL SHALL CERTIFY ON THE BACK OF EACH
LONG-TERM WATER AUGMENTATION BOND, IN SUBSTANCE, THAT IT IS ISSUED
ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE.

49-1312. Long-term water augmentation bonds as legal
investments
LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER THIS ARTICLE ARE
SECURITIES:
1. IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF
MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES,
ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL
FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON
A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE
AUTHORIZED TO INVEST IN OBLIGATIONS OF THIS STATE MAY PROPERLY AND LEGALLY
INVEST.
2. THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS
STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR
PURPOSES THAT REQUIRE THE DEPOSIT OF STATE BONDS OR OBLIGATIONS.

49-1313. Agreement of state
A. THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE
LONG-TERM WATER AUGMENTATION BONDS THAT THIS STATE WILL NOT LIMIT OR ALTER
THE RIGHTS VESTED IN THE AUTHORITY OR ANY SUCCESSOR AGENCY TO COLLECT THE
MONIES NECESSARY TO PRODUCE SUFFICIENT REVENUE TO FULFILL THE TERMS OF ANY
AGreements MADE WITH THE HOLDERS OF THE LONG-TERM WATER AUGMENTATION
BONDS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS,
UNTIL ALL LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER THIS ARTICLE,
TOGETHER WITH INTEREST ACCRUED THEREON, AND INCLUDING INTEREST ON ANY
UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND EXPENSES IN CONNECTION
WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE
FULLY MET AND DISCHARGED.
B. THE BOARD AS AGENT FOR THIS STATE MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES SECURING ITS LONG-TERM WATER AUGMENTATION BONDS.

ARTICLE 5. WATER CONSERVATION GRANT FUND

49-1331. Water conservation grant fund; exemption; administration; report

A. THE WATER CONSERVATION GRANT FUND IS ESTABLISHED TO BE MAINTAINED IN PERPETUITY CONSISTING OF ALL THE FOLLOWING:

1. LEGISLATIVE APPROPRIATIONS.
2. MONIES RECEIVED FOR WATER CONSERVATION PURPOSES FROM THE UNITED STATES GOVERNMENT.
3. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE FUND.
4. GIFTS, GRANTS AND DONATIONS RECEIVED FOR WATER CONSERVATION PURPOSES FROM ANY PUBLIC OR PRIVATE SOURCE.
5. ANY OTHER MONIES RECEIVED BY THE AUTHORITY IN CONNECTION WITH THE PURPOSE OF THE FUND.

B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS. ON NOTICE FROM THE AUTHORITY, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

C. ALL MONIES DEPOSITED IN THE FUND SHALL BE HELD IN TRUST. THE MONIES IN THE FUND MAY NOT BE APPROPRIATED OR TRANSFERRED BY THE LEGISLATURE TO FUND THE GENERAL OPERATIONS OF THIS STATE OR TO OTHERWISE MEET THE OBLIGATIONS OF THE STATE GENERAL FUND UNLESS APPROVED BY A THREE-FOURTHS VOTE OF THE MEMBERS OF EACH HOUSE OF THE LEGISLATURE. THIS SUBSECTION DOES NOT APPLY TO ANY TAXES OR OTHER LEVIES THAT ARE IMPOSED PURSUANT TO TITLE 42 OR 43.

D. THE AUTHORITY SHALL ADMINISTER THE FUND AND ESTABLISH AS MANY OTHER ACCOUNTS AND SUBACCOUNTS AS REQUIRED TO ADMINISTER THE FUND.

E. MONIES AND OTHER ASSETS IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

F. THE ANNUAL REPORT REQUIRED BY SECTION 49-1204 SHALL INCLUDE:
1. THE EXPENDITURES MADE FROM THE FUND IN THE PREVIOUS FISCAL YEAR.
2. WHETHER PROGRAMS OR PROJECTS FUNDED BY THE FUND IN THE PREVIOUS FISCAL YEAR DID IN FACT:
   (a) RESULT IN LONG-TERM, SUSTAINABLE REDuctions IN WATER USE.
   (b) IMPROVE WATER USE EFFICIENCY.
   (c) IMPROVE WATER RELIABILITY.
3. THE ENVIRONMENTAL IMPACTS OF PROGRAMS OR PROJECTS FUNDED BY THE FUND IN THE PREVIOUS FISCAL YEAR.
49-1332. Water conservation grant fund; purposes

A. Monies in the water conservation grant fund must facilitate voluntary water conservation programs or projects that are expected to result in at least one of the following:
   1. Long-term reductions in water use.
   2. Improvements in water use efficiency.
   3. Improvements in water reliability.

B. Monies in the water conservation grant fund may be used for the following:
   1. Education and research programs on how to reduce water consumption, increase water efficiency or increase water reuse.
   2. Programs and projects for rainwater harvesting, gray water systems, efficiency upgrades, installing drought-resistant landscaping, turf removal and other practices to reduce water use.
   3. Programs or projects to promote groundwater recharge and improved aquifer health.
   4. Programs or projects to improve groundwater conservation and surface water flows.
   5. Landscape watershed protection, restoration and rehabilitation, including through green infrastructure and low-impact development to conserve or augment water supplies.
   6. Projects facilitating coordinated water management, including groundwater storage and recovery.
   7. Programs or projects to reduce structural water overuse issues.
   8. Program implementation and administration costs for eligible programs.

49-1333. Water conservation grant fund; procedures

A. In compliance with any applicable requirements, a city, town, county, district, commission, authority or other public entity that is organized and that exists under the statutory law of this state or under a voter-approved charter or initiative of this state may apply to the authority for and accept grants from the water conservation grant fund for a water conservation program or project that complies with the requirements of sections 49-1332 and 49-1334. A nongovernment organization that focuses on water conservation or environmental protection may apply to the authority for and accept grants from the water conservation grant fund for a water conservation program or project if it partners with a city, town, county, district, commission, authority or other public entity that is organized and that exists under the statutory law of this state or under a voter-approved charter or initiative of this state.

B. The authority shall:
   1. Prescribe a simplified form and procedure to apply for and approve assistance.
2. Establish by rule criteria that is consistent with this article by which assistance will be awarded.

3. Determine the order and priority of water conservation programs or projects assisted under this section based on the merits of the application with respect to the requirements of Sections 49-1332 and 49-1334.

4. Provide that a single water conservation program grant may not exceed $3,000,000, a single water conservation project grant may not exceed $250,000 and at least a twenty-five percent match is required for each water conservation program or project. Monies from any other source may satisfy the match requirement.

49-1334. Evaluation criteria for water conservation programs and projects from the water conservation grant fund; procedures

The authority shall determine the order and priority of water conservation programs and projects proposed to be funded in whole or in part with monies from the water conservation grant fund based on the following, as applicable:

1. The extent to which the water conservation program or project achieves one or more of the results prescribed by Section 49-1332, subsection A.

2. The costs and benefits of the water conservation program or project, including environmental costs and benefits.

3. If the water conservation program or project is eligible for funding from the long-term water augmentation fund established by Section 49-1302 or the water supply development revolving fund established by Section 49-1271 and if the nature of the water conservation program or project makes funding from the long-term water augmentation fund or the water supply development revolving fund impractical.

4. The ability to provide multiple benefits.

5. The degree to which the water conservation program or project will maximize or leverage multiple available funding sources, including federal funding.

6. The qualifications and capacity of an applicant.

7. The feasibility of the water conservation program or project.

8. Public comments.

49-1335. Water conservation grant committee; membership; recommendations

A. The water conservation grant committee is established to advise the board and consists of the following members who are appointed by the board:

1. One member who represents a public water system that serves five hundred or more connections.

2. One member who represents a public water system that serves less than five hundred connections.
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3. ONE MEMBER WHO REPRESENTS A COUNTY WITH A POPULATION OF FIVE HUNDRED THOUSAND OR MORE PERSONS.

4. ONE MEMBER WHO REPRESENTS A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS.

5. ONE MEMBER WHO REPRESENTS AN ADVOCACY GROUP WITH A PRIMARY FOCUS ON WATER CONSERVATION.

6. ONE MEMBER WHO REPRESENTS A UNIVERSITY IN THIS STATE AND WHO HAS SIGNIFICANT KNOWLEDGE IN WATER CONSERVATION.

7. ONE MEMBER WHO REPRESENTS A NATURAL RESOURCE CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 37, CHAPTER 6.

8. THE DIRECTOR OF THE DEPARTMENT OF WATER RESOURCES OR THE DIRECTOR’S DESIGNEE.

B. THE WATER CONSERVATION GRANT COMMITTEE SHALL REVIEW APPLICATIONS FOR GRANT REQUESTS FROM THE WATER CONSERVATION GRANT FUND AND SHALL MAKE RECOMMENDATIONS TO THE BOARD REGARDING THOSE APPLICATIONS.

C. THE WATER CONSERVATION GRANT COMMITTEE SHALL MEET AT LEAST ONCE A MONTH TO REVIEW GRANT APPLICATIONS, EXCEPT THAT THE COMMITTEE NEED NOT MEET IN ANY MONTH IN WHICH NO APPLICATIONS ARE PENDING BEFORE THE COMMITTEE. THE BOARD MAY REQUIRE THE COMMITTEE TO HOLD ADDITIONAL MEETINGS TO CONSIDER APPLICATIONS THAT ARE OR MAY BECOME TIME SENSITIVE. THE COMMITTEE SHALL ALLOW MEMBERS OF THE PUBLIC TO PROVIDE COMMENT ON AN APPLICATION CONSIDERED BY THE COMMITTEE AT A MEETING.


Sec. 24. Transfer and renumber

Title 49, chapter 9, Arizona Revised Statutes, is transferred and renumbered for placement in title 49, Arizona Revised Statutes, as chapter 11. Title 49, chapter 9, article 1, Arizona Revised Statutes, is transferred and renumbered for placement in title 49, chapter 11, Arizona Revised Statutes, as article 1. The following sections are transferred and renumbered for placement in title 49, chapter 11, article 1:

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<th>Former Sections</th>
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<td>49-1301</td>
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Sec. 25. Laws 2021, chapter 408, section 115 is amended to read:

Sec. 115. Supplement appropriation; water supply development revolving fund; fiscal year 2020-2021

The sum of $40,000,000 is appropriated from the state general fund in fiscal year 2020-2021 to the water supply development revolving fund established by section 49-1271, Arizona Revised Statutes. These monies shall be allocated for projects:

1. That are located throughout all regions of this state and outside of active management areas.
2. In amounts of not more than $1,000,000 per project as prescribed by Title 49, Chapter 8, Article 3, Arizona Revised Statutes.

Sec. 26. Water and infrastructure finance authority advisory board; transfer to federal water programs committee

Notwithstanding section 41-5356, Arizona Revised Statutes, as amended by this act, all of the members of the water and infrastructure finance authority advisory board serving on the effective date of this act may continue to serve on the federal water programs committee established by section 49-1207, Arizona Revised Statutes, as added by this act, until the expiration of their normal terms. All subsequent appointments shall be as prescribed by statute.

Sec. 27. Drought mitigation revolving fund projects; transfer of monies

On the effective date of this section, all unexpended and unencumbered monies remaining in the drought mitigation revolving fund established by section 49-193.01, Arizona Revised Statutes, as transferred, renumbered and amended by this act, are transferred to the water supply development revolving fund established by section 49-1271, Arizona Revised Statutes, as amended by this act, except that $10,000,000 that is designated by Laws 2021, chapter 408, section 114, subsection B, paragraph 1 to facilitate forbearance of water deliveries that would avoid reductions in this state's Colorado River supplies, is transferred to the Arizona system conservation fund established by section 45-118, Arizona Revised Statutes.

Sec. 28. Initial terms of members of the water infrastructure finance authority board

A. Notwithstanding section 49-1206, Arizona Revised Statutes, as added by this act, the terms of initial appointees to the water infrastructure finance authority board are as follows:

1. The initial terms of the three members from a county with a population of four hundred thousand persons or more end on January 31, 2026.

2. The initial terms of the three members from a county with a population of less than four hundred thousand persons and the one member who specializes in finance or statewide water needs end on January 31, 2028.

B. For the initial term, the president of the senate and the minority leader of the senate shall appoint first, the governor shall appoint second and the speaker of the house of representatives and the minority leader of the house of representatives shall appoint third.

C. All subsequent appointments shall be for five-year terms as prescribed by statute.
Sec. 29. Succession
A. As provided by this act, on the first meeting of the water infrastructure finance authority of Arizona succeeds to the authority, powers, duties and responsibilities of the Arizona finance authority with respect to the clean water revolving fund program, the drinking water revolving fund program, the hardship grant fund financial provisions and the water supply development revolving fund financial provisions, as provided in this act. Until the first meeting of the water infrastructure finance authority board established by section 49-1206, Arizona Revised Statutes, as added by this act, the water infrastructure finance authority of Arizona shall continue to be governed by the Arizona finance authority board with the recommendations of the current water infrastructure finance authority advisory board as composed immediately before the effective date of this act.

B. This act does not alter the effect of any actions that were taken or impair the valid obligations of the Arizona finance authority or the water infrastructure finance authority of Arizona in existence before the effective date of this act.

C. Administrative rules and orders that were adopted by the Arizona finance authority with respect to the clean water revolving fund program, the drinking water revolving fund program, the hardship grant fund financial provisions and the water supply development revolving fund financial provisions continue in effect until superseded by administrative action by the water infrastructure finance authority of Arizona.

D. All administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process, of the Arizona finance authority with respect to the clean water revolving fund program, the drinking water revolving fund program, the hardship grant fund financial provisions and the water supply development revolving fund financial provisions on the effective date of this act are transferred to and retain the same status with the water infrastructure finance authority of Arizona.

E. All certificates, licenses, registrations, permits and other indicia of qualification and authority that were issued by the Arizona finance authority and the water infrastructure finance authority of Arizona with respect to the water supply development revolving fund financial provisions retain their validity for the duration of their terms of validity as provided by law.

F. All equipment, records, furnishings and other property, all data and investigative findings, all obligations and all appropriated monies that remain unexpended and unencumbered on the effective date of this act of the Arizona finance authority with respect to the water supply development revolving fund financial provisions are retained by the water infrastructure finance authority of Arizona.
Sec. 30. **Water infrastructure finance authority of Arizona; purpose**

Pursuant to section 41-2955, subsection B, the legislature continues the water infrastructure finance authority of Arizona to provide a source of financial and other assistance for projects relating to water treatment and water supply development that improve current and long-term water supplies.

Sec. 31. **Distribution of revenues; long-term water augmentation fund; intent**

A. For fiscal year 2022-2023, beginning the month following the general effective date of this act, the state treasurer shall distribute the sum of $334,000,000 proportionately for each month remaining in the fiscal year from the portion of the revenues derived from the tax levied by title 42, chapter 5, articles 1 and 5, Arizona Revised Statutes, that is not designated as the distribution base, to the long-term water augmentation fund established by section 49-1302, Arizona Revised Statutes, as added by this act, for the purposes prescribed by title 49, chapter 8, article 4, Arizona Revised Statutes, as added by this act.

B. The legislature intends that the distributions made in subsection A of this section not impact the portion of transaction privilege tax revenues that cities and counties in this state receive pursuant to section 42-5029, subsection D, Arizona Revised Statutes.

Sec. 32. **Appropriation; long-term water augmentation fund; exemption**

A. The sum of $333,000,000 is appropriated from the state general fund in fiscal year 2023-2024 to the long-term water augmentation fund established by section 49-1302, Arizona Revised Statutes, as added by this act, for the purposes prescribed by title 49, chapter 8, article 4, Arizona Revised Statutes, as added by this act.

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

Sec. 33. **Appropriation; long-term water augmentation fund; exemption**

A. The sum of $333,000,000 is appropriated from the state general fund in fiscal year 2024-2025 to the long-term water augmentation fund established by section 49-1302, Arizona Revised Statutes, as added by this act, for the purposes prescribed by title 49, chapter 8, article 4, Arizona Revised Statutes, as added by this act.

B. The appropriation made in subsection A of this section is exempt from the provisions of section 35-190, Arizona Revised Statutes, relating to lapsing of appropriations.
Sec. 34. Appropriation; department of water resources; water supply and demand assessment; exemption

A. The sum of $3,500,000 is appropriated from the state general fund in fiscal year 2022-2023 to the department of water resources for the annual water supply and demand assessment prescribed by this act.

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

Sec. 35. Severability

If a provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the act that can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

APPROVED BY THE GOVERNOR JULY 6, 2022.