

REFERENCE TITLE: water infrastructure financing; supply; augmentation.

State of Arizona
House of Representatives
Fifty-fifth Legislature
Second Regular Session
2022

HB 2873

Introduced by
Representatives Griffin: Bowers, Dunn (with permission of Committee on
Rules)

AN ACT

AMENDING SECTION 41-192, ARIZONA REVISED STATUTES; REPEALING SECTIONS 41-3002.09 AND 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, SECTION 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 AND 49-1214; AMENDING TITLE 49, CHAPTER 8, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 49-1270; AMENDING SECTION 49-1271, ARIZONA REVISED STATUTES; AMENDING SECTION 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 ARTICLE 4; 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)

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

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

4 41-192. Powers and duties of attorney general; restrictions
5 on state agencies as to legal counsel; exceptions;
6 compromise and settlement monies

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

10 1. Be the legal advisor of the departments of this state and render
11 such legal services as the departments require.

12 2. Establish administrative and operational policies and procedures
13 within his department.

14 3. Approve long-range plans for developing departmental programs
15 therein, and coordinate the legal services required by other departments
16 of this state or other state agencies.

17 4. Represent school districts and governing boards of school
18 districts in any lawsuit involving a conflict of interest with other
19 county offices.

20 5. Represent political subdivisions, school districts and
21 municipalities in suits to enforce state or federal statutes pertaining to
22 antitrust, restraint of trade or price-fixing activities or conspiracies,
23 if the attorney general notifies in writing the political subdivisions,
24 school districts and municipalities of the attorney general's intention to
25 bring any such action on ~~its~~ THEIR behalf. At any time within thirty days
26 after the notification, ~~the political subdivisions, school districts and~~
27 ~~municipalities~~ A POLITICAL SUBDIVISION, SCHOOL DISTRICT OR MUNICIPALITY,
28 by formal resolution of its governing body, may withdraw the authority of
29 the attorney general to bring the intended action on its behalf.

30 6. In any action brought by the attorney general pursuant to state
31 or federal statutes pertaining to antitrust, restraint of trade, or
32 price-fixing activities or conspiracies for the recovery of damages by
33 this state or any of its political subdivisions, school districts or
34 municipalities, in addition to the attorney general's other powers and
35 authority, the attorney general on behalf of this state may enter into
36 contracts relating to the investigation and prosecution of such action
37 with any other party plaintiff who has brought a similar action for the
38 recovery of damages and with whom the attorney general finds it
39 advantageous to act jointly or to share common expenses or to cooperate in
40 any manner relative to such action. In any such action, notwithstanding
41 any other laws to the contrary, the attorney general may undertake, among
42 other things, to render legal services as special counsel or to obtain the
43 legal services of special counsel from any department or agency of the
44 United States, of this state or any other state or any department or
45 agency thereof or any county, city, public corporation or public district

1 in this state or in any other state that has brought or intends to bring a
2 similar action for the recovery of damages or ~~their~~ ITS duly authorized
3 legal representatives in such action.

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

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

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

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

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

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

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

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

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

1 D. Notwithstanding any law to the contrary, except as provided in
2 subsections E and F of this section, no state agency other than the
3 attorney general shall employ legal counsel or make an expenditure or
4 incur an indebtedness for legal services, but the following are exempt
5 from this section:

- 6 1. The director of water resources.
- 7 2. The residential utility consumer office.
- 8 3. The industrial commission.
- 9 4. The Arizona board of regents.
- 10 5. The auditor general.
- 11 6. The corporation commissioners and the corporation commission
12 other than the securities division.
- 13 7. The office of the governor.
- 14 8. The constitutional defense council.
- 15 9. The office of the state treasurer.
- 16 10. The Arizona commerce authority.
- 17 11. THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA.

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

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

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

1 H. Appropriations made pursuant to subsection G of this section
2 shall not be subject to lapsing provisions otherwise provided by law.
3 Services for departments or agencies to which this subsection and
4 subsection F of this section are applicable shall be performed by special
5 or regular assistants to the attorney general.

6 I. Notwithstanding section 35-148, monies received by the attorney
7 general from charges to state agencies and political subdivisions for
8 legal services relating to interagency service agreements shall be
9 deposited, pursuant to sections 35-146 and 35-147, in an attorney general
10 agency services fund. Monies in the fund are subject to legislative
11 appropriation and are exempt from the provisions of section 35-190
12 relating to lapsing of appropriations.

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

31 Sec. 2. Repeal

32 Sections 41-3002.09 and 41-3031.01, Arizona Revised Statutes, are
33 repealed.

34 Sec. 3. Section 41-5355, Arizona Revised Statutes, is amended to
35 read:

36 41-5355. Assets: cost of operation and administration:
37 taxation

38 A. Any monies, pledges or property issued or given to the Arizona
39 finance authority, whether by appropriation, loan, gift or otherwise,
40 constitute the assets of the Arizona finance authority.

41 B. This state is not responsible for any obligation incurred by the
42 authority.

43 C. All costs and expenses of the ARIZONA FINANCE authority shall be
44 paid from bond proceeds of bonds issued by any industrial development
45 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. 4. 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. Serve as the board of the water infrastructure finance authority of Arizona and have all powers and authority to take action pursuant to title 49, chapter 8 regarding water infrastructure financing.~~

~~4.~~ 3. Approve the authority's budget.

~~5. 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.

1 Sec. 5. Section 45-105, Arizona Revised Statutes, is amended to
2 read:

3 45-105. Powers and duties of director

4 A. The director may:

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

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

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

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

25 5. Acquire, hold and dispose of property, including land,
26 rights-of-way, water and water rights, as necessary or convenient for the
27 performance of the groundwater and water quality management functions of
28 the department.

29 6. Acquire, other than by condemnation, construct, improve,
30 maintain and operate early warning systems for flood control purposes and
31 works for the recovery, storage, treatment and delivery of water.

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

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

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

43 10. Initiate and participate in conferences, conventions or
44 hearings, including ~~meetings of the Arizona water resources advisory~~
45 ~~board~~, congressional hearings, court hearings or hearings of other

1 competent judicial or quasi-judicial departments, agencies or
2 organizations, and negotiate and cooperate with agencies of the United
3 States or of any state or government and represent this state concerning
4 matters within the department's jurisdiction.

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

8 12. Receive and review all reports, proposed contracts and
9 agreements from and with the United States or any agencies, other states
10 or governments or their representatives and recommend to the governor and
11 the legislature action to be taken on such reports, proposed contracts and
12 agreements. The director shall take action on such reports, if authorized
13 by law, and review and coordinate the preparation of formal comments of
14 this state on both the preliminary and final reports relating to water
15 resource development of the United States army corps of engineers, the
16 United States secretary of the interior and the United States secretary of
17 agriculture, as provided for in the flood control act of 1944 (58 Stat.
18 887; 33 United States Code section 701-1).

19 13. Contract with any person for imported water or for the
20 acquisition of water rights or rights to withdraw, divert or use surface
21 water or groundwater as necessary for the performance of the groundwater
22 management functions of the director prescribed by chapter 2 of this
23 title. If water becomes available under any contract executed under this
24 paragraph, the director may contract with any person for its delivery or
25 exchange for any other water available.

26 14. Recommend to the administrative heads of agencies, boards and
27 commissions of this state, and political subdivisions of this state, rules
28 to promote and protect the rights and interests of this state and its
29 inhabitants in any matter relating to the surface water and groundwater in
30 this state.

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

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

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

1 B. The director shall:

2 1. Exercise and perform all powers and duties vested in or imposed
3 on the department and adopt and issue rules necessary to carry out the
4 purposes of this title.

5 2. Administer all laws relating to groundwater, as provided in this
6 title.

7 3. Be responsible for the supervision and control of reservoirs and
8 dams of this state and, when deemed necessary, conduct investigations to
9 determine whether the existing or anticipated condition of any dam or
10 reservoir in this state is or may become a menace to life and property.

11 4. Coordinate and confer with and may contract with:

12 (a) The Arizona power authority, the game and fish commission, the
13 state land department, the Arizona outdoor recreation coordinating
14 commission, the Arizona commerce authority, the department of health
15 services, active management area water authorities or districts and
16 political subdivisions of this state with respect to matters within their
17 jurisdiction relating to surface water and groundwater and the development
18 of state water plans.

19 (b) The department of environmental quality with respect to title
20 49, chapter 2 for its assistance in the development of state water plans.

21 (c) The department of environmental quality regarding water plans,
22 water resource planning, water management, wells, water rights and
23 permits, and other appropriate provisions of this title pertaining to
24 remedial investigations, feasibility studies, site prioritization,
25 selection of remedies and implementation of the water quality assurance
26 revolving fund program pursuant to title 49, chapter 2, article 5.

27 (d) The department of environmental quality regarding coordination
28 of databases that are necessary for activities conducted pursuant to title
29 49, chapter 2, article 5.

30 5. Cooperate with the Arizona power authority in the performance of
31 the duties and functions of the authority.

32 6. Maintain a permanent public depository for existing and future
33 records of stream flow, groundwater levels and water quality and other
34 data relating to surface water and groundwater.

35 7. Maintain a public docket of all matters before the department
36 that may be subject to judicial review pursuant to this title.

37 8. Investigate and take appropriate action on any complaints
38 alleging withdrawals, diversions, impoundments or uses of surface water or
39 groundwater that may violate this title or the rules adopted pursuant to
40 this title.

41 ~~9. Report to and consult with the Arizona water resources advisory~~
42 ~~board at regular intervals.~~

43 ~~10.~~ 9. Adopt an official seal for the authentication of records,
44 orders, rules and other official documents and actions.

~~11.~~ 10. Provide staff support to the Arizona water protection fund commission established pursuant to chapter 12 of this title.

~~12.~~ 11. 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.~~ 12. Provide staff support to the Arizona water banking authority established pursuant to chapter 14 of this title.

~~14.~~ 13. 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.

(f) The status of any pending or likely litigation regarding surface water adjudications or other ~~water-related~~ WATER-RELATED litigation and the potential impacts on this state's water supplies.

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

(h) 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 EVERY YEAR THEREAFTER, PREPARE AND ISSUE A WATER SUPPLY AND DEMAND ASSESSMENT FOR AT LEAST FOUR OF THE TWENTY-TWO PLANNING AREAS THAT THE DEPARTMENT HAS IDENTIFIED IN A REPORT REGARDING THIS STATE'S STRATEGIC VISION FOR WATER SUPPLY SUSTAINABILITY. THE DIRECTOR SHALL ENSURE THAT A WATER SUPPLY AND DEMAND ASSESSMENT IS COMPLETED FOR ALL IDENTIFIED PLANNING AREAS 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.

1 Sec. 6. Section 45-111, Arizona Revised Statutes, is amended to
2 read:

3 45-111. Annual report by director

4 On or before July 1 each year the director shall render to the
5 governor and the legislature a full and true report of the department's
6 operations under this title. The report shall include suggestions as to
7 amending existing laws or enacting new legislation as the director ~~and the~~
8 ~~Arizona water resources advisory board deem~~ DEEMS necessary and such other
9 information, suggestions and recommendations as the director considers of
10 value to the public. The report shall be published and made available to
11 the public.

12 Sec. 7. Section 48-6415, Arizona Revised Statutes, is amended to
13 read:

14 48-6415. District and municipal water delivery systems in
15 district eligible to receive financial assistance
16 from water supply development revolving fund

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

23 Sec. 8. Heading repeal

24 The article heading of title 49, chapter 1, article 8, Arizona
25 Revised Statutes, is repealed.

26 Sec. 9. Repeal

27 Sections 49-193, 49-193.02, 49-193.03, 49-193.04 and 49-193.05,
28 Arizona Revised Statutes, are repealed.

29 Sec. 10. Section 49-1201, Arizona Revised Statutes, is amended to
30 read:

31 49-1201. Definitions

32 In this chapter, unless the context otherwise requires:

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

35 2. "Board" means the board of directors of the ~~Arizona finance~~
36 ~~authority established by title 41, chapter 53, article 2.~~

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

39 4. "Clean water act" means the federal water pollution control act
40 amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water
41 quality act of 1987 (P.L. 100-4; 101 Stat. 7).

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

1 ~~5-~~ 6. "Drinking water facility":
2 (a) Means a community water system or a nonprofit noncommunity
3 water system as defined in the safe drinking water act of 1974
4 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110
5 Stat. 1613) that is located in this state. ~~For purposes of this chapter,~~
6 ~~drinking water facility~~
7 (b) Does not include water systems owned by federal agencies.
8 ~~6-~~ 7. "Financial assistance loan repayment agreement" means an
9 agreement to repay a loan provided to design, construct, acquire,
10 rehabilitate or improve water or wastewater infrastructure, related
11 property and appurtenances or a loan provided to finance a water supply
12 development project.
13 8. "IMPORTED WATER" MEANS ANY WATER THAT ORIGINATES OUTSIDE OF THIS
14 STATE AND THAT IS MADE AVAILABLE TO WATER USERS WITHIN THIS STATE BY
15 CONVEYANCE, EXCHANGE OR OTHERWISE THROUGH PROJECTS THAT ARE FUNDED OR
16 FINANCED IN WHOLE OR IN PART WITH MONIES FROM THE LONG-TERM WATER
17 AUGMENTATION FUND.
18 9. "IMPORT WATER" MEANS TO MAKE WATER ORIGINATING OUTSIDE OF THIS
19 STATE AVAILABLE TO WATER USERS WITHIN THIS STATE BY CONVEYANCE, EXCHANGE
20 OR OTHERWISE THROUGH PROJECTS THAT ARE FUNDED OR FINANCED IN WHOLE OR IN
21 PART WITH MONIES FROM THE LONG-TERM WATER AUGMENTATION FUND.
22 ~~7-~~ 10. "Indian tribe" means any Indian tribe, band, group or
23 community that is recognized by the United States secretary of the
24 interior and that exercises governmental authority within the limits of
25 any Indian reservation under the jurisdiction of the United States
26 government, notwithstanding the issuance of any patent and including
27 rights-of-way running through the reservation.
28 11. "LONG-TERM WATER AUGMENTATION BONDS" MEANS BONDS THAT ARE
29 ISSUED BY THE AUTHORITY IN ACCORDANCE WITH ARTICLE 4 OF THIS CHAPTER.
30 12. "LONG-TERM WATER AUGMENTATION FUND" MEANS THE FUND ESTABLISHED
31 BY SECTION 49-1302.
32 ~~8-~~ 13. "Nonpoint source project" means a project designed to
33 implement a certified water quality management plan.
34 ~~9-~~ 14. "Political subdivision" means a county, city, town or
35 special taxing district authorized by law to construct wastewater
36 treatment facilities, drinking water facilities or nonpoint source
37 projects.
38 15. "PRIVATE PARTNER" MEANS A PERSON, ENTITY OR ORGANIZATION THAT
39 IS NOT THE FEDERAL GOVERNMENT, THIS STATE OR A POLITICAL SUBDIVISION OF
40 THIS STATE OR ANY OTHER UNIT OF GOVERNMENT.
41 16. "PUBLIC-PRIVATE PARTNERSHIP PROJECT" MEANS ANY WATER SUPPLY
42 DEVELOPMENT PROJECT THAT IS THE SUBJECT OF A PUBLIC-PRIVATE PARTNERSHIP
43 AGREEMENT IN ACCORDANCE WITH THIS CHAPTER.

~~10.~~ 17. "Safe drinking water act" means the federal 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), as amended in 1996.

~~11.~~ 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. "UNIT OF GOVERNMENT" MEANS ANY AGENCY, OFFICE OR DEPARTMENT OF THIS STATE OR OF 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.

~~12.~~ 20. "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.

~~13.~~ 21. "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~~ AN ENTITY THAT DISTRIBUTES OR SELLS WATER TO END USERS FOR DOMESTIC, INDUSTRIAL OR AGRICULTURAL USE IN THIS STATE.

22. "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.

~~14.~~ 23. "Water supply development" means either 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 OR INFRASTRUCTURE, including any environmental or other reviews, permits or plans reasonably necessary for those facilities OR INFRASTRUCTURE, for any of the following purposes:

(i) Conveyance, ~~OR DELIVERY OF WATER.~~

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

~~(iii)~~ (iii) Reclamation and reuse of water.

~~(iiii)~~ (iv) Replenishment of groundwater.

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

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

Sec. 11. 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. 12. Section 49-1203, Arizona Revised Statutes, as amended by Laws 2022, chapter 63, section 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.

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.

1 2. Issue water supply development bonds for the purpose of
2 providing financial assistance to ~~water providers~~ ELIGIBLE ENTITIES for
3 water supply development purposes pursuant to sections 49-1274 and
4 49-1275.

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

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

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

13 6. Guarantee debt obligations of, and provide linked deposit
14 guarantees through third-party lenders to:

15 (a) Political subdivisions that are issued to finance wastewater
16 treatment projects.

17 (b) Drinking water facilities that are issued to finance these
18 facilities.

19 ~~(c) Water providers that are issued to finance water supply~~
20 ~~development projects.~~

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

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

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

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

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

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

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

44 14. Assess financial assistance origination fees and annual fees to
45 cover the reasonable costs of administering the authority and the monies

1 administered by the authority. Any fees collected pursuant to this
2 paragraph constitute governmental revenue and may be used for any purpose
3 consistent with the mission and objectives of the authority.

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

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

24 17. Provide grants, staff assistance or technical assistance in the
25 form of loan repayment agreements and other professional assistance to
26 ~~water providers~~ ELIGIBLE ENTITIES in connection with the planning or
27 design of water supply development projects. ~~A single grant shall not~~
28 ~~exceed \$250,000.~~ Assistance provided under a technical assistance loan
29 repayment agreement shall be repaid not more than three years after the
30 date that the monies are advanced to the applicant. Technical assistance
31 provided by the authority does not create any liability for the authority
32 or this state regarding designing, constructing or operating any water
33 supply development project.

34 C. The authority may adopt rules pursuant to title 41, chapter 6
35 governing the application for and awarding ~~water supply development fund~~
36 ~~project financial assistance under this chapter and administering the~~
37 ~~water supply development revolving fund~~ OF ASSISTANCE UNDER THIS CHAPTER
38 AND THE ADMINISTRATION OF THE FUNDS ESTABLISHED BY THIS CHAPTER.

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

43 E. Disbursements of monies by the water infrastructure finance
44 authority pursuant to a financial assistance agreement are not subject to
45 title 41, chapter 23.

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

9 G. For the purposes of this section, "CERCLA" has the same meaning
10 prescribed in section 49-201.

11 Sec. 13. Title 49, chapter 8, article 1, Arizona Revised Statutes,
12 is amended by adding section 49-1203.01, to read:

13 49-1203.01. Water infrastructure finance authority of
14 Arizona: additional powers and duties

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

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

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

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

27 1. ACQUIRE, SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF REAL AND
28 PERSONAL PROPERTY OF EVERY KIND WITHIN THIS STATE.

29 2. APPLY FOR AND HOLD PERMITS THAT ARE REQUIRED BY LAW TO ENGAGE IN
30 ANY OF THE ACTIVITIES DESCRIBED IN THIS CHAPTER.

31 3. NEGOTIATE AND ENTER INTO INTERGOVERNMENTAL AGREEMENTS AND
32 AGREEMENTS WITH PRIVATE AND PUBLIC ENTITIES WITHIN AND OUTSIDE OF THIS
33 STATE, INCLUDING THE UNITED STATES AND OTHER NATIONS.

34 4. CONTRACT FOR OR PERFORM FEASIBILITY STUDIES OF WATER STORAGE,
35 STORAGE FACILITIES AND RECOVERY WELLS.

36 5. APPLY FOR AND ACCEPT GRANTS, GIFTS OR DONATIONS OF MONIES OR
37 OTHER PROPERTY FROM ANY SOURCE THAT MAY BE SPENT FOR ANY PURPOSE
38 CONSISTENT WITH THIS CHAPTER.

39 6. CONDUCT ANY OTHER ACTIVITIES THAT ARE REASONABLY NECESSARY AND
40 RELATED TO THE POWERS AND DUTIES DESCRIBED IN THIS CHAPTER.

41 C. EXCEPT AS LIMITED IN THIS CHAPTER OR BY OTHER LAWS AND AS
42 REASONABLE OR NECESSARY TO ADMINISTER OR CARRY OUT THE PURPOSES OF THE
43 LONG-TERM WATER AUGMENTATION FUND, THE AUTHORITY MAY:

44 1. ISSUE LONG-TERM WATER AUGMENTATION BONDS IN ACCORDANCE WITH
45 ARTICLE 4 OF THIS CHAPTER. THE LONG-TERM WATER AUGMENTATION BONDS SHALL BE

1 IN THE NAME OF THE AUTHORITY, AND THE AUTHORITY MAY PLEDGE SOURCES FOR
2 SECURITY AND PAYMENT OF SUCH BONDS IN ACCORDANCE WITH ARTICLE 4 OF THIS
3 CHAPTER.

4 2. ISSUE REFUNDING BONDS IF THE AUTHORITY DEEMS REFUNDING
5 EXPEDIENT.

6 3. REFUND BY ISSUING NEW BONDS FOR ANY BONDS ISSUED BY THE
7 AUTHORITY IF THESE BONDS ARE SECURED FROM THE SAME SOURCE OF REVENUES AS
8 THE BONDS AUTHORIZED BY THIS CHAPTER WITHOUT REGARD TO WHETHER THE BONDS
9 TO BE REFUNDED HAVE MATURED.

10 4. TAKE, HOLD AND ENFORCE A SECURITY INTEREST IN WATER-RELATED
11 FACILITIES INSIDE AND OUTSIDE OF THIS STATE IN CONNECTION WITH THE TERMS
12 OF ANY AGREEMENT ENTERED INTO BY THE AUTHORITY IF THE AUTHORITY DETERMINES
13 THAT SUCH A SECURITIZATION IS NECESSARY TO ADEQUATELY PROTECT THIS STATE'S
14 INTERESTS.

15 5. TO THE EXTENT NECESSARY TO FACILITATE AN APPROVED WATER SUPPLY
16 DEVELOPMENT PROJECT:

17 (a) PLAN, CONSTRUCT, ACQUIRE, OWN, IMPROVE AND EQUIP WATER-RELATED
18 FACILITIES WITHIN THIS STATE TO TRANSPORT OR DELIVER IMPORTED WATER WITHIN
19 THIS STATE.

20 (b) NEGOTIATE AND EXECUTE AGREEMENTS TO ACQUIRE, SELL, LEASE,
21 EXCHANGE, HOLD, SEVER OR TRANSFER IMPORTED WATER AND RIGHTS TO IMPORTED
22 WATER. THE AUTHORITY MAY ACQUIRE IMPORTED WATER AND RIGHTS TO IMPORTED
23 WATER IN ITS OWN NAME.

24 (c) ENTER INTO AND CARRY OUT CONTRACTS OR SUBCONTRACTS FOR THE
25 TRANSPORT, TREATMENT AND DELIVERY OF IMPORTED WATER ACQUIRED BY THE
26 AUTHORITY.

27 (d) STORE IMPORTED WATER AND ACQUIRE, HOLD, ASSIGN OR OTHERWISE
28 DISPOSE OF CREDITS FOR IMPORTED WATER REGISTERED TO STORAGE ACCOUNTS UNDER
29 TITLE 45, CHAPTER 3.1.

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

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

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

43 D. THIS CHAPTER DOES NOT REPLACE, SUPPLANT OR DIMINISH THE POWERS
44 AND DUTIES OF THE DIRECTOR AS PRESCRIBED IN SECTION 49-107.

Sec. 14. 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 NEEDS.

2. PROTECTING CURRENT AND FUTURE RESIDENTS, THE ECONOMY AND THE ENVIRONMENT OF THIS STATE IS BEST ACHIEVED THROUGH A COMPREHENSIVE WATER STRATEGY THAT 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.

1 Sec. 15. Title 49, chapter 8, article 1, Arizona Revised Statutes,
2 is amended by adding sections 49-1206, 49-1207, 49-1208, 49-1209, 49-1210,
3 49-1211, 49-1212, 49-1213 and 49-1214, to read:

4 49-1206. Water infrastructure finance authority board;
5 membership; fingerprinting; conduct of office

6 A. THE WATER INFRASTRUCTURE FINANCE AUTHORITY BOARD IS ESTABLISHED
7 TO EVALUATE AND APPROVE FUNDING REQUESTS FOR MONIES FROM THE CLEAN WATER
8 REVOLVING FUND, THE SAFE DRINKING WATER REVOLVING FUND, THE WATER SUPPLY
9 DEVELOPMENT REVOLVING FUND AND THE LONG-TERM WATER AUGMENTATION FUND AND
10 TO PERFORM OTHER DUTIES AS PRESCRIBED IN THIS CHAPTER.

11 B. THE BOARD CONSISTS OF THE FOLLOWING MEMBERS:

12 1. THREE PERSONS FROM A COUNTY WITH A POPULATION OF FOUR HUNDRED
13 THOUSAND PERSONS OR MORE.

14 2. THREE PERSONS FROM A COUNTY WITH A POPULATION OF LESS THAN FOUR
15 HUNDRED THOUSAND PERSONS.

16 3. ONE PERSON WHO SPECIALIZES IN FINANCE OR STATEWIDE WATER NEEDS.

17 4. THE FOLLOWING AS ADVISORY MEMBERS WITHOUT THE POWER TO VOTE:

18 (a) THE PRESIDENT OF THE SENATE OR THE PRESIDENT'S DESIGNEE.

19 (b) THE SPEAKER OF THE HOUSE OF REPRESENTATIVES OR THE SPEAKER'S
20 DESIGNEE.

21 (c) THE MINORITY LEADER OF THE SENATE OR THE MINORITY LEADER'S
22 DESIGNEE.

23 (d) THE MINORITY LEADER OF THE HOUSE OF REPRESENTATIVES OR THE
24 MINORITY LEADER'S DESIGNEE.

25 (e) THE DIRECTOR OF WATER RESOURCES OR THE DIRECTOR'S DESIGNEE.

26 (f) THE DIRECTOR OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR THE
27 DIRECTOR'S DESIGNEE.

28 (g) THE STATE LAND COMMISSIONER OR THE COMMISSIONER'S DESIGNEE.

29 (h) THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION OR THE
30 DIRECTOR'S DESIGNEE.

31 C. THE FOLLOWING APPLY TO THE SIX MEMBERS APPOINTED PURSUANT TO
32 SUBSECTION B, PARAGRAPHS 1 AND 2 OF THIS SECTION:

33 1. NO TWO APPOINTED MEMBERS OF THE BOARD MAY BE RESIDENTS OF THE
34 SAME COUNTY.

35 2. MEMBERS MUST HAVE A SUBSTANTIAL KNOWLEDGE OF AND EXPERIENCE WITH
36 WATER OR FINANCE, INCLUDING PUBLIC FINANCE.

37 D. THE FOLLOWING APPLY TO ALL MEMBERS APPOINTED PURSUANT TO
38 SUBSECTION B, PARAGRAPHS 1 THROUGH 3 OF THIS SECTION:

39 1. THE GOVERNOR SHALL APPOINT ONE OF THE MEMBERS FROM A COUNTY WITH
40 A POPULATION OF FOUR HUNDRED THOUSAND PERSONS OR MORE, ONE OF THE MEMBERS
41 FROM A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND PERSONS
42 AND THE MEMBER WHO SPECIALIZES IN FINANCE OR STATEWIDE WATER NEEDS.

43 2. THE PRESIDENT OF THE SENATE SHALL APPOINT ONE OF THE MEMBERS
44 FROM A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND PERSONS OR MORE

1 AND ONE OF THE MEMBERS FROM A COUNTY WITH A POPULATION OF LESS THAN FOUR
2 HUNDRED THOUSAND PERSONS.

3 3. THE SPEAKER OF THE HOUSE OF REPRESENTATIVES SHALL APPOINT ONE OF
4 THE MEMBERS FROM A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND
5 PERSONS OR MORE AND ONE OF THE MEMBERS FROM A COUNTY WITH A POPULATION OF
6 LESS THAN FOUR HUNDRED THOUSAND PERSONS.

7 4. APPOINTED MEMBERS SERVE FIVE-YEAR TERMS OF OFFICE BEGINNING AND
8 ENDING ON THE THIRD MONDAY IN JANUARY AND ARE ELIGIBLE FOR REAPPOINTMENT.
9 A MEMBER MAY BE REMOVED ONLY FOR CAUSE BY THE PERSON WHO THEN HOLDS THE
10 SAME OFFICE AS THE PERSON WHO APPOINTED THAT MEMBER.

11 5. MEMBERS SHALL BE RESIDENTS OF THIS STATE FOR AT LEAST TWO YEARS.

12 E. BEFORE A MEMBER IS APPOINTED TO THE BOARD PURSUANT TO SUBSECTION
13 C OR D OF THIS SECTION, THE PROSPECTIVE MEMBER SHALL SUBMIT A FULL SET OF
14 FINGERPRINTS TO THE APPOINTING ENTITY FOR THE PURPOSE OF OBTAINING A STATE
15 AND FEDERAL CRIMINAL RECORDS CHECK PURSUANT TO SECTION 41-1750 AND PUBLIC
16 LAW 92-544. THE DEPARTMENT OF PUBLIC SAFETY MAY EXCHANGE THIS FINGERPRINT
17 DATA WITH THE FEDERAL BUREAU OF INVESTIGATION.

18 F. THE BOARD SHALL ELECT A CHAIRPERSON OF THE BOARD FROM AMONG THE
19 VOTING MEMBERS. THE CHAIRPERSON MAY APPOINT SUBCOMMITTEES AS NECESSARY.

20 G. THE BOARD MAY REQUEST ASSISTANCE FROM REPRESENTATIVES OF OTHER
21 STATE AGENCIES. THE DEPARTMENT OF WATER RESOURCES SHALL PROVIDE TECHNICAL
22 ASSISTANCE TO THE BOARD.

23 H. BOARD MEMBERS SERVE WITHOUT COMPENSATION BUT ARE ELIGIBLE FOR
24 REIMBURSEMENT OF EXPENSES PURSUANT TO TITLE 38, CHAPTER 4, ARTICLE 2. A
25 BOARD MEMBER WHO IS OTHERWISE EMPLOYED AS A PUBLIC OFFICER MAY NOT RECEIVE
26 COMPENSATION PURSUANT TO THIS SUBSECTION IF IT IS OTHERWISE PROHIBITED BY
27 LAW.

28 I. A MAJORITY OF THE VOTING MEMBERS, WHICH MUST INCLUDE THE
29 CHAIRPERSON, CONSTITUTES A QUORUM FOR THE PURPOSE OF AN OFFICIAL MEETING
30 FOR CONDUCTING BUSINESS. AN AFFIRMATIVE VOTE OF A MAJORITY OF THE VOTING
31 MEMBERS PRESENT AT AN OFFICIAL MEETING IS SUFFICIENT FOR THE BOARD TO TAKE
32 ANY ACTION, EXCEPT THAT APPROVAL OF FUNDING OR OTHER FINANCIAL ASSISTANCE
33 REQUIRES THE AFFIRMATIVE VOTE OF AT LEAST FIVE OF THE VOTING MEMBERS
34 PRESENT AT AN OFFICIAL MEETING OF THE BOARD.

35 J. THE BOARD SHALL KEEP AND MAINTAIN A COMPLETE AND ACCURATE RECORD
36 OF ALL BOARD PROCEEDINGS.

37 K. THE BOARD AND ANY SUBCOMMITTEES ARE SUBJECT TO TITLE 38, CHAPTER
38 3, ARTICLE 3.1, RELATING TO PUBLIC MEETINGS, EXCEPT AS FOLLOWS:

39 1. IN ADDITION TO SECTION 38-431.03, THE BOARD AND SUBCOMMITTEES
40 MAY MEET IN EXECUTIVE SESSION TO DISCUSS POTENTIAL PROJECT OPPORTUNITIES
41 AND STRATEGIES, THAT, IF MADE PUBLIC, COULD POTENTIALLY HARM THE
42 APPLICANT'S, THE POTENTIAL APPLICANT'S OR THIS STATE'S COMPETITIVE
43 POSITION.

44 2. ACTIVITIES AND EVENTS HELD IN PUBLIC FOR THE PURPOSE OF
45 ANNOUNCING PROJECTS ARE NOT PUBLIC MEETINGS.

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

6 1. A PERSON MAY NOT PARTICIPATE IN THE CONSIDERATION OF OR A VOTE
7 CONCERNING ANY AWARD OR EXPENDITURE BY THE AUTHORITY IF THE PERSON OR THE
8 PERSON'S SPOUSE MEETS ANY OF THE FOLLOWING CRITERIA:

9 (a) IS EMPLOYED BY OR PARTICIPATES IN THE MANAGEMENT OF A BUSINESS
10 ENTITY OR OTHER ORGANIZATION THAT RECEIVES MONIES FROM THE AUTHORITY.

11 (b) OWNS, CONTROLS OR HAS, DIRECTLY OR INDIRECTLY, MORE THAN A TEN
12 PERCENT INTEREST IN A BUSINESS ENTITY OR OTHER ORGANIZATION THAT RECEIVES
13 MONIES FROM THE AUTHORITY.

14 (c) USES OR RECEIVES A SUBSTANTIAL AMOUNT OF TANGIBLE GOODS,
15 SERVICES OR MONIES FROM THE AUTHORITY.

16 (d) HAS A PERSONAL FINANCIAL INTEREST IN THE AWARD OR EXPENDITURE.
17 THE PERSON OR THE PERSON'S SPOUSE DOES NOT HAVE A PERSONAL FINANCIAL
18 INTEREST IF THE PERSON OR THE PERSON'S SPOUSE IS A MEMBER OF A CLASS OF
19 PERSONS AND IT REASONABLY APPEARS THAT A MAJORITY OF THE TOTAL MEMBERSHIP
20 OF THAT CLASS IS TO BE AFFECTED BY THE ACTION.

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

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

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

31 N. THE BOARD IS A PUBLIC BODY THAT IS SUBJECT TO TITLE 38, CHAPTER
32 3, ARTICLE 3. THE BOARD SHALL OPERATE ON THE STATE FISCAL YEAR.

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

36 49-1207. Federal water programs committee: membership:
37 recommendations

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

41 1. ONE MEMBER WHO REPRESENTS A PUBLIC WATER SYSTEM THAT SERVES FIVE
42 HUNDRED OR MORE CONNECTIONS.

43 2. ONE MEMBER WHO REPRESENTS A PUBLIC WATER SYSTEM THAT SERVES LESS
44 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.

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; recommendations

A. THE WATER SUPPLY DEVELOPMENT COMMITTEE IS ESTABLISHED CONSISTING OF FIVE MEMBERS OF THE BOARD, INCLUDING THE THREE MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF LESS THAN FOUR HUNDRED THOUSAND PERSONS, ONE MEMBER WHO IS FROM A COUNTY WITH A POPULATION OF FOUR HUNDRED THOUSAND PERSONS OR MORE AND WHO IS 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 FIVE MEMBERS OF THE BOARD, INCLUDING THE THREE MEMBERS WHO ARE FROM COUNTIES WITH POPULATIONS OF FOUR HUNDRED THOUSAND PERSONS OR MORE, ONE MEMBER WHO IS FROM A COUNTY WITH A POPULATION OF LESS THAN FOUR HUNDRED THOUSAND PERSONS AND WHO IS 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. FOR PURPOSES OF THIS SUBSECTION, "MAINSTREAM COLORADO RIVER WATER" MEANS COLORADO RIVER WATER THAT IS AVAILABLE TO SATISFY ENTITLEMENTS 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 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 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.

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.

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

10 49-1212. Procurement for water-related facilities: insurance:
11 evaluations; deviations

12 A. THE AUTHORITY MAY PROCURE SERVICES FOR THE DEVELOPMENT, DESIGN,
13 ACQUISITION, CONSTRUCTION, IMPROVEMENT OR EQUIPPING OF WATER-RELATED
14 FACILITIES USING ANY OF THE FOLLOWING:

15 1. REQUESTS FOR PROJECT PROPOSALS IN WHICH THE AUTHORITY DESCRIBES
16 A CLASS OF WATER-RELATED FACILITIES OR A GEOGRAPHIC AREA IN WHICH ENTITIES
17 ARE INVITED TO SUBMIT PROPOSALS TO DEVELOP WATER-RELATED FACILITIES.

18 2. SOLICITATIONS USING REQUESTS FOR QUALIFICATIONS, SHORT-LISTING
19 OF QUALIFIED PROPOSERS, REQUESTS FOR PROPOSALS, NEGOTIATIONS, BEST AND
20 FINAL OFFERS OR OTHER PROCUREMENT PROCEDURES.

21 3. PROCUREMENTS SEEKING DEVELOPMENT AND FINANCE PLANS THAT ARE MOST
22 SUITABLE FOR THE PROJECT.

23 4. BEST VALUE SELECTION PROCUREMENTS BASED ON PRICE OR FINANCIAL
24 PROPOSALS, OR BOTH, AND ANY OTHER RELEVANT FACTORS.

25 5. OTHER PROCEDURES THAT THE AUTHORITY DETERMINES MAY FURTHER THE
26 IMPLEMENTATION OF THIS CHAPTER.

27 B. FOR ANY PROCUREMENT IN WHICH THE AUTHORITY ISSUES A REQUEST FOR
28 QUALIFICATIONS, REQUEST FOR PROPOSALS OR SIMILAR SOLICITATION DOCUMENT,
29 THE REQUEST SHALL SET FORTH GENERALLY THE FACTORS THAT WILL BE EVALUATED
30 AND THE MANNER IN WHICH RESPONSES WILL BE EVALUATED. IF CONTRACTOR
31 INSURANCE IS REQUIRED FOR SERVICES PROCURED PURSUANT TO THIS SECTION, THE
32 INSURANCE SHALL BE PLACED WITH AN INSURER AUTHORIZED TO TRANSACT INSURANCE
33 IN THIS STATE PURSUANT TO TITLE 20, CHAPTER 2, ARTICLE 1 OR A SURPLUS
34 LINES INSURER APPROVED AND IDENTIFIED BY THE DIRECTOR OF THE DEPARTMENT OF
35 INSURANCE AND FINANCIAL INSTITUTIONS PURSUANT TO TITLE 20, CHAPTER 2,
36 ARTICLE 5.

37 C. IN EVALUATING PROPOSALS UNDER THIS SECTION, THE AUTHORITY SHALL
38 CONSIDER THE CRITERIA PRESCRIBED PURSUANT TO SECTION 49-1274.

39 D. THE AUTHORITY MAY DEVIATE FROM ANY REQUIREMENTS IN THIS SECTION
40 TO THE EXTENT NECESSARY TO MAKE USE OF ANY AVAILABLE FEDERAL FUNDING FOR
41 THE DESIGN, DEVELOPMENT, ACQUISITION, CONSTRUCTION, IMPROVEMENT OR
42 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

1 PROJECT-BY-PROJECT BASIS, OF WHAT IS REQUIRED TO ADEQUATELY PROTECT THIS
2 STATE.

3 14. ALLOW THE PRIVATE PARTNER IN ANY CONCESSION AGREEMENT TO
4 ESTABLISH AND COLLECT DELIVERY CHARGES, OPERATION AND MAINTENANCE CHARGES
5 OR SIMILAR CHARGES TO COVER ITS COSTS AND PROVIDE FOR A REASONABLE RATE OF
6 RETURN ON THE PRIVATE PARTNER'S INVESTMENT, INCLUDING ANY OF THE FOLLOWING
7 PROVISIONS:

8 (a) THE CHARGES MAY BE COLLECTED DIRECTLY BY THE PRIVATE PARTNER OR
9 BY A THIRD PARTY ENGAGED FOR THAT PURPOSE.

10 (b) A FORMULA FOR THE ADJUSTMENT OF CHARGES DURING THE TERM OF THE
11 AGREEMENT.

12 (c) FOR AN AGREEMENT THAT DOES NOT INCLUDE A FORMULA DESCRIBED IN
13 SUBDIVISION (b) OF THIS PARAGRAPH, PROVISIONS REGULATING THE PRIVATE
14 PARTNER'S RETURN ON INVESTMENT.

15 15. SPECIFY REMEDIES AVAILABLE AND DISPUTE RESOLUTION PROCEDURES,
16 INCLUDING FORUM SELECTION AND CHOICE OF LAW PROVISIONS AND THE RIGHT OF
17 THE PARTIES TO INSTITUTE LEGAL PROCEEDINGS TO OBTAIN AN ENFORCEABLE
18 JUDGMENT OR AWARD AND PROCEDURES FOR USE OF DISPUTE REVIEW BOARDS,
19 MEDIATION, FACILITATED NEGOTIATION, ARBITRATION AND OTHER ALTERNATIVE
20 DISPUTE RESOLUTION PROCEDURES.

21 16. ALLOW THE AUTHORITY TO ACQUIRE REAL PROPERTY THAT IS NEEDED FOR
22 WATER-RELATED FACILITIES, INCLUDING ACQUISITION BY EXCHANGE FOR OTHER REAL
23 PROPERTY THAT IS OWNED BY THE AUTHORITY.

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

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

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

E. A FOREIGN PRIVATE ENTITY 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 MAY 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.

Sec. 16. 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 A MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22.

(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 A MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22.

(c) ANY ENTITY THAT PROVIDES WATER TO A WATER PROVIDER THAT DISTRIBUTES OR SELLS WATER OUTSIDE OF THE BOUNDARIES OF A MULTI-COUNTY WATER CONSERVATION DISTRICT ESTABLISHED PURSUANT TO TITLE 48, CHAPTER 22.

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.

1 Sec. 17. Section 49-1271, Arizona Revised Statutes, is amended to
2 read:

3 49-1271. Water supply development revolving fund

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

6 1. Monies received from the issuance and sale of water supply
7 development bonds under section 49-1278.

8 2. Monies appropriated by the legislature to the water supply
9 development revolving fund.

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

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

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

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

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

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

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

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

38 D. THE AUTHORITY SHALL ADMINISTER THE FUND. THE AUTHORITY SHALL
39 ESTABLISH AS MANY OTHER ACCOUNTS AND SUBACCOUNTS AS REQUIRED TO ADMINISTER
40 THE FUND. IF ANY BONDS ARE ISSUED UNDER SECTION 49-1278, THE AUTHORITY
41 SHALL ESTABLISH ONE OR MORE BOND PROCEEDS ACCOUNTS AND ONE OR MORE BOND
42 DEBT SERVICE ACCOUNTS AS NECESSARY TO ACCURATELY RECORD AND TRACK BOND
43 PROCEEDS AND DEBT SERVICE REVENUES. THESE ACCOUNTS MAY BE HELD BY A BANK
44 TRUSTEE SELECTED BY THE AUTHORITY.

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

3 Sec. 18. Section 49-1273, Arizona Revised Statutes, as amended by
4 Laws 2022, chapter 63, section 2, is amended to read:

5 49-1273. Water supply development revolving fund; purposes

6 A. Monies in the water supply development revolving fund may be
7 used for the following purposes:

8 1. Making ~~water supply development~~ loans to ~~water providers~~
9 ELIGIBLE ENTITIES in this state under section 49-1274 for water supply
10 development ~~purposes~~ PROJECTS WITHIN THIS STATE. A SINGLE LOAN SHALL NOT
11 EXCEED \$3,000,000.

12 2. Making ~~loans or~~ grants or providing technical assistance to
13 ~~water providers for planning or designing~~ ELIGIBLE ENTITIES FOR water
14 supply development projects IN THIS STATE. A single grant shall not
15 exceed ~~\$250,000~~ \$2,000,000.

16 ~~3. Purchasing or refinancing debt obligations of water providers at~~
17 ~~or below market rate if the debt obligation was issued for a water supply~~
18 ~~development purpose.~~

19 ~~4. Providing financial assistance to water providers with bonding~~
20 ~~authority to purchase insurance for local bond obligations incurred by~~
21 ~~them for water supply development purposes.~~

22 ~~5.~~ 3. Paying the costs to administer the fund.

23 ~~6. Providing linked deposit guarantees through third-party lenders~~
24 ~~by depositing monies with the lender on the condition that the lender make~~
25 ~~a loan on terms approved by the board, at a rate of return on the deposit~~
26 ~~approved by the board and the state treasurer and by giving the lender~~
27 ~~recourse against the deposit of loan repayments that are not made when~~
28 ~~due.~~

29 ~~7.~~ 4. Conducting water supply studies.

30 B. If the monies pledged to secure water supply development bonds
31 issued pursuant to section 49-1278 become insufficient to pay the
32 principal and interest on the water supply development bonds guaranteed by
33 the water supply development revolving fund, the authority shall direct
34 the state treasurer to liquidate securities in the fund as may be
35 necessary and shall apply those proceeds to make current all payments then
36 due on the bonds. The state treasurer shall immediately notify the
37 attorney general and auditor general of the insufficiency. The auditor
38 general shall audit the circumstances surrounding the depletion of the
39 fund and report the findings to the attorney general. The attorney
40 general shall conduct an investigation and report those findings to the
41 governor and the legislature.

42 ~~C. Monies in the water supply development revolving fund shall not~~
43 ~~be used to provide financial assistance to a water provider, other than an~~
44 ~~Indian tribe, unless one of the following applies:~~

1 ~~1. The board of supervisors of the county in which the water~~
2 ~~provider is located has adopted the provision authorized by section~~
3 ~~11-823, subsection A.~~

4 ~~2. The water provider is located in a city or town and the~~
5 ~~legislative body of the city or town has enacted the ordinance authorized~~
6 ~~by section 9-463.01, subsection 0.~~

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

9 ~~4. The water provider is located outside of an active management~~
10 ~~area and either of the following applies:~~

11 ~~(a) The director of water resources has designated the water~~
12 ~~provider as having an adequate water supply pursuant to section 45-108.~~

13 ~~(b) The water provider will use the financial assistance for a~~
14 ~~water supply development project and the director of water resources has~~
15 ~~determined pursuant to section 45-108 that there is an adequate water~~
16 ~~supply for all subdivided land that will be served by the project and for~~
17 ~~which a public report was issued after July 24, 2014.~~

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

20 Sec. 19. Section 49-1274, Arizona Revised Statutes, as amended by
21 Laws 2022, chapter 63, section 3, is amended to read:

22 49-1274. Water supply development revolving fund financial
23 assistance; procedures

24 A. In compliance with any applicable requirements, ~~a water provider~~
25 **AN ELIGIBLE ENTITY** may apply to the authority for and accept and incur
26 indebtedness as a result of a loan or any other financial assistance
27 ~~pursuant to section 49-1273~~ from the water supply development revolving
28 fund for water supply development ~~purposes~~ **PROJECTS IN THIS STATE**. In
29 compliance with any applicable requirements, ~~a water provider~~ **AN ELIGIBLE**
30 **ENTITY** may also apply to the authority for and accept grants, ~~staff~~
31 ~~assistance or technical assistance for the planning or design of~~ **FROM THE**
32 **FUND FOR** a water supply development project **IN THIS STATE**. ~~A water~~
33 ~~provider that applies for and accepts a loan or other financial assistance~~
34 ~~under this article is not precluded from applying for and accepting a loan~~
35 ~~or other financial assistance under article 2 of this chapter or under any~~
36 ~~other law.~~

37 B. The authority, ~~in consultation with the board,~~ shall **DO ALL OF**
38 **THE FOLLOWING**:

39 1. Prescribe a simplified form and procedure to apply for and
40 approve assistance.

41 2. Establish by rule criteria by which assistance will be awarded,
42 including: ~~requirements for local participation in project costs, if~~
43 ~~deemed advisable. The criteria shall include determining the following:~~

44 ~~(a) The ability of the applicant to repay a loan according to the~~
45 ~~terms and conditions established by this section. At the option of the~~

1 ~~board, the existence of a current investment grade rating on existing debt~~
2 ~~of the applicant that is secured by the same revenues to be pledged to~~
3 ~~secure repayment under the loan repayment agreement constitutes evidence~~
4 ~~regarding ability to repay a loan.~~

5 ~~(b) The applicant's legal capability to enter into a loan repayment~~
6 ~~agreement.~~

7 ~~(c) The applicant's financial ability to construct, operate and~~
8 ~~maintain the project if it receives the financial assistance.~~

9 ~~(d) The applicant's ability to manage the project.~~

10 ~~(e) The applicant's ability to meet any applicable environmental~~
11 ~~requirements imposed by federal or state agencies.~~

12 ~~(f) The applicant's ability to acquire any necessary regulatory~~
13 ~~permits.~~

14 (a) FOR ANY ASSISTANCE:

15 (i) A DETERMINATION OF THE APPLICANT'S FINANCIAL ABILITY TO
16 CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT IF THE APPLICANT RECEIVES THE
17 ASSISTANCE.

18 (ii) A DETERMINATION OF THE APPLICANT'S ABILITY TO MANAGE THE
19 PROJECT.

20 (iii) A DETERMINATION OF THE APPLICANT'S ABILITY TO MEET ANY
21 APPLICABLE ENVIRONMENTAL REQUIREMENTS IMPOSED BY FEDERAL OR STATE
22 AGENCIES.

23 (iv) A DETERMINATION OF THE APPLICANT'S ABILITY TO ACQUIRE ANY
24 NECESSARY REGULATORY PERMITS.

25 (b) IF THE APPLICANT IS APPLYING FOR A LOAN:

26 (i) A DETERMINATION OF THE ABILITY OF THE APPLICANT TO REPAY A LOAN
27 ACCORDING TO THE TERMS AND CONDITIONS ESTABLISHED BY THIS SECTION. AT THE
28 OPTION OF THE AUTHORITY, THE EXISTENCE OF A CURRENT INVESTMENT GRADE
29 RATING ON EXISTING DEBT OF THE APPLICANT THAT IS SECURED BY THE SAME
30 REVENUES TO BE PLEDGED TO SECURE REPAYMENT UNDER THE LOAN REPAYMENT
31 AGREEMENT CONSTITUTES EVIDENCE REGARDING ABILITY TO REPAY A LOAN.

32 (ii) A DETERMINATION OF THE APPLICANT'S LEGAL CAPABILITY TO ENTER
33 INTO A LOAN REPAYMENT AGREEMENT.

34 3. Determine the order and priority of projects assisted under this
35 section based on the merits of the application with respect to water
36 supply development issues, including the following:

37 ~~(a) Existing, near-term and long-term water demands of the water~~
38 ~~provider compared to the existing water supplies of the water provider.~~

39 ~~(b) Existing and planned conservation and water management programs~~
40 ~~of the water provider, including watershed management or protection.~~

41 ~~(c) Benefits of the project.~~

42 ~~(d) The sustainability of the water supply to be developed through~~
43 ~~the project.~~

44 ~~(e) The water provider's need for financial assistance.~~

45 ~~(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.

~~C. 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. 20. 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 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 REPAYED 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.

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 ~~state~~ 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.

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

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

25 H. ALL MONIES RECEIVED FROM ELIGIBLE ENTITIES AS LOAN REPAYMENTS,
 26 INTEREST AND PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND
 27 35-147, IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

28 I. FOR AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS
 29 STATE, THE REVENUES OF THE ELIGIBLE ENTITY'S UTILITY SYSTEM OR SYSTEMS MAY
 30 BE PLEDGED TO THE PAYMENT OF A LOAN WITHOUT AN ELECTION, IF THE PLEDGE OF
 31 REVENUES DOES NOT VIOLATE ANY COVENANT PERTAINING TO THE UTILITY SYSTEM OR
 32 SYSTEMS OR THE REVENUES PLEDGED TO SECURE OUTSTANDING BONDS OR OTHER
 33 OBLIGATIONS OR INDEBTEDNESS OF THE ELIGIBLE ENTITY.

34 J. FOR AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS
 35 STATE, IF THE REVENUES FROM A SECONDARY PROPERTY TAX LEVY CONSTITUTE
 36 REVENUES PLEDGED BY THE ELIGIBLE ENTITY TO REPAY A LOAN, THE ELIGIBLE
 37 ENTITY SHALL SUBMIT THE QUESTION OF ENTERING AND PERFORMING A LOAN
 38 REPAYMENT AGREEMENT TO THE QUALIFIED ELECTORS OF THE ELIGIBLE ENTITY AT AN
 39 ELECTION HELD ON THE FIRST TUESDAY FOLLOWING THE FIRST MONDAY IN NOVEMBER.

40 K. AN ELECTION IS NOT REQUIRED IF VOTER APPROVAL HAS PREVIOUSLY
 41 BEEN OBTAINED FOR SUBSTANTIALLY THE SAME PROJECT WITH ANOTHER FUNDING
 42 SOURCE.

43 L. PAYMENTS MADE PURSUANT TO A LOAN REPAYMENT AGREEMENT ARE NOT
 44 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. 21. Title 49, chapter 8, Arizona Revised Statutes, is amended by adding article 4, 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.

(c) AN ENTITY THAT PROVIDES WATER TO A WATER PROVIDER WITHIN 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 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 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 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.

D. THE AUTHORITY SHALL ADMINISTER THE FUND. THE AUTHORITY SHALL ESTABLISH AS MANY OTHER ACCOUNTS AND SUBACCOUNTS AS REQUIRED TO ADMINISTER THE FUND, AND THESE ACCOUNTS MAY BE HELD BY A BANK TRUSTEE SELECTED BY THE AUTHORITY. 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 THE MONIES IN THE FISCAL YEARS 2022-2023, 2023-2024 AND 2024-2025 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.

8. PAYING THE COSTS TO ADMINISTER THE FUND.

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. ANY MONIES OR OTHER FINANCIAL ASSISTANCE PROVIDED FROM THE FUND, OTHER THAN MONIES SPENT BY THE AUTHORITY FOR INVESTIGATIONS AND STUDIES, AND MONIES SPENT IN CONNECTION WITH LOAN GUARANTEES, SHALL BE FULLY REPAID BY THE RECIPIENTS OF THE FUNDING OR FINANCIAL ASSISTANCE OR THE RECIPIENTS OF THE WATER SUPPLY THROUGH WATER SUBCONTRACTS, LOAN REPAYMENTS, RATES, FEES AND CHARGES COLLECTED BY THE AUTHORITY, OR OTHERWISE, AS APPROPRIATE.

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 IMPORTATION PROJECTS 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.

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

6 5. THE COST-EFFECTIVENESS OF THE PROJECT.

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

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

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

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

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

18 11. THE FEASIBILITY OF THE PROJECT, INCLUDING THE FEASIBILITY OF
19 THE PROPOSED DESIGN AND OPERATION OF THE PROJECT.

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

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

24 14. EXISTING, NEAR-TERM AND LONG-TERM WATER DEMANDS COMPARED TO THE
25 VOLUME AND RELIABILITY OF EXISTING WATER SUPPLIES OF THE BENEFICIARIES OF
26 THE FUNDING OR PROJECT. AFTER THE DIRECTOR OF WATER RESOURCES ISSUES THE
27 FIRST WATER SUPPLY AND DEMAND ASSESSMENT PURSUANT TO SECTION 45-105, IN
28 EVALUATING THIS CRITERION, THE AUTHORITY SHALL CONSIDER INFORMATION
29 CONTAINED IN THE MOST RECENTLY ISSUED ASSESSMENT ISSUED PURSUANT TO THAT
30 SECTION, IN ADDITION TO ANY OTHER INFORMATION SUBMITTED TO EVALUATE THESE
31 CRITERIA.

32 15. POTENTIAL IMPACTS TO RATEPAYERS.

33 16. THE ABILITY OF THE APPLICANT AND ANY PUBLIC OR PRIVATE PARTNER
34 TO REPAY A LOAN OR OTHERWISE COMPLY WITH THE TERMS OF A FINANCIAL
35 ASSISTANCE LOAN REPAYMENT AGREEMENT.

36 17. OTHER CRITERIA THAT THE AUTHORITY DEEMS APPROPRIATE.

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

40 49-1305. Opportunity for participation by Colorado River
41 water users

42 ANY ENTITY WITH AN ENTITLEMENT TO WATER FROM THE COLORADO RIVER,
43 INCLUDING WATER DELIVERED THROUGH THE CENTRAL ARIZONA PROJECT, WHOSE
44 DELIVERIES OF WATER FROM THE COLORADO RIVER HAVE BEEN REDUCED SHALL BE

1 PROVIDED AN OPPORTUNITY TO PARTICIPATE IN ANY PROJECT TO IMPORT WATER BY
2 THE AUTHORITY.

3 49-1306. Taxation exemption

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

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

14 C. THE AUTHORITY IS AUTHORIZED UNDER THIS CHAPTER AND UNDER TITLE
15 35, CHAPTER 3, ARTICLE 7 TO TAKE ALL ACTIONS DETERMINED NECESSARY BY THE
16 BOARD TO COMPLY WITH FEDERAL INCOME TAX LAWS, INCLUDING THE PAYMENT OF
17 REBATES TO THE UNITED STATES TREASURY.

18 49-1307. Financial assistance from the long-term water
19 augmentation fund; terms

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

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

27 1. LOANS AS PROVIDED IN THIS SECTION.

28 2. CREDIT ENHANCEMENTS PURCHASED FOR AN ELIGIBLE ENTITY'S BONDS OR
29 OTHER FORMS OF INDEBTEDNESS.

30 C. A LOAN SHALL BE EVIDENCED BY A LOAN REPAYMENT AGREEMENT OR LEASE
31 PURCHASE AGREEMENT, OR TO THE EXTENT AN ELIGIBLE ENTITY IS A POLITICAL
32 SUBDIVISION OF THIS STATE AND HAS BONDING AUTHORITY, BONDS OF THE ELIGIBLE
33 ENTITY THAT ARE DELIVERED TO AND HELD BY THE AUTHORITY.

34 D. A LOAN UNDER THIS SECTION:

35 1. SHALL BE REPAID DURING A PERIOD APPROVED BY THE AUTHORITY.

36 2. SHALL REQUIRE THAT INTEREST PAYMENTS BEGIN NOT LATER THAN THE
37 NEXT DATE THAT EITHER PRINCIPAL OR INTEREST MUST BE PAID BY THE AUTHORITY
38 TO HOLDERS OF ANY OF THE AUTHORITY'S LONG-TERM WATER AUGMENTATION BONDS
39 THAT PROVIDED FUNDING FOR THE LOAN. THE AUTHORITY MAY PROVIDE THAT LOAN
40 INTEREST ACCRUING DURING CONSTRUCTION OF THE ELIGIBLE ENTITY'S WATER
41 SUPPLY DEVELOPMENT PROJECT AND UP TO ONE YEAR AFTER COMPLETION OF THE
42 CONSTRUCTION OF THE WATER SUPPLY DEVELOPMENT PROJECT BE CAPITALIZED IN THE
43 LOAN.

44 3. SHALL CLEARLY SPECIFY THE AMOUNT OF PRINCIPAL, INTEREST AND
45 REDEMPTION PREMIUM, IF ANY, THAT IS DUE ON ANY PAYMENT DATE.

1 4. SHALL BE CONDITIONED ON THE IDENTIFICATION OF PLEDGED REVENUES
2 FOR REPAYING THE LOAN. IF THE WATER SUPPLY DEVELOPMENT PROJECT FINANCED
3 OR REFINANCED BY THE LOAN IS PART OF A MUNICIPAL UTILITY AND THE CITY OR
4 TOWN PLEDGES REVENUES OF THE UTILITY TO REPAY THE LOAN, THE LOAN MAY BE
5 TREATED UNDER SECTION 9-530, SUBSECTION B AS A LAWFUL LONG-TERM OBLIGATION
6 INCURRED FOR A SPECIFIC PURPOSE.

7 5. TO THE EXTENT ALLOWED BY LAW, SHALL BE SECURED BY A DEBT SERVICE
8 RESERVE ACCOUNT THAT IS HELD IN TRUST AND THAT IS IN AN AMOUNT, IF ANY, AS
9 DETERMINED BY THE AUTHORITY.

10 6. SHALL CONTAIN THE COVENANTS AND CONDITIONS PERTAINING TO
11 CONSTRUCTING, ACQUIRING, IMPROVING OR EQUIPPING WATER SUPPLY DEVELOPMENT
12 PROJECTS AND REPAYING THE LOAN AS THE AUTHORITY DEEMS PROPER.

13 7. MAY PROVIDE FOR PAYING INTEREST ON THE UNPAID PRINCIPAL BALANCE
14 OF THE LOAN AT THE RATES ESTABLISHED IN THE LOAN REPAYMENT AGREEMENT.

15 8. MAY PROVIDE FOR PAYING THE ELIGIBLE ENTITY'S PROPORTIONATE SHARE
16 OF THE EXPENSES OF ADMINISTERING THE LONG-TERM WATER AUGMENTATION FUND AND
17 MAY PROVIDE THAT THE ELIGIBLE ENTITY PAY FINANCING AND LOAN ADMINISTRATION
18 FEES APPROVED BY THE AUTHORITY. THE COSTS MAY BE INCLUDED IN THE LEVY,
19 ASSESSMENT, RATES OR CHARGES OF THE PLEDGED REVENUES PLEDGED BY THE
20 ELIGIBLE ENTITY TO REPAY THE LOAN.

21 E. THE AUTHORITY SHALL PRESCRIBE THE RATE OR RATES OF INTEREST ON
22 LOANS MADE UNDER THIS SECTION, BUT THE RATE OR RATES MAY NOT EXCEED THE
23 PREVAILING MARKET RATE FOR SIMILAR TYPES OF LOANS. AN ELIGIBLE ENTITY
24 THAT IS A POLITICAL SUBDIVISION OF THIS STATE MAY NEGOTIATE THE SALE OF
25 ITS BONDS TO, OR A LOAN REPAYMENT AGREEMENT WITH, THE AUTHORITY WITHOUT
26 COMPLYING WITH ANY PUBLIC OR ACCELERATED BIDDING REQUIREMENTS IMPOSED BY
27 ANY OTHER LAW FOR THE SALE OF ITS BONDS.

28 F. THE APPROVAL OF A LOAN SHALL BE CONDITIONED ON A WRITTEN
29 COMMITMENT BY THE ELIGIBLE ENTITY TO COMPLETE ALL APPLICABLE REVIEWS AND
30 APPROVALS AND TO SECURE ALL REQUIRED PERMITS IN A TIMELY MANNER.

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

34 H. ALL MONIES RECEIVED FROM ELIGIBLE ENTITIES AS LOAN REPAYMENTS,
35 INTEREST AND PENALTIES SHALL BE DEPOSITED, PURSUANT TO SECTIONS 35-146 AND
36 35-147, IN THE LONG-TERM WATER AUGMENTATION FUND.

37 I. IF REQUESTED BY THE AUTHORITY, THE ATTORNEY GENERAL MAY TAKE
38 WHATEVER ACTIONS ARE NECESSARY TO ENFORCE THE LOAN REPAYMENT AGREEMENT AND
39 ACHIEVE REPAYMENT OF LOANS PROVIDED BY THE AUTHORITY PURSUANT TO THIS
40 ARTICLE.

41 J. FOR ELIGIBLE ENTITIES THAT ARE POLITICAL SUBDIVISIONS OF THIS
42 STATE, THE REVENUES OF THE ELIGIBLE ENTITIES' UTILITY SYSTEM OR SYSTEMS
43 MAY BE PLEDGED TO THE PAYMENT OF A LOAN REPAYMENT AGREEMENT WITHOUT AN
44 ELECTION, IF THE PLEDGE OF REVENUES DOES NOT VIOLATE ANY COVENANT
45 PERTAINING TO THE UTILITY SYSTEM OR SYSTEMS OR THE REVENUES PLEDGED TO

1 SECURE OUTSTANDING BONDS OR OTHER OBLIGATIONS OR INDEBTEDNESS OF THE
2 ELIGIBLE ENTITIES.

3 K. FOR AN ELIGIBLE ENTITY THAT IS A POLITICAL SUBDIVISION OF THIS
4 STATE, AND NOTWITHSTANDING SECTIONS 9-571 AND 11-671, IF THE REVENUES FROM
5 A SECONDARY PROPERTY TAX LEVY CONSTITUTE PLEDGED REVENUES, THE ELIGIBLE
6 ENTITY IS NOT REQUIRED TO SUBMIT TO A VOTE THE QUESTION OF ENTERING AND
7 PERFORMING A LOAN REPAYMENT AGREEMENT.

8 L. PAYMENTS MADE PURSUANT TO A LOAN REPAYMENT AGREEMENT ARE NOT
9 SUBJECT TO SECTION 42-17106.

10 M. FOR ELIGIBLE ENTITIES THAT ARE POLITICAL SUBDIVISIONS OF THIS
11 STATE, A LOAN REPAYMENT AGREEMENT UNDER THIS SECTION DOES NOT CREATE A
12 DEBT OF THE ELIGIBLE ENTITIES, AND THE AUTHORITY MAY NOT REQUIRE THAT
13 PAYMENT OF A LOAN REPAYMENT AGREEMENT BE MADE FROM OTHER THAN THE PLEDGED
14 REVENUES PLEDGED BY THE ELIGIBLE ENTITIES.

15 N. AN ELIGIBLE ENTITY MAY EMPLOY ATTORNEYS, ACCOUNTANTS, FINANCIAL
16 CONSULTANTS AND OTHER EXPERTS IN THEIR FIELDS AS DEEMED NECESSARY TO
17 PERFORM SERVICES WITH RESPECT TO A LOAN REPAYMENT AGREEMENT.

18 O. AT THE DIRECTION OF THE AUTHORITY, THE ELIGIBLE ENTITY SHALL
19 PAY, AND IS HEREBY AUTHORIZED TO PAY, THE AUTHORITY'S COSTS IN ISSUING
20 LONG-TERM WATER AUGMENTATION BONDS OR OTHERWISE BORROWING TO FUND A LOAN.

21 49-1308. Long-term water augmentation financial assistance;
22 procedures

23 A. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, AN ELIGIBLE
24 ENTITY MAY APPLY TO THE AUTHORITY FOR AND ACCEPT AND INCUR INDEBTEDNESS AS
25 A RESULT OF FINANCIAL ASSISTANCE FROM THE LONG-TERM WATER AUGMENTATION
26 FUND FOR WATER SUPPLY DEVELOPMENT PROJECTS.

27 B. THE AUTHORITY SHALL:

28 1. PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO APPLY FOR AND
29 APPROVE FINANCIAL ASSISTANCE.

30 2. ESTABLISH BY RULE CRITERIA BY WHICH FINANCIAL ASSISTANCE WILL BE
31 AWARDED, INCLUDING:

32 (a) FOR ANY FINANCIAL ASSISTANCE:

33 (i) A DETERMINATION OF THE APPLICANT'S FINANCIAL ABILITY TO
34 CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT IF IT RECEIVES THE ASSISTANCE.

35 (ii) A DETERMINATION OF THE APPLICANT'S ABILITY TO MANAGE THE
36 PROJECT.

37 (iii) A DETERMINATION OF THE APPLICANT'S ABILITY TO MEET ANY
38 APPLICABLE ENVIRONMENTAL REQUIREMENTS IMPOSED BY FEDERAL OR STATE
39 AGENCIES.

40 (iv) A DETERMINATION OF THE APPLICANT'S ABILITY TO ACQUIRE ANY
41 NECESSARY REGULATORY PERMITS.

42 (v) REQUIREMENTS FOR LOCAL PARTICIPATION IN PROJECT COSTS, IF
43 DEEMED ADVISABLE BY THE AUTHORITY.

1 (b) IF THE APPLICANT IS APPLYING FOR A LOAN:

2 (i) A DETERMINATION OF THE ABILITY OF THE APPLICANT TO REPAY A LOAN
3 ACCORDING TO THE TERMS AND CONDITIONS ESTABLISHED BY THIS CHAPTER. AT THE
4 OPTION OF THE AUTHORITY, THE EXISTENCE OF A CURRENT INVESTMENT GRADE
5 RATING ON EXISTING DEBT OF THE APPLICANT THAT IS SECURED BY THE SAME
6 REVENUES TO BE PLEDGED TO SECURE REPAYMENT UNDER THE LOAN REPAYMENT
7 AGREEMENT CONSTITUTES EVIDENCE REGARDING ABILITY TO REPAY A LOAN.

8 (ii) A DETERMINATION OF THE APPLICANT'S LEGAL CAPABILITY TO ENTER
9 INTO A LOAN REPAYMENT AGREEMENT.

10 3. DETERMINE THE ORDER AND PRIORITY OF PROJECTS ASSISTED UNDER THIS
11 CHAPTER BASED ON THE MERITS OF THE APPLICATION WITH RESPECT TO WATER
12 SUPPLY DEVELOPMENT CRITERIA SET FORTH IN SECTION 49-1304.

13 C. THE AUTHORITY SHALL REVIEW ON ITS MERITS EACH APPLICATION
14 RECEIVED AND SHALL INFORM THE APPLICANT OF THE AUTHORITY'S DETERMINATION.
15 IF THE APPLICATION IS NOT APPROVED, THE AUTHORITY SHALL NOTIFY THE
16 APPLICANT, STATING THE REASONS. IF THE APPLICATION IS APPROVED, THE
17 AUTHORITY MAY CONDITION THE APPROVAL ON ASSURANCES THE AUTHORITY DEEMS
18 NECESSARY TO ENSURE THAT THE FINANCIAL OR OTHER ASSISTANCE WILL BE USED
19 ACCORDING TO LAW AND THE TERMS OF THE APPLICATION.

20 49-1309. Long-term water augmentation bonds; requirements;
21 authority; exemption from liability

22 A. THE AUTHORITY, THROUGH THE BOARD, MAY ISSUE NEGOTIABLE LONG-TERM
23 WATER AUGMENTATION BONDS IN A PRINCIPAL AMOUNT THAT, IN ITS OPINION, IS
24 NECESSARY TO DO ALL OF THE FOLLOWING:

25 1. PROVIDE SUFFICIENT MONIES FOR WATER SUPPLY DEVELOPMENT PROJECTS
26 AND FINANCIAL ASSISTANCE FOR WATER SUPPLY DEVELOPMENT PROJECTS APPROVED
27 UNDER THIS CHAPTER.

28 2. REFUND LONG-TERM WATER AUGMENTATION BONDS, WHEN THE AUTHORITY
29 DEEMS IT EXPEDIENT TO DO SO.

30 3. INCREASE THE CAPITALIZATION OF THE LONG-TERM WATER AUGMENTATION
31 FUND.

32 4. MAINTAIN SUFFICIENT RESERVES IN THE LONG-TERM WATER AUGMENTATION
33 FUND TO SECURE THE LONG-TERM WATER AUGMENTATION BONDS.

34 5. PAY THE NECESSARY COSTS OF ISSUING, SELLING AND REDEEMING THE
35 LONG-TERM WATER AUGMENTATION BONDS.

36 6. PAY OTHER EXPENDITURES OF THE AUTHORITY INCIDENTAL TO AND
37 NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE.

38 B. THE BOARD SHALL AUTHORIZE LONG-TERM WATER AUGMENTATION BONDS BY
39 RESOLUTION. THE RESOLUTION SHALL PRESCRIBE ALL OF THE FOLLOWING:

40 1. THE RATE OR RATES OF INTEREST AND THE DENOMINATIONS OF THE
41 LONG-TERM WATER AUGMENTATION BONDS.

1 2. THE DATE OR DATES AND MATURITY OF THE LONG-TERM WATER
2 AUGMENTATION BONDS.

3 3. THE COUPON OR REGISTERED FORM OF THE LONG-TERM WATER
4 AUGMENTATION BONDS.

5 4. THE MANNER OF EXECUTING THE LONG-TERM WATER AUGMENTATION BONDS.

6 5. THE MEDIUM AND PLACE OF PAYMENT.

7 6. THE TERMS OF REDEMPTION.

8 C. THE LONG-TERM WATER AUGMENTATION BONDS SHALL BE SOLD AT PUBLIC
9 OR PRIVATE SALE AT THE PRICE AND ON THE TERMS DETERMINED BY THE BOARD.
10 ALL PROCEEDS FROM THE ISSUANCE OF LONG-TERM WATER AUGMENTATION BONDS,
11 EXCEPT ANY AMOUNTS USED TO PAY COSTS ASSOCIATED WITH THE ISSUANCE AND SALE
12 OF THE LONG-TERM WATER AUGMENTATION BONDS, SHALL BE DEPOSITED IN THE
13 LONG-TERM WATER AUGMENTATION FUND OR A SEPARATELY HELD ACCOUNT AS
14 SPECIFIED IN THE RESOLUTION.

15 D. TO SECURE ANY LONG-TERM WATER AUGMENTATION BONDS AUTHORIZED BY
16 THIS SECTION, THE BOARD BY RESOLUTION MAY:

17 1. REQUIRE THAT LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER
18 THIS SECTION BE SECURED BY A LIEN ON ALL OR A PART OF THE MONIES PAID IN
19 TO THE APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE LONG-TERM WATER
20 AUGMENTATION FUND AND PROVIDE THE PRIORITY OF THE LIEN.

21 2. PLEDGE OR ASSIGN TO OR IN TRUST TO BE HELD BY THE STATE
22 TREASURER OR A TRUSTEE APPOINTED BY THE AUTHORITY FOR THE BENEFIT OF THE
23 HOLDER OR HOLDERS OF THE LONG-TERM WATER AUGMENTATION BONDS ANY PART OF
24 THE APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE LONG-TERM WATER AUGMENTATION
25 FUND MONIES AS IS NECESSARY TO PAY THE PRINCIPAL AND INTEREST OF THE
26 LONG-TERM WATER AUGMENTATION BONDS AS THE BONDS COME DUE.

27 3. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING FUNDS.

28 4. REQUIRE THAT SUFFICIENT AMOUNTS OF THE PROCEEDS FROM THE SALE OF
29 THE LONG-TERM WATER AUGMENTATION BONDS BE USED TO FULLY OR PARTLY FUND ANY
30 RESERVES OR SINKING FUNDS ESTABLISHED BY THE BOARD RESOLUTION AUTHORIZING
31 THE LONG-TERM WATER AUGMENTATION BONDS.

32 5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY
33 CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF
34 LONG-TERM WATER AUGMENTATION BONDS THE HOLDERS OF WHICH MUST CONSENT TO
35 AND THE MANNER IN WHICH CONSENT MAY BE GIVEN.

36 6. PROVIDE FOR PAYMENT FROM THE PROCEEDS OF THE SALE OF THE
37 LONG-TERM WATER AUGMENTATION BONDS OF ALL LEGAL, FINANCIAL AND OTHER
38 EXPENSES INCURRED BY THE AUTHORITY IN ISSUING, SELLING, DELIVERING AND
39 PAYING THE LONG-TERM WATER AUGMENTATION BONDS.

40 7. PROVIDE TERMS NECESSARY TO SECURE CREDIT ENHANCEMENT OR OTHER
41 SOURCES OF PAYMENT OR SECURITY.

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

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

15 F. A MEMBER OF THE BOARD OR ANY PERSON EXECUTING THE LONG-TERM
16 WATER AUGMENTATION BONDS IS NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE
17 LONG-TERM WATER AUGMENTATION BONDS. THE LONG-TERM WATER AUGMENTATION
18 BONDS ARE VALID AND BINDING OBLIGATIONS NOTWITHSTANDING THAT BEFORE THE
19 DELIVERY OF THE LONG-TERM WATER AUGMENTATION BONDS ANY OF THE PERSONS
20 WHOSE SIGNATURES APPEAR ON THE LONG-TERM WATER AUGMENTATION BONDS CEASE TO
21 BE MEMBERS OF THE BOARD. FROM AND AFTER THE SALE AND DELIVERY OF THE
22 LONG-TERM WATER AUGMENTATION BONDS, THE BONDS ARE INCONTESTABLE BY THE
23 BOARD.

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

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

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

35 49-1310. Long-term water augmentation bond obligations of the
36 authority

37 LONG-TERM WATER AUGMENTATION BONDS ISSUED UNDER THIS ARTICLE ARE
38 OBLIGATIONS OF THE AUTHORITY, ARE PAYABLE ONLY ACCORDING TO THEIR TERMS
39 AND ARE NOT GENERAL, SPECIAL OR OTHER OBLIGATIONS OF THIS STATE. THE
40 LONG-TERM WATER AUGMENTATION BONDS DO NOT CONSTITUTE A LEGAL DEBT OF THIS
41 STATE AND ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE
42 LONG-TERM WATER AUGMENTATION BONDS IS NOT ENFORCEABLE OUT OF ANY STATE
43 MONIES OTHER THAN THE INCOME AND REVENUE PLEDGE AND ASSIGNED TO, OR IN
44 TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE LONG-TERM WATER
45 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.

Sec. 22. 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:

Former Sections

New Sections

49-1301 49-1501

49-1302 49-1502

49-1303 49-1503

Sec. 23. Laws 2021, chapter 408, section 115 is amended to read:

Sec. 115. Supplemental 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. 24. 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. 25. 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.

1 Sec. 26. Initial terms of members of the water infrastructure
2 finance authority board

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

6 1. The initial terms of the three members from a county with a
7 population of four hundred thousand persons or more end on January 31,
8 2026.

9 2. The initial terms of the three members from a county with a
10 population of less than four hundred thousand persons and the one member
11 who specializes in finance or statewide water needs end on January 31,
12 2028.

13 B. All subsequent appointments shall be for five-year terms as
14 prescribed by statute.

15 Sec. 27. Succession

16 A. As provided by this act, the water infrastructure finance
17 authority of Arizona succeeds to the authority, powers, duties and
18 responsibilities of the Arizona finance authority with respect to the
19 clean water revolving fund program, the drinking water revolving fund
20 program, the hardship grant fund financial provisions and the water supply
21 development revolving fund financial provisions, as provided in this act.

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

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

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

40 E. All certificates, licenses, registrations, permits and other
41 indicia of qualification and authority that were issued by the Arizona
42 finance authority and the water infrastructure finance authority of
43 Arizona with respect to the water supply development revolving fund
44 financial provisions retain their validity for the duration of their terms
45 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. 28. Appropriation; water supply development revolving fund; exemption

A. The sum of \$_____ is appropriated from the state general fund in fiscal year 2022-2023 to the water supply development revolving fund established by section 49-1271, Arizona Revised Statutes, as amended by this act, for the purposes prescribed by title 49, chapter 8, article 3, Arizona Revised Statutes.

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. 29. Appropriation; long-term water augmentation fund; exemption

A. The sum of \$_____ is appropriated from the state general fund in fiscal year 2022-2023 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. 30. 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. 31. Appropriation; water infrastructure finance authority of Arizona; exemption

A. The sum of \$_____ is appropriated from the state general fund in fiscal year 2022-2023 to the water infrastructure finance authority of Arizona for administration of the long-term water augmentation fund established by section 49-1302, 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.

1 Sec. 32. Severability

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