

COMMITTEE ON NATURAL RESOURCES, ENERGY AND WATER

SENATE AMENDMENTS TO H.B. 2014

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 49-1201, Arizona Revised Statutes, is amended to  
3 read:

4 49-1201. Definitions

5 In this chapter, unless the context otherwise requires:

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

8 2. "Board" means the water infrastructure finance authority board  
9 established by section 49-1206.

10 3. "BONDS" MEANS ANY BONDS, OBLIGATIONS, NOTES, CERTIFICATES OR  
11 OTHER INDEBTEDNESS OF THE AUTHORITY THAT ARE APPROVED BY THE BOARD PURSUANT  
12 TO THIS CHAPTER.

13 ~~3.~~ 4. "Bonds of a political subdivision" means bonds issued by a  
14 political subdivision as authorized by law.

15 ~~4.~~ 5. "Clean water act" means the federal water pollution control  
16 act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water  
17 quality act of 1987 (P.L. 100-4; 101 Stat. 7).

18 ~~5.~~ 6. "Concession agreement" means any lease, ground lease,  
19 franchise, easement, permit or other binding agreement transferring rights  
20 for the use or control, in whole or in part, of water-related facilities by  
21 the authority to a private partner in accordance with this chapter.

22 ~~6.~~ 7. "Drinking water facility":

23 (a) Means a community water system or a nonprofit noncommunity water  
24 system as defined in the safe drinking water act of 1974 (P.L. 93-523; 88

1 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that  
2 is located in this state.

3 (b) Does not include water systems owned by federal agencies.

4 ~~7.~~ 8. "Financial assistance loan repayment agreement" means an  
5 agreement to repay a loan provided to design, construct, acquire,  
6 rehabilitate or improve water or wastewater infrastructure, related  
7 property and appurtenances or a loan provided to finance a water supply  
8 development project.

9 ~~8.~~ 9. "Imported water" means any water that originates outside of  
10 this state and that is made available to water users within this state by  
11 conveyance, ~~OR~~ OR exchange or otherwise through projects that are funded or  
12 financed in whole or in part with monies from the long-term water  
13 augmentation fund.

14 ~~9.~~ 10. "Import water" means to make water originating outside of  
15 this state available to water users within this state by conveyance, ~~OR~~ OR  
16 exchange or otherwise through projects that are funded or financed in whole  
17 or in part with monies from the long-term water augmentation fund.

18 ~~10.~~ 11. "Indian tribe" means any Indian tribe, band, group or  
19 community that is recognized by the United States secretary of the interior  
20 and that exercises governmental authority within the limits of any Indian  
21 reservation under the jurisdiction of the United States government,  
22 notwithstanding the issuance of any patent and including rights-of-way  
23 running through the reservation.

24 ~~11.~~ 12. "Long-term water augmentation bonds" means bonds that are  
25 issued by the authority in accordance with article 4 of this chapter.

26 ~~12.~~ 13. "Long-term water augmentation fund" means the fund  
27 established by section 49-1302.

28 ~~13.~~ 14. "Nonpoint source project" means a project designed to  
29 implement a certified water quality management plan.

30 ~~14.~~ 15. "Political subdivision" means a county, city, town or  
31 special taxing district authorized by law to construct wastewater treatment  
32 facilities, drinking water facilities or nonpoint source projects.

1           ~~15.~~ 16. "Private partner" means a person, entity or organization  
2 that is not the federal government, this state or a political subdivision  
3 of this state.

4           ~~16.~~ 17. "Public-private partnership project" means any water supply  
5 development project that is the subject of a public-private partnership  
6 agreement in accordance with this chapter.

7           ~~17.~~ 18. "Safe drinking water act" means the federal safe drinking  
8 water act of 1974 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393;  
9 P.L. 104-182; 110 Stat. 1613), as amended in 1996.

10           ~~18.~~ 19. "Technical assistance loan repayment agreement" means  
11 either of the following:

12           (a) An agreement to repay a loan provided to develop, plan and  
13 design water or wastewater infrastructure, related property and  
14 appurtenances. The agreement shall be for a term of not more than three  
15 years and the maximum amount that may be borrowed is limited to not more  
16 than \$500,000.

17           (b) An agreement to repay a loan provided to develop, plan or design  
18 a water supply development project.

19           ~~19.~~ 20. "Wastewater treatment facility" means a treatment works, as  
20 defined in section 212 of the clean water act, that is located in this  
21 state and that is designed to hold, cleanse or purify or to prevent the  
22 discharge of untreated or inadequately treated sewage or other polluted  
23 waters for purposes of complying with the clean water act.

24           ~~20.~~ 21. "Water provider" means any of the following:

25           (a) A municipal water delivery system as defined in section 42-5301.

26           (b) A county water augmentation authority established under  
27 title 45, chapter 11.

28           (c) A county water authority established under title 45, chapter 13.

29           (d) An Indian tribe.

30           (e) A community facilities district as established by title 48,  
31 chapter 4.

32           (f) A public water system as prescribed in section 49-352.

1 (g) A county with a population of less than three hundred thousand  
2 persons.

3 (h) A natural resource conservation district.

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

9 ~~21.~~ 22. "Water-related facilities" means any facility related to  
10 the production, delivery, conservation or storage of water, including any  
11 canals, pipelines, desalination plants, pumping stations, storage projects,  
12 recovery wells, delivery and retention projects, water and wastewater  
13 treatment plants, and other equipment and facilities installed for water  
14 conservation purposes, together with any land, buildings or other  
15 improvements and equipment or personal property related thereto.

16 ~~22.~~ 23. "Water supply development" means any of the following:

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

20 (b) Planning, designing, building or developing water-related  
21 facilities, including any environmental or other reviews, permits or plans  
22 reasonably necessary for those facilities, for ~~either~~ ANY of the following  
23 purposes:

24 (i) Conveyance or delivery of water.

25 (ii) Storage or recovery of water under title 45, chapter 3.1.

26 (iii) Reclamation and reuse of water.

27 (iv) Replenishment of groundwater.

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

30 (c) Conservation through reducing existing water use or more  
31 efficient uses of existing water supplies.

1           Sec. 2. Section 49-1302, Arizona Revised Statutes, is amended to  
2 read:

3           49-1302. Long-term water augmentation fund

4           A. The long-term water augmentation 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 long-term water  
7 augmentation bonds under section 49-1309.

8           2. Monies appropriated by the legislature to the fund.

9           3. Monies received for any allowable purpose of the fund from the  
10 United States government.

11           4. Monies received as loan repayments, interest, administrative fees  
12 and penalties.

13           5. Monies from any lawful activities of the authority, including  
14 public-private partnership agreements relating to water supply development  
15 projects.

16           6. Interest and other income received from investing monies in the  
17 fund.

18           7. Gifts, grants and donations received for purposes of the fund  
19 from any public or private source.

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. On notice from the authority, the state treasurer shall  
23 invest and divest monies in the fund as provided in sections 35-313 and  
24 35-314.03, and monies earned from investment shall be credited to the fund.

25           C. All monies shall be deposited, pursuant to sections 35-146 and  
26 35-147, in the fund and shall be held in trust. The monies in the fund may  
27 not be appropriated or transferred by the legislature to fund the general  
28 operations of this state or to otherwise meet the obligations of the state  
29 general fund unless approved by a three-fourths vote of the members of each  
30 house of the legislature.

31           D. The authority shall administer the fund. The authority shall  
32 establish as many other accounts and subaccounts as required to administer

1 the fund. If any long-term water augmentation bonds are issued under  
2 section 49-1309, the authority shall establish one or more bond proceeds  
3 accounts and one or more bond debt service accounts as necessary to  
4 accurately record and track bond proceeds and debt service revenues.

5 E. The authority shall use the monies and other assets in the fund  
6 solely for the purposes authorized by this chapter.

7 F. Monies in the fund may be used for securing long-term water  
8 augmentation bonds of the authority.

9 G. THE AUTHORITY MAY CONDUCT DISCUSSIONS AND NEGOTIATIONS AND MAY  
10 ENTER INTO AN AGREEMENT, INCLUDING AN OFFTAKE AGREEMENT, WITH AN ELIGIBLE  
11 ENTITY THAT IS REASONABLY NECESSARY TO FACILITATE A WATER SUPPLY  
12 DEVELOPMENT PROJECT THAT IMPORTS WATER FROM OUTSIDE THE BOUNDARIES OF THIS  
13 STATE. FOR THE PURPOSES OF THIS SUBSECTION, ALL COMMUNICATION AND  
14 INFORMATION GATHERED PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE 39,  
15 CHAPTER 1 AND ARE SUBJECT TO DISCLOSURE ONLY ON THE CONSENT OF THE  
16 AUTHORITY.

17 Sec. 3. Section 49-1309, Arizona Revised Statutes, is amended to  
18 read:

19 49-1309. Long-term water augmentation bonds; requirements;  
20 authority; exemption from liability

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

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

27 2. Refund long-term water augmentation bonds OR OTHER OBLIGATIONS OF  
28 THE AUTHORITY, when the authority deems it expedient to do so.

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

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

1           5. Pay the necessary costs of issuing, selling and redeeming the  
2 long-term water augmentation bonds.

3           6. Pay other expenditures of the authority incidental to and  
4 necessary and convenient to carry out the purposes of this article.

5           B. The board shall authorize long-term water augmentation bonds by  
6 resolution. The resolution shall prescribe all of the following:

7           1. The rate or rates of interest and the denominations of the  
8 long-term water augmentation bonds.

9           2. The date or dates and maturity of the long-term water  
10 augmentation bonds.

11           3. The coupon or registered form of the long-term water augmentation  
12 bonds.

13           4. The manner of executing the long-term water augmentation bonds.

14           5. The medium and place of payment.

15           6. The terms of redemption.

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

23           D. To secure any long-term water augmentation bonds authorized by  
24 this section, the board by resolution may:

25           1. Require that long-term water augmentation bonds issued under this  
26 section be secured by a lien on all or a part of the monies paid into the  
27 appropriate account or subaccount of the long-term water augmentation fund  
28 and provide the priority of the lien.

29           2. Pledge or assign to or in trust to be held by the state treasurer  
30 **OR A BOND TRUSTEE** for the benefit of the holder or holders of the long-term  
31 water augmentation bonds any part of the appropriate account or subaccount  
32 of the long-term water augmentation fund monies as is necessary to pay the

1 principal and interest of the long-term water augmentation bonds as the  
2 bonds come due.

3 3. Set aside, regulate and dispose of reserves and sinking funds.

4 4. Require that sufficient amounts of the proceeds from the sale of  
5 the long-term water augmentation bonds be used to fully or partly fund any  
6 reserves or sinking funds established by the board resolution authorizing  
7 the long-term water augmentation bonds.

8 5. Prescribe the procedure, if any, by which the terms of any  
9 contract with bondholders may be amended or abrogated, the amount of  
10 long-term water augmentation bonds the holders of which must consent to and  
11 the manner in which consent may be given.

12 6. Provide for payment from the proceeds of the sale of the  
13 long-term water augmentation bonds of all legal, financial and other  
14 expenses incurred by the authority in issuing, selling, delivering and  
15 paying the long-term water augmentation bonds.

16 7. Provide terms necessary to secure credit enhancement or other  
17 sources of payment or security.

18 8. Provide any other terms and conditions that in any way may affect  
19 the security and protection of the long-term water augmentation bonds.

20 E. The pledge of pledged revenues by an eligible entity, or the  
21 pledge of any other revenues by the authority or pursuant to a  
22 public-private partnership agreement, under this article is valid and  
23 binding from the time the pledge is made. The monies pledged and received  
24 by the state treasurer OR A BOND TRUSTEE to be placed in the long-term  
25 water augmentation fund or in any account or subaccount in the long-term  
26 water augmentation fund are immediately subject to the lien of the pledge  
27 without any future physical delivery or further act, and any such lien of  
28 any pledge is valid or binding against all parties having claims of any  
29 kind in tort, contract or otherwise against the board or the authority  
30 regardless of whether the parties have notice of the lien. The official  
31 resolution or trust indenture or any instrument by which this pledge is  
32 created, when placed in the board's records, is notice to all concerned of

1 the creation of the pledge, and those instruments need not be recorded in  
2 any other place.

3 F. A member of the board or any person executing the long-term water  
4 augmentation bonds is not personally liable for the payment of the  
5 long-term water augmentation bonds. The long-term water augmentation bonds  
6 are valid and binding obligations notwithstanding that before the delivery  
7 of the long-term water augmentation bonds any of the persons whose  
8 signatures appear on the long-term water augmentation bonds cease to be  
9 members of the board. From and after the sale and delivery of the  
10 long-term water augmentation bonds, the bonds are incontestable by the  
11 board.

12 G. The board, out of any available monies, may purchase long-term  
13 water augmentation bonds, which may then be canceled, at a price not  
14 exceeding either of the following:

15 1. If the long-term water augmentation bonds are then redeemable,  
16 the redemption price then applicable plus accrued interest to the date of  
17 redemption.

18 2. If the long-term water augmentation bonds are not then  
19 redeemable, the redemption price applicable on the first date after  
20 purchase by the authority on which the long-term water augmentation bonds  
21 become subject to redemption plus accrued interest to the date of  
22 redemption."

23 Amend title to conform

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