

House Engrossed

forgivable financial assistance; cesspool remediation

State of Arizona  
House of Representatives  
Fifty-seventh Legislature  
Second Regular Session  
2026

# HOUSE BILL 2096

AN ACT

AMENDING SECTIONS 11-671, 49-1203, 49-1204, 49-1223 AND 49-1243, ARIZONA  
REVISED STATUTES; 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 11-671, Arizona Revised Statutes, is amended to  
3 read:

4 11-671. Financing wastewater treatment facilities and  
5 nonpoint source projects; financial assistance loan  
6 repayment agreements; financial assistance;  
7 definition

8 A. Notwithstanding any other law, a county **THAT IS** authorized to  
9 operate a sewage system pursuant to section 11-264 **OR THAT IDENTIFIES AND**  
10 **REMIEDIATES A CESSPOOL PURSUANT TO SUBSECTION G OF THIS SECTION** may  
11 construct or improve a wastewater treatment facility or nonpoint source  
12 project with monies borrowed from or financial assistance provided by the  
13 water infrastructure finance authority of Arizona.

14 B. To repay financial assistance from the water infrastructure  
15 finance authority of Arizona, a county may enter into a financial  
16 assistance loan repayment agreement with the authority. A financial  
17 assistance loan repayment agreement is payable from any revenues otherwise  
18 authorized by law to be used to pay long-term obligations. If revenue  
19 from a property tax assessment is the designated source of repayment under  
20 the agreement, the property tax assessed and levied is a secondary  
21 property tax levy for **THE** purposes of article IX, Constitution of Arizona.

22 C. The county board of supervisors shall submit the question of  
23 entering and performing a financial assistance loan repayment agreement to  
24 the qualified electors voting at a regular or special general election in  
25 the county, except that if revenue from a secondary property tax levy is  
26 the designated source of repayment or if the project is constructed with  
27 an improvement district, the question shall be submitted to the qualified  
28 electors at an election held on the first Tuesday following the first  
29 Monday in November. Otherwise, an election is not required if voter  
30 approval has previously been obtained for substantially the same project  
31 with another funding source. If a majority of the qualified electors  
32 voting on the question:

33 1. Approves, the board of supervisors may execute, deliver and  
34 perform the financial assistance loan repayment agreement.

35 2. Disapproves, the board of supervisors shall not execute a  
36 financial assistance loan repayment agreement.

37 D. Payments made pursuant to a financial assistance loan repayment  
38 agreement are not subject to section 42-17106.

39 E. A financial assistance loan repayment agreement entered into  
40 pursuant to this section shall contain the covenants and conditions  
41 pertaining to the construction of a wastewater treatment facility or  
42 nonpoint source project and repayment of the loan as the water  
43 infrastructure finance authority of Arizona deems proper. Financial  
44 assistance loan repayment agreements may provide for the payment of  
45 interest on the unpaid principal balance of such agreement at the rates

1 established in the agreement. The agreement may also provide for payment  
2 of the county's proportionate share of the expenses of administering the  
3 clean water revolving fund established by section 49-1221 and may provide  
4 that the county pay financing and loan administration fees approved by the  
5 water infrastructure finance authority OF ARIZONA. These costs may be  
6 included in the levy or assessment amounts pledged to repay the financial  
7 assistance. Counties are bound by and shall fully perform the FINANCIAL  
8 ASSISTANCE loan repayment agreements, and the agreements are incontestable  
9 after the loan is funded by the water infrastructure finance authority of  
10 Arizona. The county shall also agree to pay the authority's costs in  
11 issuing bonds or otherwise borrowing to fund a loan.

12 F. A financial assistance loan repayment agreement under this  
13 section does not create a debt of the county, and the authority shall not  
14 require that payment of a financial assistance loan agreement be made from  
15 other than those sources ~~permitted~~ ALLOWED in subsection B of this  
16 section.

17 G. A COUNTY MAY APPLY FOR AND RECEIVE FINANCIAL ASSISTANCE,  
18 INCLUDING FORGIVABLE PRINCIPAL, FROM THE WATER INFRASTRUCTURE FINANCE  
19 AUTHORITY OF ARIZONA FOR THE REMEDIATION, CLOSURE OR REPLACEMENT OF  
20 CESSPOOLS THAT PRESENT A DEMONSTRATED RISK TO SURFACE WATER, GROUNDWATER  
21 OR PUBLIC HEALTH. THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA  
22 MAY AWARD FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL, USING  
23 MONIES FROM THE CLEAN WATER REVOLVING FUND ESTABLISHED BY SECTION 49-1221  
24 OR THE DRINKING WATER REVOLVING FUND ESTABLISHED BY SECTION 49-1241.  
25 FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL, RECEIVED PURSUANT TO  
26 THIS SUBSECTION MAY BE USED ONLY FOR PROJECTS THAT ELIMINATE EXISTING  
27 CESSPOOLS AND REPLACE THE EXISTING CESSPOOL WITH AN ON-SITE WASTEWATER  
28 SYSTEM THAT IS APPROVED BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY OR THAT  
29 HAS A CONNECTION TO A WASTEWATER TREATMENT FACILITY. A COUNTY THAT  
30 RECEIVES FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL, PURSUANT TO  
31 THIS SUBSECTION SHALL PRIORITIZE THE REMEDIATION, CLOSURE OR REPLACEMENT  
32 OF CESSPOOLS THAT ARE LOCATED WITHIN AREAS OF KNOWN GROUNDWATER  
33 VULNERABILITY, THAT ARE NEAR SURFACE WATERS OR THAT ARE IN COMMUNITIES  
34 WITH LOW-TO-MODERATE INCOME HOUSEHOLDS. A COUNTY MAY ESTABLISH  
35 INCOME-BASED ELIGIBILITY CRITERIA FOR OWNER-OCCUPIED PROPERTIES BUT MAY  
36 NOT APPLY MEANS TESTING TO THE REMEDIATION OF ABANDONED OR UNINHABITABLE  
37 PROPERTIES. A COUNTY SHALL COORDINATE WITH THE DEPARTMENT OF  
38 ENVIRONMENTAL QUALITY TO ENSURE THAT EACH PROJECT THAT HAS RECEIVED  
39 FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL, PURSUANT TO THIS  
40 SUBSECTION IS CONSISTENT WITH THE COUNTY'S WATER QUALITY MANAGEMENT PLAN.  
41 A COUNTY THAT RECEIVES FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE  
42 PRINCIPAL, PURSUANT TO THIS SUBSECTION IS NOT REQUIRED TO OBTAIN VOTER  
43 APPROVAL TO ACCEPT THE FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE  
44 PRINCIPAL.

1           ~~G.~~ H. A county may employ attorneys, accountants, financial  
2 consultants and ~~such~~ other experts in their field as deemed necessary to  
3 perform services with respect to the financial assistance loan repayment  
4 agreement.

5           ~~H.~~ I. This section is supplemental and alternative to any other  
6 law under which a county may borrow ~~money~~ MONIES or issue bonds. This  
7 section ~~shall~~ IS not ~~be construed as~~ the exclusive authorization to enter  
8 into loan agreements with the authority.

9           ~~I.~~ J. A county may borrow additional monies or enter into  
10 additional financial assistance loan repayment agreements with the water  
11 infrastructure finance authority OF ARIZONA in an amount up to the amount  
12 approved by the voters pursuant to subsection C of this section less the  
13 amount that the county is already obligated to repay to the water  
14 infrastructure finance authority OF ARIZONA pursuant to a financial  
15 assistance loan repayment agreement.

16           ~~J.~~ K. For THE purposes of this section, "nonpoint source project"  
17 has the same meaning ~~as~~ prescribed in section 49-1201.

18           Sec. 2. Section 49-1203, Arizona Revised Statutes, is amended to  
19 read:

20           49-1203. Powers and duties of authority; definition

21           A. The authority is a corporate and politic body and shall have an  
22 official seal that shall be judicially noticed. The authority may sue and  
23 be sued, contract and acquire, hold, operate and dispose of property.  
24 Notwithstanding any other law and unless expressly waived by the  
25 authority, the authority is not subject to any statutory requirement to  
26 pay another party's attorney fees or costs in any administrative or  
27 judicial proceeding. The authority is not a public service corporation  
28 subject to regulation by the corporation commission.

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

30           1. Issue negotiable water quality bonds pursuant to section 49-1261  
31 for the following purposes:

32           (a) To generate the state match required by the clean water act for  
33 the clean water revolving fund and to generate the match required by the  
34 safe drinking water act for the drinking water revolving fund.

35           (b) To provide financial assistance to political subdivisions,  
36 Indian tribes and eligible drinking water facilities for constructing,  
37 acquiring or improving wastewater treatment facilities, drinking water  
38 facilities, nonpoint source projects and other related water quality  
39 facilities and projects.

40           2. Issue water supply development bonds for the purpose of  
41 providing financial assistance to eligible entities for water supply  
42 development purposes pursuant to sections 49-1274 and 49-1275.

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

- 1           4. Provide financial assistance to drinking water facilities from  
2 monies in the drinking water revolving fund to finance these facilities.
- 3           5. Provide financial assistance from monies in the water supply  
4 development revolving fund to finance water supply development as  
5 prescribed by this article.
- 6           6. Guarantee debt obligations of, and provide linked deposit  
7 guarantees through third-party lenders to:
- 8           (a) Political subdivisions that are issued to finance wastewater  
9 treatment projects.
- 10           (b) Drinking water facilities that are issued to finance these  
11 facilities.
- 12           7. Provide linked deposit guarantees through third-party lenders to  
13 political subdivisions and drinking water facilities.
- 14           8. Apply for, accept and administer grants and other financial  
15 assistance from the United States government and from other public and  
16 private sources.
- 17           9. Enter into capitalization grant agreements with the United  
18 States environmental protection agency.
- 19           10. Adopt rules pursuant to title 41, chapter 6 governing the  
20 application for and awarding of wastewater treatment facility, drinking  
21 water facility and nonpoint source project financial assistance under this  
22 chapter, administering the clean water revolving fund and the drinking  
23 water revolving fund and issuing water quality bonds.
- 24           11. Hire a director who serves at the pleasure of the board and who  
25 shall hire staff for the authority. The board may prescribe the terms and  
26 conditions of the director's and staff's employment as necessary to carry  
27 out the purposes of the authority. The board shall adopt written  
28 policies, procedures and guidelines, similar to those adopted by the  
29 department of administration, regarding officer and employee compensation,  
30 observed holidays, leave and reimbursement of travel expenses. The  
31 officers and employees of the authority may participate in the ARIZONA  
32 state retirement system ~~prescribed~~ ESTABLISHED by title 38, chapter 5,  
33 article 2, and the board, consistent with section 38-656, subsection A,  
34 may provide that the authority's officers and employees participate in the  
35 state employee health, ~~disability~~ and accident insurance prescribed by  
36 title 38, chapter 4, article 4. The officers and employees of the  
37 authority are exempt from any laws regulating state employment, including  
38 the following:
- 39           (a) Title 41, chapter 4, article 4, relating to the state personnel  
40 system.
- 41           (b) Title 41, chapter 4, articles 5 and 6, relating to state  
42 service.

1           12. Contract for or employ the services of outside advisors,  
2 attorneys, engineers, financial and other consultants and aides reasonably  
3 necessary or desirable to allow the authority to adequately perform its  
4 duties.

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

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

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

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

32           17. Provide grants, staff assistance or technical assistance in the  
33 form of loan repayment agreements and other professional assistance in  
34 accordance with section 49-1273. Assistance provided under a technical  
35 assistance loan repayment agreement shall be repaid not more than three  
36 years after the date that the monies are advanced to the applicant.  
37 Technical assistance provided by the authority does not create any  
38 liability for the authority or this state regarding designing,  
39 constructing or operating any water supply development project.

40           18. AWARD FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL, FOR  
41 THE REMEDIATION, CLOSURE OR REPLACEMENT OF CESSPOOLS PURSUANT TO SECTION  
42 11-671, SUBSECTION G.

43           C. The authority may adopt rules pursuant to title 41, chapter 6  
44 governing the application for and awarding of assistance under this  
45 chapter and the administration of the funds established by this chapter.

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

5 E. The authority is not subject to title 41, chapter 23. In  
6 coordination with the department of administration, the authority shall  
7 establish procurement procedures by rule to administer the long-term water  
8 augmentation fund.

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

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

19 Sec. 3. Section 49-1204, Arizona Revised Statutes, is amended to  
20 read:

21 49-1204. Annual audit and report

22 A. The board shall cause an audit to be made of the funds  
23 administered by the authority. The audit shall be conducted by a  
24 certified public accountant within one hundred twenty days after the end  
25 of the fiscal year. The board shall immediately file a certified copy of  
26 the audit with the auditor general.

27 B. The auditor general may make any further audits and examinations  
28 as deemed necessary and may take appropriate action relating to the audit  
29 or examination pursuant to title 41, chapter 7, article 10.1. If the  
30 auditor general takes no official action within twenty days after the  
31 audit is filed, the audit is deemed sufficient.

32 C. The board shall pay any fees and costs of the certified public  
33 accountant and auditor general under this section from the funds  
34 administered by the board.

35 D. Not later than January 1 of each year the board shall make an  
36 annual report of its activities, including a copy of the annual audit, to  
37 the governor, the president of the senate and the speaker of the house of  
38 representatives.

39 E. IN ADDITION TO THE REPORTING REQUIREMENTS OF SUBSECTION D OF  
40 THIS SECTION, NOT LATER THAN JANUARY 1 OF EACH YEAR, THE BOARD SHALL MAKE  
41 AN ANNUAL REPORT THAT SUMMARIZES FINANCIAL ASSISTANCE, INCLUDING  
42 FORGIVABLE PRINCIPAL, AWARDED BY THE BOARD PURSUANT TO SECTION 11-671,  
43 SUBSECTION G. THE REPORT SHALL INCLUDE ALL OF THE FOLLOWING:

44 1. THE NUMBER AND LOCATION OF CESSPOOLS THAT HAVE BEEN REMEDIATED  
45 OR REPLACED USING FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL.



1 report the findings to the attorney general. The attorney general shall  
2 conduct an investigation and report those findings to the governor and the  
3 legislature.

4 C. All proceeds of capitalization grants received from the United  
5 States pursuant to the clean water act shall be deposited in the  
6 capitalization grant transfer account and shall be used solely to provide  
7 financial assistance to political subdivisions and Indian tribes to  
8 construct, acquire, restore or rebuild wastewater treatment facilities, to  
9 purchase bond insurance or for any other purpose permitted by the clean  
10 water act including nonpoint source projects. All principal received on  
11 loan repayments made by borrowers pursuant to this section shall be  
12 deposited in the clean water revolving fund and shall be invested and used  
13 to provide additional financial assistance or shall be used to support the  
14 administration of the fund subject to the limits prescribed by the clean  
15 water act.

16 Sec. 5. Section 49-1243, Arizona Revised Statutes, is amended to  
17 read:

18 49-1243. Drinking water revolving fund; purposes;  
19 capitalization grants

20 A. Monies in the drinking water revolving fund may be used for the  
21 following purposes:

22 1. Making drinking water facility loans, including forgivable  
23 principal, to political subdivisions of this state, Indian tribes under  
24 section 49-1245 and other eligible entities as determined by the board  
25 pursuant to the safe drinking water act.

26 2. Making drinking water facility loans under section 49-1244.

27 3. Purchasing or refinancing debt obligations of drinking water  
28 facilities at or below market rate if the debt obligation was issued after  
29 July 1, 1993 for the purpose of constructing, acquiring or improving  
30 drinking water facilities.

31 4. Providing financial assistance to drinking water facilities to  
32 purchase insurance for local drinking water facility bond obligations.

33 5. Paying the costs to administer the fund but not more than four  
34 per cent of the aggregate of federal capitalization grants may be used to  
35 pay these costs. Monies from other sources may be used without limit to  
36 pay these costs.

37 6. Funding other programs that are authorized pursuant to the safe  
38 drinking water act.

39 7. Providing linked deposit guarantees through third party lenders  
40 by depositing monies with the lender on the condition that the lender make  
41 a loan on terms approved by the board, at a rate of return on the deposit  
42 approved by the board and the state treasurer and by giving the lender  
43 recourse against the deposit of loan repayments that are not made when  
44 due.

1           8. FUNDING OF FINANCIAL ASSISTANCE, INCLUDING FORGIVABLE PRINCIPAL,  
2 THAT IS AWARDED PURSUANT TO SECTION 11-671, SUBSECTION G.

3           B. If the monies pledged to secure water quality bonds become  
4 insufficient to pay the principal and interest on the water quality bonds  
5 guaranteed by the drinking water revolving fund, the board shall direct  
6 the state treasurer to liquidate securities in the fund as may be  
7 necessary and shall apply those proceeds to make current all payments then  
8 due on the bonds. The state treasurer shall immediately notify the  
9 attorney general and auditor general of the insufficiency. The auditor  
10 general shall audit the circumstances surrounding the depletion of the  
11 fund and report the findings to the attorney general. The attorney  
12 general shall conduct an investigation and report those findings to the  
13 governor and the legislature.

14           C. All proceeds of capitalization grants received from the United  
15 States pursuant to the safe drinking water act shall be deposited in the  
16 capitalization grant transfer account and shall be used solely to make  
17 loans to drinking water facilities to construct, acquire, restore or  
18 rebuild these facilities, to purchase bond insurance or for any other  
19 purpose permitted by the safe drinking water act. All principal received  
20 on loan repayments made by borrowers under this section shall be deposited  
21 in the drinking water revolving fund and shall be invested, used to  
22 provide financial assistance or used to support the administration of the  
23 fund subject to the limits defined in the safe drinking water act.

24           Sec. 6. Legislative findings and intent

25           A. The legislature finds and declares that:

26           1. Cesspools have been prohibited for installation in Arizona since  
27 1976.

28           2. Thousands of legacy cesspools remain in operation in certain  
29 counties and pose a direct and continuing threat to the public health and  
30 safety and groundwater quality.

31           3. Remediation of cesspools represents a pressing public health  
32 need that is distinct from voluntary septic upgrades or private  
33 convenience improvements.

34           4. Current Arizona law limits county eligibility for financial  
35 assistance to those counties that operate sewer systems.

36           B. It is therefore the intent of the legislature to do both of the  
37 following:

38           1. Authorize all counties to access financial assistance, including  
39 forgivable principal, that is administered by the water infrastructure  
40 finance authority of Arizona for the sole purpose of remediating or  
41 replacing cesspools that pose a verified public health or environmental  
42 risk.

1           2. Ensure that this act shall have no financial impact on the state  
2 general fund. Financial assistance, including forgivable principal, shall  
3 be issued solely from the federally capitalized monies from the clean  
4 water revolving fund established by section 49-1221, Arizona Revised  
5 Statutes, and the drinking water revolving fund established by section  
6 49-1241, Arizona Revised Statutes, that are administered by the water  
7 infrastructure finance authority of Arizona.