

Senate Engrossed House Bill

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

CHAPTER 188

HOUSE BILL 2347

AN ACT

AMENDING SECTIONS 35-323, 35-458 AND 35-474, ARIZONA REVISED STATUTES;
RELATING TO PUBLIC FINANCES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 35-323, Arizona Revised Statutes, is amended to
3 read:

4 35-323. Investing public monies; bidding; security and other
5 requirements

6 A. The treasurer shall invest and reinvest public monies in securities
7 and deposits with a maximum maturity of five years. All public monies shall
8 be invested in eligible investments. Eligible investments are:

9 1. Certificates of deposit in eligible depositories.

10 2. Deposits in one or more federally insured banks or savings and loan
11 associations placed in accordance with the procedures prescribed in section
12 35-323.01.

13 3. Interest bearing savings accounts in banks and savings and loan
14 institutions doing business in this state whose accounts are insured by
15 federal deposit insurance for their industry, but only if deposits in excess
16 of the insured amount are secured by the eligible depository to the same
17 extent and in the same manner as required under this article.

18 4. Repurchase agreements with a maximum maturity of one hundred eighty
19 days.

20 5. The pooled investment funds established by the state treasurer
21 pursuant to section 35-326.

22 6. Obligations issued or guaranteed by the United States or any of the
23 senior debt of its agencies, sponsored agencies, corporations, sponsored
24 corporations or instrumentalities.

25 7. Bonds, notes or other evidences of indebtedness of this state or
26 any of its counties, incorporated cities or towns, ~~or~~ school districts OR
27 SPECIAL TAXING DISTRICTS, INCLUDING REGISTERED WARRANTS THAT SHALL BEAR
28 INTEREST PURSUANT TO SECTION 11-635.

29 8. Bonds, notes or evidences of indebtedness of any county, municipal
30 district, municipal utility or special taxing district of any state that are
31 payable from revenues, earnings or a special tax specifically pledged for the
32 payment of the principal and interest on the obligations, and for the payment
33 of which a lawful sinking fund or reserve fund has been established and is
34 being maintained, but only if no default in payment on principal or interest
35 on the obligations to be purchased has occurred within five years of the date
36 of investment, or, if such obligations were issued less than five years
37 before the date of investment, no default in payment of principal or interest
38 has occurred on the obligations to be purchased nor any other obligations of
39 the issuer within five years of the investment.

40 9. Bonds, notes or evidences of indebtedness issued by any county
41 improvement district or municipal improvement district of any state to
42 finance local improvements authorized by law, if the principal and interest
43 of the obligations are payable from assessments on real property within the
44 improvement district. An investment shall not be made if:

1 (a) The face value of all such obligations, and similar obligations
2 outstanding, exceeds fifty per cent of the market value of the real property,
3 and if improvements on which the bonds or the assessments for the payment of
4 principal and interest on the bonds are liens inferior only to the liens for
5 general ad valorem taxes.

6 (b) A default in payment of principal or interest on the obligations
7 to be purchased has occurred within five years of the date of investment, or,
8 if the obligations were issued less than five years before the date of
9 investment, a default in the payment of principal or interest has occurred on
10 the obligations to be purchased or on any other obligation of the issuer
11 within five years of the investment.

12 10. Commercial paper of prime quality that is rated within the top two
13 ratings by a nationally recognized rating agency. All commercial paper must
14 be issued by corporations organized and doing business in the United States.

15 11. Bonds, debentures, and notes OR OTHER EVIDENCES OF INDEBTEDNESS
16 that are ~~issued by corporations organized and doing business in the United~~
17 ~~States and that are rated within the top three ratings by a nationally~~
18 ~~recognized rating agency~~ DENOMINATED IN UNITED STATES DOLLARS AND THAT CARRY
19 AT A MINIMUM AN "A" OR BETTER RATING, AT THE TIME OF PURCHASE, FROM AT LEAST
20 TWO NATIONALLY RECOGNIZED RATING AGENCIES.

21 12. Negotiable or brokered certificates of deposit issued by a
22 nationally or state chartered bank or savings and loan association.

23 13. Securities of or any other interests in any open-end or closed-end
24 management type investment company or investment trust, including exchange
25 traded funds whose underlying investments are invested in securities allowed
26 by state law, registered under the investment company act of 1940 (54 Stat.
27 789; 15 United States Code sections 80a-1 through 80a-64), as amended.

28 B. Certificates of deposit shall be purchased from the eligible
29 depository bidding the highest permissible rate of interest. No monies over
30 one hundred thousand dollars may be awarded at any interest rate less than
31 one hundred three per cent of the equivalent bond yield of the offer side of
32 United States treasury bills having a similar term. If the eligible
33 depository offering to pay the highest rate of interest has bid only for a
34 portion of the monies to be awarded, the remainder of the monies shall be
35 awarded to eligible depositories bidding the next highest rates of interest.

36 C. An eligible depository is not eligible to receive total aggregate
37 deposits from this state and all its subdivisions in an amount exceeding
38 twice its capital structure as outlined in the last call of condition of the
39 superintendent of financial institutions.

40 D. If two or more eligible depositories submit bids of an identical
41 rate of interest for all or any portion of the monies to be deposited, the
42 award of the deposit of the monies shall be made to the eligible depository
43 among those submitting identical bids having, at the time of the bid opening,

1 the lowest ratio of total public deposits in relation to its capital
2 structure.

3 E. Each bid submitted, and not withdrawn prior to the time specified,
4 constitutes an irrevocable offer to pay interest as specified in the bid on
5 the deposit, or portion bid for, and the award of a deposit in accordance
6 with this section obligates the depository to accept the deposit and pay
7 interest as specified in the bid pursuant to which the deposit is awarded.

8 F. The treasurer shall maintain a record of all bids received and
9 shall make available to the board of deposit at its next regularly scheduled
10 meeting a correct list showing the bidders, the bids received and the amount
11 awarded. These records shall be available to the public and shall be kept in
12 the possession of the treasurer for not less than two years from the date of
13 the report.

14 G. Any eligible depository, before receiving a deposit in excess of
15 the insured amount under this article, shall deliver collateral for the
16 purposes of this subsection equal to at least one hundred one per cent of the
17 deposit. The collateral shall be any of the following:

18 1. A bond executed by a surety company that is approved by the
19 treasury department of the United States and authorized to do business in
20 this state. The bond shall be approved as to form by the legal advisor of
21 the treasurer.

22 2. Securities or instruments of the following character:

23 (a) United States government or agency obligations.

24 (b) State, county, school district and other district municipal bonds.

25 (c) Registered warrants of this state, a county or other political
26 subdivisions of this state, when offered as security for monies of the state,
27 county or political subdivision by which they are issued.

28 (d) First mortgages and trust deeds on improved, unencumbered real
29 estate located in this state. No single first mortgages or trust deeds may
30 represent more than ten per cent of the total collateral. The treasurer may
31 require that the first mortgages or trust deeds comprising the total
32 collateral security be twice the amount the eligible depository receives on
33 deposit. First mortgages or trust deeds qualify as collateral subject to the
34 following limitations:

35 (i) The promissory note or other evidences of indebtedness secured by
36 such first mortgage or trust deed shall have been in existence for at least
37 three years and shall not have been in default during this period.

38 (ii) An eligible depository shall at its own expense execute, deposit
39 with the treasurer and record with the appropriate county recorder a complete
40 sale and assignment with recourse in a form approved by the attorney general,
41 together with an unconditional assumption of obligation to promptly pay to
42 the entitled parties public monies in its custody upon lawful demand and
43 tender of resale and assignment.

1 Eligible depositories may deposit the security described in this subdivision
2 with the state treasurer, and county, city or town treasurers may accept the
3 security described in this subdivision at their option.

4 3. The safekeeping receipt of a federal reserve bank or any bank
5 located in a reserve city, or any bank authorized to do business in this
6 state, whose combined capital, surplus and outstanding capital notes and
7 debentures on the date of the safekeeping receipt are ten million dollars or
8 more, evidencing the deposit therein of any securities or instruments
9 described in this section. A safekeeping receipt shall not qualify as
10 security, if issued by a bank to secure its own public deposits, unless
11 issued directly through its trust department. The safekeeping receipt shall
12 show upon its face that it is issued for the account of the treasurer and
13 shall be delivered to the treasurer. The safekeeping receipt may provide for
14 the substitution of securities or instruments which qualify under this
15 section with the affirmative act of the treasurer.

16 H. The securities, instruments or safekeeping receipt for the
17 securities, instruments or warrants shall be accepted at market value if not
18 above par, and, if at any time their market value becomes less than the
19 deposit liability to that treasurer, additional securities or instruments
20 required to guarantee deposits shall be deposited immediately with the
21 treasurer who made the deposit and deposited by the eligible depository in
22 which the deposit was made.

23 I. The condition of the surety bond, or the deposit of securities,
24 instruments or a safekeeping receipt, must be such that the eligible
25 depository will promptly pay to the parties entitled public monies in its
26 custody, upon lawful demand, and will, when required by law, pay the monies
27 to the treasurer making the deposit.

28 J. Notwithstanding the requirements of this section, any institution
29 qualifying as an eligible depository may accept deposits of public monies to
30 the total then authorized insurance of accounts, insured by federal deposit
31 insurance, without depositing a surety bond or securities in lieu of the
32 surety bond.

33 K. An eligible depository shall report monthly to the treasurer the
34 total deposits of that treasurer and the par value and the market value of
35 any pledged collateral securing those deposits.

36 L. When a security or instrument pledged as collateral matures or is
37 called for redemption, the cash received for the security or instrument shall
38 be held in place of the security until the depository has obtained a written
39 release or provided substitute securities or instruments.

40 M. The surety bond, securities, instruments or safekeeping receipt of
41 an eligible depository shall be deposited with the treasurer making the
42 deposit, and the treasurer shall be the custodian of the bond, securities,
43 instruments or safekeeping receipt. The treasurer may then deposit with the
44 depository public monies then in the treasurer's possession in accordance

1 with this article, but not in an amount in excess of the surety bond,
2 securities, instruments or safekeeping receipt deposited, except for federal
3 deposit insurance.

4 N. The following restrictions on investments are applicable:

5 1. An investment of public operating fund monies shall not be invested
6 for a maturity of longer than five years.

7 2. The board of deposit may order the treasurer to sell any of the
8 securities, and any order shall specifically describe the securities and fix
9 the date upon which they are to be sold. Securities so ordered to be sold
10 shall be sold for cash by the treasurer on the date fixed in the order, at
11 the then current market price. The treasurer and the members of the board
12 are not accountable for any loss occasioned by sales of securities at prices
13 lower than their cost. Any loss or expense shall be charged against earnings
14 received from investment of public funds.

15 3. INVESTMENTS IN COMPANIES IDENTIFIED IN SECTION 35-392, SUBSECTION
16 A, PARAGRAPH 1.

17 0. If the total amount of subdivision monies available for deposit at
18 any time is less than one hundred thousand dollars, the subdivision board of
19 deposit shall award the deposit of the funds to an eligible depository in
20 accordance with an ordinance or resolution of the governing body of the
21 subdivision.

22 Sec. 2. Section 35-458, Arizona Revised Statutes, is amended to read:

23 35-458. Levy of tax for payment of interest and bonds

24 A. After the bonds are issued, the governing body or board shall enter
25 ~~upon~~ ON its minutes a record of the bonds sold, AND their numbers and dates,
26 and shall annually levy and cause to be collected a tax, at the same time and
27 in the same manner as other taxes are levied and collected ~~upon~~ ON all
28 taxable property in such political subdivision, sufficient to pay the ANNUAL
29 interest on the bonds when due, and shall likewise annually levy a tax
30 sufficient to redeem the bonds when they mature. THE ANNUAL LEVY FOR BOTH
31 THE PRINCIPAL AND INTEREST PAYMENT, INCLUDING A REASONABLE TAX DELINQUENCY
32 FACTOR, SHALL NOT EXCEED THE NET AMOUNT NECESSARY TO MAKE THE ANNUAL PAYMENT
33 AND THE REASONABLE DELINQUENCY FACTOR, INCLUDING AN AMOUNT NECESSARY TO
34 CORRECT PRIOR YEAR ERRORS IN THE LEVY, IF APPLICABLE, AND ANY EXPENSES AND
35 FEES REQUIRED IN CONJUNCTION WITH THE AUTHORIZATION PURSUANT TO SECTION
36 35-512.

37 B. Monies derived from the levy of the tax when collected shall
38 constitute a fund for payment of interest and the bonds. The fund shall be
39 kept separately and shall be known as the "interest fund" and "redemption
40 fund." OR THE TWO FUNDS MAY BE COMBINED INTO A SINGLE "INTEREST AND
41 REDEMPTION FUND."

1 Sec. 3. Section 35-474, Arizona Revised Statutes, is amended to read:
2 35-474. Levy of tax for payment of bonds

3 The board of supervisors, on behalf of the county or a school district
4 therein, or the governing body or board of a municipal corporation, which has
5 issued refunding bonds shall, during each year in which the bonds are
6 outstanding, levy a tax on all property in the political subdivision for
7 which the bonds are issued, sufficient to pay the ANNUAL interest on all
8 bonds then outstanding and the annual installment of the principal thereof
9 becoming due and payable in the next ensuing year. THE ANNUAL LEVY FOR BOTH
10 THE PRINCIPAL AND INTEREST PAYMENT, INCLUDING A REASONABLE TAX DELINQUENCY
11 FACTOR, SHALL NOT EXCEED THE NET AMOUNT NECESSARY TO MEET THE ANNUAL PAYMENT
12 AND THE REASONABLE DELINQUENCY FACTOR, INCLUDING AN AMOUNT NECESSARY TO
13 CORRECT PRIOR YEAR ERRORS IN THE LEVY, IF APPLICABLE, AND ANY EXPENSES AND
14 FEES REQUIRED IN CONJUNCTION WITH THE AUTHORIZATION PURSUANT TO SECTION
15 35-512. Such taxes shall be levied, assessed and collected at the same time
16 and in the same manner as other taxes are levied, assessed and collected.
17 The proceeds of the taxes shall be kept in a special fund and shall be used
18 only for the purpose for which collected.

APPROVED BY THE GOVERNOR MAY 7, 2013.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 8, 2013.

Passed the House February 20, 2013

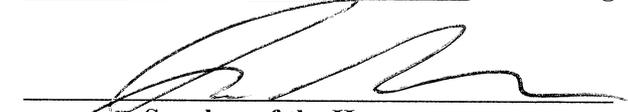
Passed the Senate April 23, 2013

by the following vote: 45 Ayes,

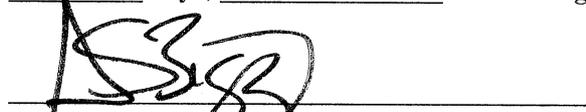
by the following vote: 27 Ayes,

13 Nays, 2 Not Voting

1 Nays, 2 Not Voting



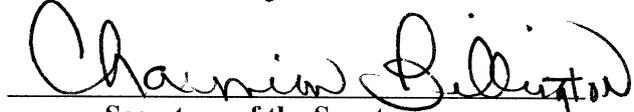
Speaker of the House
Pro Tempore



President of the Senate



Cheryl Laube
Chief Clerk of the House



Chairman Bellington
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____ M.

Secretary of State

H.B. 2347

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 2, 2013,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting


Speaker of the House


Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

2 day of May, 2013,

at 3:30 o'clock P M.


Secretary to the Governor

Approved this 17th day of

May, 2013,

at 1:56 o'clock P. M.


Governor of Arizona

H.B. 2347

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 8th day of May, 2013,

at 9:01 o'clock a M.


Secretary of State