

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 230

HOUSE BILL 2544

AN ACT

AMENDING SECTIONS 45-1702, 45-1703 AND 45-1707, ARIZONA REVISED STATUTES;
RELATING TO THE ARIZONA POWER AUTHORITY.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 45-1702, Arizona Revised Statutes, is amended to
3 read:

4 45-1702. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Authority" means the Arizona power authority created pursuant to
7 title 30, chapter 1.

8 2. "Bonds" and "notes" means bonds and notes, respectively, of the
9 authority issued pursuant to this article.

10 3. "District" means any irrigation district, power district,
11 electrical district, agricultural improvement district or water users
12 association now or hereafter organized under the laws of this state which
13 THAT is directly engaged in the sale, distribution or delivery of municipal,
14 industrial or irrigation water or in the sale, distribution or use of
15 electric power or energy.

16 4. "Municipality" means any incorporated city or town or other
17 corporation organized for municipal purposes.

18 5. "Power" means electric power or electric energy or both.

19 6. "Project" or "work" means:

20 (a) Any of the projects or works authorized by this article or
21 hereafter authorized, including each and every facility or improvement
22 necessary or incidental thereto and all rights-of-way, lands or interests in
23 lands, the use or occupancy of which is necessary or appropriate in the
24 construction, reconstruction, replacement, extension, betterment,
25 development, improvement or operation and maintenance of such facilities and
26 improvements.

27 (b) FINANCING OR REFINANCING AUTHORIZED BY SECTION 45-1703, SUBSECTION
28 A, PARAGRAPH 5.

29 7. "Public utility" means any person, corporation, district, electric
30 cooperative, public agency or political subdivision of the state that
31 provides electrical service to the public by means of electric facilities or
32 provides water for municipal, industrial, irrigation, recreation and fish and
33 wildlife purposes to the public.

34 8. "Real property" means lands, rights in lands, interests in land,
35 including lands under water, appurtenances, improvements and any and all
36 other things and rights usually included within the term and includes also
37 any and all interest in such property less than full title, such as
38 easements, permanent or temporary rights-of-way, uses, leases, licenses and
39 other such incorporeal hereditaments.

40 9. "Retail" means sales to persons, corporations, firms, partnerships
41 or other entities for their use and not for resale.

42 10. "State" means the state of Arizona.

43 11. "State water and power development fund" means the fund by that
44 name established in BY section 45-1711.

1 12. "State water and power plan" means the plan established pursuant to
2 section 45-1703.

3 13. "Wholesale" means sales to municipalities, districts or public
4 utilities for resale or distribution.

5 Sec. 2. Section 45-1703, Arizona Revised Statutes, is amended to read:
6 45-1703. State water and power plan

7 A. A water and power plan for the state is established,— consisting of
8 all or part of the following works and facilities:

9 1. Central Arizona project, including:

10 (a) Granite Reef aqueduct to extend from Lake Havasu to a point in
11 central Arizona on the Salt river near the city of Phoenix, together with
12 pumping plants therefor.

13 (b) The Salt-Gila aqueduct to extend from the terminus of the Granite
14 Reef aqueduct in central Arizona to the Tucson aqueduct, Colorado source, in
15 the vicinity of Picacho reservoir, together with pumping plants therefor.

16 (c) The following alternative to Orme dam:

17 (i) New Waddell dam.

18 (ii) Cliff dam.

19 (iii) Modifications to Roosevelt dam.

20 (d) Buttes dam and reservoir on the Gila river east of the town of
21 Florence.

22 (e) Tucson aqueduct to extend from the terminus of the Salt-Gila
23 aqueduct in the vicinity of Picacho reservoir to and beyond the city of
24 Tucson, together with pumping plants and terminal storage therefor.

25 2. Montezuma pumped storage power project to be located approximately
26 twenty-five miles south of the city of Phoenix.

27 3. The authority's interest in or rights to capacity and any
28 associated energy of the Hoover power plant modifications project consisting
29 of an additional powerhouse or powerhouses at the Hoover dam and power plant
30 located on the Colorado river in Clark county, Nevada and Mohave county,
31 Arizona and Lake Mead, the reservoir formed behind Hoover dam.

32 4. The authority's interest in or rights to capacity and any
33 associated energy of the Hoover power plant uprating project consisting of an
34 increase in capacity of existing generating units at Hoover dam and power
35 plant as a result of replacement and improvement of equipment for such units.
36 In each case the project shall include any improvements thereto and any
37 incidental or associated capacity, energy, buildings, structures,
38 transmission lines or mains, and all other appurtenances and facilities
39 necessary or appropriate thereto.

40 5. THE FINANCING OR REFINANCING OF THIS STATE'S PROPORTIONATE SHARE OF
41 THE COSTS INCURRED BY THE UNITED STATES WITH RESPECT TO THE HOOVER VISITOR
42 FACILITIES AS DEFINED IN SECTION 101(a) OF THE HOOVER POWER PLANT ACT OF 1984
43 (P.L. 98-381; 98 STAT. 1333; 43 UNITED STATES CODE SECTION 619) AND THIS
44 STATE'S PROPORTIONATE SHARE OF THE COSTS INCURRED BY THE BUREAU OF

1 RECLAMATION WITH RESPECT TO THE AIR SLOT TREASURY LOAN FOR THE CONSTRUCTION
2 OF AIR SLOTS AT HOOVER DAM.

3 B. The state water and power plan may also include such further water
4 and power projects, either in addition to or in substitution of the projects
5 set forth above, or any portion thereof, as the Arizona legislature may from
6 time to time authorize. However, in no event may such further power projects
7 include thermal generating plants or interests therein, except that the
8 authority may enter into an agreement with other electric power interests
9 proposing to construct a thermal generating power plant whereby the state
10 shall acquire the right to such portion of the capacity of such plant,
11 including delivery of power and energy over appurtenant transmission
12 facilities to mutually agreed ~~upon~~ ON delivery points as is required to
13 provide central Arizona project pumping. Power and energy acquired
14 thereunder may be disposed of intermittently by the authority when not
15 required in connection with the central Arizona project.

16 C. Except as otherwise provided in this subsection, nothing in this
17 article shall authorize the inclusion in the state water and power plan of
18 the power and energy under the Hoover energy contract 1-1r-1455 dated
19 November 23, 1945 as it may be supplemented, amended, renewed or replaced and
20 the rights to deliver such power and energy under the 1964 Wheeling contract
21 14-06-0300-1444 dated January 1, 1965 as it may be supplemented, amended,
22 renewed or replaced which power and energy and Wheeling rights shall continue
23 to be administered under ~~chapter 1~~ of title 30, CHAPTER 1. Power and energy
24 of the authority from the Hoover power plant modifications project and the
25 Hoover power plant uprating project shall be sold by the authority pursuant
26 to this article. The contracts for the sale of the power and energy of the
27 authority from such projects shall be treated as contracts under this
28 article. Notwithstanding title 30, chapter 1, the authority may pledge its
29 contracts, rights and interests in or to power and energy from the Hoover
30 power plant modifications project, the Hoover power plant uprating project,
31 the 1945 Hoover energy contract or the 1964 Wheeling contract, or any
32 supplements, amendments, renewals or replacements of such contracts, or any
33 other contract or contracts for the purchase or transmission of power and
34 energy from the United States or any United States agency as security for any
35 bonds or notes of the authority issued under this article for the purpose of
36 the Hoover power plant modifications project, ~~or~~ the Hoover power plant
37 uprating project, THE HOOVER VISITOR FACILITIES OR THE AIR SLOTS AT HOOVER
38 DAM.

39 Sec. 3. Section 45-1707, Arizona Revised Statutes, is amended to read:
40 45-1707. Issuance of bonds and notes

41 A. The authority:

42 1. Shall have the power and is authorized from time to time to issue
43 its negotiable bonds and notes in such principal amount as, in the opinion of
44 the authority, shall be necessary to provide sufficient monies for the
45 construction, reconstruction and improvement of the projects included in the

1 state water and power plan or any portion thereof, or for payments REQUIRED
2 with respect to ~~the acquisition of interests or capacity and associated~~
3 ~~energy rights which constitute~~ any such project, together with suitable
4 facilities and appurtenances, the cost of acquisition of all real property,
5 the expense of maintenance and operation, interest on bonds and notes during
6 construction and for a reasonable period thereafter, establishment of
7 reserves to secure bonds or notes, and all other expenditures of the
8 authority incident to and necessary or convenient to carry out the aforesaid
9 purpose. Notwithstanding any other provision herein, the director shall
10 determine whether bonds or notes shall be offered for public or private sale
11 for the central Arizona project or any part thereof, or any future water
12 projects, the time of the offering, the amount, and the terms and conditions
13 thereof. When such determination has been made, the authority shall proceed
14 to offer the bonds or notes, or cause the same to be offered for sale in
15 accordance with the determination of the director. In the event the
16 authority fails to do so, the director may proceed to issue the bonds or
17 notes for the water features of the state water and power plan. In such
18 event the director shall have all of the rights and powers invested in the
19 authority under the terms of this article to issue such bonds or notes.

20 2. Shall have power from time to time to issue renewal notes, to issue
21 bonds to pay notes, and whenever it deems refunding expedient, to refund any
22 bonds by the issuance of new bonds, whether the bonds to be refunded have or
23 have not matured, and may issue bonds partly to refund bonds then outstanding
24 and partly for any other purpose. Whether or not the bonds or notes are of
25 such form and character as to be negotiable instruments under the terms of
26 the uniform commercial code, title 47, chapter 3, the bonds or notes shall be
27 and are hereby made negotiable instruments within the meaning of and for all
28 the purposes of the negotiable instrument law, subject only to the provisions
29 of the bonds for registration.

30 B. The bonds and notes shall be authorized by resolution of the
31 authority, shall bear such date or dates and mature at such time or times, in
32 the case of notes and any renewals thereof within five years after their
33 respective dates and in the case of bonds not exceeding sixty years from
34 their respective dates, as such resolution or resolutions may provide. The
35 bonds and notes shall bear interest at such rate or rates, be in such
36 denominations, be in such form, either coupon or registered, carry such
37 registration privileges, be executed in such manner, be payable in such
38 medium of payment, at such place or places, and be subject to such terms of
39 redemption as such resolution or resolutions may provide. The bonds and
40 notes shall be sold at public or private sale at such price and on such terms
41 as the authority may determine, provided that bonds or notes to fund or
42 refund other bonds or notes may be exchanged with the holders of such bonds
43 or notes being funded or refunded on such terms as the authority may
44 determine.

1 C. Any resolution or resolutions or trust indenture or indentures
2 authorizing or securing any bonds or notes or any issue thereof may contain
3 provisions, which shall be a part of the contract with the holders thereof,
4 as to:

5 1. Pledging all or any part of the fees, charges, gifts, grants,
6 rents, revenues or other monies received or to be received by the authority
7 or the director from or in connection with the ownership or operation of the
8 projects included in the state water and power plan and leases or agreements
9 to secure the payment of the bonds or notes or of any issue thereof,
10 including any amounts deposited in the state water and power development
11 fund, subject to such agreements with bondholders or noteholders as may then
12 exist.

13 2. The rates of the fees, charges or rents to be established for the
14 projects included in the state water and power plan, and the amounts to be
15 raised in each year thereby and the use and disposition of the fees, charges,
16 gifts, grants, rents, revenues or other monies received or to be received
17 therefrom.

18 3. The setting aside of reserves or sinking funds, and the regulation
19 and disposition thereof.

20 4. Notwithstanding the provisions of section 30-203, the custody,
21 collection, securing, investment and payment of any monies held pursuant to
22 any such resolution or trust indenture in trust or otherwise for the payment
23 of bonds or notes or in any way to secure bonds or notes. Such monies and
24 the deposits thereof may be secured in the same manner as monies of the
25 authority, and all banks and trust companies are authorized to give such a
26 security for such deposits.

27 5. Limitations on the purpose to which the proceeds of sale of any
28 issue of bonds or notes then or thereafter to be issued may be applied and
29 pledging such proceeds to secure the payment of the bonds or notes or of any
30 issue thereof.

31 6. Limitations on the issuance of additional bonds or notes, the terms
32 upon which additional bonds or notes may be issued and secured and the
33 refunding of outstanding or other bonds or notes.

34 7. The procedure, if any, by which the terms of any contract with
35 bondholders or noteholders may be amended or abrogated, the amount of bonds
36 or notes the holders of which must consent thereto, and the manner in which
37 such consent may be given.

38 8. Limitations on the amount of monies to be expended for operating,
39 administrative or other expenses with respect to the projects included in the
40 state water and power plan.

41 9. Vesting in a trustee or trustees such property, rights, powers and
42 duties in trust as the authority may determine which may include any or all
43 of the rights, powers and duties of the trustee appointed by the bondholders
44 pursuant to this article, and limiting or abrogating the right of the

1 bondholders to appoint a trustee under this article or limiting the rights,
2 duties and powers of such trustee.

3 10. Any other matters, of like or different character, which in any way
4 affect the security or protection of the bonds or notes.

5 D. It is the intention in the enactment of this article:

6 1. That any pledge made pursuant to this article of all or any part of
7 the fees, charges, gifts, grants, rents, revenues or other monies received or
8 to be received by the authority or the director from or in connection with
9 the ownership or operation of the projects included in the state water and
10 power plan shall be valid and binding from the time when the pledge is made.

11 2. That the monies so pledged and thereafter received by the authority
12 or the director shall immediately be subject to the lien of such pledge
13 without any physical delivery thereof or further act, and that the lien of
14 any such pledge shall be valid and binding as against all parties having
15 claims of any kind in tort, contract or otherwise against the authority or
16 the director irrespective of whether such parties have notice
17 thereof. Neither the resolution nor trust indenture nor any other instrument
18 by which a pledge is created need be recorded.

19 E. Neither the members of the authority nor any person executing the
20 bonds or notes shall be liable personally on the bonds or notes or be subject
21 to any personal liability or accountability by reason of the issuance
22 thereof. In case any one or more of the officers who shall have signed
23 manually or by facsimile or sealed any of the bonds or notes shall cease to
24 be such officer before the bonds or notes so signed and sealed shall have
25 been delivered, such bonds or notes may, nevertheless, be issued as if the
26 persons who signed or sealed such bonds or notes had not ceased to hold such
27 offices. Any bonds or notes may be signed and sealed on behalf of the
28 authority by such persons as at the actual time of the execution of such
29 bonds or notes shall be duly authorized or hold the proper office in the
30 authority, although at the date of such bonds or notes such persons may not
31 have been so authorized or held such office.

32 F. The authority shall have power out of any funds available therefor
33 to purchase bonds or notes, which shall thereupon be cancelled, at a price
34 not exceeding either of the following:

35 1. If the bonds or notes are then redeemable, the redemption price
36 then applicable plus accrued interest to the next interest payment date
37 thereon.

38 2. If the bonds or notes are not then redeemable, the redemption price
39 applicable on the first date after such purchase upon which the bonds or
40 notes become subject to redemption plus accrued interest to such date.

~~APPROVED BY THE GOVERNOR JUNE 19, 2013.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 19, 2013.~~

Passed the House March 7, 20 13

Passed the Senate May 8, 20 13

by the following vote: 35 Ayes,

by the following vote: 28 Ayes,

23 Nays, 2 Not Voting

0 Nays, 2 Not Voting

[Signature]
Speaker of the House

[Signature]
President of the Senate

[Signature]
Chief Clerk of the House

[Signature]
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. 2544

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

June 13, 2013,

by the following vote: 59 Ayes,

0 Nays, 1 Not Voting

[Signature]
Speaker of the House

[Signature]
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

13 day of June, 2013

at 4:45 o'clock P M.

[Signature]
Secretary to the Governor

Approved this 19th day of

[Signature], 2013,

at 2:11 o'clock P M.

[Signature]
Governor of Arizona

H.B. 2544

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 19th day of June, 2013,

at 4:53 o'clock P M.

[Signature]
Secretary of State