

Senate Engrossed House Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

CHAPTER 212

HOUSE BILL 2523

AN ACT

REPEALING SECTION 49-867, ARIZONA REVISED STATUTES; AMENDING SECTIONS 49-1201, 49-1273, 49-1274 AND 49-1275, ARIZONA REVISED STATUTES; RELATING TO WATER SUPPLY DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 49-867, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 49-1201, Arizona Revised Statutes, is amended to read:
5 49-1201. Definitions

6 In this chapter, unless the context otherwise requires:

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

9 2. "Board" means the board of directors of the authority.

10 3. "Bonds of a political subdivision" means bonds issued by a
11 political subdivision as authorized by law.

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

15 5. "Committee" means the water supply development fund committee
16 established by section 49-1202, subsection B.

17 6. "Drinking water facility" means a community water system or a
18 nonprofit noncommunity water system as defined in the safe drinking water act
19 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110
20 Stat. 1613) that is located in this state. For purposes of this article
21 CHAPTER, drinking water facility does not include water systems owned by
22 federal agencies.

23 7. "Financial assistance loan repayment agreement" means an agreement
24 to repay a loan provided to design, construct, acquire, rehabilitate or
25 improve water or wastewater infrastructure, related property and
26 appurtenances or a loan provided to finance a water supply development
27 project.

28 8. "Indian tribe" means any Indian tribe, band, group or community
29 that is recognized by the United States secretary of the interior and that
30 exercises governmental authority within the limits of any Indian reservation
31 under the jurisdiction of the United States government, notwithstanding the
32 issuance of any patent and including rights-of-way running through the
33 reservation.

34 9. "Nonpoint source project" means a project designed to implement a
35 certified water quality management plan.

36 10. "Political subdivision" means a county, city, town or special
37 taxing district authorized by law to construct wastewater treatment
38 facilities, drinking water facilities or nonpoint source projects.

39 11. "Safe drinking water act" means the federal safe drinking water act
40 (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110
41 Stat. 1613), as amended in 1996.

42 12. "Technical assistance loan repayment agreement" means either of the
43 following:

44 (a) An agreement to repay a loan provided to develop, plan and design
45 water or wastewater infrastructure, related property and appurtenances. The

1 agreement shall be for a term of not more than three years and the maximum
2 amount that may be borrowed is limited to not more than five hundred thousand
3 dollars.

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

6 13. "Wastewater treatment facility" means a treatment works, as defined
7 in section 212 of the clean water act, that is located in this state and that
8 is designed to hold, cleanse or purify or to prevent the discharge of
9 untreated or inadequately treated sewage or other polluted waters for
10 purposes of complying with the clean water act.

11 14. "Water provider" means any of the following:

12 (a) A municipal water delivery system as defined in section 42-5301,
13 paragraphs 1 and 3.

14 (b) A municipal water delivery system as defined in section 42-5301,
15 paragraph 2, which has entered into a partnership with a city, town or county
16 for a water supply augmentation plan.

17 (c) A county water augmentation authority established under title 45,
18 chapter 11.

19 (d) A county water authority established under title 45, chapter 13.

20 (e) An Indian tribe.

21 (f) A community facilities district as established by title 48,
22 chapter 4.

23 (g) FOR PURPOSES OF FUNDING FROM THE WATER SUPPLY DEVELOPMENT
24 REVOLVING FUND PURSUANT TO ARTICLE 3 OF THIS CHAPTER ONLY, A COUNTY THAT
25 ENTERS INTO AN INTERGOVERNMENTAL AGREEMENT OR OTHER FORMAL WRITTEN AGREEMENT
26 WITH A CITY, TOWN OR OTHER WATER PROVIDER REGARDING A WATER SUPPLY
27 DEVELOPMENT PROJECT.

28 15. "Water supply development" means either of the following:

29 (a) The acquisition of water or rights to or contracts for water to
30 augment the water supply of a water provider, INCLUDING ANY ENVIRONMENTAL OR
31 OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THAT ACQUISITION.

32 (b) The development of facilities, INCLUDING ANY ENVIRONMENTAL OR
33 OTHER REVIEWS, PERMITS OR PLANS REASONABLY NECESSARY FOR THOSE FACILITIES,
34 for any of the following purposes:

35 (i) Conveyance, storage or recovery of water.

36 (ii) Reclamation and reuse of water.

37 (iii) Replenishment of groundwater.

38 Sec. 3. Section 49-1273, Arizona Revised Statutes, is amended to read:

39 49-1273. Water supply development revolving fund; purposes;

40 limitation

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

43 1. Making water supply development loans to water providers in this
44 state under section 49-1274 for water supply development purposes.

1 2. Making loans or grants to water providers for the planning or
2 design of water supply development projects. A single grant shall not exceed
3 one hundred thousand dollars.

4 3. Purchasing or refinancing debt obligations of water providers at or
5 below market rate if the debt obligation was issued for a water supply
6 development purpose.

7 4. Providing financial assistance to water providers with bonding
8 authority to purchase insurance for local bond obligations incurred by them
9 for water supply development purposes.

10 5. Paying the costs to administer the fund.

11 6. Providing linked deposit guarantees through third party lenders by
12 depositing monies with the lender on the condition that the lender make a
13 loan on terms approved by the committee, at a rate of return on the deposit
14 approved by the committee and the state treasurer and by giving the lender
15 recourse against the deposit of loan repayments that are not made when due.

16 B. If the monies pledged to secure water supply development bonds
17 issued pursuant to section 49-1278 become insufficient to pay the principal
18 and interest on the water supply development bonds guaranteed by the water
19 supply development revolving fund, the authority shall direct the state
20 treasurer to liquidate securities in the fund as may be necessary and shall
21 apply those proceeds to make current all payments then due on the bonds. The
22 state treasurer shall immediately notify the attorney general and auditor
23 general of the insufficiency. The auditor general shall audit the
24 circumstances surrounding the depletion of the fund and report the findings
25 to the attorney general. The attorney general shall conduct an investigation
26 and report those findings to the governor and the legislature.

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

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

33 2. The water provider is located in a city or town and the legislative
34 body of the city or town has enacted the ordinance authorized by section
35 9-463.01, subsection 0.

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

38 4. THE WATER PROVIDER IS LOCATED OUTSIDE OF AN ACTIVE MANAGEMENT AREA
39 AND EITHER OF THE FOLLOWING APPLIES:

40 (a) THE DIRECTOR OF WATER RESOURCES HAS DESIGNATED THE WATER PROVIDER
41 AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTION 45-108.

42 (b) THE WATER PROVIDER WILL USE THE FINANCIAL ASSISTANCE FOR A WATER
43 SUPPLY DEVELOPMENT PROJECT AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED
44 PURSUANT TO SECTION 45-108 THAT THERE IS AN ADEQUATE WATER SUPPLY FOR ALL

1 SUBDIVIDED LAND THAT WILL BE SERVED BY THE PROJECT AND FOR WHICH A PUBLIC
2 REPORT WAS ISSUED AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION.

3 Sec. 4. Section 49-1274, Arizona Revised Statutes, is amended to read:

4 49-1274. Water supply development revolving fund financial
5 assistance; procedures

6 A. In compliance with any applicable requirements, a water provider
7 may apply to the authority for and accept and incur indebtedness as a result
8 of a loan or any other financial assistance pursuant to section 49-1273 from
9 the water supply development revolving fund for water supply development
10 purposes. In compliance with any applicable requirements, a water provider
11 may also apply to the authority for and accept grants, staff assistance or
12 technical assistance for the planning or design of a water supply development
13 project. A water provider that applies for and accepts a loan or other
14 financial assistance under this article is not precluded from applying for
15 and accepting a loan or other financial assistance under article 2 of this
16 chapter or under any other law.

17 B. The authority, in consultation with the committee, shall:

18 1. Prescribe a simplified form and procedure to apply for and approve
19 assistance.

20 2. Establish by rule criteria by which assistance will be awarded,
21 including requirements for local participation in project costs, if deemed
22 advisable. The criteria shall include:

23 (a) A determination of the ability of the applicant to repay a loan
24 according to the terms and conditions established by this section. At the
25 option of the committee, the existence of a current investment grade rating
26 on existing debt of the applicant that is secured by the same revenues to be
27 pledged to secure repayment under the loan repayment agreement constitutes
28 evidence regarding ability to repay a loan.

29 (b) A determination of the applicant's legal capability to enter into
30 a loan repayment agreement.

31 (c) A determination of the applicant's financial ability to construct,
32 operate and maintain the project if it receives the financial assistance.

33 (d) A determination of the applicant's ability to manage the project.

34 (e) A determination of the applicant's ability to meet any applicable
35 environmental requirements imposed by federal or state agencies.

36 (f) A determination of the applicant's ability to acquire any
37 necessary regulatory permits.

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

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

43 (b) Existing and planned conservation and water management programs of
44 the water provider, INCLUDING WATERSHED MANAGEMENT OR PROTECTION.

45 (c) Benefits of the project.

1 (d) The sustainability of the water supply to be developed through the
2 project.

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

4 (f) The cost-effectiveness of the project.

5 C. The committee shall review on its merits each application received
6 and shall inform the applicant of the committee's determination within ninety
7 days after receipt of a complete and correct application. If the application
8 is not approved, the committee shall notify the applicant, stating the
9 reasons. If the application is approved, the committee may condition the
10 approval on assurances the committee deems necessary to ensure that the
11 financial assistance will be used according to law and the terms of the
12 application.

13 D. On approval of an application under this section by the committee,
14 the authority shall use monies in the water supply development revolving fund
15 to finance the project.

16 Sec. 5. Section 49-1275, Arizona Revised Statutes, is amended to read:
17 49-1275. Water supply development revolving fund financial
18 assistance; terms

19 A. A loan from the water supply development revolving fund shall be
20 evidenced by bonds, if the water provider has bonding authority, or by a
21 financial assistance agreement, delivered to and held by the authority.

22 B. A loan under this section shall:

23 1. Be repaid not more than ~~thirty~~ FORTY years after the date incurred.

24 2. Require that interest payments begin not later than the next date
25 that either principal or interest must be paid by the authority to the
26 holders of any of the authority's bonds that provided funding for the loan.
27 If the loan is for construction of water supply development facilities, the
28 authority may provide that loan interest accruing during construction and one
29 year after completion of the construction be capitalized in the loan.

30 3. Be conditioned on the establishment of a dedicated revenue source
31 for repaying the loan.

32 C. The authority, in consultation with the committee, shall prescribe
33 the rate of interest on loans made under this section, but the rate shall not
34 exceed the prevailing market rate for similar types of loans. The authority,
35 ~~upon~~ ON recommendations from the committee, may adopt rules ~~which~~ THAT
36 provide for flexible interest rates and interest free loans. All financial
37 assistance agreements or bonds of a water provider shall clearly specify the
38 amount of principal and interest and any redemption premium that is due on
39 any payment date.

40 D. The approval of a loan is conditioned on a written commitment by
41 the water provider to complete all applicable reviews and approvals and to
42 secure all required permits in a timely manner.

43 E. A loan made to a water provider under this section may be secured
44 additionally by an irrevocable pledge of any shared state revenues due to the
45 water provider for the duration of the loan as prescribed by a resolution of

1 the committee. If the committee requires an irrevocable pledge of the shared
2 state revenues for financial assistance loan repayment agreements, the
3 authority shall enter into an intercreditor agreement with the greater
4 Arizona development authority to define the allocation of shared state
5 revenues in relation to individual borrowers. If a pledge is required and a
6 water provider fails to make any payment due to the authority under its loan
7 repayment agreement or bonds, the authority shall certify to the state
8 treasurer and notify the governing body of the defaulting water provider that
9 the water provider has failed to make the required payment and shall direct a
10 withholding of state shared revenues as prescribed in subsection F of this
11 section. The certificate of default shall be in the form determined by the
12 authority, except that the certificate shall specify the amount required to
13 satisfy the unpaid payment obligation of the water provider.

14 F. On receipt of a certificate of default from the authority, the
15 state treasurer, to the extent not expressly prohibited by law, shall
16 withhold any monies due to the defaulting water provider from the next
17 succeeding distribution of monies pursuant to section 42-5029. In the case
18 of a city or town, the state treasurer shall also withhold from the monies
19 due to the defaulting city or town from the next succeeding distribution of
20 monies pursuant to section 43-206 the amount specified in the certificate of
21 default and shall immediately deposit the monies in the water supply
22 development revolving fund. The state treasurer shall continue to withhold
23 and deposit monies until the authority certifies to the state treasurer that
24 the default has been cured. The state treasurer shall not withhold any
25 amount that is necessary to make any required deposits then due for the
26 payment of principal and interest on bonds of the water provider if so
27 certified by the defaulting water provider to the state treasurer and the
28 authority. The water provider shall not certify deposits as necessary for
29 payment for bonds unless the bonds were issued before the date of the loan
30 repayment agreement and the bonds were secured by a pledge of distribution
31 made pursuant to sections 42-5029 and 43-206.

32 Sec. 6. Rural water supply development and contamination
33 prevention study committee; members; report; delayed
34 repeal

35 A. The rural water supply development and contamination prevention
36 study committee is established consisting of the following members:

37 1. Three members of the house of representatives who are appointed by
38 the speaker of the house of representatives, not more than two of whom are
39 members of the same political party.

40 2. Three members of the senate who are appointed by the president of
41 the senate, not more than two of whom are members of the same political
42 party.

43 B. The committee shall meet and consider the possible effects of waste
44 treatment, storage and disposal facilities on the development of long-term
45 water supplies for rural areas that are under consideration for funding from

1 the water supply development revolving fund and may consult with the
2 department of water resources, the department of environmental quality and
3 the water infrastructure finance authority of Arizona, as the committee deems
4 appropriate. The committee shall prepare a report on its findings and
5 recommendations by November 1, 2014 and submit it electronically to the
6 speaker of the house of representatives, the president of the senate and the
7 governor and shall provide access to this report to the secretary of state.
8 C. This section is repealed from and after December 31, 2014.

APPROVED BY THE GOVERNOR APRIL 23, 2014.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 24, 2014.

Passed the House March 6, 20 14

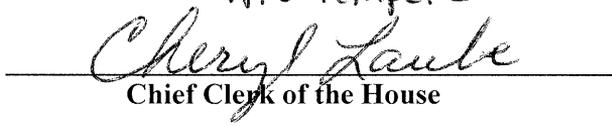
by the following vote: 50 Ayes,

7 Nays, 3 Not Voting



Speaker of the House

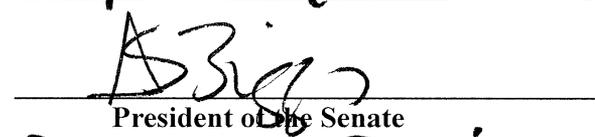
Pro Tempore


Cheryl Laube
Chief Clerk of the House

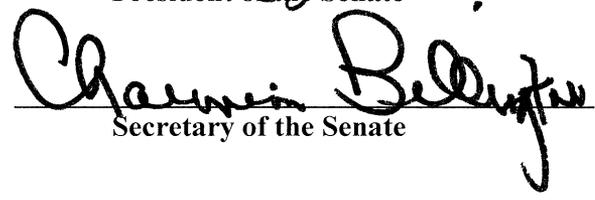
Passed the Senate April 21, 20 14

by the following vote: 22 Ayes,

1 Nays, 7 Not Voting



President of the Senate


Charmin Belongia
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. 2523

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 21, 2014,

by the following vote: 36 Ayes,

18 Nays, 4 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

22 day of April, 2014,

at 8:30 o'clock A M.

[Signature]
Secretary to the Governor

Approved this 23rd day of

April, 2014,

at 10:53 o'clock A M.

[Signature]
Governor of Arizona

H.B. 2523

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 24th day of April, 2014,

at 8:57 o'clock a M.

[Signature]
Secretary of State