

## **FACT SHEET – Water Development Fund 1-05-07 Draft**

### **Purpose of Modification**

To assist communities in Arizona to identify and develop long-term reliable water supplies.

### **Proposed Modifications**

- Creates a Water Supply Development Revolving Fund (Fund) to provide financial assistance to water providers for water supply development and a Water Supply Development Fund Committee (Committee) within the Water Infrastructure Finance Authority (WIFA) to evaluate applications and select projects to receive financial assistance.
- Designates the Director of Water Resources as the Chair of the Committee and identifies membership as ADEQ (vice chair), ACC, the State Treasurer and 9 governor appointed members from municipalities and counties based on population, as well as one tribal member. Each appointed position has a 5-year staggered term.
- Continuously appropriates monies to the Fund and designates the monies as non-lapsing. Sources of the Fund include monies:
  - Received by the State from the Federal Government for water supply development;
  - Appropriated from the State Legislature to the Fund;
  - Received from the issuance and sale of water supply development bonds;
  - Received from repayment, interest and penalties on loans;
  - Received from interest and other income received from investing monies in the Fund; and
  - Received from gifts, grants and donations received from any public or private source(s).
- Requires the WIFA Board to administer the Fund. Also requires the State Treasurer to invest and divest monies in the Fund, as directed by the Board, and to credit the Fund with monies earned from such investments.
- Allows the following uses of the Fund: loans for water supply development; loans or grants (single grants not to exceed \$100,000) for planning or design of water supply development projects; purchasing or refinancing debt obligations for water supply developments at or below market rate; providing financial assistance to water providers with bonding authority to purchase insurance for local bond obligations; paying the cost to administer the Fund; and providing linked deposit guarantees through third-party lenders.

- Limits the use of the Fund to water providers who are either located within a County or municipality that has adopted Adequacy requirements for new subdivisions – **OR** – requires the Committee to include as a factor in its decision to finance a project whether the project located within a County or municipality has adopted Adequacy requirements for new subdivisions, also requires the Committee to give this factor a higher value than all others considered. *[Note: These are alternative provisions. Only one will be included in the final legislation.]*
- Includes the procedures for application and identifies the criteria to be used by the Committee for evaluating applications, including criteria to establish the priority and order of the applications for review. Clarifies that a water provider can still apply for and receive monies from the Fund even if they obtain funds from other sources (including other WIFA funds).
- Outlines the terms for use and repayment of the Water Supply Revolving Fund – terms consistent with current WIFA requirements.
- Conforms to language currently contained in the WIFA statutes related to enforcement of loan repayments, issuance of bonds, bond obligations, certification of bonds, bonds as legal investments, and agreement of the state not to limit or alter the rights of the WIFA or its successor to collect sufficient revenue to fulfill the terms of any outstanding agreements.
- Includes a session law making the enactment of the legislation conditioned on the enactment of the water adequacy legislation.

**DRAFT**

**Water Development Fund Legislation**

**1/05/07**

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

**49-1201. Definitions**

In this article, unless the context otherwise requires:

1. "Authority" means the water infrastructure finance authority of Arizona.
2. "Board" means the board of directors of the authority.
3. "Bonds of a political subdivision" means bonds issued by a political subdivision, as authorized by law.
4. "Clean water act" means the federal water pollution control act amendments of 1972 (P.L. 92-500; 86 Stat. 816), as amended by the water quality act of 1987 (P.L. 100-4; 101 Stat. 7).
5. "COMMITTEE" MEANS THE WATER SUPPLY DEVELOPMENT FUND COMMITTEE ESTABLISHED PURSUANT TO SECTION 49-1202, SUBSECTION B.
- ~~5~~. 6. "Drinking water facility" means a community water system or a nonprofit noncommunity water system as defined in the safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613) that is located in this state. For THE purposes of this article, drinking water facility does not include water systems owned by federal agencies.
- ~~6~~. 7. "Financial assistance loan repayment agreement" means an agreement to repay a loan provided to design, construct, acquire, rehabilitate or improve water or wastewater infrastructure, related property and appurtenances OR A LOAN PROVIDED TO FINANCE A WATER SUPPLY DEVELOPMENT PROJECT.
- ~~7~~. 8. "Indian tribe" means any Indian tribe, band, group or community that is recognized by the United States secretary of the interior and that exercises governmental authority within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent and including rights-of-way running through the reservation.
- ~~8~~. 9. "Nonpoint source project" means a project designed to implement a certified water quality management plan.
- ~~9~~. 10. "Political subdivision" a county, city, town or special taxing district authorized by law to construct wastewater treatment facilities, drinking water facilities or nonpoint source projects.
- ~~10~~. 11. "Safe drinking water act" means the federal safe drinking water act (P.L. 93-523; 88 Stat. 1660; P.L. 95-190; 91 Stat. 1393; P.L. 104-182; 110 Stat. 1613), as amended in 1996.
- ~~11~~. 12. "Technical assistance loan repayment agreement" means EITHER OF THE FOLLOWING:
  - (a) An agreement to repay a loan provided to develop, plan and design water or wastewater infrastructure, related property and appurtenances. The agreement shall be

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

(b) AN AGREEMENT TO REPAY A LOAN PROVIDED TO DEVELOP, PLAN OR DESIGN A WATER SUPPLY DEVELOPMENT PROJECT.

~~13.~~ 14. "Wastewater treatment facility" means a treatment works, as defined in section 212 of the clean water act, that is located in this state and that is designed to hold, cleanse or purify or to prevent the discharge of untreated or inadequately treated sewage or other polluted waters for purposes of complying with the clean water act.

15. "WATER PROVIDER" MEANS A CITY, TOWN, SPECIAL TAXING DISTRICT, PUBLIC SERVICE CORPORATION OR INDIAN TRIBE THAT SUPPLIES WATER FOR MUNICIPAL, INDUSTRIAL, COMMERCIAL OR DOMESTIC PURPOSES OR A SPECIAL TAXING DISTRICT THAT REPLENISHES GROUNDWATER OUTSIDE OF AN ACTIVE MANAGEMENT AREA.

16. "WATER SUPPLY DEVELOPMENT" MEANS EITHER OF THE FOLLOWING:

(a) THE ACQUISITION OF WATER OR RIGHTS TO OR CONTRACTS FOR WATER TO AUGMENT THE WATER SUPPLY OF A WATER PROVIDER.

(b) THE DEVELOPMENT OF FACILITIES FOR ANY OF THE FOLLOWING PURPOSES:

(i) CONVEYANCE, STORAGE OR RECOVERY OF WATER.

(ii) RECLAMATION AND REUSE OF WATER.

(iii) GROUNDWATER REPLENISHMENT.

Sec. 2. Section 49-1202, Arizona Revised Statutes, is amended to read:

**49-1202. Water infrastructure finance authority of Arizona; board;**

**Arizona water supply development fund committee;**

**violation; classification**

A. The water infrastructure finance authority of Arizona is established. A board of directors shall govern the authority. The board of directors consists of:

1. The director of environmental quality, or the director's representative, who serves as chairman.

2. The director of the department of commerce or the director's representative.

3. The state treasurer or the treasurer's representative.

4. One member appointed by the governor to represent municipalities with populations of fifty thousand persons or more according to the most recent United States decennial census.

5. One member appointed by the governor to represent municipalities with populations of less than fifty thousand persons from a county with a population of less than five hundred thousand persons according to the most recent United States decennial census.

6. One member appointed by the governor to represent counties with populations of five hundred thousand persons or more according to the most recent United States decennial census.

7. One member appointed by the governor to represent sanitary districts in counties with populations of less than five hundred thousand persons according to the most recent United States decennial census.

8. The director of water resources or the director's representative.

9. The chairman of the Arizona corporation commission or the chairman's representative.

10. One member appointed by the governor from a public water system that serves five hundred persons or more.

11. One member appointed by the governor from a public water system that serves fewer than five hundred persons.

12. One member appointed by the governor to represent Indian tribes.

B. THE WATER SUPPLY DEVELOPMENT FUND COMMITTEE OF THE AUTHORITY IS ESTABLISHED. THE COMMITTEE CONSISTS OF:

1. THE DIRECTOR OF WATER RESOURCES OR THE DIRECTOR'S REPRESENTATIVE, WHO SERVES AS CHAIRPERSON OF THE COMMITTEE.

2. THE DIRECTOR OF ENVIRONMENTAL QUALITY, OR THE DIRECTOR'S REPRESENTATIVE, WHO SERVES AS VICE CHAIRPERSON OF THE COMMITTEE.

3. THE CHAIRMAN OF THE ARIZONA CORPORATION COMMISSION OR THE CHAIRMAN'S REPRESENTATIVE.

4. THE STATE TREASURER OR THE TREASURER'S REPRESENTATIVE.

5. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT MUNICIPALITIES WITH POPULATIONS OF FIFTY THOUSAND PERSONS OR MORE BUT LESS THAN ONE HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS. **[Note: This will include Flagstaff (52,894 persons) and Yuma (77,515 persons).**

6. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT MUNICIPALITIES WITH POPULATIONS OF LESS THAN FIFTY THOUSAND PERSONS FROM A COUNTY WITH A POPULATION OF LESS THAN FIVE HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS. **[Note: This will include Kingman and Prescott.]**

7. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF LESS THAN TWO HUNDRED THOUSAND PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS. **[Note: This will include all counties except Maricopa, Pinal and Pima.]**

8. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF TWO HUNDRED THOUSAND PERSONS OR MORE BUT LESS THAN ONE MILLION PERSONS ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS. **[Note: Currently, this will include only Pima and Pinal counties. However, after the next decennial census, Pima will have more than one million persons, and therefore will be covered by paragraph 9 below.]**

9. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT COUNTIES WITH POPULATIONS OF ONE MILLION PERSONS OR MORE ACCORDING TO THE MOST RECENT UNITED STATES DECENNIAL CENSUS.

**[Note: Currently, this includes only Maricopa County. However, Pima County will be included after the next decennial census.]**

10. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT CITIES WITH POPULATIONS GREATER THAN ONE HUNDRED THOUSAND PERSONS IN COUNTIES WITH POPULATIONS GREATER THAN ONE MILLION PERSONS. **[Note: Currently, this will include only the AMWUA cities in Maricopa County. After the next decennial census, Tucson will also be included.]**

11. ONE MEMBER APPOINTED BY THE GOVERNOR FROM A PUBLIC WATER SYSTEM THAT SERVES MORE THAN ONE THOUSAND EIGHT HUNDRED FIFTY PERSONS. **[Note: the 1,850 person figure is used to distinguish large and small community water systems in the legislation requiring system water plans - A.R.S. 45-341 and 45-342.]**

12. ONE MEMBER APPOINTED BY THE GOVERNOR FROM A PUBLIC WATER SYSTEM THAT SERVES FEWER THAN ONE THOUSAND EIGHT HUNDRED FIFTY PERSONS.

13. ONE MEMBER APPOINTED BY THE GOVERNOR TO REPRESENT INDIAN TRIBES.

B. Members OF THE BOARD AND THE COMMITTEE appointed by the governor serve at the governor's pleasure and serve staggered five year terms. Members of the board AND THE COMMITTEE are not eligible to receive compensation for their services but are eligible for reimbursement for travel and other expenses pursuant to title 38, chapter 4, article 2. Members of the board AND THE COMMITTEE are public officers for purposes of title 38, and the authority AND THE COMMITTEE ~~is a~~ ARE public ~~body~~ BODIES for purposes of title 38, chapter 3, article 3.1.

C. Members of the board shall not have any direct or indirect personal financial interest in any clean water or drinking water project financed under this article. MEMBERS OF THE COMMITTEE SHALL NOT HAVE ANY DIRECT OR INDIRECT PERSONAL FINANCIAL INTEREST IN ANY WATER SUPPLY DEVELOPMENT PROJECT FINANCED UNDER THIS ARTICLE. For purposes of this subsection, a member of the board OR THE COMMITTEE who is a full-time employee of a participant in or applicant for a loan does not have a direct or indirect personal financial interest in a project. A violation of this subsection is a class 1 misdemeanor.

D. The department of environmental quality shall provide clerical support and office and meeting space to the board.

Sec. 3. Section 49-1203, Arizona Revised Statutes, is amended to read:

**49-1203. Powers and duties of authority; powers of committee; definition**

A. The authority is a corporate and politic body and shall have an official seal that shall be judicially noticed. The authority may sue and be sued, contract and acquire, hold, operate and dispose of property.

B. The authority, through its board, may:

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

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

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

2. ISSUE WATER SUPPLY DEVELOPMENT BONDS FOR THE PURPOSE OF PROVIDING FINANCIAL ASSISTANCE TO WATER PROVIDERS FOR WATER SUPPLY DEVELOPMENT PURPOSES PURSUANT TO SECTIONS 49-1274 AND 49-1275.

~~2.~~ 3. Provide financial assistance to political subdivisions and Indian tribes from monies in the clean water revolving fund to finance wastewater treatment projects.

~~3.~~ 4. Provide financial assistance to drinking water facilities from monies in the drinking water revolving fund to finance these facilities.

5. PROVIDE FINANCIAL ASSISTANCE TO WATER PROVIDERS FROM MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO FINANCE WATER SUPPLY DEVELOPMENT.

~~4.~~ 6. Guarantee debt obligations of, and provide linked deposit guarantees through third-party lenders to:

(a) Political subdivisions that are issued to finance wastewater treatment projects.

(b) Drinking water facilities that are issued to finance these facilities.

(c) WATER PROVIDERS THAT ARE ISSUED TO FINANCE WATER SUPPLY DEVELOPMENT PROJECTS.

~~5.~~ 7. Provide linked deposit guarantees through third-party lenders to political subdivisions, and drinking water facilities AND WATER PROVIDERS.

~~6.~~ 8. Apply for, accept and administer grants and other financial assistance from the United States government and from other public and private sources.

~~7.~~ 9. Enter into capitalization grant agreements with the United States environmental protection agency.

~~8.~~ 10. Adopt rules pursuant to title 41, chapter 6 governing the application for and awarding of wastewater treatment facility, drinking water facility, and nonpoint source project financial assistance under this ~~article~~ CHAPTER, the administration of the clean water revolving fund and the drinking water revolving fund and the issuance of water quality bonds.

~~9.~~ 11. Hire a director and staff for the authority.

~~10.~~ 12. Contract for the services of outside advisors, attorneys, consultants and aides reasonably necessary or desirable to allow the authority to adequately perform its duties.

~~11.~~ 13. Contract and incur obligations as reasonably necessary or desirable within the general scope of authority activities and operations to allow the authority to adequately perform its duties.

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

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

~~14.~~ 16. Provide grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance to political subdivisions, any county with a population of less than five hundred thousand persons, Indian tribes and community water systems in connection with the development or financing of wastewater, drinking water, water reclamation or related water infrastructure. Assistance provided under a technical assistance loan repayment agreement shall be in a form and under terms determined by the authority and shall be repaid not more than three years after the date that the monies are advanced to the applicant. The provision of technical assistance by the authority does not create any liability for the authority or this state regarding the design, construction or operation of any infrastructure project.

17. PROVIDE GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE IN THE FORM OF LOAN REPAYMENT AGREEMENTS AND OTHER PROFESSIONAL ASSISTANCE TO WATER PROVIDERS IN CONNECTION WITH THE PLANNING OR DESIGN OF WATER SUPPLY DEVELOPMENT PROJECTS AS DETERMINED BY THE COMMITTEE PURSUANT TO 49-1274. A SINGLE GRANT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS. ASSISTANCE PROVIDED UNDER A TECHNICAL ASSISTANCE LOAN REPAYMENT AGREEMENT SHALL BE IN A FORM AND UNDER TERMS DETERMINED BY THE COMMITTEE AND SHALL BE REPAYED NOT MORE THAN THREE YEARS AFTER THE DATE THAT THE MONIES ARE ADVANCED TO THE APPLICANT. THE PROVISION OF TECHNICAL ASSISTANCE BY THE AUTHORITY OR THE COMMITTEE DOES NOT CREATE ANY LIABILITY FOR THE AUTHORITY, THE COMMITTEE OR THIS STATE REGARDING THE DESIGN, CONSTRUCTION OR OPERATION OF ANY WATER SUPPLY DEVELOPMENT PROJECT.

C. THE AUTHORITY, THROUGH THE COMMITTEE, MAY:

1. ADOPT RULES PURSUANT TO TITLE 41, CHAPTER 6 GOVERNING THE APPLICATION FOR AND AWARDING OF WATER SUPPLY DEVELOPMENT FUND PROJECT FINANCIAL ASSISTANCE UNDER THIS CHAPTER AND THE ADMINISTRATION OF THE WATER SUPPLY DEVELOPMENT REVOLVING FUND.

2. APPOINT A TECHNICAL ADVISORY SUBCOMMITTEE OF NOT MORE THAN FIVE PERSONS WITH EXPERTISE IN WATER RESOURCE PLANNING AND DEVELOPMENT TO ADVISE THE COMMITTEE REGARDING THE TECHNICAL FEASIBILITY OF WATER SUPPLY DEVELOPMENT PROJECTS.

~~C.~~ D. The board shall deposit, pursuant to sections 35-146 and 35-147, any monies received pursuant to subsection B, paragraph ~~6~~ 8 of this section in the appropriate fund as prescribed by the grant or other financial assistance agreement.

~~D.~~ E. Disbursements of monies by the water infrastructure finance authority pursuant to a financial assistance agreement are not subject to title 41, chapter 23.

~~E.~~ F. For purposes of the safe drinking water act, the department of environmental quality is the state agency with primary responsibility for administration of this state's public water system supervision program and, in consultation with other appropriate state agencies, is the lead agency in establishing assistance priorities as prescribed by section 49-1243, subsection A, paragraph 6 and section 49-1244, subsection B, paragraph 3.

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

Sec. 4. Section 49-1261, Arizona Revised Statutes, is amended to read:

**49-1261. Water quality bonds**

A. The authority, through the board of directors, may issue negotiable water quality bonds in a principal amount that in its opinion is necessary to provide sufficient monies for financial assistance under this ~~chapter~~—ARTICLE, maintaining sufficient reserves to secure the bonds, to pay the necessary costs of issuing, selling and redeeming the bonds and to pay other expenditures of the authority incidental to and necessary and convenient to carry out the purposes of this article.

B. The board must authorize the bonds by resolution. The resolution shall prescribe:

1. The rate or rates of interest and the denominations of the bonds.
2. The date or dates of the bonds and maturity.
3. The coupon or registered form of the bonds.
4. The manner of executing the bonds.
5. The medium and place of payment.
6. The terms of redemption.

C. The bonds shall be sold at public or private sale at the price and on the terms determined by the board. All proceeds from the issuance of bonds shall be deposited in the appropriate accounts of the funds administered by the board.

D. The board shall publish a notice of its intention to issue bonds under this article for at least five consecutive days in a newspaper published in this state. The last day of publication must be at least ten days before issuing the bonds. The notice shall state the amount of the bonds to be sold and the intended date of issuance. A copy of the notice shall be hand delivered or sent, by certified mail, return receipt requested, to the director of the department of administration on or before the last day of publication.

E. To secure any bonds authorized by this section, the board by resolution may:

1. Provide that bonds issued under this section may be secured by a first lien on all or part of the monies paid into the appropriate account or subaccount of the funds administered by the authority.

2. Pledge or assign to or in trust for the benefit of the holder or holders of the bonds any part or appropriate account or subaccount of the monies in the funds as is necessary to pay the principal and interest of the bonds as they come due.

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

4. Provide that sufficient amounts of the proceeds from the sale of the bonds may be used to fully or partly fund any reserves or sinking funds set up by the bond resolution.

5. Prescribe the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated, the amount of bonds the holders of which must consent to and the manner in which consent may be given.

6. Provide for payment from the proceeds of the sale of the bonds of all legal and financial expenses incurred by the board in issuing, selling, delivering and paying the bonds.

7. Do any other matters that in any way may affect the security and protection of the bonds.

F. The members of the board or any person executing the bonds are not personally liable for the payment of the bonds. The bonds are valid and binding obligations notwithstanding that before the delivery of the bonds any of the persons whose signatures appear on the bonds cease to be members of the board. From and after the sale and delivery of the bonds, they are incontestable by the board.

G. The board, out of any available monies, may purchase bonds, which may be canceled, at a price not exceeding either of the following:

1. If the bonds are then redeemable, the redemption price then applicable plus accrued interest to the next interest payment date.

2. If the bonds are not then redeemable, the redemption price applicable on the first date after purchase on which the bonds become subject to redemption plus accrued interest to that date.

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Sec. 5. Section 49-1263, Arizona Revised Statutes, is amended to read:

**49-1263. Bond obligations of the authority**

Bonds issued under this ~~chapter~~—ARTICLE are obligations of the water infrastructure finance authority of Arizona, are payable only according to their terms and are not obligations general, special or otherwise of this state. The bonds do not constitute a legal debt of this state and are not enforceable against this state. Payment of the bonds is not enforceable out of any state monies other than the income and revenue pledged and assigned to, or in trust for the benefit of, the holder or holders of the bonds.

Sec. 6. Section 49-1267, Arizona Revised Statutes, is amended to read:

**49-1267. Hardship grant fund**

A. The hardship grant fund is established to be administered by the authority consisting of:

1. Monies received for that purpose from the United States government including monies that are awarded to this state pursuant to title II of the clean water act and that are no longer obligated to the construction grants program.

2. Gifts, grants and other donations received for that purpose from public or private sources.

3. Monies appropriated by the legislature for the hardship grant program.

B. Monies in the fund are continuously appropriated and are exempt from the provisions of section 35-190 relating to lapsing of appropriations.

C. The board shall administer the fund pursuant to rule and in compliance with this section and guidance from the United States government.

D. Monies in the fund may be used for the following purposes:

1. Providing hardship grants to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.

2. Providing training and technical assistance related to the operation and maintenance of wastewater systems.

E. The board shall use the monies and other assets in the fund only for the purposes authorized by this ~~chapter~~ ARTICLE.

F. The board shall establish a hardship grant program account and as many other accounts and subaccounts as required to administer the hardship grant fund.

G. All proceeds of hardship grant program monies that are received from the United States shall be deposited in the hardship grant fund and shall be used only to provide grants and technical assistance to political subdivisions or Indian tribes to plan, design, acquire, construct or improve wastewater collection and treatment facilities.

Sec. 7. Title 49, chapter 8, Arizona Revised Statutes, is amended by adding article 3, to read:

**Article 3. Water Supply Development Revolving Fund Financial Provisions  
49-1271. Water supply development revolving fund**

A. THE WATER SUPPLY DEVELOPMENT REVOLVING FUND IS ESTABLISHED TO BE MAINTAINED IN PERPETUITY CONSISTING OF:

1. MONIES RECEIVED FROM THE ISSUANCE AND SALE OF WATER SUPPLY DEVELOPMENT BONDS UNDER SECTION 49-1278.

2. MONIES APPROPRIATED BY THE LEGISLATURE FOR THE WATER SUPPLY DEVELOPMENT REVOLVING FUND, INCLUDING ANY MONIES APPROPRIATED BY THE LEGISLATURE FROM THE MONIES RECEIVED BY THE ARIZONA WATER BANKING AUTHORITY PURSUANT TO SECTION 45-2471, SUBSECTION C.

3. MONIES RECEIVED FOR THAT PURPOSE FROM THE UNITED STATES GOVERNMENT.

4. MONIES RECEIVED FROM WATER PROVIDERS AS LOAN REPAYMENTS, INTEREST AND PENALTIES.

5. INTEREST AND OTHER INCOME RECEIVED FROM INVESTING MONIES IN THE FUND.

6. GIFTS, GRANTS AND DONATIONS RECEIVED FOR THAT PURPOSE FROM ANY PUBLIC OR PRIVATE SOURCE.

B. MONIES IN THE FUND ARE CONTINUOUSLY APPROPRIATED AND ARE EXEMPT FROM THE PROVISIONS OF SECTION 35-190 RELATING TO LAPSING OF APPROPRIATIONS.

**49-1272. Water supply development revolving fund; administration**

A. THE BOARD SHALL ADMINISTER THE WATER SUPPLY DEVELOPMENT FUND.

B. ON NOTICE FROM THE BOARD, THE STATE TREASURER SHALL INVEST AND DIVEST MONIES IN THE FUND AS PROVIDED BY SECTION 35-313, AND MONIES EARNED FROM INVESTMENT SHALL BE CREDITED TO THE FUND.

C. MONIES AND OTHER ASSETS IN THE FUND SHALL BE USED SOLELY FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

**49-1273. Water supply development revolving fund; purposes; limitation**

A. MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND MAY BE USED FOR THE FOLLOWING PURPOSES:

1. MAKING WATER SUPPLY DEVELOPMENT LOANS TO WATER PROVIDERS IN THIS STATE UNDER SECTION 49-1274 FOR WATER SUPPLY DEVELOPMENT PURPOSES.

2. MAKING LOANS OR GRANTS TO WATER PROVIDERS FOR THE PLANNING OR DESIGN OF WATER SUPPLY DEVELOPMENT PROJECTS. A SINGLE GRANT SHALL NOT EXCEED ONE HUNDRED THOUSAND DOLLARS.

3. PURCHASING OR REFINANCING DEBT OBLIGATIONS OF WATER PROVIDERS AT OR BELOW MARKET RATE IF THE DEBT OBLIGATION WAS ISSUED FOR A WATER SUPPLY DEVELOPMENT PURPOSE.

4. PROVIDING FINANCIAL ASSISTANCE TO WATER PROVIDERS WITH BONDING AUTHORITY TO PURCHASE INSURANCE FOR LOCAL BOND OBLIGATIONS INCURRED BY THEM FOR WATER SUPPLY DEVELOPMENT PURPOSES.

5. PAYING THE COSTS TO ADMINISTER THE FUND.

6. PROVIDING LINKED DEPOSIT GUARANTEES THROUGH THIRD-PARTY LENDERS BY DEPOSITING MONIES WITH THE LENDER ON THE CONDITION THAT THE LENDER MAKE A LOAN ON TERMS APPROVED BY THE COMMITTEE, AT A RATE OF RETURN ON THE DEPOSIT APPROVED BY THE COMMITTEE AND THE STATE TREASURER AND BY GIVING THE LENDER RECOURSE AGAINST THE DEPOSIT OF LOAN REPAYMENTS THAT ARE NOT MADE WHEN DUE.

B. IF THE MONIES PLEDGED TO SECURE WATER SUPPLY DEVELOPMENT BONDS ISSUED PURSUANT TO SECTION 49-1274 BECOME INSUFFICIENT TO PAY THE PRINCIPAL AND INTEREST ON THE WATER SUPPLY DEVELOPMENT BONDS GUARANTEED BY THE WATER SUPPLY DEVELOPMENT REVOLVING FUND, AT THE DIRECTION OF THE COMMITTEE, THE AUTHORITY SHALL DIRECT THE STATE TREASURER TO LIQUIDATE SECURITIES IN THE FUND AS MAY BE NECESSARY AND SHALL

APPLY THOSE PROCEEDS TO MAKE CURRENT ALL PAYMENTS THEN DUE ON THE BONDS. THE STATE TREASURER SHALL IMMEDIATELY NOTIFY THE ATTORNEY GENERAL AND AUDITOR GENERAL OF THE INSUFFICIENCY. THE AUDITOR GENERAL SHALL AUDIT THE CIRCUMSTANCES SURROUNDING THE DEPLETION OF THE FUND AND REPORT THE FINDINGS TO THE ATTORNEY GENERAL. THE ATTORNEY GENERAL SHALL CONDUCT AN INVESTIGATION AND REPORT THOSE FINDINGS TO THE GOVERNOR AND THE LEGISLATURE.

*[C. MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND SHALL NOT BE USED TO PROVIDE FINANCIAL ASSISTANCE TO A WATER PROVIDER, OTHER THAN AN INDIAN TRIBE, UNLESS ONE OF THE FOLLOWING APPLIES:*

*1. THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE WATER PROVIDER IS LOCATED HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F.*

*2. THE WATER PROVIDER IS LOCATED IN A CITY OR TOWN AND THE LEGISLATIVE BODY OF THE CITY OR TOWN HAS ENACTED THE ORDINANCE AUTHORIZED BY SECTION 9-463.01, SUBSECTION N.]*

**[Note: This section is one of two alternatives for connecting financial assistance from the water supply development revolving fund to the water adequacy requirements and is the alternative preferred by AMWUA and others. The other alternative, which is in section 45-1274(C) below, does not make the adoption of adequacy requirements an absolute prerequisite to receiving financial assistance from the fund, but instead requires the Committee to consider whether a proposed project will be located in a city, town or county that has adopted water adequacy requirements and, if so, to give that factor a higher value than all other criteria. The two alternatives will be discussed at the SWAG meeting on 1/12/07.]**

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

A. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, A WATER PROVIDER MAY:

1. APPLY TO THE AUTHORITY FOR AND ACCEPT AND INCUR INDEBTEDNESS AS A RESULT OF A LOAN OR ANY OTHER FINANCIAL ASSISTANCE PURSUANT TO SECTION 49-1273 FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND FOR WATER SUPPLY DEVELOPMENT PURPOSES. IN COMPLIANCE WITH ANY APPLICABLE REQUIREMENTS, A WATER PROVIDER MAY ALSO APPLY TO THE AUTHORITY FOR AND ACCEPT GRANTS, STAFF ASSISTANCE OR TECHNICAL ASSISTANCE FOR THE PLANNING OR DESIGN OF A WATER SUPPLY DEVELOPMENT PROJECT. A WATER PROVIDER THAT APPLIES FOR AND ACCEPTS A LOAN OR OTHER FINANCIAL ASSISTANCE UNDER THIS ARTICLE IS NOT PRECLUDED FROM APPLYING FOR AND ACCEPTING A LOAN OR OTHER FINANCIAL

ASSISTANCE UNDER ARTICLE 2 OF THIS CHAPTER OR UNDER ANY OTHER LAW. [Note: The last sentence in this subsection allows a water provider to receive financial assistance from other WIFA funds, in addition to financial assistance from the water supply development revolving fund.]

B. THE AUTHORITY, THROUGH THE COMMITTEE, SHALL:

1. PRESCRIBE A SIMPLIFIED FORM AND PROCEDURE TO APPLY FOR AND APPROVE ASSISTANCE.

2. ESTABLISH BY RULE CRITERIA BY WHICH ASSISTANCE WILL BE AWARDED, INCLUDING REQUIREMENTS FOR LOCAL PARTICIPATION IN PROJECT COSTS, IF DEEMED ADVISABLE. THE CRITERIA SHALL INCLUDE:

(a) A DETERMINATION OF THE ABILITY OF THE APPLICANT TO REPAY A LOAN ACCORDING TO THE TERMS AND CONDITIONS ESTABLISHED BY THIS SECTION. AT THE OPTION OF THE COMMITTEE, THE EXISTENCE OF A CURRENT INVESTMENT GRADE RATING ON EXISTING DEBT OF THE APPLICANT THAT IS SECURED BY THE SAME REVENUES TO BE PLEDGED TO SECURE REPAYMENT UNDER THE LOAN REPAYMENT AGREEMENT CONSTITUTES EVIDENCE REGARDING ABILITY TO REPAY A LOAN.

(b) A DETERMINATION OF THE APPLICANT'S LEGAL CAPABILITY TO ENTER INTO A LOAN REPAYMENT AGREEMENT.

(c) A DETERMINATION OF THE APPLICANT'S FINANCIAL ABILITY TO CONSTRUCT, OPERATE AND MAINTAIN THE PROJECT IF IT RECEIVES THE FINANCIAL ASSISTANCE.

(d) A DETERMINATION OF THE APPLICANT'S ABILITY TO MANAGE THE PROJECT.

(e) A DETERMINATION OF THE APPLICANT'S ABILITY TO MEET ANY APPLICABLE ENVIRONMENTAL REQUIREMENTS IMPOSED BY FEDERAL OR STATE AGENCIES.

(f) A DETERMINATION OF THE APPLICANT'S ABILITY TO ACQUIRE ANY NECESSARY REGULATORY PERMITS.

3. DETERMINE THE ORDER AND PRIORITY OF PROJECTS ASSISTED UNDER THIS SECTION BASED ON THE MERITS OF THE APPLICATION WITH RESPECT TO WATER SUPPLY DEVELOPMENT ISSUES, INCLUDING THE FOLLOWING:

(a) EXISTING, NEAR-TERM AND LONG-TERM WATER DEMANDS OF THE WATER PROVIDER COMPARED TO THE EXISTING WATER SUPPLIES OF THE WATER PROVIDER.

(b) EXISTING AND PLANNED CONSERVATION AND WATER MANAGEMENT PROGRAMS OF THE WATER PROVIDER.

(c) BENEFITS OF THE PROJECT.

(d) THE SUSTAINABILITY OF THE WATER SUPPLY TO BE DEVELOPED THROUGH THE PROJECT.

(e) THE WATER PROVIDER'S NEED FOR FINANCIAL ASSISTANCE.

(f) THE COST EFFECTIVENESS OF THE PROJECT.

*[C. IN DETERMINING THE ORDER AND PRIORITY OF PROJECTS TO BE ASSISTED PURSUANT TO SUBSECTION B, PARAGRAPH 3, THE COMMITTEE SHALL CONSIDER WHETHER A PROPOSED PROJECT IS LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED THE ORDINANCE AUTHORIZED BY SECTION 9-463.01, SUBSECTION N RELATING TO WATER ADEQUACY REQUIREMENTS. FOR PROJECTS THAT WILL BE LOCATED IN A COUNTY THAT HAS ADOPTED THE PROVISION AUTHORIZED BY SECTION 11-806.01, SUBSECTION F OR IN A CITY OR TOWN THAT HAS ENACTED THE ORDINANCE AUTHORIZED BY SECTION 9-463.01, SUBSECTION N, THE COMMITTEE SHALL GIVE THIS CRITERION A HIGHER VALUE THAN ALL OTHER CRITERIA.]* **[Note: This subsection is one of two alternatives for connecting financial assistance from the water supply development revolving fund to the water adequacy requirements. The other alternative, which is in section 45-1273(C) above, makes the adoption of adequacy requirements an absolute prerequisite to receiving financial assistance from the fund. This subsection will not be included if section 45-1273(C) is included. The two alternatives will be discussed at the SWAG meeting on 1/12/07]**

D. THE COMMITTEE SHALL REVIEW ON ITS MERITS EACH APPLICATION RECEIVED AND SHALL INFORM THE APPLICANT OF THE COMMITTEE'S DETERMINATION WITHIN NINETY DAYS AFTER RECEIPT OF A COMPLETE AND CORRECT APPLICATION. IF THE APPLICATION IS NOT APPROVED, THE COMMITTEE SHALL NOTIFY THE APPLICANT, STATING THE REASONS. IF THE APPLICATION IS APPROVED, THE COMMITTEE MAY CONDITION THE APPROVAL ON ASSURANCES THE COMMITTEE DEEMS NECESSARY TO ENSURE THAT THE FINANCIAL ASSISTANCE WILL BE USED ACCORDING TO LAW AND THE TERMS OF THE APPLICATION. **[Note: The process required by this subsection is identical to the process required by the current WIFA statutes.]**

E. UPON APPROVAL OF AN APPLICATION UNDER THIS SUBSECTION BY THE COMMITTEE, THE AUTHORITY SHALL USE MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO FINANCE THE PROJECT.

**49-1275. Water supply development revolving fund financial assistance; terms**

A. A LOAN FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND SHALL BE EVIDENCED BY BONDS, IF THE WATER PROVIDER HAS BONDING AUTHORITY, OR BY A FINANCIAL ASSISTANCE AGREEMENT, DELIVERED TO AND HELD BY THE AUTHORITY.

B. A LOAN UNDER THIS SECTION:

1. SHALL BE REPAID IN NOT TO EXCEED THIRTY YEARS FROM THE DATE INCURRED.

2. SHALL REQUIRE THAT INTEREST PAYMENTS BEGIN NOT LATER THAN THE NEXT DATE THAT EITHER PRINCIPAL OR INTEREST MUST BE PAID BY THE AUTHORITY TO THE HOLDERS OF ANY OF THE AUTHORITY'S BONDS THAT PROVIDED FUNDING FOR THE LOAN. IF THE LOAN IS FOR CONSTRUCTION OF WATER SUPPLY DEVELOPMENT FACILITIES, THE AUTHORITY MAY PROVIDE THAT LOAN INTEREST ACCRUING DURING CONSTRUCTION AND ONE YEAR BEYOND COMPLETION OF THE CONSTRUCTION BE CAPITALIZED IN THE LOAN.

3. SHALL BE CONDITIONED ON THE ESTABLISHMENT OF A DEDICATED REVENUE SOURCE FOR REPAYING THE LOAN.

C. THE AUTHORITY, THROUGH THE COMMITTEE, SHALL PRESCRIBE THE RATE OF INTEREST ON LOANS MADE UNDER THIS SECTION, BUT THE RATE SHALL NOT EXCEED THE PREVAILING MARKET RATE FOR SIMILAR TYPES OF LOANS. THE AUTHORITY, THROUGH THE COMMITTEE, MAY ALSO PROVIDE FOR FLEXIBLE INTEREST RATES AND INTEREST FREE LOANS UNDER RULES ADOPTED BY THE AUTHORITY, THROUGH THE COMMITTEE. ALL FINANCIAL ASSISTANCE AGREEMENTS OR BONDS OF A WATER PROVIDER SHALL CLEARLY SPECIFY THE AMOUNT OF PRINCIPAL AND INTEREST AND ANY REDEMPTION PREMIUM THAT IS DUE ON ANY PAYMENT DATE.

D. THE APPROVAL OF A LOAN IS CONDITIONED ON A WRITTEN COMMITMENT BY THE WATER PROVIDER TO COMPLETE ALL APPLICABLE REVIEWS AND APPROVALS AND TO SECURE ALL REQUIRED PERMITS IN A TIMELY MANNER.

E. A LOAN MADE TO A WATER PROVIDER UNDER THIS SECTION MAY BE SECURED ADDITIONALLY BY AN IRREVOCABLE PLEDGE OF ANY SHARED STATE REVENUES DUE TO THE WATER PROVIDER FOR THE DURATION OF THE LOAN AS PRESCRIBED BY A RESOLUTION OF THE COMMITTEE. IF THE COMMITTEE REQUIRES AN IRREVOCABLE PLEDGE OF THE SHARED STATE REVENUES FOR FINANCIAL ASSISTANCE LOAN REPAYMENT AGREEMENTS, THE AUTHORITY SHALL ENTER INTO AN INTERCREDITOR AGREEMENT WITH THE GREATER ARIZONA DEVELOPMENT AUTHORITY TO DEFINE THE ALLOCATION OF SHARED STATE REVENUES IN RELATION TO INDIVIDUAL BORROWERS. IF A PLEDGE IS REQUIRED AND A WATER PROVIDER FAILS TO MAKE ANY PAYMENT DUE TO THE AUTHORITY UNDER ITS LOAN REPAYMENT AGREEMENT OR BONDS, THE AUTHORITY SHALL CERTIFY TO THE STATE TREASURER AND NOTIFY THE GOVERNING BODY OF THE DEFAULTING WATER PROVIDER THAT THE WATER PROVIDER HAS FAILED TO MAKE THE REQUIRED PAYMENT AND SHALL DIRECT A WITHHOLDING OF STATE SHARED REVENUES AS PRESCRIBED IN SUBSECTION F OF THIS SECTION. THE CERTIFICATE OF DEFAULT SHALL BE IN THE FORM DETERMINED BY THE AUTHORITY, EXCEPT THAT THE CERTIFICATE SHALL SPECIFY THE

AMOUNT REQUIRED TO SATISFY THE UNPAID PAYMENT OBLIGATION OF THE WATER PROVIDER.

F. ON RECEIPT OF A CERTIFICATE OF DEFAULT FROM THE AUTHORITY, THE STATE TREASURER, TO THE EXTENT NOT EXPRESSLY PROHIBITED BY LAW, SHALL WITHHOLD ANY MONIES DUE TO THE DEFAULTING WATER PROVIDER FROM THE NEXT SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 42-5029. IN THE CASE OF A CITY OR TOWN, THE STATE TREASURER SHALL ALSO WITHHOLD FROM THE MONIES DUE TO THE DEFAULTING CITY OR TOWN FROM THE NEXT SUCCEEDING DISTRIBUTION OF MONIES PURSUANT TO SECTION 43-206 THE AMOUNT SPECIFIED IN THE CERTIFICATE OF DEFAULT AND SHALL IMMEDIATELY DEPOSIT THE MONIES IN THE FUND. THE STATE TREASURER SHALL CONTINUE TO WITHHOLD AND DEPOSIT MONIES UNTIL THE AUTHORITY CERTIFIES TO THE STATE TREASURER THAT THE DEFAULT HAS BEEN CURED. THE STATE TREASURER SHALL NOT WITHHOLD ANY AMOUNT THAT IS NECESSARY TO MAKE ANY REQUIRED DEPOSITS THEN DUE FOR THE PAYMENT OF PRINCIPAL AND INTEREST ON BONDS OF THE WATER PROVIDER IF SO CERTIFIED BY THE DEFAULTING WATER PROVIDER TO THE STATE TREASURER AND THE AUTHORITY. THE WATER PROVIDER SHALL NOT CERTIFY DEPOSITS AS NECESSARY FOR PAYMENT FOR BONDS UNLESS THE BONDS WERE ISSUED BEFORE THE DATE OF THE LOAN REPAYMENT AGREEMENT AND THE BONDS WERE SECURED BY A PLEDGE OF DISTRIBUTION MADE PURSUANT TO SECTIONS 42-5029 AND 43-206.

**49-1276. Enforcement; attorney general**

THE ATTORNEY GENERAL MAY TAKE ACTIONS NECESSARY TO ENFORCE THE LOAN CONTRACT AND ACHIEVE REPAYMENT OF LOANS PROVIDED BY THE AUTHORITY PURSUANT TO SECTIONS 49-1274 AND 49-1275.

**49-1277. Water quality bonds; water supply development bonds**

A. UPON THE APPROVAL OF THE COMMITTEE, THE AUTHORITY, THROUGH THE BOARD OF DIRECTORS, MAY ISSUE NEGOTIABLE WATER SUPPLY DEVELOPMENT BONDS IN A PRINCIPAL AMOUNT THAT IN THE OPINION OF THE COMMITTEE IS NECESSARY TO PROVIDE SUFFICIENT MONIES FOR FINANCIAL ASSISTANCE UNDER THIS ARTICLE, MAINTAINING SUFFICIENT RESERVES TO SECURE THE BONDS, TO PAY THE NECESSARY COSTS OF ISSUING, SELLING AND REDEEMING THE BONDS AND TO PAY OTHER EXPENDITURES OF THE AUTHORITY INCIDENTAL TO AND NECESSARY AND CONVENIENT TO CARRY OUT THE PURPOSES OF THIS ARTICLE. IF APPROVED BY THE COMMITTEE, THE BOARD SHALL ISSUE THE BONDS PURSUANT TO SUBSECTIONS C AND D OF THIS SECTION.

B. THE BOARD SHALL AUTHORIZE THE BONDS BY RESOLUTION. THE RESOLUTION SHALL PRESCRIBE:

1. THE RATE OR RATES OF INTEREST AND THE DENOMINATIONS OF THE BONDS.

2. THE DATE OR DATES OF THE BONDS AND MATURITY.

3. THE COUPON OR REGISTERED FORM OF THE BONDS.

4. THE MANNER OF EXECUTING THE BONDS.

5. THE MEDIUM AND PLACE OF PAYMENT.

6. THE TERMS OF REDEMPTION.

C. THE BONDS SHALL BE SOLD AT PUBLIC OR PRIVATE SALE AT THE PRICE AND ON THE TERMS DETERMINED BY THE BOARD. ALL PROCEEDS FROM THE ISSUANCE OF BONDS SHALL BE DEPOSITED IN THE APPROPRIATE ACCOUNTS OF THE FUNDS ADMINISTERED BY THE AUTHORITY.

D. THE BOARD SHALL PUBLISH A NOTICE OF ITS INTENTION TO ISSUE BONDS UNDER THIS ARTICLE FOR AT LEAST FIVE CONSECUTIVE DAYS IN A NEWSPAPER PUBLISHED IN THIS STATE. THE LAST DAY OF PUBLICATION MUST BE AT LEAST TEN DAYS BEFORE ISSUING THE BONDS. THE NOTICE SHALL STATE THE AMOUNT OF THE BONDS TO BE SOLD AND THE INTENDED DATE OF ISSUANCE. A COPY OF THE NOTICE SHALL BE HAND DELIVERED OR SENT, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE DIRECTOR OF THE DEPARTMENT OF ADMINISTRATION ON OR BEFORE THE LAST DAY OF PUBLICATION.

E. TO SECURE ANY BONDS AUTHORIZED BY THIS SECTION, THE BOARD BY RESOLUTION MAY:

1. PROVIDE THAT BONDS ISSUED UNDER THIS SECTION MAY BE SECURED BY A FIRST LIEN ON ALL OR PART OF THE MONIES PAID INTO THE APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE FUNDS ADMINISTERED BY THE AUTHORITY.

2. PLEDGE OR ASSIGN TO OR IN TRUST FOR THE BENEFIT OF THE HOLDER OR HOLDERS OF THE BONDS ANY PART OR APPROPRIATE ACCOUNT OR SUBACCOUNT OF THE MONIES IN THE FUNDS AS IS NECESSARY TO PAY THE PRINCIPAL AND INTEREST OF THE BONDS AS THEY COME DUE.

3. SET ASIDE, REGULATE AND DISPOSE OF RESERVES AND SINKING FUNDS.

4. PROVIDE THAT SUFFICIENT AMOUNTS OF THE PROCEEDS FROM THE SALE OF THE BONDS MAY BE USED TO FULLY OR PARTLY FUND ANY RESERVES OR SINKING FUNDS SET UP BY THE BOND RESOLUTION.

5. PRESCRIBE THE PROCEDURE, IF ANY, BY WHICH THE TERMS OF ANY CONTRACT WITH BONDHOLDERS MAY BE AMENDED OR ABROGATED, THE AMOUNT OF BONDS THE HOLDERS OF WHICH MUST CONSENT TO AND THE MANNER IN WHICH CONSENT MAY BE GIVEN.

6. PROVIDE FOR PAYMENT FROM THE PROCEEDS OF THE SALE OF THE BONDS OF ALL LEGAL AND FINANCIAL EXPENSES INCURRED BY THE BOARD IN ISSUING, SELLING, DELIVERING AND PAYING THE BONDS.

7. DO ANY OTHER MATTERS THAT IN ANY WAY MAY AFFECT THE SECURITY AND PROTECTION OF THE BONDS.

F. THE MEMBERS OF THE BOARD AND THE MEMBERS OF THE COMMITTEE, OR ANY PERSON EXECUTING THE BONDS, ARE NOT PERSONALLY LIABLE FOR THE PAYMENT OF THE BONDS. THE BONDS ARE VALID AND BINDING OBLIGATIONS NOTWITHSTANDING THAT BEFORE THE DELIVERY OF THE BONDS ANY OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE BONDS CEASE TO BE MEMBERS OF THE BOARD. FROM AND AFTER THE SALE AND DELIVERY OF THE BONDS, THEY ARE INCONTESTABLE BY THE BOARD AND THE COMMITTEE.

G. UPON APPROVAL OF THE COMMITTEE, THE BOARD, OUT OF ANY AVAILABLE MONIES, MAY PURCHASE BONDS, WHICH MAY BE CANCELED, AT A PRICE NOT EXCEEDING EITHER OF THE FOLLOWING:

1. IF THE BONDS ARE THEN REDEEMABLE, THE REDEMPTION PRICE THEN APPLICABLE PLUS ACCRUED INTEREST TO THE NEXT INTEREST PAYMENT DATE.

2. IF THE BONDS ARE NOT THEN REDEEMABLE, THE REDEMPTION PRICE APPLICABLE ON THE FIRST DATE AFTER PURCHASE ON WHICH THE BONDS BECOME SUBJECT TO REDEMPTION PLUS ACCRUED INTEREST TO THAT DATE.

**49-1278. Water supply development bonds; purpose**

A. WATER SUPPLY DEVELOPMENT BONDS MAY BE ISSUED TO PROVIDE FINANCIAL ASSISTANCE UNDER THIS ARTICLE AND TO INCREASE THE CAPITALIZATION OF THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO ACCOMPLISH THE PURPOSES STATED IN SECTION 49-1273. THESE BONDS MAY BE SECURED BY ANY MONIES RECEIVED OR TO BE RECEIVED IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND. AMOUNTS IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND MAY BE USED TO CURE DEFAULTS ON LOANS MADE FROM THE WATER SUPPLY DEVELOPMENT REVOLVING FUND TO THE EXTENT OTHERWISE PERMITTED BY LAW.

B. ANY PLEDGE MADE UNDER THIS ARTICLE IS VALID AND BINDING FROM THE TIME WHEN THE PLEDGE IS MADE. THE MONIES PLEDGED AND RECEIVED TO BE PLACED IN THE APPROPRIATE FUND ARE IMMEDIATELY SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY FUTURE PHYSICAL DELIVERY OR FURTHER ACT, AND ANY SUCH LIEN OF ANY PLEDGE IS VALID OR BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT OR OTHERWISE AGAINST THE BOARD REGARDLESS OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN. THE OFFICIAL RESOLUTION OR TRUST INDENTURE OR ANY INSTRUMENT BY WHICH THIS

PLEDGE IS CREATED, WHEN PLACED IN THE BOARD'S RECORDS, IS NOTICE TO ALL CONCERNED OF THE CREATION OF THE PLEDGE, AND THOSE INSTRUMENTS NEED NOT BE RECORDED IN ANY OTHER PLACE.

C. THE BONDS ISSUED UNDER THIS SECTION, THEIR TRANSFER AND THE INCOME THEY PRODUCE ARE EXEMPT FROM TAXATION BY THIS STATE OR BY ANY POLITICAL SUBDIVISION OF THIS STATE.

**49-1279. Bond obligations of the authority**

BONDS ISSUED UNDER THIS ARTICLE ARE OBLIGATIONS OF THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA, ARE PAYABLE ONLY ACCORDING TO THEIR TERMS AND ARE NOT OBLIGATIONS GENERAL, SPECIAL OR OTHERWISE OF THIS STATE. THE BONDS DO NOT CONSTITUTE A LEGAL DEBT OF THIS STATE AND ARE NOT ENFORCEABLE AGAINST THIS STATE. PAYMENT OF THE BONDS IS NOT ENFORCEABLE OUT OF ANY STATE MONIES OTHER THAN THE INCOME AND REVENUE PLEDGED AND ASSIGNED TO, OR IN TRUST FOR THE BENEFIT OF, THE HOLDER OR HOLDERS OF THE BONDS.

**49-1280. Certification of bonds by attorney general**

THE BOARD MAY SUBMIT ANY WATER SUPPLY DEVELOPMENT BONDS ISSUED UNDER THIS CHAPTER TO THE ATTORNEY GENERAL AFTER ALL PROCEEDINGS FOR THEIR AUTHORIZATION HAVE BEEN COMPLETED. ON SUBMISSION THE ATTORNEY GENERAL SHALL EXAMINE AND PASS ON THE VALIDITY OF THE BONDS AND THE REGULARITY OF THE PROCEEDINGS. IF THE PROCEEDINGS COMPLY WITH THIS ARTICLE, AND IF THE ATTORNEY GENERAL DETERMINES THAT, WHEN DELIVERED AND PAID FOR, THE BONDS WILL CONSTITUTE BINDING AND LEGAL OBLIGATIONS OF THE BOARD, THE ATTORNEY GENERAL SHALL CERTIFY ON THE BACK OF EACH BOND, IN SUBSTANCE, THAT IT IS ISSUED ACCORDING TO THE CONSTITUTION AND LAWS OF THIS STATE.

**49-1281. Water supply development bonds as legal investments**

WATER SUPPLY DEVELOPMENT BONDS ISSUED UNDER THIS ARTICLE ARE SECURITIES IN WHICH PUBLIC OFFICERS AND BODIES OF THIS STATE AND OF MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE, ALL COMPANIES, ASSOCIATIONS AND OTHER PERSONS CARRYING ON AN INSURANCE BUSINESS, ALL FINANCIAL INSTITUTIONS, INVESTMENT COMPANIES AND OTHER PERSONS CARRYING ON A BANKING BUSINESS, ALL FIDUCIARIES AND ALL OTHER PERSONS WHO ARE AUTHORIZED TO INVEST IN OBLIGATIONS OF THIS STATE MAY PROPERLY AND LEGALLY INVEST. THE BONDS ARE ALSO SECURITIES THAT MAY BE DEPOSITED WITH PUBLIC OFFICERS OR BODIES OF THIS STATE AND MUNICIPALITIES AND POLITICAL SUBDIVISIONS OF THIS STATE FOR PURPOSES THAT REQUIRE THE DEPOSIT OF STATE BONDS OR OBLIGATIONS.

**49-1282. Agreement of state**

THIS STATE PLEDGES TO AND AGREES WITH THE HOLDERS OF THE BONDS THAT THIS STATE WILL NOT LIMIT OR ALTER THE RIGHTS VESTED IN THE WATER INFRASTRUCTURE FINANCE AUTHORITY OF ARIZONA OR ANY SUCCESSOR AGENCY TO COLLECT THE MONIES NECESSARY TO PRODUCE SUFFICIENT REVENUE TO FULFILL THE TERMS OF ANY AGREEMENTS MADE WITH THE HOLDERS OF THE BONDS, OR IN ANY WAY IMPAIR THE RIGHTS AND REMEDIES OF THE BONDHOLDERS, UNTIL ALL BONDS ISSUED UNDER THIS ARTICLE, TOGETHER WITH INTEREST, INCLUDING INTEREST ON ANY UNPAID INSTALLMENTS OF INTEREST, AND ALL COSTS AND EXPENSES IN CONNECTION WITH ANY ACTION OR PROCEEDINGS BY OR ON BEHALF OF THE BONDHOLDERS, ARE FULLY MET AND DISCHARGED. THE BOARD AS AGENT FOR THIS STATE MAY INCLUDE THIS PLEDGE AND UNDERTAKING IN ITS RESOLUTIONS AND INDENTURES SECURING ITS BONDS.

**[Note: The following are proposed session laws.]**

**Sec. 8. Heading change**

The article heading of title 49, chapter 8, article 2, Arizona Revised Statutes, is changed from "FINANCIAL PROVISIONS" to "CLEAN WATER REVOLVING FUND, DRINKING WATER REVOLVING FUND AND HARDSHIP GRAND FUND FINANCIAL PROVISIONS." **[Note: This is a technical change to the heading of existing Article 2 to distinguish it from the new Article 3 relating to the water supply development revolving fund.]**

**Sec. 9. Conditional enactment**

This act does not become effective unless \_\_\_\_\_ Bill \_\_\_\_\_, forty-eighth legislature, first regular session, relating to water adequacy, is enacted into law.

**[Note: This is conditional enactment clause makes the enactment of this legislation conditional on the enactment of the water adequacy legislation.]**