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49-1221. Clean water revolving fund

A. The clean water revolving fund is established to be maintained in perpetuity consisting of:

1. Monies appropriated by the legislature for the clean water revolving fund.
2. Monies received for that purpose from the United States government, including capitalization grants.
3. Monies received from the issuance and sale of bonds under section 49-1261.
4. Monies received from political subdivisions or Indian tribes 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.

49-1222. Clean water revolving fund; administration

A. The clean water revolving fund is established. The board shall administer the fund pursuant to rule and in compliance with the requirements of this article and the clean water act.

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. The board shall use the monies and other assets in the fund solely for the purposes authorized by this article.

D. The board shall establish a capitalization grant transfer account and as many other accounts and subaccounts as required to administer the clean water revolving fund and any other fund that is administered by the board.

49-1223. Clean water revolving fund; purposes; capitalization grants

A. Monies in the clean water revolving fund may be used for the following purposes:

1. Making wastewater treatment facility and nonpoint source project loans to political subdivisions and Indian tribes under section 49-1225.
2. Purchasing or refinancing debt obligations of political subdivisions or refinancing debt obligations of Indian tribes at or below market rates, provided that the debt obligation was issued after March 7, 1985 for the purpose of constructing, acquiring or improving wastewater treatment facilities or nonpoint source projects.
3. Providing financial assistance to political subdivisions to purchase insurance for local wastewater treatment facility or nonpoint source project bond obligations.
4. Paying the costs to administer the fund, but no more than four per cent of the aggregate of federal capitalization grants may be used to pay these costs. Monies from other sources may be used without limit to pay these costs.
5. Funding other programs that are authorized for federal monies deposited in the fund including programs relating to nonpoint source discharges.
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 board, at a rate of return on the deposit approved by the board 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 quality bonds become insufficient to pay the principal and interest on the water quality bonds that are guaranteed by the clean water revolving fund, the board shall direct the state treasurer to liquidate securities in the fund as may be necessary and 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. All proceeds of capitalization grants received from the United States pursuant to the clean water act shall be deposited in the capitalization grant transfer account and shall be used solely to provide financial assistance to political subdivisions and Indian tribes to construct, acquire, restore or rebuild wastewater treatment facilities, to purchase bond insurance or for any other purpose permitted by the clean water act including nonpoint source projects. All principal received on loan repayments made by borrowers pursuant to this section shall be deposited in the clean water revolving fund and shall be invested and used to provide additional financial assistance or shall be used to support the administration of the fund subject to the limits prescribed by the clean water act.

[49-1224. Clean water revolving fund financial assistance; procedures; rules](#)

A. In compliance with any applicable requirements, a political subdivision may apply to the authority for, accept and incur indebtedness as a result of a loan, or other financial assistance under section 49-1223, subsection A, paragraphs 1, 2 and 3, from the clean water revolving fund to support a wastewater treatment facility or nonpoint source project owned by the political subdivision. An Indian tribe may apply to the authority for, accept and incur indebtedness as a result of a loan or refinancing under section 49-1223, subsection A, paragraphs 1 and 2 from the clean water revolving fund to support a wastewater treatment facility or nonpoint source project owned by the Indian tribe. To qualify for financial assistance under this section the wastewater treatment facility or nonpoint source project must appear on this state's priority list pursuant to section 212 of the clean water act.

B. In compliance with any applicable requirements, the board 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 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 board, 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.
3. Determine the order and priority of projects assisted under this section based on the merits of the application with respect to water quality issues.

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

[49-1225. Clean water revolving fund financial assistance; terms](#)

A. Financial assistance from the clean water revolving fund shall be evidenced by a financial assistance agreement or bonds of a political subdivision, 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 for wastewater treatment facility and nonpoint source loans.

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. 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.

4. To an Indian tribe shall either be conditioned on the establishment of a dedicated revenue source under the control of a tribally chartered corporation, or any other tribal entity that is subject to suit by the attorney general to enforce the loan contract, or be secured by assets that, in the event of default of the loan contract, are subject to execution by the attorney general without the waiver of any claim of sovereign immunity by the tribe.

C. The authority 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 may also provide for flexible interest rates and interest free loans under rules adopted by the authority. All financial assistance agreements or bonds of a political subdivision shall clearly specify the amount of principal and interest and any redemption premium that is due on any payment date. The authority shall not unilaterally amend a financial assistance agreement, loan or bond after its execution or implement any policy that modifies terms and conditions or affects a previously executed financial agreement, loan or bond. The authority shall not impose a redemption premium or interest payment beyond the date the principal is paid as a condition of refinancing or receiving prepayment on a financial assistance agreement, loan or bond if the financial assistance agreement, loan or bond did not originally contain a redemption premium or interest payment beyond the date the principal is paid.

D. The approval of a loan is conditioned on a written commitment by the political subdivision or Indian tribe to complete all applicable reviews and approvals and to secure all required permits in a timely manner.

E. All monies received from political subdivisions or Indian tribes as loan repayments, interest and penalties shall be deposited in the appropriate accounts of the clean water revolving fund.

F. A loan made to a political subdivision under this section after June 30, 2001 may be secured additionally by an irrevocable pledge of the shared state revenues due to the political subdivision for the duration of the loan as prescribed by a resolution of the authority's board. If the authority's board requires an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements after June 30, 2001, the authority's board 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 political subdivision 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 political subdivision that the political subdivision has failed to make the required payment and shall direct a withholding of state shared revenues as prescribed in subsection G 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 political subdivision.

G. On receipt of a certificate of default from the authority, the state treasurer to the extent not expressly prohibited by law shall withhold the monies due to the defaulting political subdivision 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 political subdivision if so certified by the defaulting political subdivision to the state treasurer and the authority. The political subdivision 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.

[49-1226. 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 49-1224 and 49-1225.