ARIZONA STATE SENATE

Fifty-Fifth Legislature, Second Regular Session

REVISED

FACT SHEET FOR S.B. 1740

water infrastructure financing; supply; augmentation

Purpose

Transfers, from the Arizona Finance Authority (AFA) Board of Directors to the Water Infrastructure Finance Authority (WIFA) Board of Directors, governance of WIFA. Expands current powers and duties of WIFA and outlines requirements of other agencies in relation to the expansion. Restructures state funded WIFA funds and expands: 1) fund eligibility to specified entities other than water providers; and 2) fund purposes, including for water importation projects and public-private partnerships. Repeals the Drought Mitigation Board and Arizona Water Resources Advisory Board. Appropriates $3,500,000 from the state General Fund (state GF) in FY 2023 to the Arizona Department of Water Resources (ADWR) and $_____ to WIFA and specified WIFA funds.

Background

AFA

The AFA is established in the Office of Economic Opportunity, which coordinates with the AFA to implement finance market intelligence in economic development strategy and policy recommendations. The AFA Board of Directors (AFA Board) governs the AFA and consists of five members appointed by the Governor with consideration to a diverse geographical representation. Members serve three-year terms at the pleasure of the Governor. The AFA Board annually elects a chairperson, secretary and treasurer from among AFA Board members (A.R.S. Title 41, Chapter 53).

WIFA

Statute requires the AFA Board of Directors (AFA Board) to serve as the WIFA Board of Directors (WIFA Board), which governs WIFA, and grants the AFA Board all powers and authority to take action on water infrastructure financing. The WIFA Advisory Board advises the AFA Board and consists of: 1) one member who represents a public water system that serves 500 or more connections; 2) one member who represents a public water system that serves fewer than 500 connections; 3) one member who represents a sanitary district in a county with a population of fewer than 500,000 persons; 4) one member who represents a sanitary district in a county with a population of 500,000 or more persons; 5) one member who represents a city or town with a population of fewer than 50,000 persons; 6) one member who represents a city or town with a population of 50,000 or more persons; and 7) one member who represents a county with a population of 500,000 or more persons (A.R.S. §§ 41-5356 and 49-1202).

WIFA issues loans and bonds and administers the Clean Water Revolving Fund, Drinking Water Revolving Fund, Hardship Grant Fund and Water Supply Development Revolving Fund

(WSDRF). In FY 2021, the WSDRF received a $40,000,000 appropriation from the state GF for projects allocated throughout all regions of Arizona and outside of Active Management Areas. The appropriation caps funding at $1,000,000 per project and statute allows the monies to be used to: 1) make water supply development loans to water providers in Arizona; 2) make loans or grants to water providers for planning or designing water supply development projects, not to exceed $250,000; 3) purchase or refinance water supply development-related debt obligations of water providers at or below market rate; 4) provide financial assistance to water providers with bonding authority to purchase insurance for local bond obligations incurred for water supply development purposes; 5) pay administrative costs; 6) provide linked deposit guarantees through third-party lenders; and 7) conduct water supply studies (Laws 2021, Ch. 408; A.R.S. Title 49, Chapter 8).

A *water provider* is a: 1) municipal water delivery system; 2) county water augmentation authority; 3) county water authority; 4) Indian tribe; 5) community facilities district; 6) public water system; 7) county with fewer than 300,000 persons; 8) natural resource conservation district; or 9) county that enters into an intergovernmental agreement or other formal written agreement with a water provider regarding a water supply development project. *Water supply development* is: 1) acquiring water, water rights or water contracts to augment the water supply of a water provider; or 2) planning, designing, building or developing facilities for conveyance, storage, recovery, reclamation or reuse of water, replenishment of groundwater or active or passive stormwater recharge structures that increase water supplies (A.R.S. § 49-1201).

Drought Mitigation Board and Fund

In 2021, the Legislature established the Drought Mitigation Board and the Drought Mitigation Revolving Fund to provide for: 1) ADWR to award grants to facilitate the forbearance of water deliveries that would avoid reductions in Arizona's Colorado River supplies; 2) the Arizona State Land Department to apply for grants to support the ability to make the best use of water resources associated with State Trust Land; and 3) the Drought Mitigation Board to make low-cost, long-term loans for planning, designing, constructing or financing water supply development projects to import water supplies into Arizona, with priority given to projects with the larges statewide benefit. In FY 2022, the Legislature appropriated $160,000,000 from the state GF to the Drought Mitigation Revolving Fund, setting aside $10,000,000 for the ADWR grants and $10,000,000 for the Arizona State Land Department grants (Laws 2021, Ch. 407 and 408).

Fiscal Impact

S.B. 1740 appropriates $3,500,000 from the state GF in FY 2023 to ADWR and $_____ from the state GF in FY 2023 to the WSDRF, the Long-Term Water Augmentation Fund (LTWAF) and WIFA.

Provisions

Appropriations

1. Appropriates $3,500,000 to the ADWR to conduct an annual Water Supply and Demand Assessment (Assessment) from the state GF in FY 2023.

2. Appropriates $_____ to the WSDRF from the state GF in FY 2023.

3. Appropriates $_____ to the LTWAF from the state GF in FY 2023.

4. Appropriates $_____ to WIFA for LTWAF administration from the state GF in FY 2023.

WIFA Governance Transfer

5. Requires the WIFA Board, rather than the AFA Board, to govern WIFA.

6. Requires the WIFA Board to:
   a) elect a Chairperson of the Board from among the voting members;
   b) keep and maintain a complete and accurate record of all WIFA Board proceedings; and
   c) operate on the state fiscal year.

7. Allows the WIFA Board Chairperson to appoint subcommittees as necessary.

8. Constitutes a majority of voting WIFA Board members that includes the Chairperson as a quorum for the purpose of an official meeting for conducting business.

9. Deems an affirmative vote of a majority of the voting members present at an official meeting as sufficient for the WIFA Board to take any action, except that approval of funding or other financial assistance requires the affirmative vote of at least five of the voting members present at an official meeting of the WIFA Board.

10. Exempts WIFA from taxation and assessment requirements for:
    a) any property acquired or constructed for statutory purposes;
    b) WIFA agreements for the maintenance and operation of water-related facilities; or
    c) the revenues derived from the water-related facilities.

11. Specifies that the purpose of WIFA is to:
    a) benefit current and future residents, the economy and the environment of Arizona;
    b) evaluate and approve funding requests for monies from the:
       i. Clean Water Revolving Fund;
       ii. Safe Drinking Water Revolving Fund;
       iii. WSDRF; and
       iv. LTWAF; and
    c) perform other duties as prescribed by statute.

12. Stipulates that WIFA succeeds to the authority, powers, duties and responsibilities of the AFA with respect to the:
    a) Clean Water Revolving Fund Program;
    b) Drinking Water Revolving Fund Program;
    c) Hardship Grant Fund financial provisions; and
    d) WSDRF financial provisions, as provided by this legislation.

13. Continues in effect, until superseded by administrative action by WIFA, the administrative rules and orders adopted by the AFA regarding the:
    a) Clean Water Revolving Fund Program;
    b) Drinking Water Revolving Fund Program;
    c) Hardship Grant Fund financial provisions; and
    d) WSDRF financial provisions.

14. Transfers, from the AFA to WIFA, and maintains the status of, all administrative matters, contracts and judicial and quasi-judicial actions, whether completed, pending or in process regarding the:
    a) Clean Water Revolving Fund Program;
    b) Drinking Water Revolving Fund Program;
    c) Hardship Grant Fund financial provisions; and
    d) WSDRF financial provisions.

15. Stipulates that WIFA retains all WIFA and AFA equipment, records, property, data, investigative findings, obligations and appropriated monies relating to the WSDRF that remain unexpended and unencumbered on the general effective date.

16. Stipulates that this legislation does not alter the effect of any prior actions that were taken or impair the valid obligations of the AFA or WIFA.

17. Maintains the validity of all certificates, licenses, registrations, permits and other indicia of qualification and authority issued by the AFA and WIFA regarding the WSDRF financial provisions for the duration of the indicia's terms of validity.

18. Removes WIFA monies from permissible funding for AFA costs and expenses.

19. Regards WIFA as performing a governmental function in carrying out its statutory purposes.

WIFA Board Membership

20. Establishes the WIFA Board, consisting of:
    a) three persons from a county with a population of 400,000 persons or more, with:
        i. one person appointed by the Governor;
        ii. one person appointed by the Speaker of the House of Representatives; and
        iii. one person appointed by the President of the Senate;
    b) three persons from a county with a population of fewer than 400,000 persons;
        i. one person appointed by the Governor;
        ii. one person appointed by the Speaker of the House of Representatives; and
        iii. one person appointed by the President of the Senate;
    c) one person who specializes in finance or statewide water needs;
    d) the President of the Senate or a designee;
    e) the Speaker of the House of Representatives or a designee;
    f) the Minority Leader of the Senate or a designee;
    g) the Minority Leader of the House of Representatives or a designee;
    h) the Director of ADWR or a designee;
    i) the Director of the Arizona Department of Environmental Quality (ADEQ) or a designee;
    j) the State Land Commissioner or a designee; and
    k) the Director of the Arizona Department of Administration or a designee.

21. Requires appointed WIFA Board members to:
    a) be residents of Arizona for at least two years; and
    b) have substantial knowledge of, and experience with, water or finance, including public finance.

22. Specifies that appointed WIFA Board members:
    a) serve five-year terms of office beginning and ending on the third Monday in January;
    b) are eligible for reappointment; and

    c) may only be removed for cause by the person who then holds the same office as the person who appointed that member.

23. Prohibits more than two appointed WIFA Board members from being residents of the same county.

24. Requires, before appointment to the WIFA Board, a prospective member to submit a full set of fingerprints to the appointing entity to obtain a state and federal criminal records check.

25. Allows the Department of Public Safety to exchange WIFA Board fingerprint data with the Federal Bureau of Investigation.

26. Qualifies WIFA Board members for reimbursement of expenses but not compensation.

27. Prohibits a WIFA Board member who is otherwise employed as a public officer from receiving reimbursement of expenses if otherwise prohibited by law.

28. Terminates:
    a) on January 31, 2028, the initial terms of the three WIFA Board members from a county with a population of 400,000 persons or more; and
    b) on January 31, 2026, the initial terms of the three WIFA Board members from a county with a population of fewer than 400,000 persons and the one member who specializes in finance or statewide water needs.

WIFA Board Ethics

29. Subjects the WIFA Board and any subcommittees to statutes governing Public Meetings and Proceedings, except that:
    a) the WIFA Board may meet in executive session to discuss potential project opportunities and strategies, that, if made public, could potentially harm the applicant's, the potential applicant's or the state's competitive position; and
    b) activities and events held in public for the purpose of announcing projects are not public meetings.

30. Subjects the WIFA Board and WIFA subcommittees, officers and employees to statutes governing Conflict of Interest of Officers and Employees.

31. Deems WIFA a public body subject to statutes governing Records.

32. Prohibits the WIFA Board and WIFA subcommittees, officers and employees, except for employees of the state or a unit of government, from:
    a) participating in the consideration of or a vote concerning any award or expenditure by WIFA if the person or the person's spouse:
        i. is employed by, or participates in the management of, a business entity or other organization that receives monies from WIFA;
        ii. owns, controls or has, directly or indirectly, more than a 10 percent interest in a business entity or other organization that receives monies from WIFA;

iii. uses or receives a substantial amount of tangible goods, services or monies from WIFA; or
iv. has a personal financial interest in the award or expenditure;

b) being a member of the WIFA Board or acting as general counsel to the WIFA Board or WIFA if the person is required to register as a lobbyist; and
c) participating in the consideration of or vote concerning any award or expenditure by WIFA for projects that will directly benefit a political subdivision if the person is an employee of the political subdivision who serves on the WIFA Board.

33. Stipulates that a person or the person's spouse does not have a personal financial interest in an award or expenditure being voted on by WIFA if the person or the person's spouse is a member of a class of persons and it reasonably appears that a majority of the total membership of that class is not to be affected by the action.

34. Requires the WIFA Board to adopt written policies, procedures and guidelines for standards of conduct, including a gift policy, for WIFA Board members, officers and employees.

WIFA Powers and Duties

35. Requires WIFA to accomplish its purposes of helping to meet existing and future water needs of Arizona by developing or facilitating water conservation, reuse and augmentation projects.

36. Allows WIFA, as reasonable or necessary to administer or carry out the purposes of the LTWAF and WSDRF and except as limited by law, to:
    a) acquire, sell, lease, exchange or otherwise dispose of real and personal property of every kind in Arizona;
    b) apply for and hold permits that are required by law to engage in any of the statutorily prescribed WIFA activities;
    c) negotiate and enter into intergovernmental agreements and agreements with private and public entities within and outside of Arizona, including the United States and other nations;
    d) contract for or perform feasibility studies of water storage, storage facilities and recovery wells;
    e) apply for and accept grants, gifts or donations of monies or other property from any source that may be spent for any purpose consistent with statutes governing the Water Infrastructure Finance Program; and
    f) conduct any other activities reasonably necessary and related to statutory WIFA powers and duties.

37. Expands the eligibility for WIFA grants, staff assistance or technical assistance in the form of loan repayment agreements and other professional assistance:
    a) for the development or financing of wastewater, drinking water, water reclamation or related water infrastructure to all eligible entities, rather than only political subdivisions, counties with a population of fewer than 500,000 persons, Indian tribes and community water systems; and
    b) in connection with planning or design of water supply development projects.

38. Allows WIFA to:
    a) accomplish its purpose individually, through collaboration or by partnering with public or private entities;

b) request assistance from representatives of other state agencies;
c) where possible, leverage existing resources and infrastructure while not interfering with already available usable water resources; and
d) through the WIFA Board, as reasonably necessary or desirable to allow WIFA to adequately perform its duties:
   i. contract for the services of outside engineers and financial consultants and aides; and
   ii. employ advisors, attorneys, engineers, financial and other consultants and aides.

39. Removes the permissive authority of WIFA to guarantee debt obligation of, and provide linked deposit guarantees through third-party lenders to water providers issued to finance water supply development projects.

40. Requires all state agencies to cooperate with WIFA and the WIFA Board and make available data pertaining to the functions of the WIFA Board as requested by WIFA.

41. Allows WIFA to adopt rules pursuant to the Administrative Procedures Act governing the application for and awarding of all WIFA financial assistance and the administration of WIFA-administered funds, rather than only for the WSDRF.

42. Authorizes WIFA to take all actions necessary to comply with federal income tax laws, including, without limitation, rebate payment to the U.S. Treasury.

43. Removes the subjection of hiring a director and staff for WIFA to statutes governing the State Personnel System.

44. Specifies that the Director of WIFA serves at the pleasure of the WIFA Board.

45. Removes the permissive authority of WIFA to guarantee debt obligation of, and provide linked deposit guarantees through third-party lenders to water providers issued to finance water supply development projects.

46. Stipulates that statutes governing the Water Infrastructure Finance Program do not replace, supplant or diminish the powers of the Director of ADEQ prescribed by statutes governing the Local Delegation of State Authority.

Public-Private Partnerships

47. Allows WIFA, in any public-private partnership, to include provisions that:
   a) allow WIFA or the private partner to establish and collect delivery charges, service charges, operation and maintenance charges or similar charges, including provisions that:
      i. establish circumstances under which WIFA may receive all or a share of revenues from the charges;
      ii. govern enforcement of collection of such charges; and
      iii. allow WIFA to continue or cease collection of charges after the end of the term of the agreement;
   b) allow the state to make payments to the private partner;
   c) allow WIFA to accept payments of monies and share revenues with the private partner;
   d) address how the partners will share management of project risks, including risks that will originate outside of Arizona;
   e) specify how the partners will share the costs of design, development, acquisition, construction, improvement and equipment of the public-private partnership project;

f) allocate financial responsibility for cost overruns;
g) establish damages to be assessed for nonperformance;
h) establish performance criteria or incentives, or both;
i) address the acquisition of rights-of-way and other property interests that may be required;
j) establish project recordkeeping, accounting and auditing standards;
k) address, for a project that reverts to public ownership, responsibility for reconstruction or renovations required for water-related facilities to meet all applicable government standards on reversion of the facilities to the state;
l) identify any authority specifications that must be satisfied, including provisions allowing the private partner to request and receive authorization to deviate from the specifications on making a satisfactory showing to WIFA;
m) require a private partner to provide:
    i. performance and payment bonds;
    ii. parent company guarantees, letters of credit or other acceptable forms of security; or
    iii. a combination;
n) allow the private partner in any concession agreement to establish and collect delivery charges, operation and maintenance charges or similar charges to cover costs and provide for a reasonable rate of return on investment;
o) specify remedies available and dispute resolution procedures, including:
    i. forum selection;
    ii. choice of law provisions;
    iii. the right of the parties to institute legal proceedings to obtain an enforceable judgment or award; and
    iv. procedures for use of dispute review boards, mediation, facilitated negotiation, arbitration and other alternative dispute resolution procedures; and
p) allow WIFA to acquire real property needed for water-related facilities, including acquisition by exchange for other real property owned by WIFA.

48. Allows the penal sum or amount of performance and payment bonds and parent company forms of security provided by a private partner to be less than 100 percent of the value of the contract involved based on WIFA's determination, made on a project-by-project basis, of what is required to adequately protect the state.

49. Allows charges established by a private partner in a concession agreement to be collected by:
    a) directly collecting charges by the private partner or by a third party engaged for the purpose of collecting charges;
    b) a formula for the adjustment of charges during the term of the agreement; and
    c) provisions regulating the private partner's return on investment if the agreement that does not include a formula.

50. Allows WIFA to approve any request from another unit of government to develop water-related facilities in a manner similar to that used by WIFA for public-private partnerships.

51. Exempts, from all state and local ad valorem and property taxes, WIFA public-private partnership agreements that are properly developed, operated or held by a private partner under a concession agreement, notwithstanding any other law.

52. Requires a WIFA public-private partnership to contain a provision by which the private partner expressly agrees that the partner is prohibited from seeking injunctive or other equitable relief to delay, prevent or otherwise hinder WIFA or any jurisdiction from developing, constructing or maintaining any water-related facilities that were planned and that would or might impact the revenue that the private partner would or might derive from the water-related facilities developed under the agreement.

53. Allows the public-private partnership agreement to provide for reasonable compensation to the private partner for the adverse effect on water delivery revenues resulting from development, construction and maintenance of an unplanned revenue impacting water-related facilities.

54. Requires a foreign private entity that enters into an agreement with WIFA to provide satisfactory evidence to the WIFA Board that the foreign entity complies with statutes governing Foreign Corporations-Nonprofit Corporations.

55. Allows WIFA to submit to the Attorney General (AG) any public-private partnership agreement entered into by WIFA.

56. Requires the AG, on submission of a public-private partnership agreement, to:
    a) investigate and determine the validity of the agreement; and
    b) certify, in substance, that the agreement has been entered into in accordance with the Arizona Constitution and law, if the agreement complies with statute and the AG determines the agreement will constitute an enforceable, binding and legal obligation of WIFA.

Procurement of Water-Related Facilities

57. Allows WIFA to procure services for the development, design, acquisition, construction, improvement or equipment of water-related facilities using:
    a) requests for project proposals in which WIFA describes:
        i. a class of water-related facilities; or
        ii. a geographic area in which entities are invited to submit proposals to develop water-related facilities;
    b) solicitations using procurement procedures, such as:
        i. requests for qualifications;
        ii. short-listing of qualified proposers; and
        iii. requests for proposals, negotiations and best and final offers;
    c) procurements seeking development and finance plans that are most suitable for the project;
    d) best value selection procurements based on price or financial proposals, or both, and any other relevant factors; or
    e) other procedures that WIFA determines may further the implementation of statutes governing the Water Finance Infrastructure Program.

58. Allows WIFA to provide for the development or operation of water-related facilities using a variety of project delivery methods and forms of agreement.

59. Allows project delivery methods to include:
    a) predevelopment agreements leading to other implementing agreements;

b) a design-build agreement;
c) a design-build-maintain agreement;
d) a design-build finance-operate agreement;
e) a design-build-operate-maintain agreement;
f) a design-build-finance-operate-maintain agreement;
g) a concession providing for the private partner to design, build, operate, maintain, manage or lease a water-related facility; and
h) any other project delivery method or agreement or combination of methods or agreements that WIFA determines are reasonable or necessary to carry out WIFA's purposes.

60. Allows WIFA, as reasonable or necessary to administer or carry out the purposes of the LTWAF and except as limited by law, to:
    a) take, hold and enforce a security interest in water-related facilities inside and outside of Arizona in connection with the terms of any agreement entered into by WIFA if WIFA determines that such a securitization is necessary to adequately protect the state's interests; and
    b) assess fees and charges in connection with WIFA's design, construction, acquisition, improvement, equipping and ownership of water-related facilities, including for the conveyance or delivery of water and in connection with operation and maintenance agreements entered into by WIFA for water-related facilities.

61. Prohibits WIFA from operating or maintaining any water-related facilities but allows WIFA to enter into agreements with public or private entities to operate or maintain water-related facilities owned or constructed by WIFA.

62. Prohibits WIFA from acquiring or owning water-related facilities, except to enforce a security interest in water-related facilities pursuant to the terms of an agreement, if the facilities are:
    a) located within Arizona and used to convey or deliver water that is not imported water; or
    b) located outside of Arizona.

63. Constitutes, as government revenue, water-related facility fees and allows the fees to be used for any purpose consistent with the purposes of WIFA.

64. Requires water-related facility fees to be deposited in the LTWAF.

65. Requires WIFA to consider WSDRF criteria when evaluating water-related facility proposals.

66. Requires a procurement in which WIFA issues a request for qualifications or proposals, or a similar solicitation document, to outline evaluation factors and the manner in which responses will be evaluated.

67. Requires any contractor insurance required for water-related facility services procured to be placed with:
    a) an insurer authorized to transact insurance in Arizona pursuant to statutes governing Authorization of Insurers and General Requirements; or
    b) a surplus lines insurer approved and identified by the Director of the Department of Insurance and Financial Institutions pursuant to statutes governing Unauthorized Insurers.

68. Allows WIFA to deviate from any requirements for the procurement of water-related facilities to the extent necessary to make use of any available federal funding for the design, development, acquisition, construction, improvement or equipment of water-related facilities.

69. Requires WIFA to cooperate with established and existing state agencies and political subdivisions of the state and with the United States and other states in the acquisition, construction or development of water-related facilities.

Limitations on Water Activities

70. Prohibits WIFA from:
    a) purchasing any mainstream Colorado River water or rights to mainstream Colorado River water;
    b) providing funding or financial assistance to transfer, purchase or lease any Colorado River water or rights to the water;
    c) beginning negotiations regarding any agreement involving the use, storage or conservation of Colorado River water outside of Arizona without the express written approval of the Director of ADWR; and
    d) entering into any agreement involving the use, storage or conservation of Colorado River water outside of Arizona without the express written approval of the Director of ADWR.

71. Excludes water held by a federally recognized Indian tribe from the prohibition against WIFA purchasing, or providing funding for the transfer, purchase or lease of, Colorado River water or rights.

72. Prohibits WIFA from entering into any agreements to convey or deliver water to a water user within the incorporated boundaries of a city or town or within the boundaries of a certificate of convenience and necessity of a private water company without the written consent of the city, town or private water company.

73. Prohibits WIFA from selling or leasing imported water or long-term storage credits acquired in its own name for amounts greater than necessary for the repayment of LTWAF monies.

Federal Water Programs Committee (Federal Committee)

74. Repeals the WIFA Advisory Board and establishes the Federal Committee with the same membership requirements, except that:
    a) Federal Committee membership does not include agency representatives; and
    b) the seats previously designated for people serving sanitary districts may now be filled by people serving domestic water improvement districts.

75. Requires the Federal Committee to review applications for financial or other assistance and make recommendations to the WIFA Board regarding the applications for:
    a) the Clean Water Revolving Fund Program;
    b) the Safe Drinking Water Revolving Fund Program; and
    c) the Hardship Grant Fund Program.

76. Allows the members of the WIFA Advisory Board serving on the general effective date to continue to serve on the Federal Committee of WIFA until the expiration of the members' normal terms.

Water Supply Development Committee (Development Committee)

77. Establishes the Development Committee consisting of five members of the WIFA Board, including:
    a) the three members who are from counties with a population of fewer than 400,000 persons;
    b) one member who is from a county with a population of 400,000 persons or more selected by a vote of the WIFA Board; and
    c) the member of the WIFA Board who is appointed by the Governor and specializes in finance or statewide water needs.

78. Requires the Development Committee to review applications for financial assistance from the WSDRF and make recommendations to the WIFA Board regarding the applications for assistance.

WSDRF

79. Removes the requirement that the FY 2021 $40,000,000 appropriation to the WSDRF must be allocated for projects:
    a) located throughout all regions of Arizona and outside of Active Management Areas; and
    b) in amounts of not more than $1,000,000 per project.

80. Subjects the FY 2021 $40,000,000 appropriation to the WSDRF to statutory WSDRF requirements.

81. Repeals the Drought Mitigation Board and the Drought Mitigation Fund and transfers:
    a) the $10,000,000 designated to facilitate forbearance of water deliveries that would avoid reductions in Arizona's Colorado River supplies to the Arizona System Conservation Fund; and
    b) all remaining unencumbered and unexpended monies in the Drought Mitigation Fund to the WSDRF.

82. Adds, to the list of monies that comprise the WSDRF, any monies received by WIFA in connection with the purpose of the WSDRF.

83. Removes from permissible purposes of the WSDRF:
    a) purchasing or refinancing debt obligations of water providers at or below market rate;
    b) providing financial assistance to water providers with bonding authority to purchase insurance for local bond obligations;
    c) providing linked deposit guarantees through third-party lenders;
    d) providing staff and technical assistance; and
    e) making loans for a project design or planning.

84. Requires WIFA to establish as many other accounts and subaccounts as required to administer the WSDRF.

85. Requires all WSDRF monies to be held in trust.

86. Prohibits WSDRF monies from being appropriated or transferred by the Legislature to fund the general operations of the state or to otherwise meet state GF obligations unless approved by a 75 percent vote of both houses of the Legislature.

87. Clarifies that the prohibition on legislative transference of WSDRF monies does not apply to any taxes or other levies imposed by A.R.S. Title 42, relating to Taxation and A.R.S. Title 43, relating to Taxation of Income.

88. Requires WSDRF monies to be used solely for authorized purposes.

89. Removes statutorily outlined legislative findings and intent for the WSDRF.

Water Supply Development Loans, Bonds and Grants

90. Expands eligibility for water supply development loans, grants and bonds to eligible entities, rather than only to water providers.

91. Removes the prohibition against water providers using WSDRF monies unless outlined conditions are met.

92. Alters required criteria for determining the order and priority of projects receiving assistance from the WSDRF by:
    a) removing the:
        i. consideration for a water provider's need for financial assistance; and
        ii. specification that existing and planned conservation and water management programs considered include watershed management protection;
    b) adding consideration:
        i. for the degree to which the project will maximize or leverage multiple available funding sources, including federal funding;
        ii. of project feasibility, including the feasibility of a project's proposed design and operation;
        iii. of comments from water users, local citizens and affected jurisdictions;
        iv. of the project's ability to provide water supply development benefits to multiple jurisdictions within Arizona;
        v. of the applicant's existing and planned best management practices;
        vi. for the existing water supplies of the proposed recipients of the water supply, rather than only the water provider; and
        vii. of other criteria WIFA deems appropriate; and
    c) specifying that:
        i. project benefits must be multiple; and
        ii. the reliability and long-term security of the water supply to be developed must be considered, rather than the sustainability of the water supply.

93. Removes the requirement that WIFA must notify an applicant for WSDRF assistance of WIFA's determination within 90 days.

94. Removes the requirement that, on approval of a WSDRF project application, WIFA must use monies in the WSDRF to finance the project.

95. Restricts the purpose of water supply development loans to projects within Arizona, rather than water supply development purposes generally.

96. Caps water supply development loans to eligible entities at $3,000,000.

97. Increases, from $250,000 to $2,000,000, the cap on water supply development grants.

98. Requires a water supply development loan to be repaid in a period and in terms determined by WIFA and removes the requirement that a water supply development loan must:
    a) be repaid within 40 years of the date incurred; and
    b) require that interest payments begin by the next date that either principal or interest must be paid by WIFA to the holders of any of WIFA's bonds that provided funding for the loan.

99. Allows a water supply development loan made to an eligible entity that is a political subdivision of the state, rather than a water provider, to be secured additionally by an irrevocable pledge of any shared state revenues due to the entity for the duration of the loan, as prescribed by WIFA.

100. Removes the requirement that if an irrevocable pledge of the shared state revenues for financial assistance loan repayment agreements is required, WIFA must enter into an intercreditor agreement with the Greater Arizona Development Authority to define the allocation of shared state revenues in relation to individual borrowers.

101. Allows WIFA, as applicable to loans additionally secured with shared state revenues, to enter into agreements to specify the allocation of shared state revenues in relation to individual borrowers from the authorities.

102. Allows, by resolution of the WIFA Board, WIFA to impose any additional requirements it considers necessary to ensure that the loan principal and interest are timely paid.

103. Requires all monies received from eligible entities as loan repayments, interest and penalties to be deposited in the WSDRF.

104. Allows an eligible entity that is a political subdivision of the state to pledge utility system revenues to the payment of a water supply development loan without an election, if the pledge of revenues does not violate:
    a) any covenant pertaining to the utility system or the revenues pledged to secure outstanding bonds; or
    b) other obligations or indebtedness of the eligible entity.

105. Requires an eligible entity that is a political subdivision, if the revenues from a secondary property tax levy constitute revenues pledged by the entity to repay a water supply development loan, to hold an election on the issue on the first Tuesday following the first Monday in November.

106. Clarifies that an election is not required if voter approval has been previously obtained for substantially the same project with another funding source.

107. Exempts payments made pursuant to a loan repayment agreement from the prohibition against a county, city or town:
    a) spending money for a purpose not included in its budget; and
    b) spending money or incurring or creating a debt, obligation or liability exceeding the amount stated for each purpose in the adopted budget.

108. Specifies that entering into a loan repayment agreement as an eligible entity that is a political subdivision does not create a debt.

109. Prohibits WIFA from requiring a political subdivision pay a loan repayment agreement other than from the revenues pledged by eligible entities.

110. Allows an eligible entity to employ attorneys, accountants, financial consultants and other field experts deemed necessary to perform loan repayment agreement services.

111. Requires and authorizes an eligible entity, at the direction of WIFA, to pay WIFA's costs in issuing augmentation bonds or otherwise borrowing to fund a water supply development loan.

112. Removes the stipulation that applying for and accepting a water supply development loan or other financial assistance does not preclude an applicant from applying for and accepting a loan or other financial assistance provided by any other law.

113. Requires WIFA, if any development bonds are issued, to establish one or more development bond proceeds accounts and one or more development bond debt service accounts as necessary to accurately record and track development bond proceeds and debt service revenues

114. Allows bond proceeds accounts and bond debt service accounts to be held by a bank trustee selected by WIFA.

115. Applies the outlined default process for water supply development bonds to indebtedness.

Long-Term Water Augmentation Committee (Augmentation Committee)

116. Establishes the Augmentation Committee consisting of five members of the WIFA Board, including:
    a) the three members who are from counties with a population of 400,000 persons or more;
    b) one member who is from a county with a population of fewer than 400,000 persons selected by a vote of the WIFA Board; and
    c) the member of the WIFA Board who is appointed by the Governor to represent finance or statewide water needs.

117. Requires the Augmentation Committee to review applications for financial assistance from the LTWAF and make recommendations to the WIFA Board regarding the applications for assistance.

LTWAF Establishment

118. Establishes the LTWAF, administered by WIFA, to be maintained in perpetuity consisting of:
    a) monies received from the issuance and sale of long-term water augmentation bonds (augmentation bonds);
    b) monies appropriated by the Legislature;
    c) federal monies received for any allowable purpose;
    d) monies received as loan repayments, interest, administrative fees and penalties;
    e) monies from any lawful activities of WIFA, including public-private partnership agreements relating to water supply development projects;
    f) interest and other income received from investing monies in the LTWAF; and
    g) private or public gifts, grants and donations received for statutory purposes.

119. Requires all monies deposited in the LTWAF to be held in trust.

120. Allows LTWAF monies and assets to be used, and only used, for:
    a) funding water supply development projects that import water from outside of Arizona;
    b) purchasing imported water or rights to imported water;
    c) acquiring or constructing water-related facilities in Arizona to convey or deliver imported water within Arizona;
    d) conducting investigations, including performing environmental or other reviews;
    e) contracting for water needs assessments;
    f) providing financial assistance to eligible entities to finance or refinance water supply development projects within Arizona, including conservation projects that reduce existing water use or optimize uses of existing water supplies;
    g) guaranteeing debt obligations of eligible entities that are issued or incurred to finance or refinance water supply development projects in Arizona; and
    h) paying LTWAF administrative costs.

121. Requires 75 percent of monies appropriated to the LTWAF in FYs 2023 through 2025 to be reserved for one or more projects that import water from outside of Arizona.

122. Requires monies for water importation projects to be accounted for separately.

123. Requires WIFA, when awarding financial assistance, to:
    a) consider Augmentation Committee recommendations;
    b) comply with LTWAF evaluation criteria;
    c) prescribe a simplified form and procedure for application and approval; and
    d) establish criteria by rule, including:
        i. a determination of the applicant's financial ability to construct, operate and maintain the project if the applicant receives the assistance;
        ii. a determination of the applicant's ability to manage the project;
        iii. a determination of the applicant's ability to meet any applicable environmental requirements imposed by federal or state agencies;
        iv. a determination of the applicant's ability to acquire any necessary regulatory permits; and
        v. requirements for local participation in project costs, if deemed advisable by WIFA.

124. Prohibits LTWAF monies from being used to purchase conservation or other similar easements on real property.

125. Requires the WIFA Board to use LTWAF monies to investigate the feasibility of entering into agreements with public or private entities for projects to import water into Arizona.

126. Allows WIFA to consider any existing studies or plans WIFA deems relevant to investigate LTWAF agreement feasibility.

127. Allows WIFA, as reasonable or necessary to administer or carry out the LTWAF and except as limited by law, to conduct investigations, including performing environmental or other reviews, in association with:
    a) enforcing a security interest in water-related facilities; and
    b) facilitation of an approved water supply development project.

128. Requires any monies or other financial assistance provided from the LTWAF, other than monies expended by WIFA for investigations and studies and monies expended in connection with loan guarantees, to be fully repaid by the:
    a) recipients of the funding or financial assistance; or
    b) recipients of the water supply through water subcontracts, loan repayments, rates, fees and charges collected by WIFA or otherwise, as appropriate.

129. Requires WIFA to establish as many other accounts and subaccounts as required to administer LTWAF.

130. Allows additional accounts established for LTWAF administration to be held by a bank trustee selected by WIFA.

131. Requires the State Treasurer, on notice from WIFA, to:
    a) invest and divest monies in the LTWAF; and
    b) credit monies earned from investment to the LTWAF.

132. Prohibits LTWAF monies from being appropriated or transferred by the Legislature to fund the general operation of the state or to otherwise meet the obligations of the state GF unless approved by a 75 percent vote of the members of each house of the Legislature.

133. Specifies that LTWAF monies are continuously appropriated.

LTWAF Water Supply Development Projects

134. Allows WIFA to provide financial assistance from the LTWAF for water supply development projects inside or outside of Arizona.

135. Allows an eligible entity to apply to WIFA for and accept and incur indebtedness from financial assistance from the LTWAF for water supply development projects.

136. Allows WIFA, as reasonable or necessary to facilitate a water supply development project approved for funding from the LTWAF and except as limited by law, to:
    a) plan, construct, acquire, own, improve and equip water-related facilities in Arizona to transport or deliver imported water within Arizona;
    b) negotiate and execute agreements to acquire, sell, lease, exchange, hold, sever or transfer imported water and rights to imported water;
    c) acquire imported water and rights to imported water in its own name;
    d) enter into and carry out contracts or subcontracts for the transport, treatment and delivery of imported water acquired by WIFA;
    e) store imported water and acquire, hold, assign or otherwise dispose of credits for imported water registered to storage accounts under statutes governing Underground Water Storage, Savings and Replenishment; and
    f) negotiate and enter into agreements to use existing water-related facilities.

137. Requires WIFA to determine the order and priority of:
    a) water supply development projects proposed to receive funding in whole or in part with LTWAF monies;
    b) participation in importation projects; and
    c) allocation of imported water.

138. Requires WIFA to base order and priority determinations on:
    a) the benefits to current and future Arizona residents, including the ability of the project to:
        i. improve access to water supplies for use within Arizona; and
        ii. promote economic growth;
    b) the project's ability to:
        i. provide multiple water supply development benefits;
        ii. address or mitigate water supply reductions to existing water users, considering the existence, feasibility and long-term reliability of mitigation measures available to the applicant or proposed beneficiaries, including the availability of water supplies from the Arizona Water Banking Authority;
    c) the project's projected costs and cost-effectiveness;
    d) reliability and long-term security of the water supply developed by the project;
    e) existing and planned conservation, best management practices and water management programs of the applicant or potential applicant;
    f) the degree to which the project will maximize or leverage multiple available funding sources, including federal funding;
    g) the applicant's ability to:
        i. meet any applicable environmental requirements imposed on any federal or state agency; and
        ii. repay a loan or otherwise comply with the terms of a financial assistance loan repayment agreement;
    h) qualifications and industry experience, including:
        i. experience with similar projects;
        ii. general reputation; and
        iii. financial capacity of the applicant or any private partner, based on appropriate due diligence;
    i) project feasibility, including of the proposed design and operation;
    j) comments from water users, local citizens and affected jurisdictions;
    k) the safety record of any private partner for projects involving the construction or operation of water-related facilities;
    l) existing, near-term and long-term water demands compared to the volume and reliability of existing water supplies of the beneficiaries of the funding or project;
    m) potential impacts to ratepayers; and
    n) other criteria that WIFA deems appropriate.

139. Requires WIFA, after the Director of ADWR issues the first Assessment, to consider information contained in the most recently issued Assessment from ADWR, in addition to any other information submitted when considering existing, near-term and long-term water demands.

140. Requires the WIFA Board to conduct background checks, financial checks and other reviews deemed appropriate for individual applicant's, applicant's boards of directors and other partners of the applicants.

141. Requires WIFA to provide the opportunity to participate in any project to import water to be given to any entity that has:
    a) a Colorado River water entitlement, including to water delivered through the CAP; and
    b) received a reduction in its Colorado River water deliveries.

Long-Term Water Augmentation Loans (Augmentation Loans)

142. Allows an augmentation loan to pay for:
    a) interest on the unpaid principal balance of the augmentation loan at the rates established in the repayment agreement;
    b) the eligible entity's proportionate share of the expenses of administering the LTWAF; and
    c) financing and augmentation loan administration fees approved by WIFA.

143. Requires WIFA, for each augmentation loan made, to:
    a) prescribe a principal repayment schedule;
    b) prescribe the rate or rates of interest, not to exceed the prevailing market rate for similar types of loans;
    c) deposit all monies received from eligible entities as loan repayments, interest and penalties in the LTWAF; and
    d) establish criteria by rule, including a determination of the applicant's:
        i. ability to repay an augmentation loan according to statutory terms and conditions; and
        ii. legal capability to enter into a loan repayment agreement.

144. Requires WIFA to:
    a) review each application on its merits;
    b) inform the applicant of WIFA's determination; and
    c) if the application is not approved, notify the applicant, stating the reasons.

145. Allows WIFA to condition application approval on assurances WIFA deems necessary to ensure that financial or other assistance will be used according to law and the terms of the application.

146. Requires an augmentation loan to:
    a) be repaid during a WIFA-approved period;
    b) require that interest payments begin by the next date that WIFA must pay either principal or interest to holders of any of WIFA's bonds that provided funding for the augmentation loan;
    c) clearly specify the amount of principal, interest and redemption premium, if any, due on any payment date;
    d) be conditioned on the identification of pledged revenues for repaying the augmentation loan;
    e) be secured, to the extent permitted by law, by a debt service reserve account:
        i. held in trust; and
        ii. in an amount determined by WIFA;
    f) contain the covenants and conditions for constructing, acquiring, improving or equipping water supply development projects and repaying the augmentation loan as WIFA deems proper; and
    g) have approval conditioned on a written commitment by the eligible entity to complete all applicable reviews and approvals and secure all required permits in a timely manner.

147. Allows WIFA to:
    a) provide for capitalization of interest accruing during construction of the eligible entity's water supply development project and up to one year after completion of the construction in the augmentation loan;

b) treat an augmentation loan for a water supply development project financed or refinanced by the loan as a lawful long-term obligation incurred for a specific purpose if the:
   i. project is a part of a municipal utility; and
   ii. city or town pledges revenues of the utility to repay the augmentation loan;
c) constitute, as evidence regarding ability to repay an augmentation loan, the existence of a current investment grade rating on an applicant's existing debt that is secured by the same revenues to be pledged to secure repayment under the loan repayment agreement; and
d) by WIFA Board resolution, impose any additional requirements necessary to ensure that the loan principal and interest are timely paid.

148. Allows loan payment provisions to be included in the levy, assessment, rates or charges of the pledged revenues pledged by the eligible entity to repay the augmentation loan.

149. Requires an augmentation loan to be evidenced by a:
a) loan repayment agreement;
b) lease purchase agreement; or
c) bonds of an eligible entity that are delivered to and held by WIFA, to the extent an eligible entity is a political subdivision of the state and has bonding authority.

150. Exempts payments made pursuant to a loan repayment agreement from the prohibition against a county, city or town:
a) spending money for a purpose not included in its budget; and
b) spending money or incurring or creating a debt, obligation or liability exceeding the amount stated for each purpose in the adopted budget.

151. Allows the AG, on request from WIFA, to take actions necessary to enforce a loan repayment agreement and achieve repayment of augmentation loans provided by WIFA.

152. Allows eligible entities that are political subdivisions of the state to:
a) pledge utility system revenues to the payment of a loan repayment agreement without an election, if the pledge of revenues does not violate any covenant pertaining to the utility system or systems or the revenues pledged to secure outstanding bonds or other obligations or indebtedness of the entities;
b) enter into a loan repayment agreement without holding an election;
c) enter into a loan repayment agreement without creating a debt; and
d) negotiate the sale of bonds to, or a loan repayment agreement with, WIFA without complying with any public or accelerated bidding requirements imposed by any other law for the sale of WIFA bonds.

153. Prohibits WIFA from requiring a political subdivision to pay a loan repayment agreement other than from the revenues pledged by eligible entities.

154. Allows an eligible entity to employ attorneys, accountants, financial consultants and other field experts deemed necessary to perform loan repayment agreement services.

155. Requires and authorizes an eligible entity, at the direction of WIFA, to pay WIFA's costs in issuing augmentation bonds or otherwise borrowing to fund an augmentation loan.

Augmentation Bonds

156. Allows WIFA, as reasonable and necessary to administer or carry out the purposes of the LTWAF and except as limited by law, to:
    a) issue augmentation bonds in the name of WIFA;
    b) pledge resources for the security and payment of augmentation bonds;
    c) issue refunding bonds if WIFA deems refunding expedient; and
    d) refund by issuing new bonds for any augmentation bonds issued by WIFA if the bonds are secured from the same revenue source as the augmentation bonds without regard to whether the augmentation bonds to be refunded have matured.

157. Allows LTWAF monies to be used to secure augmentation bonds.

158. Allows the WIFA Board to issue negotiable augmentation bonds in a principal amount that WIFA deems necessary to:
    a) provide sufficient monies and financial assistance for approved water supply development projects;
    b) refund augmentation bonds when WIFA deems it expedient;
    c) increase the capitalization of the LTWAF;
    d) maintain sufficient reserves in the LTWAF to secure the augmentation bonds;
    e) pay the necessary costs of issuing, selling and redeeming the augmentation bonds; and
    f) pay other WIFA expenditures incidental to and necessary and convenient to administer augmentation bonds.

159. Requires WIFA to establish one or more augmentation bond proceeds accounts and one or more augmentation bond debt service accounts as necessary to accurately record and track bond proceeds and debt service revenues.

160. Requires the WIFA Board to authorize augmentation bonds by resolution, which prescribes the:
    a) rate or rates of interest and the denominations of the bonds;
    b) date or dates and maturity of the bonds;
    c) coupon or registered form of the bonds;
    d) manner of executing the bonds;
    e) medium and place of payment; and
    f) terms of redemption.

161. Exempts augmentation bonds, augmentation bond transfer and income produced by augmentation bonds from taxation by the state or any of its political subdivisions.

162. Requires the augmentation bonds to be sold at a public or private sale at the price and on the terms determined by the WIFA Board.

163. Requires all proceeds from the issuance of augmentation bonds, except any amounts used to pay costs associated with the issuance and sale of the bonds, to be deposited in:
    a) the LTWAF; or
    b) a separately held account as specified by the WIFA Board resolution.

164. Allows the WIFA Board, to secure any authorized augmentation bonds, to:
    a) require issued augmentation bonds to be secured by a lien on all or part of the monies paid into the appropriate account or subaccount of the LTWAF;
    b) provide the priority of the lien;
    c) pledge or assign to or in trust to be held by the State Treasurer or a trustee appointed by WIFA for the benefit of the bond holder or holders any part of the appropriate account or subaccount of the LTWAF monies necessary to pay the principal and interest of the augmentation bonds as the bonds come due;
    d) set aside, regulate and dispose of reserves and sinking funds;
    e) require sufficient amounts of the proceeds from the sale of the bonds to be used to fully or partly fund any reserves or sinking funds established by the WIFA Board resolution authorizing the augmentation bonds;
    f) prescribe:
        i. the procedure, if any, by which the terms of any contract with bondholders may be amended or abrogated;
        ii. the amount of bonds the holders of which must consent to; and
        iii. the manner in which consent may be given;
    g) provide for payment from bond sale proceeds of all legal, financial and other expenses incurred by WIFA in issuing, selling, delivering and paying the bonds;
    h) provide terms necessary to secure credit enhancement or other sources of payment or security; and
    i) provide any other terms and conditions that in any way may affect the security and protection of the bonds.

165. Allows the WIFA Board, out of any available monies, to purchase and subsequently cancel augmentation bonds, at a price not exceeding:
    a) if the bonds are redeemable, the redemption price applicable plus accrued interest to the date of redemption; or
    b) if the bonds are not redeemable, the redemption price applicable on the first date after purchase by WIFA on which the bonds become subject to redemption plus accrued interest to the date of redemption.

166. Deems the pledge of pledged revenues by an eligible entity, or the pledge of any other revenues by WIFA, as valid and binding from the time when the pledge is made.

167. Subjects immediately, to the lien of the pledge without any future physical delivery or further act, the monies pledged and received by the State Treasurer or a trustee to be placed in the LTWAF or in any account or subaccount in the LTWAF.

168. Deems any lien of any pledge as valid and binding against all parties having claims of any kind in tort, contract or otherwise against the WIFA Board or WIFA regardless of whether the parties have notice of the lien.

169. Deems the official resolution or trust indenture or any instrument by which the pledge is created, when placed in the WIFA Board's records, as notice to all concerned of the creation of the pledge.

170. Waives members of the WIFA Board and any person executing the augmentation bonds from personal liability for the payment of the bonds.

171. Stipulates that the instruments by which the pledge is created do not need to be recorded in any other place.

172. Stipulates that augmentation 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 WIFA Board.

173. Declares augmentation bonds incontestable by the WIFA Board from and after the sale and delivery of the bonds.

174. Deems augmentation bonds as securities:
    a) in which public officers and bodies of the state, its political subdivisions, municipalities, 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 authorized to invest in obligations of the state may properly and legally invest; and
    b) that may be deposited with public officers or bodies of the state and municipalities and political subdivisions of the state for purposes that require the deposit of state bonds or obligations.

175. Pledges to and agrees with holders of augmentation bonds that the state will not:
    a) limit or alter the rights vested in WIFA 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
    b) in any way impair the rights and remedies of the bondholders, until all bonds issued, together with accrued interest, 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.

176. Allows the WIFA Board, as an agent for the state, to include the pledge and undertaking in its resolutions and indentures securing its augmentation bonds.

177. Requires WIFA, if monies pledged to secure augmentation bonds become insufficient to pay the principal and interest on the augmentation bonds guaranteed by the LTWAF, to follow the same procedure prescribed for water supply development bonds.

178. Allows the WIFA Board to submit any augmentation bonds issued to the AG after the completion of all authorization proceedings.

179. Requires the AG:
    a) within 15 days after submission, to examine and pass on the validity of the bonds and the regularity of the proceedings; and
    b) if the proceedings comply with this legislation and the AG determines that, when delivered and paid for, the bonds will constitute binding and legal obligations of WIFA, to certify on the back of each long-term water augmentation bond, in substance, that the bond is issued according to the Constitution and Arizona law.

180. Stipulates that augmentation bonds are:
    a) obligations of WIFA;
    b) payable only according to the bonds' terms;

c) not general, special or other obligations of the state;
d) do not constitute a legal debt of the state;
e) not enforceable against the state; and
f) not enforceable out of state monies other than the income and revenue pledge and assigned to, or in trust for the benefit of, the holder or holders of the bonds.

ADWR

181. Requires the Director of ADWR:
a) by December 1, 2023, and every year after, to prepare and issue an Assessment for at least 4 of the 22 planning areas that ADWR has identified in a report regarding Arizona's strategic vision for water supply sustainability; and
b) ensure that an Assessment is completed for all identified planning areas at least once every five years.

182. Allows the Director of ADWR to contract with outside entities to perform some or all of the Assessments and requires the entities to be identified in the Assessment.

183. Requires ADWR to provide technical assistance to the WIFA Board.

Key Definitions

184. Defines *eligible entity*, as it pertains to the WSDRF, as:
a) a water provider that distributes or sells water outside of the boundaries of a multi-county water conservation district (MCWCD);
b) any city, town, county, district, commission, authority or other public entity that is statutorily organized or exists under a voter-approved charger or initiative that is located outside of the boundaries of a MCWCD; or
c) an entity that provides water to a water provider that distributes or sells water outside the boundaries of a MCWCD.

185. Defines *eligible entity*, as it pertains to the LTWAF, as:
a) a water provider;
b) any city, town, county, district, commission, authority or other public entity that is statutorily organized or exists under a voter-approved charter or initiative; or
c) an entity that provides water to a water provider within Arizona.

186. Defines *imported water* as any water that:
a) originates outside of Arizona; and
b) is made available to water users within Arizona by conveyance, exchange, or otherwise through projects funded or financed in whole or part with LTWAF monies.

187. Defines *import water* as making water originating outside of Arizona available to water users within Arizona by conveyance, exchange or otherwise through projects funded or financed in whole or part with monies from the LTWAF.

188. Defines *financial assistance* as:
a) loans provided by WIFA to eligible entities; and
b) credit enhancements purchased for an eligible entity's bonds or other forms of indebtedness.

189. Defines *pledged revenues* as any monies to be received by an eligible entity, including property taxes, other local taxes, fees, assessments, rates or charges pledged by the entity as a source of repayment for a loan repayment agreement.

190. Defines *water-related facilities* as any facility related to the production, delivery, conservation or storage of water, including, without limitation, any canals, pipelines, desalination plants, pumping stations, storage projects, recovery wells, delivery and retention projects, water and wastewater treatment plants and other equipment and facilities installed for water conservation purposes, together with any land, buildings or other improvements and equipment or related personal property.

191. Redefines *water provider* as an entity that distributes or sells water to end users for domestic, industrial or agricultural use in Arizona.

192. Modifies the definition of *water supply development* to include:
    a) planning, designing, building or developing water-related infrastructure;
    b) delivery of water; and
    c) conservation through reducing existing water use or more efficient uses of existing water supplies.

193. Defines *mainstream Colorado River water* as Colorado River water available to satisfy entitlements in Arizona that is not delivered through the CAP.

194. Defines *concession agreement* as any lease, ground lease, franchise, easement, permit or other binding agreement transferring rights for the use or control, in whole or part, of water-related facilities by WIFA to a private partner in accordance with statutes governing the Water Infrastructure Finance Program.

195. Defines other terms.

Miscellaneous

196. Contains a severability clause.

197. Exempts appropriations made by this legislation from lapsing.

198. Contains legislative findings.

199. Makes technical and conforming changes.

200. Becomes effective on the general effective date.

Prepared by Senate Research
June 23, 2022
RC/slp