

Senate Engrossed

State of Arizona  
Senate  
Forty-fifth Legislature  
First Regular Session  
2001

CHAPTER 180

# SENATE BILL 1388

AN ACT

AMENDING SECTIONS 16-227, 16-228, 48-910, 48-1014 AND 48-1015, ARIZONA  
REVISED STATUTES; RELATING TO DOMESTIC WATER IMPROVEMENT DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 16-227, Arizona Revised Statutes, is amended to  
3 read:

4 16-227. Publication of call of election for nonpartisan  
5 elections

6 A. The governing body shall publish a call of election at least twice  
7 in a newspaper of general circulation in the election district in which a  
8 nonpartisan election is being held not less than ~~once~~ a ONE week APART during  
9 each of the two SIX calendar weeks preceding ninety days before the election  
10 which shall contain:

- 11 1. The purpose of the election.
- 12 2. The date of holding the election.
- 13 3. The last date and place for filing nomination petitions, if  
14 applicable.
- 15 4. The last date to register to vote in the election.
- 16 5. The name of the election district conducting the election.
- 17 6. The proposed boundaries of the election district, if for  
18 establishment or annexation.
- 19 7. If the election is a special district mail ballot election as  
20 described in chapter 4, article 8.1 of this title, the date the mail ballots  
21 will be mailed to qualified electors of the district.

22 B. In lieu of publishing the call described in subsection A, the  
23 governing body may mail a call of election to each household in the district  
24 containing a qualified elector. Such call shall contain the same information  
25 described in subsection A and be mailed not later than ninety days before the  
26 election.

27 Sec. 2. Section 16-228, Arizona Revised Statutes, is amended to read:  
28 16-228. Notice of election for nonpartisan elections

29 A. The governing body shall publish a notice of election at least  
30 twice in a newspaper of general circulation in the election district in which  
31 a nonpartisan election is being held not less than ~~once~~ a ONE week APART  
32 during each of the two SIX calendar weeks preceding twenty days before the  
33 election. This notice shall contain at least:

- 34 1. The date of the election.
- 35 2. The location of the polls.
- 36 3. The hours the polls will be open.
- 37 4. The purpose of the election.
- 38 5. The election district conducting the election.

39 B. In lieu of publishing the notice described in subsection A, the  
40 governing body may, and for a nonresident qualified elector of any special  
41 district shall, mail a notice of election to each household containing a  
42 qualified elector of the district. Such notice shall contain the same  
43 information described in subsection A and be mailed not later than ten days  
44 before the election.

45 C. In mail ballot elections, the governing body shall publish a notice  
46 of election at least twice in a newspaper of general circulation in the

1 special district in which the election is being held ~~at least~~ once a week  
2 during each of the two weeks immediately preceding the thirty days before the  
3 election. This notice shall contain at least:

- 4 1. The date of the election.
- 5 2. The date ballots will be mailed.
- 6 3. The deadline and location for return of the ballots.
- 7 4. ~~How to obtain~~ THE METHOD FOR OBTAINING a replacement if a ballot  
8 is destroyed, lost, spoiled or not received.
- 9 5. A statement that no polling place will be provided.
- 10 6. The name of the district that is conducting the election.
- 11 7. The qualifications of electors.

12 D. In lieu of publishing the notice described in subsection C, the  
13 governing body may, and for a nonresident qualified elector of any special  
14 district shall, mail a notice of election to each household containing a  
15 qualified elector of the district. The notice shall contain the same  
16 information described in subsection C and shall be mailed not later than  
17 forty-five days before the election.

18 Sec. 3. Section 48-910, Arizona Revised Statutes, is amended to read:

19 48-910. Domestic water and domestic wastewater improvement  
20 districts; authority to set fees; liens; foreclosure

21 A. The board of directors of a domestic water improvement district or  
22 a domestic wastewater improvement district shall have the authority to set  
23 fees for the district following a public hearing. Fees may include any of  
24 the following:

25 1. User fees that are proportionate shares of the cost of operation,  
26 maintenance and replacement of a water delivery system, a water disposal  
27 system or a wastewater treatment and disposal system or any combination of  
28 those systems, including a system for the treatment and use of effluent, and  
29 may include the cost of administrators, surveyors, sanitation experts,  
30 engineers, legal counsel and other persons as are reasonably necessary for  
31 the operation, maintenance and replacement of the systems. The fees may also  
32 include any contractual amounts required to meet covenants relating to bonds  
33 or other obligations of the district secured by a pledge of, or promise to  
34 pay from, the district's fees.

35 2. Hookup fees for connection to the district water or wastewater  
36 system, not including the cost of the actual physical connection.

37 3. Lateral fees for the cost of constructing a water or wastewater  
38 lateral from the property line of the user to the middle of the easement or  
39 right-of-way in which the water system or wastewater system is located.

40 4. For a domestic wastewater improvement district only, either of the  
41 following:

42 (a) A capacity fee based on the cost of developing the wastewater  
43 collection, treatment and disposal facilities that are required to treat the  
44 flows into the system from a particular wastewater connection.

45 (b) An availability fee that is charged on all property in the  
46 district that is not connected to the existing wastewater treatment system

1 but that is adjacent to a wastewater line and that is based on the cost of  
2 having the wastewater line and treatment facility capacity to accommodate  
3 that property if it is developed. An availability fee is limited to fifty  
4 per cent of the user fee.

5 B. Notice announcing the hearing shall be posted in not less than  
6 three places within the district for not less than ten days prior to the date  
7 of the hearing and shall be published twice in a newspaper of general  
8 circulation ~~in the county~~ and within the district. The newspaper  
9 publications shall be NOT LESS THAN one week apart, and the first publication  
10 shall be not less than ten days prior to the date of the hearing. The  
11 district may also mail notice of the hearing to all district customers. The  
12 notice may be included in the district's regular billings and shall be mailed  
13 at least ten days before the date of the hearing.

14 C. The board of supervisors shall be notified by mail of the hearing  
15 not less than ten days prior to the date of the hearing. The board of  
16 supervisors may be represented at the hearing and may advise the board of  
17 directors.

18 D. At the hearing all interested district property owners and  
19 customers may appear and be heard on any matter relating to the establishment  
20 of the proposed fees. Any person wishing to object to the establishment of  
21 the proposed rates FEES may, before the date set for the hearing, file  
22 objections with the chairman or the clerk of the board of directors.

23 E. A domestic water improvement district or domestic wastewater  
24 improvement district may file a lien on property for the nonpayment of user  
25 fees for services provided to the property if the fees are delinquent for  
26 more than ninety days. At least thirty days before filing the lien, the  
27 district shall provide written notice to the owner of the property and shall  
28 include notice of an opportunity for a hearing before a designated officer  
29 of the district. The notice of lien shall be personally served on the  
30 property owner or mailed by certified mail to the property owner's last known  
31 address or to the address to which the most recent property tax assessment  
32 was mailed. If the property owner does not reside on the property, the  
33 notice shall be mailed by certified mail to the owner's last known address.

34 F. The unpaid user fees are a lien on the property from the date of  
35 recording in the office of the county recorder in the county in which the  
36 property is located until the fees and all costs are paid. The lien is  
37 subject and inferior to the lien for general taxes and to all prior recorded  
38 mortgages and encumbrances of record. A sale of the property to satisfy a  
39 lien assessed pursuant to this section shall be made on a judgment of  
40 foreclosure and order of sale. A domestic water or domestic wastewater  
41 improvement district may bring an action to foreclose the lien in the  
42 superior court in the county in which the property is located any time after  
43 recording. Failure to foreclose the lien does not affect its validity. The  
44 recorded unpaid user fees are prima facie evidence of the truth of all  
45 matters recited in the recording and of the regularity of all proceedings  
46 before the recording.

1 G. Unpaid user fees pursuant to this section accrue interest at the  
2 rate prescribed by section 44-1201.

3 H. The district shall add all costs incurred by the district,  
4 including interest, attorney fees and costs in filing and enforcing the lien,  
5 to the unpaid user fees, and the costs are a liability of the property owner  
6 payable from the proceeds of the sale.

7 I. A prior assessment of unpaid user fees pursuant to this section  
8 does not bar a subsequent assessment pursuant to this section, and any number  
9 of liens on the same parcel of property may be enforced in the same action.

10 J. A district shall not file a lien for unpaid user fees against a  
11 residential property that is occupied by a lessee and at which the lessee is  
12 responsible for payment of the user fees. The district shall determine the  
13 status of leased residential property before filing the lien.

14 Sec. 4. Section 48-1014, Arizona Revised Statutes, is amended to read:  
15 48-1014. Powers and duties of an elected or appointed board of  
16 directors

17 A. The board of directors of a domestic water improvement district or  
18 domestic wastewater improvement district elected or appointed pursuant to  
19 this article shall have all the powers and duties of the board of supervisors  
20 sitting as the board of directors of a county improvement district formed for  
21 the purposes prescribed in section 48-909, subsection A, paragraph 5 or 6,  
22 including the related powers and duties prescribed in section 48-909,  
23 subsection B and section 48-910, and that are not in conflict with the  
24 provisions of this article.

25 B. Additions to and alterations of the district shall be made in the  
26 manner provided for the establishment of the district, except that  
27 NOTIFICATION SHALL BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN  
28 THE DISTRICT, petitions shall be filed with the district board and all  
29 actions related to a proposed boundary change are the responsibility of the  
30 district board.

31 C. Notwithstanding section 48-906, subsection D, on approval of any  
32 boundary change of the district, the district board may order the successful  
33 petitioners to pay all of the costs of the boundary change.

34 Sec. 5. Section 48-1015, Arizona Revised Statutes, is amended to read:  
35 48-1015. Financial transactions of elected board of directors;  
36 review; veto authority

37 A. The board of supervisors may review and COMMENT BUT shall NOT have  
38 veto authority over all financial transactions of the board of directors of  
39 an improvement district elected pursuant to this article.

40 B. This section does not apply to a district with a population of more  
41 than ten thousand persons according to the most recent United States  
42 decennial census.

APPROVED BY THE GOVERNOR APRIL 21, 2001.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 23, 2001.

Passed the House April 16, 2001,

by the following vote: 56 Ayes,

0 Nays, 4 Not Voting

[Signature]  
Speaker of the House

[Signature]  
Chief Clerk of the House

Passed the Senate February 26 2001,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

[Signature]  
President of the Senate

[Signature]  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

16 day of April, 2001,

at 4:53 o'clock P M.

[Signature]  
Secretary to the Governor

Approved this 21 day of

April, 2001,

at 10:00 o'clock 9 M.

[Signature]  
Governor of Arizona

S.B. 1388

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 23 day of April, 2001,

at 4:45 o'clock P M.

[Signature]  
Secretary of State