

House Engrossed

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
Second Regular Session  
2002

CHAPTER 115

# HOUSE BILL 2400

AN ACT

AMENDING SECTION 48-709, ARIZONA REVISED STATUTES; RELATING TO COMMUNITY FACILITIES DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-709, Arizona Revised Statutes, is amended to  
3 read:

4 48-709. Powers of a community facilities district

5 A. In addition to the powers otherwise granted to a district pursuant  
6 to this article a district may to further the general plan:

7 1. Enter into contracts and expend monies for any public  
8 infrastructure purpose with respect to the district.

9 2. Enter into intergovernmental agreements as prescribed in title 11,  
10 chapter 7, article 3 for the planning, design, inspection, ownership,  
11 control, maintenance, operation or repair of public infrastructure or the  
12 provision of enhanced municipal services by the municipality in the district.

13 3. Sell, lease or otherwise dispose of district property if the sale,  
14 lease or conveyance is not a violation of the terms of any contract or bond  
15 resolution of the district.

16 4. Reimburse the municipality for providing enhanced municipal  
17 services in the district.

18 5. Operate, maintain and repair public infrastructure.

19 6. Establish, charge and collect user fees, rates or charges for the  
20 use of any public infrastructure or service.

21 7. Employ staff, counsel and consultants.

22 8. Reimburse the municipality or county for staff and consultant  
23 services and support facilities supplied by the municipality or county.

24 9. Accept gifts or grants and incur and repay loans for any public  
25 infrastructure purpose.

26 10. Enter into agreements with landowners and the municipality or  
27 county for the collection of fees and charges from landowners for public  
28 infrastructure purposes, the advance of monies by landowners for public  
29 infrastructure purposes or the granting of real property by the landowner for  
30 public infrastructure purposes.

31 11. By resolution, levy and assess the costs of any public  
32 infrastructure purpose on any land benefited in the district.

33 12. Pay the financial, legal and administrative costs of the district.

34 13. Enter into contracts, agreements and trust indentures to obtain  
35 credit enhancement or liquidity support for its bonds and process the  
36 issuance, registration, transfer and payment of its bonds and the  
37 disbursement and investment of proceeds of the bonds.

38 14. With the consent of the governing body of the municipality or  
39 county which formed the district, enter into agreements with persons outside  
40 of the district to provide services to persons and property outside of the  
41 district.

42 15. Use public easements and rights-of-way in or across public  
43 property, roadways, highways, streets or other thoroughfares and other public  
44 easements and rights-of-way, whether in or out of the geographical limits of  
45 the district, the municipality or the county.

1 B. This article does not authorize:

2 1. A district to acquire, construct, operate or maintain an electric  
3 generation or distribution system or natural gas distribution system without  
4 the written consent of any AFFECTED public service corporation, electric  
5 cooperative, agricultural improvement or power district or other district  
6 described in article XIII, section 7, Constitution of Arizona, the service  
7 area of which encompasses all or part of the district, if that entity is  
8 providing or is capable of adequately providing electrical utility service  
9 or natural gas utility service in the district.

10 2. A DISTRICT TO PROVIDE SERVICE OUTSIDE ITS BOUNDARIES WITHOUT THE  
11 WRITTEN CONSENT OF ANY AFFECTED PUBLIC SERVICE CORPORATION, ELECTRIC  
12 COOPERATIVE, AGRICULTURAL IMPROVEMENT OR POWER DISTRICT OR OTHER DISTRICT  
13 DESCRIBED IN ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA, WITH A SERVICE  
14 AREA THAT LIES OUTSIDE OF THE DISTRICT, IF THAT ENTITY IS PROVIDING OR IS  
15 CAPABLE OF ADEQUATELY PROVIDING ELECTRICAL UTILITY SERVICE OR NATURAL GAS  
16 UTILITY SERVICE IN THE AREA THAT THE DISTRICT PROPOSES TO SERVE.

17 C. IF A DISTRICT IS GRANTED WRITTEN CONSENT PURSUANT TO THIS SECTION,  
18 THE DISTRICT SHALL PROVIDE A COPY TO THE GOVERNOR, THE PRESIDENT OF THE  
19 SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND EACH COMMISSIONER OF  
20 THE ARIZONA CORPORATION COMMISSION NO LATER THAN THIRTY DAYS AFTER CONSENT  
21 IS GRANTED.

22 ~~C.~~ D. In connection with any power authorized by statute, the  
23 district may:

24 1. Contract.

25 2. Enter into intergovernmental agreements pursuant to title 11,  
26 chapter 7, article 3.

27 3. Adopt and change a seal.

28 4. Sue and be sued.

29 5. Enter into development agreements, as defined in section 9-500.05.

30 6. Exercise the same right and power of eminent domain as a public  
31 service corporation pursuant to title 12, chapter 8, articles 2 and 3 to  
32 acquire any property or right-of-way, except political subdivision, county,  
33 state or federal property, for any public infrastructure purpose.

34 ~~D.~~ E. A district which proposes to provide domestic water service in  
35 the certificated area of a public service corporation serving domestic water  
36 shall provide just compensation to the public service corporation pursuant  
37 to section 9-516.

38 ~~E.~~ F. Public infrastructure other than personalty may be located only  
39 in or on lands owned by the state, a county, a municipality or the district  
40 or dedicated or otherwise designated as public roadways, highways, streets,  
41 thoroughfares, easements or rights-of-way, whether in or out of the district  
42 or the municipality. Personalty may be used only for purposes authorized by  
43 the district board. School sites and facilities, by agreement, may be  
44 transferred to a school district.

1 F. G. An agreement pursuant to subsection A, paragraph 10 of this  
2 section may include agreements to repay all or part of such advances, fees  
3 and charges from the proceeds of bonds if issued or from advances, fees and  
4 charges collected from other landowners or users or those having a right to  
5 use any public infrastructure. A person does not have authority to compel  
6 the issuance or sale of the bonds of the district or the exercise of any  
7 taxing power of the district to make repayment under any agreement.

8 G. H. A district shall not contract with a municipality for enhanced  
9 municipal services unless the area for which the services are to be provided  
10 is designated by the municipality as a redevelopment area pursuant to title  
11 36, chapter 12, or an urban core business district of the municipality  
12 determined by formal resolution of the municipality to be in need of enhanced  
13 municipal services to encourage or preserve commercial development in the  
14 area.

15 H. I. Notwithstanding title 34 or article 2 of this chapter, the  
16 district at the option of the district board may enter into contracts for the  
17 performance of district projects with landowners in the district after  
18 calling for bids but before publishing notice of the award of a contract if  
19 all of the following conditions are met:

20 1. The landowner or landowners own three-fourths or more of the total  
21 land area of the district.

22 2. The landowner or landowners contract to perform the work at a cost  
23 which does not exceed the cost specified in the bid of the bidder who would  
24 have been awarded that bid.

25 3. The work for which the contract was let is to be financed pursuant  
26 to this article.

27 4. All contracts and work executed pursuant to this section are  
28 subject to those rules as the district board may prescribe.

APPROVED BY THE GOVERNOR MAY 1, 2002.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 1, 2002.

Passed the House April 8, 2002,

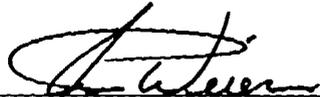
Passed the Senate April 25, 2002

by the following vote: 50 Ayes,

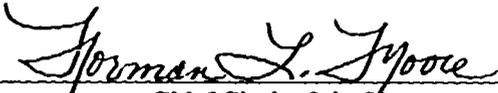
by the following vote: 27 Ayes,

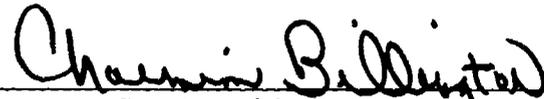
0 Nays, 10 Not Voting

0 Nays, 3 Not Voting

  
Speaker of the House

  
President of the Senate

  
Chief Clerk of the House

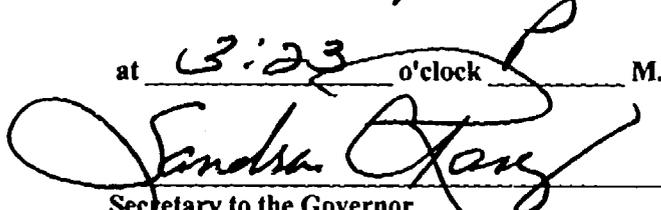
  
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

29 day of April, 2002,

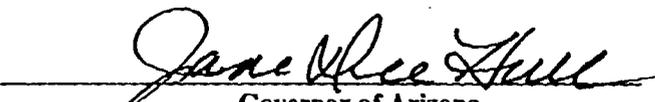
at 3:23 o'clock P M.

  
Secretary to the Governor

Approved this 1 day of

May, 2002,

at 12:30 o'clock P M.

  
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 1 day of May, 2002,

at 2:37 o'clock P M.

  
Secretary of State

H.B. 2400