

State of Arizona
Senate
Forty-seventh Legislature
First Regular Session
2005

CHAPTER 263

SENATE BILL 1505

AN ACT

AMENDING SECTIONS 48-701, 48-708 AND 48-711, 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 48-701, Arizona Revised Statutes, is amended to
3 read:

4 48-701. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Clerk" includes any person or official who performs the duties of
7 clerk of the municipality or county or any person appointed by the district
8 board to be the district clerk pursuant to section 48-711, subsection D.

9 2. "County" means a county that forms a community facilities district
10 pursuant to this article in an unincorporated area or in an incorporated area
11 with the municipality's consent for the sole purpose of financing school
12 sites and facilities as prescribed in paragraph 12, subdivision (k) of this
13 section.

14 3. "Debt service" means the principal of, interest on and premium, if
15 any, on the bonds, when due, whether at maturity or prior redemption and fees
16 and costs of registrars, trustees, paying agents or other agents necessary to
17 handle the bonds and the costs of credit enhancement or liquidity support.

18 4. "District" means a tax levying community facilities district formed
19 pursuant to this article by a municipality or formed pursuant to this article
20 by a county in an unincorporated area or in an incorporated area with the
21 municipality's consent for the sole purpose of financing school sites and
22 facilities as prescribed in paragraph 12, subdivision (k) of this section.

23 5. "District board" means the board of directors of the district,
24 which shall be comprised of the members of the governing body of the
25 municipality or county, ex officio, or, at the option of the governing body,
26 five directors appointed by the governing body under this article.

27 6. "Enhanced municipal services" means public service provided by a
28 municipality within the district at a higher level or to a greater degree
29 than provided in the remainder of the municipality, including such services
30 as public safety, fire protection, street or sidewalk cleaning or landscape
31 maintenance in public areas.

32 7. "General obligation bond" means a bond which THAT is issued
33 pursuant to section 48-719 and which THAT is secured by a pledge of ad
34 valorem taxes levied by the district.

35 8. "General plan" means the general plan described in section 48-702,
36 subsection B, as the plan may be amended.

37 9. "Governing body" means the body or board which by law is
38 constituted as the legislative department of the municipality or county.

39 10. "Municipality" means an incorporated city or town.

40 11. "Owner" means the person who, on the day the action, election or
41 proceeding is begun or held, appears to be the owner of real property as
42 shown on the property tax assessment roll.

43 12. "Public infrastructure" means all improvements listed in this
44 paragraph, ~~including~~ THAT WILL RESULT IN A BENEFICIAL USE PRINCIPALLY TO LAND
45 WITHIN THE GEOGRAPHICAL LIMITS OF THE DISTRICT AND MAY INCLUDE A DISTRICT'S

1 SHARE OF ANY IMPROVEMENTS LISTED IN THIS PARAGRAPH IF THE DISTRICT BOARD
2 DETERMINES SUCH SHARE IS PROPORTIONATE TO THE BENEFICIAL USE OF SUCH
3 IMPROVEMENTS TO LAND WITHIN THE GEOGRAPHICAL LIMITS OF THE DISTRICT,
4 IMPROVEMENTS WITHIN OR OUTSIDE THE GEOGRAPHICAL LIMITS OF THE DISTRICT,
5 necessary or incidental work, whether newly constructed, renovated or
6 existing, and all necessary or desirable appurtenances. FOR THE PURPOSES OF
7 THIS PARAGRAPH, ADOPTION BY THE DISTRICT BOARD OF A RESOLUTION OF INTENT
8 PURSUANT TO SECTION 48-715 SHALL CONCLUSIVELY ESTABLISH THAT THE IMPROVEMENTS
9 OR, IF APPLICABLE, SHARE OF THE IMPROVEMENTS THAT ARE THE SUBJECT OF THE
10 RESOLUTION WILL RESULT IN A BENEFICIAL USE PRINCIPALLY TO LAND WITHIN THE
11 GEOGRAPHICAL LIMITS OF THE DISTRICT. Public infrastructure improvements are:

12 (a) Sanitary sewage systems, including collection, transport, storage,
13 treatment, dispersal, effluent use and discharge.

14 (b) Drainage and flood control systems, including collection,
15 transport, diversion, storage, detention, retention, dispersal, use and
16 discharge.

17 (c) Water systems for domestic, industrial, irrigation, municipal or
18 fire protection purposes including production, collection, storage,
19 treatment, transport, delivery, connection and dispersal, but not including
20 facilities for agricultural irrigation purposes unless for the repair or
21 replacement of existing facilities when required by other improvements
22 permitted by this article.

23 (d) Highways, streets, roadways and parking facilities, including all
24 areas for vehicular use for travel, ingress, egress and parking.

25 (e) Areas for pedestrian, equestrian, bicycle or other nonmotor
26 vehicle use for travel, ingress, egress and parking.

27 (f) Pedestrian malls, parks, recreational facilities other than
28 stadiums, and open space areas for the use of members of the public for
29 entertainment, assembly and recreation.

30 (g) Landscaping including earthworks, structures, lakes and other
31 water features, plants, trees and related water delivery systems.

32 (h) Public buildings, public safety facilities and fire protection
33 facilities.

34 (i) Lighting systems.

35 (j) Traffic control systems and devices, including signals, controls,
36 markings and signage.

37 (k) School sites and facilities with the consent of the governing
38 board of the school district for which the site or facility is to be
39 acquired, constructed or renovated.

40 (l) Equipment, vehicles, furnishings and other personalty related to
41 the items listed in this paragraph.

42 13. "Public infrastructure purpose" means:

43 (a) Planning, design, engineering, construction, acquisition or
44 installation of public infrastructure.

1 (b) Acquiring, converting, renovating or improving existing facilities
2 for public infrastructure.

3 (c) Acquiring interests in real property for public infrastructure.

4 (d) Establishing, maintaining and replenishing reserves from any
5 source described in section 48-717 or from any other source in order to
6 secure payment of debt service on bonds.

7 (e) Notwithstanding section 48-589, funding and paying from bond
8 proceeds interest accruing on bonds for a period of not to exceed three years
9 from their date of issuance.

10 (f) Providing for the timely payment of debt service on bonds or other
11 indebtedness of the district.

12 (g) Refinancing any matured or unmatured bonds, with new bonds.

13 (h) Incurring expenses of the district incident to and reasonably
14 necessary to carry out the purposes specified in this paragraph.

15 14. "Revenue bonds" means those bonds which THAT are issued pursuant to
16 section 48-720 and are secured by a pledge of revenues of the district or
17 revenues collected by the municipality and returned to the district.

18 15. "Treasurer" includes any person or official who performs the duties
19 of treasurer of the municipality or county or any person appointed by the
20 district board as the district treasurer pursuant to section 48-711,
21 subsection D.

22 Sec. 2. Section 48-708, Arizona Revised Statutes, is amended to read:
23 48-708. Formation; debt limitation

24 A. If the formation of the district is approved by a majority of the
25 votes cast at the election, the governing body shall order the formation,
26 appoint the initial directors of the district board if the district will be
27 governed by an appointed board, set the district boundaries and order that a
28 map showing the district boundaries be drawn and a copy of the order forming
29 the district be delivered to the county assessor and the board of supervisors
30 of the county in which the district is located and to the department of
31 revenue. A notice of the formation showing the number and date of the order
32 and giving a description of the land included in the district shall be
33 recorded with the county recorder.

34 B. On its formation, the district is a special purpose district for
35 purposes of article IX, section 19, Constitution of Arizona, a tax levying
36 public improvement district for the purposes of article XIII, section 7,
37 Constitution of Arizona, and a municipal corporation for all purposes of
38 title 35, chapter 3, articles 3, 3.1, 3.2, 4 and 5. A district that
39 distributes or sells groundwater is a private water company only for purposes
40 of title 45, chapters 2 and 3.1. Except as otherwise provided in this
41 section, a district is considered to be a municipal corporation and political
42 subdivision of this state, separate and apart from the municipality or
43 county. Under no circumstances may the amount of indebtedness evidenced by
44 general obligation bonds issued pursuant to section 48-719 and revenue bonds
45 issued pursuant to section 48-720 exceed the estimated cost of the public

1 infrastructure improvements plus all costs connected with the public
2 infrastructure purposes and issuance and sale of bonds, including, without
3 limitation, credit enhancement and liquidity support fees and costs. The
4 total aggregate outstanding amount of bonds and any other indebtedness for
5 which the full faith and credit of the district are pledged shall not exceed
6 sixty per cent of the aggregate of the estimated market value of the real
7 property and improvements in the district after the public infrastructure of
8 the district is completed plus the value of the public infrastructure owned
9 or to be acquired by the district with the proceeds of the bonds.

10 C. On formation of the district, the district board shall administer,
11 in a reasonable manner, the implementation of the general plan for the public
12 infrastructure of the district and any development agreement entered into
13 pursuant to section 9-500.05 between the governing body and owners of land in
14 the district. The district board shall be considered a party to that
15 agreement.

16 D. FEES AND OTHER CHARGES ASSESSED BY A MUNICIPALITY OR COUNTY IN
17 CONNECTION WITH THE SUBMISSION AND CONSIDERATION OF AN APPLICATION OR
18 PETITION TO FORM A DISTRICT, OR BY A MUNICIPALITY, COUNTY OR DISTRICT IN
19 CONNECTION WITH THE ADMINISTRATION OF A DISTRICT, INCLUDING THE ISSUANCE AND
20 SALE OF BONDS, SHALL NOT EXCEED THE ESTIMATED ACTUAL EXPENSE INCURRED BY THE
21 MUNICIPALITY, COUNTY OR DISTRICT FOR STAFF AND CONSULTANT SERVICES AND
22 SUPPORT FACILITIES SUPPLIED BY THE MUNICIPALITY, COUNTY OR DISTRICT OR THE
23 FINANCIAL, LEGAL AND ADMINISTRATIVE COSTS OF THE DISTRICT THAT ARE NOT
24 REIMBURSED FROM PROCEEDS OF THE BONDS OR OTHER DISTRICT REVENUE.

25 Sec. 3. Section 48-711, Arizona Revised Statutes, is amended to read:
26 48-711. Records; board of directors; open meetings

27 A. The district shall keep the following records which shall be open
28 to public inspection:

- 29 1. Minutes of all meetings of the district board.
- 30 2. All resolutions.
- 31 3. Accounts showing all monies received and disbursed.
- 32 4. The annual budget.
- 33 5. All other records required to be maintained by law.

34 B. If the resolution ordering formation of the district provides that
35 the district will be governed by a district board appointed by the governing
36 body, each appointed director shall serve for a term of six years, except
37 that two directors initially appointed by the governing body in the
38 resolution shall serve for a term of four years. The resolution shall state
39 which directors shall serve four year terms and which shall serve six year
40 terms. On the expiration of the term of an appointed director, the governing
41 body shall appoint a person to fill the position. If a vacancy occurs on the
42 district board because of death, resignation or inability of the director to
43 discharge the duties of director, the vacancy shall be filled by appointment
44 made by the governing body. A director appointed by the governing body shall
45 hold office for the remainder of the unexpired term until his successor is

1 appointed. An appointed director shall not be a landowner owning more than
2 forty acres in the district, an elected official of the municipality OR
3 COUNTY or an employee or agent of the landowner or municipality OR COUNTY but
4 may be a director of more than one district. The members of the governing
5 body of the municipality or county are not eligible to receive compensation
6 for their services as members of the district board.

7 C. The board of directors shall comply with title 38, chapter 3,
8 article 3.1 as a separate political subdivision.

9 D. The district clerk and district treasurer shall be the clerk of the
10 municipality or county and the treasurer of the municipality or county,
11 respectively, unless the district board appoints a district clerk and
12 district treasurer.

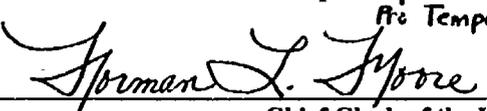
APPROVED BY THE GOVERNOR MAY 4, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 4, 2005.

Passed the House April 18, 20 05,

by the following vote: 58 Ayes,

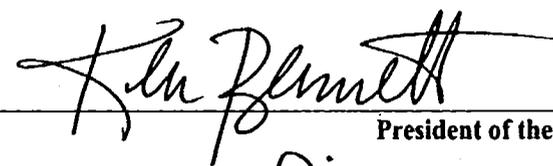
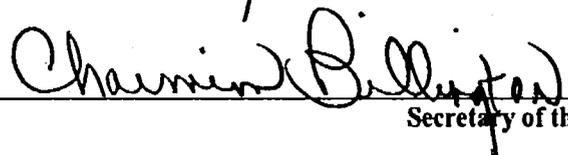
0 Nays, 2 Not Voting


Speaker of the House
Pro Tempore

Chief Clerk of the House

Passed the Senate March 10, 20 05,

by the following vote: 25 Ayes,

3 Nays, 2 Not Voting


President of the Senate

Secretary of the Senate

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR**

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20____,

at _____ o'clock _____ M.

Governor of Arizona

S.B. 1505

**EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE**

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

SENATE CONCURS IN HOUSE AMENDMENTS
AND FINAL PASSAGE

Passed the Senate April 28, 2005,

by the following vote: 30 Ayes,

0 Nays, 0 Not Voting

Ken Bennett
President of the Senate
Chapman Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

28th day of April, 2005

at 4:00 o'clock P. M.

Winnifred Ybarra
Secretary to the Governor

Approved this 4 day of

May, 2005,

at 3:00 o'clock P. M.

J. S. Reynolds
Governor of Arizona

S.B. 1505

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 4 day of May, 2005,

at 4:19 o'clock P. M.

Janice K. Brewer
Secretary of State