Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
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First Regular Session
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CHAPTER 216

HOUSE BILL 2489

AN ACT

AMENDING SECTIONS 48-263, 48-901, 48-906, 48-910, 48-957, 48-964, 48-1011, 48-1014, 48-1061 AND 48-2101, ARIZONA REVISED STATUTES; REPEALING SECTIONS 48-2102, 48-2103, 48-2104 AND 48-2105, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 15, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING NEW SECTIONS 48-2102 AND 48-2103; AMENDING SECTIONS 48-2108, 48-6202, 48-6203 AND 48-6272, ARIZONA REVISED STATUTES; AMENDING LAWS 2005, CHAPTER 248, SECTION 2; RELATING TO SPECIAL TAXING DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 48-263, Arizona Revised Statutes, is amended to read:

48-263. Special taxing district impact statement; district creation; district boundary change; bond requirement

A. Notwithstanding any other special taxing district organization or boundary change requirements, a special taxing district impact statement is required for each antinoxious weed district, pest control district, recreation center district, special road district~~, pest abatement district~~ and irrigation water delivery district, as follows:

1. In the case of a special taxing district formation proposal and before the circulation of organization petitions otherwise required, the special taxing district impact statement and hearing requirements pursuant to section 48-261, subsection A, paragraphs 1 through 5 and subsections C, D and E shall first be complied with.

2. In the case of a proposed special taxing district boundary change to an existing district and before the circulation of any boundary change petitions otherwise required, the boundary change impact statement and hearing requirements pursuant to section 48-262, subsection A, paragraphs 1 through 5 and subsections E and G shall first be complied with.

B. The board of supervisors may require the person desiring to propose creation of a special taxing district in subsection A of this section to post a reasonable bond to be filed with the board, in accordance with section 48-261, subsection C.

Sec. 2. Section 48-901, Arizona Revised Statutes, is amended to read:

48-901. Definitions

~~As used~~ In this article, unless the context otherwise requires:

1. "Assessment" or "assessment roll" means a special assessment made under ~~the provisions of~~ this article.

2. "Block" means a parcel of ground, regular or irregular, bounded by streets or by streets and district boundary lines.

3. "Chairman of the board" means the person designated to preside over meetings of the board of directors.

4. "Clerk" or "district clerk" means the clerk of the board of supervisors, who shall be the clerk under this article and in whose office shall be filed all papers directed or required to be filed with the clerk.

5. "Commercial farming" means the intensive cultivation of arable land by the raising of agricultural or horticultural products as a principal source of the owner's livelihood.

6. "Commercial stock raising" means the breeding, raising and care of domestic animals as a principal source of the owner's livelihood.

7. "Contractor" includes personal representatives or assignee of the contractor.

8. "Delinquency" means delinquency in the payment of an assessment.

9. "Engineer" or "district engineer" means a person designated or employed by the board of directors of a district to perform any or all of the engineering work authorized to be done by the district under this article.

10. "Improvement bond" means a bond issued under ~~the provisions of~~ this article.

11. "Lighting plants" includes electric light plants, electric power plants, gas plants, distribution systems, poles, parts, pipes, conduits, wires, tanks, reservoirs, generators for gas or electricity, transmission lines, towers, lamps, transformers of every character, machinery, apparatus, equipment and all appliances and structures necessary or incidental to the construction, installation or operation of a complete electric light, power and gas plant and distribution system placed on the streets improved, though extended beyond.

12. "Lot" includes any portion, piece, parcel or subdivision of land, but not property owned or controlled by any person as a railroad right of way.

13. "Owner" means the person in whom legal title appears by recorded deed, or the person in possession under claim or title, or the person exercising acts of ownership for himself or as the personal representative of the owner, including the boards of trustees of school districts and the boards of education of high school districts owning property within the proposed improvement district.

14. "Sewers" include wastewater treatment facilities, tunnels, excavations, ditches, drains, conduits, channels, outlets, outfalls, cesspools, manholes, catch basins, flush tanks, septic tanks, connecting sewers of every character, machinery, apparatus, equipment and all appliances and structures necessary or incidental to the construction, installation or operation of a complete sewer system for either sanitary or drainage purposes.

15. "Street" includes avenues, alleys, highways, lanes, crossings, intersections, courts, places and grounds opened or dedicated to public use and public ways.

16. "Street superintendent" or "superintendent" means a county employee designated by the board of supervisors to perform the duties of street superintendent for all the districts organized under this article in any county.

17. "Time of delinquency" means the time when assessments become delinquent.

18. "Treasurer" or "district treasurer" means the treasurer of the county in which a district is situated, who shall be the treasurer of the district.

19. "Unincorporated area" means any portion of a county not within the limits of an incorporated city or town, so situated that any of the improvements provided for in this article might reasonably or properly be made or constructed for the benefit of the inhabitants of the area under

existing special assessment statutes if the area were situated within an incorporated city or town.

20. "WASTEWATER SYSTEMS" MEANS SEWERS AND OTHER WASTEWATER TREATMENT FACILITIES.

~~20.~~ 21. "Waterworks" means works for the storage or development of water for domestic uses, and includes wells, pumping machinery, power plants, pipelines and all equipment necessary for the purpose.

~~21.~~ 22. "Work" or "improvement" includes any of the improvements mentioned and authorized to be made in this article, the construction, reconstruction and repair of all or any portion of any such improvement, and labor, services, expenses and material necessary or incidental thereto.

Sec. 3. Section 48-906, Arizona Revised Statutes, is amended to read:

48-906. Establishment of district; dismissal of proceedings; costs; addition or elimination of certain areas

A. Upon the hearing, if it appears after consideration of all objections that the petition is signed by the requisite number of owners of real property, and that the public convenience, necessity or welfare will be promoted by the establishment of the district, the board of supervisors by formal order~~,~~ shall declare its findings, establish the boundaries~~,~~ and declare the improvement district organized under a corporate name by which it shall be known in all proceedings. Thereafter the district shall be a body corporate with the powers of a municipal corporation for the purposes of carrying out ~~the provisions of~~ this article.

B. If the board finds that the territory set out in the petition should not be incorporated into an improvement district, it shall dismiss the proceedings and tax the costs against the signers of the petition, and may collect the costs on the bond of the petitioners. If the district is established, certified bills covering the costs of the board of supervisors and the disbursements of the petitioners shall be presented to the board of directors of the district and paid from the funds of the district.

C. If it appears to the board of supervisors at the hearing that territory not included in the petition should be included within the improvement district, the real property owners in the additional territory shall be notified in like manner as provided in connection with the original hearing, and a subsequent hearing shall be held on the question of including the additional territory. In establishing the improvement district, the board shall eliminate any territory described in the petition which it finds will not be benefited by the establishment of the district.

D. Additions to and alterations of an improvement district shall be made ~~in the manner provided for the establishment of the district.~~ AS FOLLOWS:

1. A PETITION ADDRESSED TO THE DISTRICT GOVERNING BOARD REQUESTING THE ADDITION OR ALTERATION MAY BE FILED WITH THE CLERK OF THE GOVERNING BODY, IF SIGNED BY A MAJORITY OF THE PERSONS OWNING PROPERTY AND BY THE OWNERS OF

FIFTY-ONE PER CENT OR MORE OF THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE LIMITS OF THE PROPOSED ADDITION OR ALTERATION.

2. A PETITION WITH THE REQUIRED NUMBER OF SIGNATURES SHALL NOT BE DECLARED VOID ON ACCOUNT OF ANY ALLEGED DEFECT, BUT THE GOVERNING BODY SHALL ALLOW THE PETITION TO BE AMENDED IN FORM AND SUBSTANCE TO CONFORM TO THE REQUIREMENTS OF THIS ARTICLE. ONE OR MORE SIMILAR PETITIONS, OR COPIES OF THE SAME PETITION WITH ADDITIONAL SIGNATURES, FOR THE ADDITION TO OR ALTERATION OF THE IMPROVEMENT DISTRICT MAY BE FILED BEFORE THE TIME OF THE HEARING ON THE FIRST PETITION, AND SHALL BE CONSIDERED AS THOUGH FILED WITH THE FIRST PETITION. THE PETITION SHALL BE PRESUMED TO CONTAIN THE SIGNATURES OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE PETITION, UNLESS THE CONTRARY IS PROVED.

3. THE PETITION SHALL SET FORTH:

(a) THE NAME OF THE IMPROVEMENT DISTRICT TO WHICH THE ADDITION OR ALTERATION IS PROPOSED.

(b) THE NECESSITY FOR THE PROPOSED ADDITION OR ALTERATION.

(c) THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY THE ADDITION OR ALTERATION OF THE DISTRICT AND THAT THE PROPERTY TO BE INCLUDED IN THE DISTRICT WILL BE BENEFITED.

(d) THE BOUNDARIES OF THE PROPOSED ADDITION OR ALTERATION.

4. EACH COPY OF THE PETITION SHALL BE VERIFIED BY ONE OF THE PETITIONERS AND SHALL BE ACCOMPANIED BY A PLAT OR SKETCH INDICATING THE APPROXIMATE AREA AND BOUNDARIES OF THE DISTRICT.

5. ON RECEIPT OF A PETITION FOR AN ADDITION OR ALTERATION OF A DISTRICT, THE GOVERNING BODY SHALL SET A DATE FOR A HEARING ON THE PETITION NOT LATER THAN FORTY DAYS AFTER PRESENTATION OF THE PETITION. AT THE HEARING ALL INTERESTED PROPERTY OWNERS MAY APPEAR AND BE HEARD ON ANY MATTER RELATING TO THE ADDITION TO OR ALTERATION OF THE DISTRICT. ANY PERSON WISHING TO OBJECT TO THE ADDITION OR ALTERATION MAY FILE, BEFORE THE DATE SET FOR THE HEARING, THE PERSON'S OBJECTIONS WITH THE CLERK OF THE GOVERNING BODY.

6. NOTICE ANNOUNCING THE HEARING AND STATING THE BOUNDARIES OF THE PROPOSED ADDITION OR ALTERATION SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WITHIN WHICH THE DISTRICT IS LOCATED. THE PUBLICATIONS SHALL BE ONE WEEK APART, AND THE FIRST PUBLICATION SHALL BE NOT LESS THAN TEN DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE SHALL ALSO BE MAILED BY FIRST CLASS MAIL AT LEAST TWENTY DAYS BEFORE THE HEARING TO THE PROPERTY OWNERS WITHIN THE AREA OF THE PROPOSED ADDITION OR ALTERATION ACCORDING TO THE NAMES AND ADDRESSES THAT APPEAR ON THE MOST RECENT PROPERTY TAX ASSESSMENT ROLL.

7. NOTICE ANNOUNCING THE HEARING AND STATING BOUNDARIES OF THE PROPOSED ADDITION OR ALTERATION SHALL BE MAILED BY FIRST CLASS MAIL AT LEAST TWENTY DAYS BEFORE THE HEARING TO THE CORPORATION COMMISSION, IF THE PETITION REQUESTS AN ADDITION OR ALTERATION OF A DISTRICT FOR THE PURPOSES DESCRIBED IN SECTION 48-909, SUBSECTION A, PARAGRAPH 5 OR 6 AND THE BOUNDARIES OF THE

PROPOSED ADDITION OR ALTERATION TO A DISTRICT ARE WHOLLY OR PARTIALLY WITHIN EITHER OF THE FOLLOWING:

(a) THE BOUNDARIES OF THE EXISTING SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED BY A CERTIFICATE OF CONVENIENCE AND NECESSITY ISSUED BY THE CORPORATION COMMISSION.

(b) THE BOUNDARIES OF THE PROPOSED SERVICE TERRITORY OF A PUBLIC SERVICE CORPORATION THAT PROVIDES DOMESTIC WATER OR WASTEWATER SERVICES AS DEFINED IN AN APPLICATION FOR A CERTIFICATE OF CONVENIENCE AND NECESSITY THAT IS PENDING BEFORE THE CORPORATION COMMISSION OR THAT HAS BEEN CONSIDERED BY THE COMMISSION WITHIN ONE YEAR BEFORE THE DATE THE PETITION FOR AN ADDITION OR ALTERATION OF A DISTRICT IS FILED WITH THE CLERK OF THE GOVERNING BOARD.

8. AT THE HEARING, IF IT APPEARS AFTER CONSIDERATION OF ALL OBJECTIONS THAT THE PETITION IS SIGNED BY THE REQUISITE NUMBER OF PROPERTY OWNERS, AND THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY THE ADDITION TO OR ALTERATION OF THE DISTRICT, THE GOVERNING BODY BY FORMAL ORDER SHALL DECLARE ITS FINDINGS AND ORDER THE ADDITION TO OR ALTERATION OF THE DISTRICT.

9. IF THE GOVERNING BOARD FINDS THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL NOT BE PROMOTED BY THE ADDITION TO OR ALTERATION OF THE DISTRICT, THE GOVERNING BODY BY FORMAL ORDER SHALL DECLARE ITS FINDINGS.

E. NOTWITHSTANDING SUBSECTION D OF THIS SECTION, ANY PROPERTY OWNER WHOSE LAND IS WITHIN A COUNTY THAT CONTAINS AN IMPROVEMENT DISTRICT AND WHOSE LAND IS ADJACENT TO THE BOUNDARIES OF THE IMPROVEMENT DISTRICT MAY REQUEST IN WRITING THAT THE GOVERNING BODY OF THE DISTRICT AMEND THE DISTRICT BOUNDARIES TO INCLUDE THAT PROPERTY OWNER'S LAND. IF THE GOVERNING BODY DETERMINES THAT THE INCLUSION OF THAT PROPERTY WILL BENEFIT THE DISTRICT AND THE PROPERTY OWNER, THE BOUNDARY CHANGE MAY BE MADE BY ORDER OF THE GOVERNING BODY AND IS FINAL ON THE RECORDING OF THE GOVERNING BODY'S ORDER THAT INCLUDES A LEGAL DESCRIPTION OF THE PROPERTY THAT IS ADDED TO THE DISTRICT. A PETITION IS NOT REQUIRED FOR AN AMENDMENT TO AN IMPROVEMENT DISTRICT'S BOUNDARIES MADE PURSUANT TO THIS SUBSECTION.

F. ON APPROVAL OF ANY BOUNDARY CHANGE OF THE DISTRICT, THE DISTRICT BOARD MAY ORDER THE SUCCESSFUL PETITIONERS OR REQUESTER TO PAY ALL OF THE COSTS OF THE BOUNDARY CHANGE.

Sec. 4. Section 48-910, Arizona Revised Statutes, is amended to read:

48-910. <u>Domestic water and domestic wastewater services; authority to set fees; liens; foreclosure</u>

A. The board of directors of a domestic water improvement district, ~~or~~ a domestic wastewater improvement district OR A COUNTY IMPROVEMENT DISTRICT THAT PROVIDES OR IS ESTABLISHED FOR THE PURPOSE OF PROVIDING WATER OR WASTEWATER SERVICES shall have the authority to set fees for the district following a public hearing. Fees may include any of the following:

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

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

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

4. For a domestic wastewater improvement district ~~only~~ OR A COUNTY IMPROVEMENT DISTRICT THAT PROVIDES OR IS ESTABLISHED FOR THE PURPOSE OF PROVIDING WASTEWATER SYSTEMS OR SERVICES, either of the following:

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

(b) An availability fee that is charged on all property in the district that is not connected to the existing wastewater treatment system but that is adjacent to a wastewater line and that is based on the cost of having the wastewater line and treatment facility capacity to accommodate that property if it is developed. An availability fee is limited to fifty per cent of the user fee.

B. Notice announcing the hearing shall be posted in not less than three places within the district for not less than ten days ~~prior to~~ BEFORE the date of the hearing and shall be published twice in a newspaper of general circulation within the district. The newspaper publications shall be not less than one week apart, and the first publication shall be not less than ten days ~~prior to~~ BEFORE the date of the hearing. The district may also mail notice of the hearing to all district customers. The notice may be included in the district's regular billings and shall be mailed at least ten days before the date of the hearing.

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

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

E. A domestic water improvement district, ~~or~~ domestic wastewater improvement district OR A COUNTY IMPROVEMENT DISTRICT THAT PROVIDES OR IS ESTABLISHED FOR THE PURPOSE OF PROVIDING WATER OR WASTEWATER SYSTEMS OR SERVICES may file a lien on property for the nonpayment of user fees for services provided to the property if the fees are delinquent for more than ninety days. At least thirty days before filing the lien, the district shall provide written notice to the owner of the property and shall include notice of an opportunity for a hearing before a designated officer of the district. The notice of lien shall be personally served on the property owner or mailed by certified mail to the property owner's last known address or to the address to which the most recent property tax assessment was mailed. If the property owner does not reside on the property, the notice shall be mailed by certified mail to the owner's last known address.

F. The unpaid user fees are a lien on the property from the date of recording in the office of the county recorder in the county in which the property is located until the fees and all costs are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien assessed pursuant to this section shall be made on a judgment of foreclosure and order of sale. A domestic water or domestic wastewater improvement district OR A COUNTY IMPROVEMENT DISTRICT THAT PROVIDES OR IS ESTABLISHED FOR THE PURPOSE OF PROVIDING WATER OR WASTEWATER SYSTEMS OR SERVICES may bring an action to foreclose the lien in the superior court in the county in which the property is located any time after recording. Failure to foreclose the lien does not affect its validity. The recorded unpaid user fees are prima facie evidence of the truth of all matters recited in the recording and of the regularity of all proceedings before the recording.

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

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

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

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

Sec. 5. Section 48-957, Arizona Revised Statutes, is amended to read:

48-957. Charges for services of county employees

Supervision of construction work and clerical services performed by county employees in connection with special assessment proceedings shall be

charged to the proceedings as incidental expenses. Services of the street superintendent and other employees and costs of publication of notices and other costs of collection of special assessments shall be ~~borne by the county, the additional county taxes collected by the county on the increased value of the lands in the district created by the improvement being deemed sufficient compensation to the county for such collection services~~ ESTIMATED BASED ON THE TERM OF THE BOND AND CHARGES TO THE PROCEEDINGS AS INCIDENTAL EXPENSES.

Sec. 6. Section 48-964, Arizona Revised Statutes, is amended to read:

48-964. District revenues; payment for certain improvements

A. Notwithstanding any other provision of this chapter, the board of directors of an improvement district ~~formed for the purpose of purchasing or constructing a domestic water delivery system~~ may obligate, by resolution, by contract or by inclusion in any bonds issued by the district, the revenues generated by ~~the~~ ANY DOMESTIC WATER OR DOMESTIC WASTEWATER system OF THE DISTRICT for such period as is necessary to:

1. Pay all maintenance and operating costs of the district, including compensation as provided by section 48-1013 for an elected board of directors.

2. Provide such reserves as deemed necessary by the board of directors.

3. Pay all billing costs, office expenses and the cost of collection.

4. Purchase or improve the system or pay bonds or other contractual obligations issued or incurred for that purpose.

B. Notwithstanding any other provision of this chapter, at the option of the board of directors, revenues in excess of the requirements of subsection A may be:

1. Applied to assessments due.

2. Refunded to the property owner.

C. An obligation of revenues by the district that is made pursuant to this section is binding on all successors or assigns until the obligation is fully satisfied.

Sec. 7. Section 48-1011, Arizona Revised Statutes, is amended to read:

48-1011. Definitions

In this article, unless the context otherwise requires:

1. "Clerk" means the person appointed by the board of directors to act as the clerk for the district and to perform the duties otherwise prescribed for a clerk pursuant to this chapter. The board shall establish and make known an office and mailing address for the clerk.

2. "Domestic wastewater improvement district" means a county improvement district that is ~~either~~ formed for the purpose of CONSTRUCTING A DOMESTIC WASTEWATER TREATMENT FACILITY OR purchasing an existing domestic wastewater treatment facility within the district and, if necessary, MAKING improvements to the system or that is converted pursuant to section 48-1018.

3. "Domestic water improvement district" means a county improvement district ~~which~~ THAT is ~~either~~ formed for the purpose of constructing or improving a domestic water delivery system or purchasing an existing domestic water delivery system and, if necessary, MAKING improvements to the system or a district that is converted pursuant to section 48-1018.

4. "Superintendent" means the person employed by the board of directors to perform the duties otherwise prescribed for a superintendent pursuant to this chapter. The board shall establish and make known an office and mailing address for the ~~clerk~~ SUPERINTENDENT.

Sec. 8. Section 48-1014, Arizona Revised Statutes, is amended to read:

48-1014. Powers and duties of an elected or appointed board of directors

A. The board of directors of a domestic water improvement district or domestic wastewater improvement district elected or appointed pursuant to this article shall have all the powers and duties of the board of supervisors sitting as the board of directors of a county improvement district formed for the purposes prescribed in section 48-909, subsection A, paragraph 1, 2, 3, 4, 5 or 6, including the related powers and duties prescribed in section 48-909, subsection B and section 48-910, and that are not in conflict with ~~the provisions of~~ this article. A SINGLE DISTRICT MAY BE FORMED FOR OR CONVERTED TO A COMBINATION OF WATER AND WASTEWATER PURPOSES.

B. Additions to and alterations of the district shall be made ~~in the manner provided for the establishment of the district, except that notification shall be published in a newspaper of general circulation within the district, petitions shall be filed with the district board and all actions related to a proposed boundary change are the responsibility of the district board.~~ AS FOLLOWS:

1. A PETITION ADDRESSED TO THE DISTRICT GOVERNING BOARD REQUESTING THE ADDITION OR ALTERATION MAY BE FILED WITH THE CLERK OF THE GOVERNING BODY, IF SIGNED BY A MAJORITY OF THE PERSONS OWNING PROPERTY AND BY THE OWNERS OF FIFTY-ONE PER CENT OR MORE OF THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE LIMITS OF THE PROPOSED ADDITION OR ALTERATION.

2. A PETITION WITH THE REQUIRED NUMBER OF SIGNATURES SHALL NOT BE DECLARED VOID ON ACCOUNT OF ANY ALLEGED DEFECT, BUT THE GOVERNING BODY SHALL ALLOW THE PETITION TO BE AMENDED IN FORM AND SUBSTANCE TO CONFORM TO THE REQUIREMENTS OF THIS ARTICLE. ONE OR MORE SIMILAR PETITIONS, OR COPIES OF THE SAME PETITION WITH ADDITIONAL SIGNATURES, FOR THE ADDITION TO OR ALTERATION OF THE IMPROVEMENT DISTRICT MAY BE FILED BEFORE THE TIME OF THE HEARING ON THE FIRST PETITION, AND SHALL BE CONSIDERED AS THOUGH FILED WITH THE FIRST PETITION. THE PETITION SHALL BE PRESUMED TO CONTAIN THE SIGNATURES OF THE PERSONS WHOSE SIGNATURES APPEAR ON THE PETITION, UNLESS THE CONTRARY IS PROVED.

3. THE PETITION SHALL SET FORTH:

(a) THE NAME OF THE IMPROVEMENT DISTRICT TO WHICH THE ADDITION OR ALTERATION IS PROPOSED.

(b) THE NECESSITY FOR THE PROPOSED ADDITION OR ALTERATION.

(c) THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY THE ADDITION OR ALTERATION OF THE DISTRICT AND THAT THE PROPERTY TO BE INCLUDED IN THE DISTRICT WILL BE BENEFITED.

(d) THE BOUNDARIES OF THE PROPOSED ADDITION OR ALTERATION.

4. EACH COPY OF THE PETITION SHALL BE VERIFIED BY ONE OF THE PETITIONERS AND SHALL BE ACCOMPANIED BY A PLAT OR SKETCH INDICATING THE APPROXIMATE AREA AND BOUNDARIES OF THE DISTRICT.

5. ON RECEIPT OF A PETITION FOR AN ADDITION OR ALTERATION OF A DISTRICT, THE GOVERNING BODY SHALL SET A DATE FOR A HEARING ON THE PETITION NOT LATER THAN FORTY DAYS AFTER PRESENTATION OF THE PETITION. AT THE HEARING ALL INTERESTED PROPERTY OWNERS MAY APPEAR AND BE HEARD ON ANY MATTER RELATING TO THE ADDITION TO OR ALTERATION OF THE DISTRICT. ANY PERSON WISHING TO OBJECT TO THE ADDITION OR ALTERATION MAY FILE, BEFORE THE DATE SET FOR THE HEARING, THE PERSON'S OBJECTIONS WITH THE CLERK OF THE GOVERNING BODY.

6. NOTICE ANNOUNCING THE HEARING AND STATING THE BOUNDARIES OF THE PROPOSED ADDITION OR ALTERATION SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY WITHIN WHICH THE DISTRICT IS LOCATED. THE PUBLICATIONS SHALL BE ONE WEEK APART, AND THE FIRST PUBLICATION SHALL BE NOT LESS THAN TEN DAYS BEFORE THE DATE OF THE HEARING. THE NOTICE SHALL ALSO BE MAILED BY FIRST CLASS MAIL AT LEAST TWENTY DAYS BEFORE THE HEARING TO THE PROPERTY OWNERS WITHIN THE AREA OF THE PROPOSED ADDITION OR ALTERATION ACCORDING TO THE NAMES AND ADDRESSES THAT APPEAR ON THE MOST RECENT PROPERTY TAX ASSESSMENT ROLL.

7. AT THE HEARING, IF IT APPEARS AFTER CONSIDERATION OF ALL OBJECTIONS THAT THE PETITION IS SIGNED BY THE REQUISITE NUMBER OF PROPERTY OWNERS, AND THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY THE ADDITION TO OR ALTERATION OF THE DISTRICT, THE GOVERNING BODY BY FORMAL ORDER SHALL DECLARE ITS FINDINGS AND ORDER THE ADDITION TO OR ALTERATION OF THE DISTRICT.

8. IF THE GOVERNING BOARD FINDS THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL NOT BE PROMOTED BY THE ADDITION TO OR ALTERATION OF THE DISTRICT, THE GOVERNING BODY BY FORMAL ORDER SHALL DECLARE ITS FINDINGS.

C. NOTWITHSTANDING SUBSECTION B OF THIS SECTION, ANY PROPERTY OWNER WHOSE LAND IS WITHIN A COUNTY THAT CONTAINS AN IMPROVEMENT DISTRICT AND WHOSE LAND IS ADJACENT TO THE BOUNDARIES OF THE IMPROVEMENT DISTRICT MAY REQUEST IN WRITING THAT THE GOVERNING BODY OF THE DISTRICT AMEND THE DISTRICT BOUNDARIES TO INCLUDE THAT PROPERTY OWNER'S LAND. IF THE GOVERNING BODY DETERMINES THAT THE INCLUSION OF THAT PROPERTY WILL BENEFIT THE DISTRICT AND THE PROPERTY OWNER, THE BOUNDARY CHANGE MAY BE MADE BY ORDER OF THE GOVERNING BODY AND IS FINAL ON THE RECORDING OF THE GOVERNING BODY'S ORDER THAT INCLUDES A LEGAL DESCRIPTION OF THE PROPERTY THAT IS ADDED TO THE DISTRICT. A PETITION IS NOT REQUIRED FOR AN AMENDMENT TO AN IMPROVEMENT DISTRICT'S BOUNDARIES MADE PURSUANT TO THIS SUBSECTION.

~~C.~~ D. ~~Notwithstanding section 48-906, subsection D,~~ On approval of any boundary change of the district, the district board may order the successful petitioners OR REQUESTERS to pay all of the costs of the boundary change.

Sec. 9. Section 48-1061, Arizona Revised Statutes, is amended to read:

48-1061. Definitions

In this article, unless the context otherwise requires:

1. "Authorized purpose" includes any one or more of the following purposes:

(a) The payment of district obligations.

(b) The cost of acquiring, constructing, reconstructing, equipping, maintaining and repairing a waterworks OR WASTEWATER SYSTEM as defined in section 48-901.

(c) The acquisition of real property for waterworks OR WASTEWATER SYSTEM needs.

(d) The payment of bond related expenses.

2. "Bond related expenses" means any expenses incurred by the district to issue and administer its bonds, including underwriting fees and costs, trustee fees, financial consultant fees, printing and advertising costs, fiscal agent fees, paying agent fees, registrar fees, transfer agent fees, legal, accounting, feasibility consultant and other expert fees and expenses, cost of credit enhancement fees, attorney and accounting fees and expenses related to credit enhancement, bond insurance or liquidity enhancement, remarketing fees, rating agency fees and costs, travel and telephone expenses and all other fees deemed necessary by the board of directors in order to market and administer the bonds.

3. "Bonds" means bonds of the district issued pursuant to this article.

4. "District" means a county improvement district that operates or is formed for the purpose of operating a domestic water delivery system OR A WASTEWATER SYSTEM within the district, whether or not the district is governed in the manner described in article 4 of this chapter.

5. "REAL PROPERTY FOR WASTEWATER SYSTEM NEEDS" MEANS THOSE REAL PROPERTIES AND ANY APPURTENANCES TO REAL PROPERTIES THAT ARE DESIGNATED OR MAY BE DESIGNATED BY THE BOARD OF DIRECTORS AS A LOCATION FOR OR AS APPROPRIATE TO THE CONSTRUCTION OF A WASTEWATER SYSTEM PROJECT, INCLUDING LANDS, EASEMENTS, RIGHTS-OF-WAY AND OTHER INTERESTS IN LANDS, THE USE OR OCCUPANCY OF WHICH IS NECESSARY OR APPROPRIATE TO CONSTRUCT, RECONSTRUCT, REPAIR, MAINTAIN, EXTEND, DEVELOP, IMPROVE, USE OR OPERATE WASTEWATER FACILITIES AND IMPROVEMENTS.

~~5.~~ 6. "Real property for waterworks needs" means those real properties, rights to surface WATER or ~~groundwaters~~ GROUNDWATER and any appurtenances to real properties ~~which~~ THAT are designated or may be designated by the board of directors as a location for or as appropriate to the construction of a waterworks system project, including lands, easements,

rights-of-way and other interests in lands, the use or occupancy of which ~~are~~ IS necessary or appropriate to construct, reconstruct, repair, maintain, extend, develop, improve, use or operate waterworks facilities and improvements.

~~6.~~ 7. "Revenues" includes any charge, income or receipt by the district of money or any other thing of value except that revenues shall not include monies paid to or for the account of the district for the levy of any tax or assessment or the sale of any property by the district to satisfy or pay any delinquent tax or assessment.

Sec. 10. Section 48-2101, Arizona Revised Statutes, is amended to read:

48-2101. Definitions

In this chapter, unless the context otherwise requires:

1. "AGRICULTURAL LAND" MEANS PROPERTY THAT HAS A CURRENT AGRICULTURAL USE DESIGNATION FROM THE COUNTY ASSESSOR.

~~1.~~ 2. "Board" means a county board of supervisors.

~~2.~~ 3. "Director" means one or all of the board of directors of a pest abatement district established pursuant to this chapter.

~~3.~~ 4. "District" means a pest abatement district established pursuant to this chapter and includes the governing body of the district and all its authorized personnel.

~~4.~~ 5. "Landowner" means a person who owns land within the boundaries of a proposed or existing district.

~~5.~~ 6. "Pest" means any arthropods, rats and mice ~~which~~ THAT the district determines to be a public nuisance to persons or property. ~~"Pest"~~ does not include arthropods which primarily attack agricultural crops.

Sec. 11. Repeal

Sections 48-2102, 48-2103, 48-2104 and 48-2105, Arizona Revised Statutes, are repealed.

Sec. 12. Title 48, chapter 15, article 1, Arizona Revised Statutes, is amended by adding new sections 48-2102 and 48-2103, to read:

48-2102. Petition to form district; contents of petition

A. ANY ONE OR MORE PERSONS INTENDING TO FORM A PEST ABATEMENT DISTRICT SHALL COMPLY WITH SECTION 48-261. IN ADDITION TO THE REQUIREMENTS FOR AN IMPACT STATEMENT PRESCRIBED IN SECTION 48-261, SUBSECTION A, AN IMPACT STATEMENT FOR THE FORMATION OF A PEST ABATEMENT DISTRICT SHALL ALSO INCLUDE A PLAN FOR PEST ABATEMENT, INCLUDING A LISTING OF ANY CHEMICALS TO BE USED AND AN ESTIMATED APPLICATION SCHEDULE AND A CERTIFICATION FROM THE COUNTY HEALTH OFFICER THAT STATES THAT THE PEST SOUGHT TO BE PREVENTED, CONTROLLED OR ERADICATED HAS INVADED OR THREATENS TO INVADE THE BOUNDARIES OF THE PROPOSED DISTRICT.

B. IN ADDITION TO THE REQUIREMENTS FOR A PETITION PRESCRIBED BY SECTIONS 48-265 AND 48-266, THE PETITION FOR A PEST ABATEMENT DISTRICT SHALL INCLUDE THE NAME OF THE PEST TO BE PREVENTED, CONTROLLED OR ERADICATED.

48-2103. Exclusion of agricultural land

A. AT THE HEARING REQUIRED UNDER SECTION 48-261 OR WITHIN THIRTY DAYS AFTER THE REQUIRED HEARING, IF ANY OWNER OF AGRICULTURAL LAND WITHIN THE PROPOSED DISTRICT PRESENTS EVIDENCE THAT THE PROPERTY IS SUBJECT TO AN INTERNAL AND ONGOING PEST CONTROL PROGRAM, THE LANDOWNER'S PROPERTY SHALL BE EXCLUDED FROM THE PROPOSED DISTRICT.

B. EVIDENCE SHALL INCLUDE AN AFFIDAVIT BY PROPERTY OWNERS REGARDING CONTINUATION OF THE INTERNAL PEST ABATEMENT PROGRAM WHILE THE SPECIAL DISTRICT EXISTS AND:

1. CONTRACTS WITH PEST CONTROL COMPANIES.

2. RECEIPTS FOR PURCHASE OF PEST ABATEMENT EQUIPMENT AND CHEMICALS.

3. OTHER EVIDENCE DEEMED APPROPRIATE BY THE BOARD OF SUPERVISORS.

Sec. 13. Section 48-2108, Arizona Revised Statutes, is amended to read:

48-2108. Powers and duties of directors; assessments

A. The directors shall hold an annual meeting and other meetings as they may determine are necessary ~~from time to time~~. They shall make an annual report pursuant to section 48-251 showing the receipts and disbursements of all monies and property belonging to the district. They shall prepare an annual budget of the proposed expenditures to be made during the succeeding year. Any monies that may accrue to the district AND that are in excess of the budgetary requirements for the succeeding year may be invested by the directors in public bonds or deposited in a federal reserve bank or other federally insured depository.

B. After the directors hold the first annual meeting, they shall mail a consent form to each landowner in the district. The consent form shall state that if the landowner signs the form and returns it to the directors the form constitutes prior written consent to district entry onto the landowner's property pursuant to section 48-2109. The district shall keep the signed forms on file.

C. The directors may contract with any person or organization to perform district functions on terms and conditions as they find advisable and shall supervise the performance of all contracts.

D. The directors may expend district monies to employ personnel and purchase equipment, supplies, services and all other things required to carry out the intent and purpose of the district. The directors shall not expend district monies for the purchase of real property without prior written consent of the board. The directors may sell or lease any lands, rights-of-way, easements, material or other property, real or personal, acquired by the district.

E. The directors may assign such district business as they may determine to a manager appointed by them and paid by the district. The manager has such powers as the directors may authorize.

F. The directors shall annually set the assessment for each parcel of land to be protected by the district and shall so notify the county assessor before March 1 of each year.

G. The directors may ask for amendments to the district either adding or removing pests from the list of those to be controlled or extending or contracting the boundaries of the district. ~~The amendments shall be made after an election conducted pursuant to sections 48-2104 and 48-2105.~~

H. The directors may contract and cooperate with agencies, instrumentalities and departments of the state, THE county and the United States interested in the control, extermination and eradication of the pest sought to be controlled or eradicated and may act to secure financial assistance from those agencies, instrumentalities and departments.

Sec. 14. Section 48-6202, Arizona Revised Statutes, is amended to read:

48-6202. Formation of district

A. The governing bodies of a city with a population of more than one million persons, ~~and~~ a county with a population of more than one hundred twenty-five thousand but less than one hundred fifty thousand persons AND A CITY WITH A POPULATION OF MORE THAN THREE THOUSAND PERSONS BUT LESS THAN FIVE THOUSAND PERSONS THAT IS LOCATED ENTIRELY IN THAT COUNTY may jointly establish a theme park and vehicle support facility district as provided by this chapter. For the purposes of this subsection, the population shall be determined according to the most recent population estimate data produced by the department of economic security at the time the district is established. The district shall include theme park sites in both ~~the city~~ CITIES and IN the county establishing the district and a vehicle support facility site in at least the county establishing the district. The ~~city~~ CITIES and the county shall jointly establish the geographical boundaries of the district, which shall include only the sites of the theme parks and vehicle support facility.

B. The district is a corporate and political body and, except as otherwise limited, modified or provided by this chapter, has all of the rights, powers and immunities of municipal corporations.

C. The district is considered to be a tax levying public improvement district for the purposes of article XIII, section 7, Constitution of Arizona.

D. The district is regarded as performing a governmental function in carrying out the purposes of this chapter. The property acquired or constructed by the district, the activities of the district in maintaining and caring for the property and the monies derived by the district from operating the property are exempt from state and local income and property taxation.

Sec. 15. Section 48-6203, Arizona Revised Statutes, is amended to read:

48-6203. Board of directors

A. The district is governed by a board of directors consisting of the following members:

1. ~~Three~~ TWO members of the board of supervisors of the county establishing the district, elected by the board of supervisors.

2. Two members of the governing body of the ~~city~~ MORE POPULOUS OF THE TWO CITIES' establishing the district, elected by the governing body.

3. ONE MEMBER OF THE GOVERNING BODY OF THE LESS POPULOUS OF THE TWO CITIES ESTABLISHING THE DISTRICT, ELECTED BY THE GOVERNING BODY.

B. Members of the board of directors serve during their terms of office on the governing body of the county or city, unless a successor is earlier elected by the respective governing body to replace the member for any reason.

C. Members are not eligible for compensation for service on the board of directors.

Sec. 16. Section 48-6272, Arizona Revised Statutes, is amended to read:

48-6272. Authorization of revenue bonds; conditional expiration

A. Subject to subsections D and E of this section, the district may issue negotiable insured revenue bonds pursuant to this article in a principal amount that is necessary to:

1. Provide sufficient monies for theme park and vehicle support facility purposes. The board shall not segregate any theme park or vehicle support facility purpose for separate financing, but shall include all theme park and vehicle support facility purposes in all areas of the district in the same issue of bonds at the same time.

2. Establish and fully or partially fund any reserves or sinking accounts established by the bond resolution.

3. Issue refunding bonds if the board considers refunding to be expedient. The board may provide for investing and holding the proceeds of the refunding bonds in trust for the benefit of the holders of the bonds being refunded.

4. Refund any bonds issued by the district if the bonds are secured from the same source of revenues as the bonds authorized in this article by issuing new bonds, whether the bonds to be refunded have or have not matured.

5. Issue bonds partly to refund outstanding bonds and partly for any theme park and vehicle support facility purpose consistent with this article.

B. Bonds issued pursuant to this article shall not exceed an outstanding principal amount of one billion dollars, except for refunding bonds and other bonds issued to refund outstanding bonds of the district.

C. The board shall authorize the bonds by resolution. The resolution shall prescribe:

1. The district's revenue sources that are pledged and dedicated to secure the bonds.

2. The rate or rates of interest, which may be fixed or variable, the date or dates on which interest is payable and the denominations of the bonds.

3. The date or dates of the bonds and maturity, which shall be within thirty years after the date of issuance.

4. The manner of executing the bonds.

5. The medium and place of payment.

6. The terms of redemption, which may provide for a premium for early redemption.

D. The board shall not issue bonds under this article unless it receives irrevocable and legally enforceable financial participation commitments from private nongovernmental entities for theme park and vehicle support facility purposes in an amount equal to one-half of the principal amount of the bond issue.

E. The authority of the board of directors to issue bonds under this article expires if the board fails to issue any bonds on or before December 31, ~~2008~~ 2013.

Sec. 17. Laws 2005, chapter 248, section 2 is amended to read:

Sec. 2. Conditional delayed repeal

Title 48, chapter 36, Arizona Revised Statutes, ~~as added by this act,~~ is repealed from and after December 31, ~~2008~~ 2013 if the board of directors fails to issue bonds pursuant to that ~~article~~ CHAPTER by that date.

APPROVED BY THE GOVERNOR MAY 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 16, 2007.

Passed the House March 6, 20 07

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 30, 20 07

by the following vote: 18 Ayes,

11 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

Secretary of State

H.B. 2489

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

May 10, 2007,

by the following vote: 48 Ayes,

7 Nays, 5 Not Voting

Speaker of the House

Norman L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10th day of May, 2007,

at 2:15 o'clock P. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 16 day of

May, 2007,

at 10:45 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16TH day of May, 2007,

at 4:59 o'clock P. M.

Janice K. Brewer
Secretary of State

H.B. 2489