House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

CHAPTER 350

SENATE BILL 1361

AN ACT

AMENDING SECTION 11-951, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-805.01; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-951, Arizona Revised Statutes, is amended to read:

11-951. Definition of public agency

For the purposes of this article, ~~the term~~ "public agency" ~~shall include~~ INCLUDES the federal government or any federal department or agency, Indian ~~tribe~~ TRIBES, this state, any other state, all departments, agencies, boards and commissions of this state or any other state, counties, school districts, FIRE DISTRICTS, cities, towns, all municipal corporations, and any other political subdivisions of this state or any other state.

Sec. 2. Title 48, chapter 5, article 1, Arizona Revised Statutes, is amended by adding section 48-805.01, to read:

48-805.01. Separate legal entities; joint exercise of powers

A. IF PUBLIC AGENCIES IDENTIFIED IN SUBSECTION B OF THIS SECTION FORM A SEPARATE LEGAL ENTITY PURSUANT TO SECTION 11-952, THE ENTITY HAS THE POWERS COMMON TO THE CONTRACTING POWERS SPECIFIED IN THE AGREEMENT AND MAY JOINTLY EXERCISE POWERS HELD IN COMMON BY THE CONTRACTING PARTIES IN A MANNER OR ACCORDING TO THE METHOD PROVIDED IN THE AGREEMENT. NOTWITHSTANDING TITLE 38, AN OFFICER OR ELECTED MEMBER OF THE GOVERNING BODY OF A PARTY TO THE AGREEMENT MAY ALSO ACT IN THE CAPACITY OF A MEMBER OF THE GOVERNING BODY OF THE SEPARATE LEGAL ENTITY. IN ITS OWN NAME AND SUBJECT TO THE PROVISIONS OF THE AGREEMENT, THE SEPARATE LEGAL ENTITY, SUBJECT TO EXISTING APPLICABLE LAW, MAY:

1. MAKE AND ENTER INTO CONTRACTS, INCLUDING CONTRACTS, LEASES OR OTHER TRANSACTIONS WITH ONE OR MORE OF THE PARTIES TO THE AGREEMENT FORMING THE SEPARATE LEGAL ENTITY.

2. EMPLOY AGENTS AND EMPLOYEES.

3. ACQUIRE, HOLD OR DISPOSE OF PROPERTY.

4. ACQUIRE, CONSTRUCT, MANAGE, MAINTAIN AND OPERATE BUILDINGS, WORKS, INFRASTRUCTURE, APPARATUS, EQUIPMENT AND IMPROVEMENTS.

5. INCUR DEBTS, LIABILITIES AND OBLIGATIONS.

6. SUE AND BE SUED.

B. CITIES, TOWNS, COUNTIES AND FIRE DISTRICTS ESTABLISHED PURSUANT TO THIS TITLE MAY FORM A SEPARATE LEGAL ENTITY PURSUANT TO SECTION 11-952, FOR THE PURPOSES OF JOINTLY EXERCISING POWERS HELD IN COMMON BY THE CONTRACTING PARTIES. COMMON POWERS OF THE CONTRACTING PARTIES WHEN OTHERWISE AUTHORIZED PURSUANT TO STATE LAW MAY INCLUDE FIRE PROTECTION, THE PRESERVATION OF LIFE, PROVIDING EMERGENCY MEDICAL SERVICES, AND CARRYING OUT ITS OTHER POWERS AND DUTIES, INCLUDING PROVIDING AMBULANCE TRANSPORTATION SERVICES WHEN AUTHORIZED TO DO SO PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2. ANY SEPARATE LEGAL ENTITY FORMED PURSUANT TO THIS SECTION SHALL INCLUDE A FIRE DISTRICT. THE INTERGOVERNMENTAL AGREEMENT MUST STATE THE INTENT TO FORM A SEPARATE LEGAL ENTITY PURSUANT TO THIS SUBSECTION. THE GOVERNING BODY OF A SEPARATE LEGAL ENTITY FORMED PURSUANT TO THIS SUBSECTION SHALL BE COMPOSED OF OFFICIALS ELECTED TO ONE OR MORE OF THE GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS

THAT ARE PARTIES TO THE AGREEMENT, OR THEIR DESIGNEES. A SEPARATE LEGAL ENTITY IDENTIFIED PURSUANT TO THIS SUBSECTION:

1. IS A POLITICAL SUBDIVISION OF THIS STATE HAVING:

(a) THE GOVERNMENTAL AND PROPRIETARY POWERS THAT ARE COMMON TO THE CONTRACTING PARTIES SPECIFIED IN THE AGREEMENT AND THOSE POWERS PROVIDED FOR IN SECTION 11-952 AND THIS SECTION.

(b) THE RIGHTS AND IMMUNITIES OF THE PARTIES THAT ARE GRANTED BY THE CONSTITUTION AND STATUTES OF THIS STATE, INCLUDING IMMUNITY OF ITS PROPERTY FROM TAXATION.

2. MAY SEPARATELY CONTRACT FOR AN UNDERTAKING WITH ANY TWO OR MORE OF THE PARTIES OR OTHER PUBLIC AGENCIES OR OTHER ENTITIES. LIMITATIONS ON THE EXERCISE OF COMMON POWERS SHALL BE APPLICABLE ONLY TO THE PARTIES TO THE AGREEMENT PARTICIPATING IN THE UNDERTAKING.

3. IN ADDITION TO OTHER POWERS PROVIDED FOR IN THE AGREEMENT BY A VOTE OF ITS GOVERNING BODY, MAY INCUR OBLIGATIONS PAYABLE FROM THE ENTITY'S REVENUES, TO PAY THE COSTS AND EXPENSES OF ACQUIRING OR CONSTRUCTING ANY STRUCTURES, FACILITIES OR EQUIPMENT NECESSARY TO EFFECTUATE THE PURPOSES OF THE AGREEMENT SUBJECT TO THE FOLLOWING CONDITIONS AND REQUIREMENTS:

(a) THE PARTIES TO THE AGREEMENT MAY, WITH THE APPROVAL OF EACH PARTICIPATING ENTITY'S VOTERS, ISSUE GENERAL OBLIGATION BONDS FOR THE PURPOSE OF FUNDING THE COSTS AND EXPENSES OF ACQUIRING OR CONSTRUCTING ANY STRUCTURES, FACILITIES OR EQUIPMENT NECESSARY TO EFFECTUATE THE PURPOSES OF THE AGREEMENT. EACH OF THE PARTICIPATING PARTY'S GENERAL OBLIGATION BONDING AUTHORITY IS LIMITED TO THAT OF EACH PARTY'S ENABLING LEGISLATION.

(b) THE GENERAL OBLIGATION BONDS ARE PAYABLE FROM THE TAXES OR ASSESSMENTS PAID TO, OR TO BE LEVIED OR COLLECTED BY, THE ENTITY OR THE POLITICAL SUBDIVISIONS THAT ARE PARTIES TO THE AGREEMENT THAT FORMS THE ENTITY.

(c) THE GENERAL OBLIGATION BONDS ARE LIMITED TO AN AMOUNT AS AUTHORIZED BY THE QUALIFIED ELECTORS THAT ARE PARTIES TO THE AGREEMENT AND ARE SUBJECT TO THE REQUIREMENTS OF SECTIONS 35-431 AND 48-806.

C. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION, "UNDERTAKING":

1. MEANS ONE OR MORE OF THE FOLLOWING:

(a) PURCHASING, CONSTRUCTING, LEASING OR ACQUIRING ANY REAL OR PERSONAL PROPERTY, WORKS, APPARATUS, EQUIPMENT OR FACILITIES THAT THE POLITICAL SUBDIVISIONS THAT FORMED THE ENTITY ARE AUTHORIZED BY LAW TO PURCHASE, CONSTRUCT, LEASE OR OTHERWISE ACQUIRE.

(b) IMPROVING, RECONSTRUCTING, EXTENDING OR ADDING TO ANY REAL OR PERSONAL PROPERTY, WORKS, APPARATUS, EQUIPMENT OR FACILITIES OWNED OR OPERATED BY THE ENTITY.

(c) ANY PROGRAM OF DEVELOPMENT INVOLVING REAL OR PERSONAL PROPERTY, WORKS, APPARATUS, EQUIPMENT OR FACILITIES THAT THE ENTITY IS AUTHORIZED BY LAW TO PURCHASE, CONSTRUCT, LEASE OR OTHERWISE ACQUIRE OR THE IMPROVEMENT, RECONSTRUCTION, EXTENSION OR ADDITION TO THE PROGRAM.

(d) PROVIDING FIRE PROTECTION, FOR THE PRESERVATION OF LIFE, FOR PROVIDING EMERGENCY MEDICAL SERVICES AND FOR CARRYING OUT ITS OTHER POWERS AND DUTIES, INCLUDING PROVIDING AMBULANCE TRANSPORTATION SERVICES WHEN AUTHORIZED TO DO SO PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2 AND PURCHASING, CONSTRUCTING, LEASING OR ACQUIRING, OR THE EXTENSION OR ADDITION OF, WORKS, APPARATUS, EQUIPMENT OR FACILITIES DESIGNED TO SERVE AREAS OR TERRITORIES ALREADY BEING SERVED BY ANY OF THE PARTIES TO THE AGREEMENT.

2. DOES NOT INCLUDE THE ACQUISITION BY EMINENT DOMAIN OF EXISTING WORKS OR FACILITIES OF A POLITICAL SUBDIVISION.

D. THE EXERCISE OF JOINT POWERS DOES NOT CREATE ANY EXPANSION OF A CERTIFICATE OF NECESSITY ISSUED PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2 OR THE OPERATING RIGHTS AS DEFINED BY THE CERTIFICATE OF NECESSITY HELD BY ONE OR MORE OF THE ENTITIES ENTERING INTO A JOINT POWERS AUTHORITY. SUCH OPERATING RIGHTS SHALL REMAIN THE SAME AS THOSE RIGHTS GRANTED TO THE CERTIFICATE OF NECESSITY HOLDER AT THE DATE OF THE ESTABLISHMENT OF THE JOINT POWERS AUTHORITY UNLESS MODIFIED PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2.

APPROVED BY THE GOVERNOR APRIL 29, 2011.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 29, 2011.

Passed the House April 18, 2011,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Cheryl Laube

Chief Clerk of the House

Passed the Senate March 14, 2011,

by the following vote: 27 Ayes,

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~~

~~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~~

S.B. 1361

SENATE CONCURS IN HOUSE
AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 19, 20 11

by the following vote: 27 Ayes,

3 Nays, 0 Not Voting

Russell Pearce
President of the Senate

Susan Acevedo
Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

20 day of April, 20 11

at 12:00 o'clock P. M.

Nicole Bendle
Secretary to the Governor

Approved this 29th day of

April

at 11:50 o'clock A. M.

Janice K. Brewer
Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 29th day of April, 20 11

S.B. 1361

at 7:30 o'clock P M.

Ken Bennett
Secretary of State