

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

HOUSE BILL 2647

AN ACT

AMENDING SECTIONS 9-463.05, 9-835, 11-1102, 42-5031, 42-6004, 48-4201, 48-4202, 48-4203, 48-4204, 48-4231.01 AND 48-4237, ARIZONA REVISED STATUTES; RELATING TO COUNTY STADIUM DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-463.05, Arizona Revised Statutes, is amended to
3 read:

4 9-463.05. Development fees; imposition by cities and towns;
5 infrastructure improvements plan; annual report;
6 advisory committee; limitation on actions;
7 definitions

8 A. A municipality may assess development fees to offset costs to the
9 municipality associated with providing necessary public services to a
10 development, including the costs of infrastructure, improvements, real
11 property, engineering and architectural services, financing and professional
12 services required for the preparation or revision of a development fee
13 pursuant to this section, including the relevant portion of the
14 infrastructure improvements plan.

15 B. Development fees assessed by a municipality under this section are
16 subject to the following requirements:

17 1. Development fees shall result in a beneficial use to the
18 development.

19 2. The municipality shall calculate the development fee based on the
20 infrastructure improvements plan adopted pursuant to this section.

21 3. The development fee shall not exceed a proportionate share of the
22 cost of necessary public services, based on service units, needed to provide
23 necessary public services to the development.

24 4. Costs for necessary public services made necessary by new
25 development shall be based on the same level of service provided to existing
26 development in the service area.

27 5. Development fees may not be used for any of the following:

28 (a) Construction, acquisition or expansion of public facilities or
29 assets other than necessary public services or facility expansions identified
30 in the infrastructure improvements plan.

31 (b) Repair, operation or maintenance of existing or new necessary
32 public services or facility expansions.

33 (c) Upgrading, updating, expanding, correcting or replacing existing
34 necessary public services to serve existing development in order to meet
35 stricter safety, efficiency, environmental or regulatory standards.

36 (d) Upgrading, updating, expanding, correcting or replacing existing
37 necessary public services to provide a higher level of service to existing
38 development.

39 (e) Administrative, maintenance or operating costs of the
40 municipality.

41 6. Any development for which a development fee has been paid is
42 entitled to the use and benefit of the services for which the fee was imposed
43 and is entitled to receive immediate service from any existing facility with
44 available capacity to serve the new service units if the available capacity

1 has not been reserved or pledged in connection with the construction or
2 financing of the facility.

3 7. Development fees may be collected if any of the following occurs:

4 (a) The collection is made to pay for a necessary public service or
5 facility expansion that is identified in the infrastructure improvements plan
6 and the municipality plans to complete construction and to have the service
7 available within the time period established in the infrastructure
8 ~~improvement~~ IMPROVEMENTS plan, but in no event longer than the time period
9 provided in subsection ~~H~~ I, paragraph 3 of this section.

10 (b) The municipality reserves in the infrastructure improvements plan
11 adopted pursuant to this section or otherwise agrees to reserve capacity to
12 serve future development.

13 (c) The municipality requires or agrees to allow the owner of a
14 development to construct or finance the necessary public service or facility
15 expansion and any of the following ~~apply~~ APPLIES:

16 (i) The costs incurred or money advanced are credited against or
17 reimbursed from the development fees otherwise due from a development.

18 (ii) The municipality reimburses the owner for those costs from the
19 development fees paid from all developments that will use those necessary
20 public services or facility expansions.

21 (iii) For those costs incurred the municipality allows the owner to
22 assign the credits or reimbursement rights from the development fees
23 otherwise due from a development to other developments for the same category
24 of necessary public services in the same service area.

25 8. Projected interest charges and other finance costs may be included
26 in determining the amount of development fees only if the monies are used for
27 the payment of principal and interest on the portion of the bonds, notes or
28 other obligations issued to finance construction of necessary public services
29 or facility expansions identified in the infrastructure improvements plan.

30 9. Monies received from development fees assessed pursuant to this
31 section shall be placed in a separate fund and accounted for separately and
32 may only be used for the purposes authorized by this section. Monies
33 received from a development fee identified in an infrastructure improvements
34 plan adopted or updated pursuant to subsection D of this section shall be
35 used to provide the same category of necessary public services or facility
36 expansions for which the development fee was assessed and for the benefit of
37 the same service area, as defined in the infrastructure improvements plan, in
38 which the development fee was assessed. Interest earned on monies in the
39 separate fund shall be credited to the fund.

40 10. The schedule for payment of fees shall be provided by the
41 municipality. Based on the cost identified in the infrastructure
42 improvements plan, the municipality shall provide a credit toward the payment
43 of a development fee for the required or agreed to dedication of public
44 sites, improvements and other necessary public services or facility
45 expansions included in the infrastructure improvements plan and for which a

1 development fee is assessed, to the extent the public sites, improvements and
2 necessary public services or facility expansions are provided by the
3 developer. The developer of residential dwelling units shall be required to
4 pay development fees when construction permits for the dwelling units are
5 issued, or at a later time if specified in a development agreement pursuant
6 to section 9-500.05. If a development agreement provides for fees to be paid
7 at a time later than the issuance of construction permits, the deferred fees
8 shall be paid no later than fifteen days after the issuance of a certificate
9 of occupancy. The development agreement shall provide for the value of any
10 deferred fees to be supported by appropriate security, including a surety
11 bond, letter of credit or cash bond.

12 11. If a municipality requires as a condition of development approval
13 the construction or improvement of, contributions to or dedication of any
14 facilities that were not included in a previously adopted infrastructure
15 improvements plan, the municipality shall cause the infrastructure
16 improvements plan to be amended to include the facilities and shall provide a
17 credit toward the payment of a development fee for the construction,
18 improvement, contribution or dedication of the facilities to the extent that
19 the facilities will substitute for or otherwise reduce the need for other
20 similar facilities in the infrastructure improvements plan for which
21 development fees were assessed.

22 12. The municipality shall forecast the contribution to be made in the
23 future in cash or by taxes, fees, assessments or other sources of revenue
24 derived from the property owner towards the capital costs of the necessary
25 public service covered by the development fee and shall include these
26 contributions in determining the extent of the burden imposed by the
27 development. Beginning August 1, 2014, for purposes of calculating the
28 required offset to development fees pursuant to this subsection, if a
29 municipality imposes a construction contracting or similar excise tax rate in
30 excess of the percentage amount of the transaction privilege tax rate imposed
31 on the majority of other transaction privilege tax classifications, the
32 entire excess portion of the construction contracting or similar excise tax
33 shall be treated as a contribution to the capital costs of necessary public
34 services provided to development for which development fees are assessed,
35 unless the excess portion was already taken into account for such purpose
36 pursuant to this subsection.

37 13. If development fees are assessed by a municipality, the fees shall
38 be assessed against commercial, residential and industrial development,
39 except that the municipality may distinguish between different categories of
40 residential, commercial and industrial development in assessing the costs to
41 the municipality of providing necessary public services to new development
42 and in determining the amount of the development fee applicable to the
43 category of development. If a municipality agrees to waive any of the
44 development fees assessed on a development, the municipality shall reimburse
45 the appropriate development fee accounts for the amount that was waived. The

1 municipality shall provide notice of any such waiver to the advisory
2 committee established pursuant to subsection ~~G~~ H of this section within
3 thirty days.

4 14. In determining and assessing a development fee applying to land in
5 a community facilities district established under title 48, chapter 4,
6 article 6, the municipality shall take into account all public infrastructure
7 provided by the district and capital costs paid by the district for necessary
8 public services and shall not assess a portion of the development fee based
9 on the infrastructure or costs.

10 C. A municipality shall give at least thirty days' advance notice of
11 intention to assess a development fee and shall release to the public and
12 post on its website or the website of an association of cities and towns if a
13 municipality does not have a website a written report of the land use
14 assumptions and infrastructure improvements plan adopted pursuant to
15 subsection D of this section. The municipality shall conduct a public
16 hearing on the proposed development fee at any time after the expiration of
17 the thirty day notice of intention to assess a development fee and at least
18 thirty days before the scheduled date of adoption of the fee by the governing
19 body. Within sixty days after the date of the public hearing on the proposed
20 development fee, a municipality shall approve or disapprove the imposition of
21 the development fee. A municipality shall not adopt an ordinance, order or
22 resolution approving a development fee as an emergency measure. A
23 development fee assessed pursuant to this section shall not be effective
24 until seventy-five days after its formal adoption by the governing body of
25 the municipality. Nothing in this subsection shall affect any development
26 fee adopted before July 24, 1982.

27 D. Before the adoption or amendment of a development fee, the
28 governing body of the municipality shall adopt or update the land use
29 assumptions and infrastructure improvements plan for the designated service
30 area. The municipality shall conduct a public hearing on the land use
31 assumptions and infrastructure improvements plan at least thirty days before
32 the adoption or update of the plan. The municipality shall release the plan
33 to the public, post the plan on its website or the website of an association
34 of cities and towns if the municipality does not have a website, including in
35 the posting its land use assumptions, the time period of the projections, a
36 description of the necessary public services included in the infrastructure
37 improvements plan and a map of the service area to which the land use
38 assumptions apply, make available to the public the documents used to prepare
39 the assumptions and plan and provide public notice at least sixty days before
40 the public hearing, subject to the following:

41 1. The land use assumptions and infrastructure improvements plan shall
42 be approved or disapproved within sixty days after the public hearing on the
43 land use assumptions and infrastructure improvements plan and at least thirty
44 days before the public hearing on the report required by subsection C of this
45 section. A municipality shall not adopt an ordinance, order or resolution

1 approving the land use assumptions or infrastructure improvements plan as an
2 emergency measure.

3 2. An infrastructure improvements plan shall be developed by qualified
4 professionals using generally accepted engineering and planning practices
5 pursuant to subsection E of this section.

6 3. A municipality shall update the land use assumptions and
7 infrastructure improvements plan at least every five years. The initial five
8 year period begins on the day the infrastructure improvements plan is
9 adopted. The municipality shall review and evaluate its current land use
10 assumptions and shall cause an update of the infrastructure improvements plan
11 to be prepared pursuant to this section.

12 4. Within sixty days after completion of the updated land use
13 assumptions and infrastructure improvements plan, the municipality shall
14 schedule and provide notice of a public hearing to discuss and review the
15 update and shall determine whether to amend the assumptions and plan.

16 5. A municipality shall hold a public hearing to discuss the proposed
17 amendments to the land use assumptions, the infrastructure improvements plan
18 or the development fee. The land use assumptions and the infrastructure
19 improvements plan, including the amount of any proposed changes to the
20 development fee per service unit, shall be made available to the public on or
21 before the date of the first publication of the notice of the hearing on the
22 amendments.

23 6. The notice and hearing procedures prescribed in paragraph 1 of this
24 subsection apply to a hearing on the amendment of land use assumptions, an
25 infrastructure improvements plan or a development fee. Within sixty days
26 after the date of the public hearing on the amendments, a municipality shall
27 approve or disapprove the amendments to the land use assumptions,
28 infrastructure improvements plan or development fee. A municipality shall
29 not adopt an ordinance, order or resolution approving the amended land use
30 assumptions, infrastructure improvements plan or development fee as an
31 emergency measure.

32 7. The advisory committee established under subsection ~~G~~ H of this
33 section shall file its written comments on any proposed or updated land use
34 assumptions, infrastructure improvements plan and development fees before the
35 fifth business day before the date of the public hearing on the proposed or
36 updated assumptions, plan and fees.

37 8. If, at the time an update as prescribed in paragraph 3 of this
38 subsection is required, the municipality determines that no changes to the
39 land use assumptions, infrastructure improvements plan or development fees
40 are needed, the municipality may as an alternative to the updating
41 requirements of this subsection publish notice of its determination on its
42 website and include the following:

43 (a) A statement that the municipality has determined that no change to
44 the land use assumptions, infrastructure improvements plan or development fee
45 is necessary.

1 (b) A description and map of the service area in which an update has
2 been determined to be unnecessary.

3 (c) A statement that by a specified date, which shall be at least
4 sixty days after the date of publication of the first notice, a person may
5 make a written request to the municipality requesting that the land use
6 assumptions, infrastructure improvements plan or development fee be updated.

7 (d) A statement identifying the person or entity to whom the written
8 request for an update should be sent.

9 9. If, by the date specified pursuant to paragraph 8 of this
10 subsection, a person requests in writing that the land use assumptions,
11 infrastructure improvements plan or development fee be updated, the
12 municipality shall cause, accept or reject an update of the assumptions and
13 plan to be prepared pursuant to this subsection.

14 10. Notwithstanding the notice and hearing requirements for adoption of
15 an infrastructure improvements plan, a municipality may amend an
16 infrastructure improvements plan adopted pursuant to this section without a
17 public hearing if the amendment addresses only elements of necessary public
18 services in the existing infrastructure improvements plan and the changes to
19 the plan will not, individually or cumulatively with other amendments adopted
20 pursuant to this subsection, increase the level of service in the service
21 area or cause a development fee increase of greater than five per cent when a
22 new or modified development fee is assessed pursuant to this section. The
23 municipality shall provide notice of any such amendment at least thirty days
24 before adoption, shall post the amendment on its website or on the website of
25 an association of cities and towns if the municipality does not have a
26 website and shall provide notice to the advisory committee established
27 pursuant to subsection ~~G~~ H of this section that the amendment complies with
28 this subsection.

29 E. For each necessary public service that is the subject of a
30 development fee, the infrastructure improvements plan shall include:

31 1. A description of the existing necessary public services in the
32 service area and the costs to upgrade, update, improve, expand, correct or
33 replace those necessary public services to meet existing needs and usage and
34 stricter safety, efficiency, environmental or regulatory standards, which
35 shall be prepared by qualified professionals licensed in this state, as
36 applicable.

37 2. An analysis of the total capacity, the level of current usage and
38 commitments for usage of capacity of the existing necessary public services,
39 which shall be prepared by qualified professionals licensed in this state, as
40 applicable.

41 3. A description of all or the parts of the necessary public services
42 or facility expansions and their costs necessitated by and attributable to
43 development in the service area based on the approved land use assumptions,
44 including a forecast of the costs of infrastructure, improvements, real

1 property, financing, engineering and architectural services, which shall be
2 prepared by qualified professionals licensed in this state, as applicable.

3 4. A table establishing the specific level or quantity of use,
4 consumption, generation or discharge of a service unit for each category of
5 necessary public services or facility expansions and an equivalency or
6 conversion table establishing the ratio of a service unit to various types of
7 land uses, including residential, commercial and industrial.

8 5. The total number of projected service units necessitated by and
9 attributable to new development in the service area based on the approved
10 land use assumptions and calculated pursuant to generally accepted
11 engineering and planning criteria.

12 6. The projected demand for necessary public services or facility
13 expansions required by new service units for a period not to exceed ten
14 years.

15 7. A forecast of revenues generated by new service units other than
16 development fees, which shall include estimated state-shared revenue, highway
17 ~~users~~ USER revenue, federal revenue, ad valorem property taxes, construction
18 contracting or similar excise taxes and the capital recovery portion of
19 utility fees attributable to development based on the approved land use
20 assumptions, and a plan to include these contributions in determining the
21 extent of the burden imposed by the development as required in subsection B,
22 paragraph 12 of this section.

23 F. A municipality's development fee ordinance shall provide that a new
24 development fee or an increased portion of a modified development fee shall
25 not be assessed against a development for twenty-four months after the date
26 that the municipality issues the final approval for a commercial, industrial
27 or multifamily development or the date that the first building permit is
28 issued for a residential development pursuant to an approved site plan or
29 subdivision plat, provided that no subsequent changes are made to the
30 approved site plan or subdivision plat that would increase the number of
31 service units. If the number of service units increases, the new or
32 increased portion of a modified development fee shall be limited to the
33 amount attributable to the additional service units. The twenty-four month
34 period shall not be extended by a renewal or amendment of the site plan or
35 the final subdivision plat that was the subject of the final approval. The
36 municipality shall issue, on request, a written statement of the development
37 fee schedule applicable to the development. If, after the date of the
38 municipality's final approval of a development, the municipality reduces the
39 development fee assessed on development, the reduced fee shall apply to the
40 development.

41 G. A MUNICIPALITY SHALL NOT LEVY OR ASSESS AN IMPACT OR DEVELOPMENT
42 FEE, HOWEVER DENOMINATED OR FOR ANY PURPOSE, ON THE DEVELOPMENT OF REAL
43 PROPERTY WITHIN THE EXTERIOR BOUNDARIES OF A MULTIPURPOSE FACILITY SITE IN A
44 COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO SECTION 48-4202,
45 SUBSECTION B.

1 ~~G.~~ H. A municipality shall do one of the following:
2 1. Before the adoption of proposed or updated land use assumptions,
3 infrastructure improvements plan and development fees as prescribed in
4 subsection D of this section, the municipality shall appoint an
5 infrastructure improvements advisory committee, subject to the following
6 requirements:
7 (a) The advisory committee shall be composed of at least five members
8 who are appointed by the governing body of the municipality. At least fifty
9 per cent of the members of the advisory committee must be representatives of
10 the real estate, development or building industries, of which at least one
11 member of the committee must be from the home building industry. Members
12 shall not be employees or officials of the municipality.
13 (b) The advisory committee shall serve in an advisory capacity and
14 shall:
15 (i) Advise the municipality in adopting land use assumptions and in
16 determining whether the assumptions are in conformance with the general plan
17 of the municipality.
18 (ii) Review the infrastructure improvements plan and file written
19 comments.
20 (iii) Monitor and evaluate implementation of the infrastructure
21 improvements plan.
22 (iv) Every year file reports with respect to the progress of the
23 infrastructure improvements plan and the collection and expenditures of
24 development fees and report to the municipality any perceived inequities in
25 implementing the plan or imposing the development fee.
26 (v) Advise the municipality of the need to update or revise the land
27 use assumptions, infrastructure improvements plan and development fee.
28 (c) The municipality shall make available to the advisory committee
29 any professional reports with respect to developing and implementing the
30 infrastructure improvements plan.
31 (d) The municipality shall adopt procedural rules for the advisory
32 committee to follow in carrying out the committee's duties.
33 2. In lieu of creating an advisory committee pursuant to paragraph 1
34 of this subsection, provide for a biennial certified audit of the
35 municipality's land use assumptions, infrastructure improvements plan and
36 development fees. An audit pursuant to this paragraph shall be conducted by
37 one or more qualified professionals who are not employees or officials of the
38 municipality and who did not prepare the infrastructure improvements plan.
39 The audit shall review the progress of the infrastructure improvements plan,
40 including the collection and expenditures of development fees for each
41 project in the plan, and evaluate any inequities in implementing the plan or
42 imposing the development fee. The municipality shall post the findings of
43 the audit on the municipality's website or the website of an association of
44 cities and towns if the municipality does not have a website and shall

1 conduct a public hearing on the audit within sixty days of the release of the
2 audit to the public.

3 ~~H.~~ I. On written request, an owner of real property for which a
4 development fee has been paid after July 31, 2014 is entitled to a refund of
5 a development fee or any part of a development fee if:

6 1. Pursuant to subsection B, paragraph 6 of this section, existing
7 facilities are available and service is not provided.

8 2. The municipality has, after collecting the fee to construct a
9 facility when service is not available, failed to complete construction
10 within the time period identified in the infrastructure improvements plan,
11 but in no event later than the time period specified in paragraph 3 of this
12 subsection.

13 3. For a development fee other than a development fee for water or
14 wastewater facilities, any part of the development fee is not spent as
15 authorized by this section within ten years after the fee has been paid or,
16 for a development fee for water or wastewater facilities, any part of the
17 development fee is not spent as authorized by this section within fifteen
18 years after the fee has been paid.

19 ~~I.~~ J. If the development fee was collected for the construction of
20 all or a portion of a specific item of infrastructure, and on completion of
21 the infrastructure the municipality determines that the actual cost of
22 construction was less than the forecasted cost of construction on which the
23 development fee was based and the difference between the actual and estimated
24 cost is greater than ten per cent, the current owner may receive a refund of
25 the portion of the development fee equal to the difference between the
26 development fee paid and the development fee that would have been due if the
27 development fee had been calculated at the actual construction cost.

28 ~~J.~~ K. A refund shall include any interest earned by the municipality
29 from the date of collection to the date of refund on the amount of the
30 refunded fee. All refunds shall be made to the record owner of the property
31 at the time the refund is paid. If the development fee is paid by a
32 governmental entity, the refund shall be paid to the governmental entity.

33 ~~K.~~ L. A development fee that was adopted before January 1, 2012 may
34 continue to be assessed only to the extent that it will be used to provide a
35 necessary public service for which development fees can be assessed pursuant
36 to this section and shall be replaced by a development fee imposed under this
37 section on or before August 1, 2014. Any municipality having a development
38 fee that has not been replaced under this section on or before August 1, 2014
39 shall not collect development fees until the development fee has been
40 replaced with a fee that complies with this section. Any development fee
41 monies collected before January 1, 2012 remaining in a development fee
42 account:

43 1. Shall be used towards the same category of necessary public
44 services as authorized by this section.

1 2. If development fees were collected for a purpose not authorized by
2 this section, shall be used for the purpose for which they were collected on
3 or before January 1, 2020, and after which, if not spent, shall be
4 distributed equally among the categories of necessary public services
5 authorized by this section.

6 ~~L.~~ M. A moratorium shall not be placed on development for the sole
7 purpose of awaiting completion of all or any part of the process necessary to
8 develop, adopt or update development fees.

9 ~~M.~~ N. In any judicial action interpreting this section, all powers
10 conferred on municipal governments in this section shall be narrowly
11 construed to ensure that development fees are not used to impose on new
12 residents a burden all taxpayers of a municipality should bear equally.

13 ~~N.~~ O. Each municipality that assesses development fees shall submit
14 an annual report accounting for the collection and use of the fees for each
15 service area. The annual report shall include the following:

16 1. The amount assessed by the municipality for each type of
17 development fee.

18 2. The balance of each fund maintained for each type of development
19 fee assessed as of the beginning and end of the fiscal year.

20 3. The amount of interest or other earnings on the monies in each fund
21 as of the end of the fiscal year.

22 4. The amount of development fee monies used to repay:

23 (a) Bonds issued by the municipality to pay the cost of a capital
24 improvement project that is the subject of a development fee assessment,
25 including the amount needed to repay the debt service obligations on each
26 facility for which development fees have been identified as the source of
27 funding and the time frames in which the debt service will be repaid.

28 (b) Monies advanced by the municipality from funds other than the
29 funds established for development fees in order to pay the cost of a capital
30 improvement project that is the subject of a development fee assessment, the
31 total amount advanced by the municipality for each facility, the source of
32 the monies advanced and the terms under which the monies will be repaid to
33 the municipality.

34 5. The amount of development fee monies spent on each capital
35 improvement project that is the subject of a development fee assessment and
36 the physical location of each capital improvement project.

37 6. The amount of development fee monies spent for each purpose other
38 than a capital improvement project that is the subject of a development fee
39 assessment.

40 ~~O.~~ P. Within ninety days following the end of each fiscal year, each
41 municipality shall submit a copy of the annual report to the city clerk and
42 post the report on the municipality's website or the website of an
43 association of cities and towns if the municipality does not have a website.
44 Copies shall be made available to the public on request. The annual report
45 may contain financial information that has not been audited.

1 ~~P.~~ Q. A municipality that fails to file the report and post the
2 report on the municipality's website or the website of an association of
3 cities and towns if the municipality does not have a website as required by
4 this section shall not collect development fees until the report is filed and
5 posted.

6 ~~Q.~~ R. Any action to collect a development fee shall be commenced
7 within two years after the obligation to pay the fee accrues.

8 ~~R.~~ S. A municipality may continue to assess a development fee adopted
9 before January 1, 2012 for any facility that was financed before June 1, 2011
10 if:

11 1. Development fees were pledged to repay debt service obligations
12 related to the construction of the facility.

13 2. After August 1, 2014, any development fees collected under this
14 subsection are used solely for the payment of principal and interest on the
15 portion of the bonds, notes or other debt service obligations issued before
16 June 1, 2011 to finance construction of the facility.

17 ~~S.~~ T. Through August 1, 2014, a development fee adopted before
18 January 1, 2012 may be used to finance construction of a facility and may be
19 pledged to repay debt service obligations if:

20 1. The facility that is being financed is a facility that is described
21 under subsection ~~T.~~ U, paragraph 7, subdivisions (a) through (g) of this
22 section.

23 2. The facility was included in an infrastructure improvements plan
24 adopted before June 1, 2011.

25 3. The development fees are used for the payment of principal and
26 interest on the portion of the bonds, notes or other debt service obligations
27 issued to finance construction of the necessary public services or facility
28 expansions identified in the infrastructure ~~improvement~~ IMPROVEMENTS plan.

29 ~~T.~~ U. For the purposes of this section:

30 1. "Dedication" means the actual conveyance date or the date an
31 improvement, facility or real or personal property is placed into service,
32 whichever occurs first.

33 2. "Development" means:

34 (a) The subdivision of land.

35 (b) The construction, reconstruction, conversion, structural
36 alteration, relocation or enlargement of any structure that adds or increases
37 the number of service units.

38 (c) Any use or extension of the use of land that increases the number
39 of service units.

40 3. "Facility expansion" means the expansion of the capacity of an
41 existing facility that serves the same function as an otherwise new necessary
42 public service in order that the existing facility may serve new development.
43 Facility expansion does not include the repair, maintenance, modernization or
44 expansion of an existing facility to better serve existing development.

1 4. "Final approval" means:

2 (a) For a nonresidential or multifamily development, the approval of a
3 site plan or, if no site plan is submitted for the development, the approval
4 of a final subdivision plat.

5 (b) For a single family residential development, the approval of a
6 final subdivision plat.

7 5. "Infrastructure improvements plan" means a written plan that
8 identifies each necessary public service or facility expansion that is
9 proposed to be the subject of a development fee and otherwise complies with
10 the requirements of this section, and may be the municipality's capital
11 improvements plan.

12 6. "Land use assumptions" means projections of changes in land uses,
13 densities, intensities and population for a specified service area over a
14 period of at least ten years and pursuant to the general plan of the
15 municipality.

16 7. "Necessary public service" means any of the following facilities
17 that have a life expectancy of three or more years and that are owned and
18 operated by or on behalf of the municipality:

19 (a) Water facilities, including the supply, transportation, treatment,
20 purification and distribution of water, and any appurtenances for those
21 facilities.

22 (b) Wastewater facilities, including collection, interception,
23 transportation, treatment and disposal of wastewater, and any appurtenances
24 for those facilities.

25 (c) Storm water, drainage and flood control facilities, including any
26 appurtenances for those facilities.

27 (d) Library facilities of up to ten thousand square feet that provide
28 a direct benefit to development, not including equipment, vehicles or
29 appurtenances.

30 (e) Street facilities located in the service area, including arterial
31 or collector streets or roads that have been designated on an officially
32 adopted plan of the municipality, traffic signals and rights-of-way and
33 improvements thereon.

34 (f) Fire and police facilities, including all appurtenances, equipment
35 and vehicles. Fire and police facilities do not include a facility or
36 portion of a facility that is used to replace services that were once
37 provided elsewhere in the municipality, vehicles and equipment used to
38 provide administrative services, helicopters or airplanes or a facility that
39 is used for training firefighters or officers from more than one station or
40 substation.

41 (g) Neighborhood parks and recreational facilities on real property up
42 to thirty acres in area, or parks and recreational facilities larger than
43 thirty acres if the facilities provide a direct benefit to the development.
44 Park and recreational facilities do not include vehicles, equipment or that
45 portion of any facility that is used for amusement parks, aquariums, aquatic

1 centers, auditoriums, arenas, arts and cultural facilities, bandstand and
2 orchestra facilities, bathhouses, boathouses, clubhouses, community centers
3 greater than three thousand square feet in floor area, environmental
4 education centers, equestrian facilities, golf course facilities,
5 greenhouses, lakes, museums, theme parks, water reclamation or riparian
6 areas, wetlands, zoo facilities or similar recreational facilities, but may
7 include swimming pools.

8 (h) Any facility that was financed and that meets all of the
9 requirements prescribed in subsection ~~R~~-S of this section.

10 8. "Qualified professional" means a professional engineer, surveyor,
11 financial analyst or planner providing services within the scope of the
12 person's license, education or experience.

13 9. "Service area" means any specified area within the boundaries of a
14 municipality in which development will be served by necessary public services
15 or facility expansions and within which a substantial nexus exists between
16 the necessary public services or facility expansions and the development
17 being served as prescribed in the infrastructure improvements plan.

18 10. "Service unit" means a standardized measure of consumption, use,
19 generation or discharge attributable to an individual unit of development
20 calculated pursuant to generally accepted engineering or planning standards
21 for a particular category of necessary public services or facility
22 expansions.

23 Sec. 2. Section 9-835, Arizona Revised Statutes, is amended to read:
24 9-835. Licensing time frames; compliance; consequence for
25 failure to comply with time frame; exception

26 A. For any new ordinance or code requiring a license, a municipality
27 shall have in place an overall time frame during which the municipality will
28 either grant or deny each type of license that it issues. The overall time
29 frame for each type of license shall state separately the administrative
30 completeness review time frame and the substantive review time frame.

31 B. On or before December 31, 2012, a municipality that issues licenses
32 required under existing ordinances or codes shall have in place an overall
33 time frame during which the municipality will either grant or deny each type
34 of license that it issues. The overall time frame for each type of license
35 shall state separately the administrative completeness review time frame and
36 the substantive review time frame. Municipalities shall prioritize the
37 establishment of time frames for those licenses that have the greatest impact
38 on the public. **A MUNICIPALITY SHALL EMPLOY ITS BEST EFFORTS FOR ISSUING OR**
39 **DENYING MUNICIPAL BUILDING PERMITS TO ANY APPLICANT FOR ANY PROJECT WITHIN**
40 **THE EXTERIOR BOUNDARIES OF A MULTIPURPOSE FACILITY SITE IN A COUNTY STADIUM**
41 **DISTRICT ESTABLISHED WITHIN THE MUNICIPALITY PURSUANT TO SECTION 48-4202,**
42 **SUBSECTION B WITHIN THIRTY DAYS AFTER THE SUBMISSION OF A COMPLETE AND**
43 **CORRECT APPLICATION.**

- 1 C. In establishing time frames, municipalities shall consider all of
2 the following:
- 3 1. The complexity of the licensing subject matter.
 - 4 2. The resources of the municipality.
 - 5 3. The economic impact of delay on the regulated community.
 - 6 4. The impact of the licensing decision on public health and safety.
 - 7 5. The possible use of volunteers with expertise in the subject matter
8 area.
 - 9 6. The possible increased use of general licenses for similar types of
10 licensed businesses or facilities.
 - 11 7. The possible increased cooperation between the municipality and the
12 regulated community.
 - 13 8. Increased municipal flexibility in structuring the licensing
14 process and personnel including:
 - 15 (a) Adult businesses and other licenses that are related to the first
16 amendment.
 - 17 (b) Master planned communities.
 - 18 (c) Suspension of the substantive and overall time frames for purposes
19 including public hearings or state or federal licenses.
- 20 D. A municipality shall issue a written or electronic notice of
21 administrative completeness or deficiencies to an applicant for a license
22 within the administrative completeness review time frame. If the permit
23 sought requires approval of more than one department of the municipality,
24 each department may issue a written or electronic notice of administrative
25 completeness or deficiencies.
- 26 E. If a municipality determines that an application for a license is
27 not administratively complete, the municipality shall include a comprehensive
28 list of the specific deficiencies in the written or electronic notice
29 provided pursuant to subsection D **OF THIS SECTION**. If the municipality
30 issues a written or electronic notice of deficiencies within the
31 administrative completeness time frame, the administrative completeness
32 review time frame and the overall time frame are suspended from the date the
33 notice is issued until the date that the municipality receives the missing
34 information from the applicant. The municipality may issue an additional
35 written or electronic notice of administrative completeness or deficiencies
36 based on the applicant's submission of missing information. If the permit
37 sought requires approval of more than one department of the municipality,
38 each department may issue an additional written or electronic notice of
39 administrative completeness or deficiencies based on the applicant's
40 submission of missing information.
- 41 F. If a municipality does not issue a written or electronic notice of
42 administrative completeness or deficiencies within the administrative
43 completeness review time frame, the application is deemed administratively
44 complete. If a municipality issues a timely written or electronic notice of

1 deficiencies, an application shall not be complete until all requested
2 information has been received by the municipality.

3 G. During the substantive review time frame, a municipality may make
4 one comprehensive written or electronic request for additional information.
5 If the permit sought requires approval of more than one department of the
6 municipality, each department may issue a written or electronic request for
7 additional information. The municipality and applicant may mutually agree in
8 writing or electronically to allow the municipality to submit supplemental
9 requests for additional information. If a municipality issues a
10 comprehensive written or electronic request or a supplemental request by
11 mutual written or electronic agreement for additional information, the
12 substantive review time frame and the overall time frame are suspended from
13 the date the request is issued until the date that the municipality receives
14 the additional information from the applicant.

15 H. By mutual written or electronic agreement, a municipality and an
16 applicant for a license may extend the substantive review time frame and the
17 overall time frame. An extension of the substantive review time frame and
18 the overall time frame may not exceed twenty-five per cent of the overall
19 time frame.

20 I. Unless a municipality and an applicant for a license mutually agree
21 to extend the substantive review time frame and the overall time frame
22 pursuant to subsection H **OF THIS SECTION**, a municipality shall issue a
23 written or electronic notice granting or denying a license to an applicant.
24 If a municipality denies an application for a license, the municipality shall
25 include in the written or electronic notice at least the following
26 information:

27 1. Justification for the denial with references to the statutes,
28 ordinances, codes or substantive policy statements on which the denial is
29 based.

30 2. An explanation of the applicant's right to appeal the denial. The
31 explanation shall include the number of working days in which the applicant
32 must file a protest challenging the denial and the name and telephone number
33 of a municipal contact person who can answer questions regarding the appeals
34 process.

35 J. If a municipality does not issue the applicant the written or
36 electronic notice granting or denying a license within the overall time frame
37 or within the mutually agreed upon time frame extension, the municipality
38 shall refund to the applicant all fees charged for reviewing and acting on
39 the application for the license and shall excuse payment of any fees that
40 have not yet been paid. The municipality shall not require an applicant to
41 submit an application for a refund pursuant to this subsection. The refund
42 shall be made within thirty working days after the expiration of the overall
43 time frame or the time frame extension. The municipality shall continue to
44 process the application. Notwithstanding any other statute, the municipality

1 shall make the refund from the fund in which the application fees were
2 originally deposited.

3 K. This section does not apply to licenses issued within seven working
4 days after receipt of the initial application or A permit that expire within
5 twenty-one working days after issuance.

6 Sec. 3. Section 11-1102, Arizona Revised Statutes, is amended to read:
7 11-1102. County development fees; annual report

8 A. If a county has adopted a capital improvements plan, the county may
9 assess development fees within the covered planning area in order to offset
10 the capital costs for water, sewer, streets, parks and public safety
11 facilities determined by the plan to be necessary for public services
12 provided by the county to a development in the planning area.

13 B. Development fees assessed under this section are subject to the
14 following requirements:

15 1. Development fees shall result in a beneficial use to the
16 development.

17 2. Monies received from development fees shall be placed in a separate
18 fund and accounted for separately and may only be used for the purposes
19 authorized by this section. Interest earned on monies in the separate fund
20 shall be credited to the fund.

21 3. The county shall prescribe the schedule for paying the development
22 fees. The county shall provide a credit toward the payment of the fee for
23 the required dedication of public sites and improvements provided by the
24 developer for which that fee is assessed. The developer of residential
25 dwelling units shall be required to pay the fees when construction permits
26 for the dwelling units are issued.

27 4. The amount of any development fees must bear a reasonable
28 relationship to the burden of capital costs imposed on the county to provide
29 additional necessary public services to the development. In determining the
30 extent of the burden imposed by the development, the county shall consider,
31 among other things, the contribution made or to be made in the future in cash
32 by taxes, fees or assessments by the property owner toward the capital costs
33 of the necessary public service covered by the development fee.

34 5. Development fees shall be assessed in a nondiscriminatory manner.

35 6. In determining and assessing a development fee applying to land in
36 a community facilities district established under title 48, chapter 4,
37 article 6, the county shall take into account all public infrastructure
38 provided by the district and capital costs paid by the district for necessary
39 public services and shall not assess a portion of the development fee based
40 on the infrastructure or costs.

41 7. The county shall not assess or collect development fees from a
42 school district or charter school, other than fees assessed or collected for
43 streets and water and sewer utility functions.

1 C. Before assessing or increasing a development fee, the county shall:
2 1. Give at least one hundred twenty days' advance notice of intention
3 to assess a new or increased development fee.
4 2. Release to the public a written report including all documentation
5 that supports the assessment of a new or increased development fee.
6 3. Conduct a public hearing on the proposed new or increased
7 development fee at any time after the expiration of the one hundred twenty
8 day notice of intention to assess a new or increased development fee and at
9 least fourteen days before the scheduled date of adoption of the new or
10 increased fee.
11 D. A development fee assessed pursuant to this section is not
12 effective for at least ninety days after its formal adoption by the board of
13 supervisors.
14 E. A COUNTY SHALL NOT LEVY OR ASSESS AN IMPACT OR DEVELOPMENT FEE,
15 CONNECTION OR HOOKUP FEE OR ANY OTHER ASSESSMENT, HOWEVER DENOMINATED OR FOR
16 ANY PURPOSE, ON THE DEVELOPMENT OF REAL PROPERTY WITHIN THE EXTERIOR
17 BOUNDARIES OF A MULTIPURPOSE FACILITY SITE IN A COUNTY STADIUM DISTRICT
18 ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION B.
19 ~~E.~~ F. Each county that assesses development fees shall submit an
20 annual report accounting for the collection and use of the fees. The annual
21 report shall include the following:
22 1. The amount assessed by the county for each type of development fee.
23 2. The balance of each fund maintained for each type of development
24 fee assessed as of the beginning and end of the fiscal year.
25 3. The amount of interest or other earnings on the monies in each fund
26 as of the end of the fiscal year.
27 4. The amount of development fee monies used to repay:
28 (a) Bonds issued by the county to pay the cost of a capital
29 improvement project that is the subject of a development fee assessment.
30 (b) Monies advanced by the county from funds other than the funds
31 established for development fees in order to pay the cost of a capital
32 improvement project that is the subject of a development fee assessment.
33 5. The amount of development fee monies spent on each capital
34 improvement project that is the subject of a development fee assessment and
35 the physical location of each capital improvement project.
36 6. The amount of development fee monies spent for each purpose other
37 than a capital improvement project that is the subject of a development fee
38 assessment.
39 ~~F.~~ G. Within ninety days following the end of each fiscal year, each
40 county shall submit a copy of the annual report to the clerk of the board of
41 supervisors. Copies shall be made available to the public on request. The
42 annual report may contain financial information that has not been audited.
43 ~~G.~~ H. A county that fails to file the report required by this section
44 shall not collect development fees until the report is filed.

1 A of this section in an aggregate amount equal to the amount received by the
2 district pursuant to this section.

3 ~~E.~~ D. If the municipality in which the multipurpose facility site is
4 located fails to satisfy the obligations of the municipality pursuant to
5 subsection ~~D- C~~ of this section, ~~then~~ beginning six months after the date
6 referred to in subsection A of this section, distributions otherwise payable
7 to the municipality pursuant to section 42-5029, subsection C shall be
8 reduced by an amount equal to the excess of the amount received by the
9 district pursuant to this section over the amount paid or expended by the
10 municipality. The amount of the reduction shall be distributed to the
11 district to satisfy the financial commitment of the municipality pursuant to
12 subsection ~~D- C~~ of this section.

13 ~~F.~~ E. To comply with the requirements of this section, the county
14 stadium district board of directors or any city or town that is part of the
15 county stadium district shall supply the department with all requested
16 information necessary to administer this section.

17 Sec. 5. Section 42-6004, Arizona Revised Statutes, is amended to read:
18 42-6004. Exemption from municipal tax

19 A. A city, town or special taxing district shall not levy a
20 transaction privilege, sales, use or other similar tax on:

21 1. Exhibition events in this state sponsored, conducted or operated by
22 a nonprofit organization that is exempt from taxation under section
23 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the
24 organization is associated with a major league baseball team or a national
25 touring professional golfing association and no part of the organization's
26 net earnings inures to the benefit of any private shareholder or individual.

27 2. Interstate telecommunications services, which include that portion
28 of telecommunications services, such as subscriber line service, allocable by
29 federal law to interstate telecommunications service.

30 3. Sales of warranty or service contracts.

31 4. Sales of motor vehicles to nonresidents of this state for use
32 outside this state if the vendor ships or delivers the motor vehicle to a
33 destination outside this state.

34 5. Interest on finance contracts.

35 6. Dealer documentation fees on the sales of motor vehicles.

36 7. Sales of food or other items purchased with United States
37 department of agriculture food stamp coupons issued under the food stamp act
38 of 1977 (P.L. 95-113; 91 Stat. 958) or food instruments issued under section
39 17 of the child nutrition act (P.L. 95-627; 92 Stat. 3603; P.L. 99-661,
40 section 4302; 42 United States Code section 1786) but may impose such a tax
41 on other sales of food. If a city, town or special taxing district exempts
42 sales of food from its tax or imposes a different transaction privilege rate
43 on the gross proceeds of sales or gross income from sales of food and nonfood
44 items, it shall use the definition of food prescribed by rule adopted by the
45 department pursuant to section 42-5106.

1 8. Sales of internet access services to the person's subscribers and
2 customers. For the purposes of this paragraph:

3 (a) "Internet" means the computer and telecommunications facilities
4 that comprise the interconnected worldwide network of networks that employ
5 the transmission control protocol or internet protocol, or any predecessor or
6 successor protocol, to communicate information of all kinds by wire or radio.

7 (b) "Internet access" means a service that enables users to access
8 content, information, electronic mail or other services over the internet.
9 Internet access does not include telecommunication services provided by a
10 common carrier.

11 9. The gross proceeds of sales or gross income retained by the Arizona
12 exposition and state fair board from ride ticket sales at the annual Arizona
13 state fair.

14 10. Through August 31, 2014, sales of Arizona centennial medallions by
15 the historical advisory commission.

16 11. The gross proceeds of sales or gross income derived from a
17 commercial lease in which a reciprocal insurer or a corporation leases real
18 property to an affiliated corporation. For the purposes of this paragraph:

19 (a) "Affiliated corporation" means a corporation that meets one of the
20 following conditions:

21 (i) The corporation owns or controls at least eighty per cent of the
22 lessor.

23 (ii) The corporation is at least eighty per cent owned or controlled
24 by the lessor.

25 (iii) The corporation is at least eighty per cent owned or controlled
26 by a corporation that also owns or controls at least eighty per cent of the
27 lessor.

28 (iv) The corporation is at least eighty per cent owned or controlled
29 by a corporation that is at least eighty per cent owned or controlled by a
30 reciprocal insurer.

31 (b) For the purposes of subdivision (a) of this paragraph, ownership
32 and control are determined by reference to the voting shares of a
33 corporation.

34 (c) "Reciprocal insurer" has the same meaning prescribed in section
35 20-762.

36 12. The gross proceeds of sales or gross income derived from a
37 commercial lease in which a corporation leases real property to a corporation
38 of which at least eighty per cent of the voting shares of each corporation
39 are owned by the same shareholders.

40 B. A city, town or other taxing jurisdiction shall not levy a
41 transaction privilege, sales, use, franchise or other similar tax or fee,
42 however denominated, on natural gas or liquefied petroleum gas used to propel
43 a motor vehicle.

44 C. A city, town or other taxing jurisdiction shall not levy a
45 transaction privilege, sales, gross receipts, use, franchise or other similar

1 tax or fee, however denominated, on gross proceeds of sales or gross income
2 derived from any of the following:

3 1. A motor carrier's use on the public highways in this state if the
4 motor carrier is subject to a fee prescribed in title 28, chapter 16,
5 article 4.

6 2. Leasing, renting or licensing a motor vehicle subject to and upon
7 which the fee has been paid under title 28, chapter 16, article 4.

8 3. The sale of a motor vehicle and any repair and replacement parts
9 and tangible personal property becoming a part of such motor vehicle to a
10 motor carrier who is subject to a fee prescribed in title 28, chapter 16,
11 article 4 and who is engaged in the business of leasing, renting or licensing
12 such property.

13 4. Incarcerating or detaining in a privately operated prison, jail or
14 detention facility prisoners who are under the jurisdiction of the United
15 States, this state or any other state or a political subdivision of this
16 state or of any other state.

17 5. Transporting for hire persons, freight or property by light motor
18 vehicles subject to a fee under title 28, chapter 15, article 4.

19 6. Any amount attributable to development fees that are incurred in
20 relation to the construction, development or improvement of real property and
21 paid by the taxpayer as defined in the model city tax code or by a contractor
22 providing services to the taxpayer. For the purposes of this paragraph:

23 (a) The attributable amount shall not exceed the value of the
24 development fees actually imposed.

25 (b) The attributable amount is equal to the total amount of
26 development fees paid by the taxpayer or by a contractor providing services
27 to the taxpayer and the total development fees credited in exchange for the
28 construction of, contribution to or dedication of real property for providing
29 public infrastructure, public safety or other public services necessary to
30 the development. The real property must be the subject of the development
31 fees.

32 (c) "Development fees" means fees imposed to offset capital costs of
33 providing public infrastructure, public safety or other public services to a
34 development and authorized pursuant to section 9-463.05, section 11-1102 or
35 title 48 regardless of the jurisdiction to which the fees are paid.

36 D. A city, town or other taxing jurisdiction shall not levy a
37 transaction privilege, sales, use, franchise or other similar tax or fee,
38 however denominated, in excess of one-tenth of one per cent of the value of
39 the entire product mined, smelted, extracted, refined, produced or prepared
40 for sale, profit or commercial use, on persons engaged in the business of
41 mineral processing, except to the extent that the tax is computed on the
42 gross proceeds or gross income from sales at retail.

43 E. In computing the tax base, any city, town or other taxing
44 jurisdiction shall not include in the gross proceeds of sales or gross
45 income:

1 1. A manufacturer's cash rebate on the sales price of a motor vehicle
2 if the buyer assigns the buyer's right in the rebate to the retailer.

3 2. The waste tire disposal fee imposed pursuant to section 44-1302.

4 F. A city or town shall not levy a use tax on the storage, use or
5 consumption of tangible personal property in the city or town by a school
6 district or charter school.

7 G. **NOTWITHSTANDING ANY OTHER LAW OR PROVISION OF THE MODEL CITY TAX**
8 **CODE PURSUANT TO ARTICLE 2 OF THIS CHAPTER, A CITY MAY ELECT TO WAIVE OR**
9 **EXEMPT FROM ITS TRANSACTION PRIVILEGE TAX THE GROSS PROCEEDS OF SALES OR**
10 **GROSS INCOME FROM PRIME CONTRACTS FOR THE CONSTRUCTION OF NEW OR EXPANDED**
11 **FIXED CAPITAL ASSETS WITHIN THE EXTERIOR BOUNDARIES OF A MULTIPURPOSE**
12 **FACILITY SITE IN A COUNTY STADIUM DISTRICT ESTABLISHED PURSUANT TO SECTION**
13 **48-4202, SUBSECTION B.**

14 Sec. 6. Section 48-4201, Arizona Revised Statutes, is amended to read:
15 **48-4201. Definitions**

16 In this chapter, unless the context otherwise requires:

17 1. "Board" means the board of directors of any district established
18 under section 48-4202, subsection A, B or C.

19 2. "Bond" means any obligation authorized and issued pursuant to this
20 chapter, including bonds, lease-purchase and installment purchase agreements,
21 certificates of participation in a lease-purchase or installment purchase
22 agreement and obligations that are authorized and issued to refund or
23 refinance obligations that are authorized and issued pursuant to this
24 chapter.

25 3. "District" means any county stadium district established pursuant
26 to section 48-4202, subsection A, B or C.

27 4. "Multipurpose facility" means any facility or facilities that
28 include:

29 (a) A primary component that is located in the district on the
30 multipurpose facility site and on lands that are adjacent to each other or
31 separated by public rights-of-way, ~~that the district owns or leases~~ and that
32 is used to accommodate sporting, entertainment, cultural, civic, meeting,
33 trade show or convention events or activities, fire, police or other public
34 safety facilities and tourism offices. The primary component may not include
35 any structure or part of a structure that is used or designed for use as a
36 county, city or town hall, as meeting space for the county, city or town
37 governing body or for general municipal administrative office space other
38 than for the administration, maintenance and operation of the multipurpose
39 facility.

40 (b) Secondary components that are located in the district and that the
41 board determines are necessary or beneficial to the ~~primary component,~~
42 ~~limited to~~ **DISTRICT, INCLUDING** on-site infrastructure, artistic components,
43 parking garages and lots, and public parks and plazas. In addition,
44 secondary components may include related commercial facilities that are
45 located within the multipurpose facility site **AND ANY OTHER COMMERCIAL REAL**

1 ESTATE DEVELOPMENT PROJECT WITHIN THE MULTIPURPOSE FACILITY SITE IF THE
2 PROJECT WILL BENEFIT THE DISTRICT AND WILL INCREASE EMPLOYMENT AND TAX
3 REVENUE WITHIN THE DISTRICT. THE SECONDARY COMPONENT MAY INCLUDE A REAL
4 ESTATE PARCEL THAT IS PARTIALLY WITHIN AND PARTIALLY OUTSIDE THE MULTIPURPOSE
5 FACILITY SITE.

6 5. "Multipurpose facility site" means the geographic area within the
7 district which is depicted in the publicity pamphlet for an election held
8 pursuant to section 48-4237.

9 6. "Municipality" means a city or town that is incorporated or
10 chartered under the constitution and laws of this state.

11 7. "Stadium" means a sports facility or facilities located in the
12 district and designed to accommodate, but not be limited to, major league
13 baseball events or intercollegiate athletic events.

14 Sec. 7. Section 48-4202, Arizona Revised Statutes, is amended to read:
15 48-4202. Formation of district

16 A. The board of supervisors of each county having a population of more
17 than one million five hundred thousand persons according to the most recent
18 United States decennial census or any county in which a major league baseball
19 organization has established or seeks to establish a spring training
20 operation may organize a countywide district to include both the incorporated
21 and unincorporated areas of the county, if the board determines that the
22 public convenience, necessity or welfare will be promoted by establishing the
23 district.

24 B. Two or more municipalities in the same county may organize a
25 district for multipurpose facilities if the governing bodies of the
26 municipalities determine that the public convenience, necessity or welfare
27 will be promoted by establishing the district. The district shall be
28 comprised of the areas within the corporate boundaries of the municipalities.
29 After formation, the boundaries of the district shall not be altered. A
30 district may be established under this subsection in the same county in which
31 a district is established under subsection A of this section. A district
32 formed pursuant to this subsection shall be deemed a county stadium district
33 for purposes of this chapter. Notwithstanding any other law, a district may
34 not be organized under this subsection from and after October 31, 1999,
35 except that a district may be organized under this subsection after October
36 31, 1999 if before that date the governing body of two or more of the
37 municipalities identified the location of a multipurpose facility site and
38 has voted with the purpose of forming a district for multipurpose facilities
39 under this subsection.

40 C. The board of supervisors of any county in which a state supported
41 university is established may organize a single university athletic
42 facilities district if the board determines that the public convenience,
43 necessity or welfare will be promoted by establishing the district. The
44 district shall include only the area in the county within the contiguous
45 exterior boundaries of real property owned by the Arizona board of regents

1 and shall exclude any such real property subject to an existing ground lease
2 or subject to an existing agreement granting a third party the right or
3 option to a ground lease. After formation, the boundaries of the district
4 shall be altered only as the Arizona board of regents acquires and disposes
5 of real property. A district may be established under this subsection in the
6 same county in which a district is established under subsection A of this
7 section. A district formed pursuant to this subsection is deemed a county
8 stadium district for the purposes of this chapter.

9 D. The county board of supervisors shall be the board of directors of
10 a countywide district established under subsection A of this section.

11 E. The board of directors of a district established under subsection B
12 of this section shall consist of:

13 1. Five members who are appointed by the governor, at least three of
14 whom must reside in the municipality in which the district is located and
15 each of whom must have experience in commercial real estate, construction,
16 redevelopment, real estate law, architecture, economic development or
17 commercial or public finance. The governor may receive nominations for
18 appointment from any interested organization or person. Members appointed by
19 the governor serve at the pleasure of the governor.

20 2. Two members who are appointed by the president of the senate, at
21 least one of whom must reside in the municipality in which the district is
22 located. The members appointed by the president serve at the pleasure of the
23 president.

24 3. Two members who are appointed by the speaker of the house of
25 representatives, at least one of whom must reside in the municipality in
26 which the district is located. The members appointed by the speaker serve at
27 the pleasure of the speaker.

28 F. The board of directors of a district established under subsection C
29 of this section shall be established pursuant to an intergovernmental
30 agreement between the county and the Arizona board of regents.

31 G. The directors of any district are not eligible for compensation for
32 their services but are eligible for reimbursement for their necessary
33 expenses in attending to and traveling on district business.

34 H. The board of supervisors may pay the necessary costs incurred in
35 connection with establishing a countywide district from any county monies
36 available for that purpose. The municipalities may pay their proportionate
37 share of the necessary costs incurred in establishing a district formed by
38 two or more municipalities under subsection B of this section from any monies
39 available for that purpose. The Arizona board of regents may pay the
40 necessary costs incurred in connection with establishing a district under
41 subsection C of this section from any monies available for that purpose.

42 I. Subject to limitations imposed by this chapter, by
43 intergovernmental agreement and by the ordinance or resolution authorizing
44 the formation of the district, the district is a tax levying public
45 improvement district and a political taxing subdivision of this state and has

1 all the powers, privileges and immunities granted generally to municipal
2 corporations for the purposes of implementing this chapter, including:

3 1. Eminent domain, as provided by section 48-4203, subsection A,
4 paragraph 7. ~~and~~

5 2. Immunity of its property, bonds and interest on and transfer of its
6 bonds from taxation.

7 3. EXEMPTION FROM THE PROVISIONS OF ARTICLE IX, SECTION 7,
8 CONSTITUTION OF ARIZONA, AS PROVIDED BY ARTICLE XIII, SECTION 7, CONSTITUTION
9 OF ARIZONA.

10 Sec. 8. Section 48-4203, Arizona Revised Statutes, is amended to read:

11 48-4203. Powers and duties of board of directors; conflict of
12 interest

13 A. The board of directors, on behalf of the district, may:

14 1. Adopt and use a corporate seal.

15 2. Sue and be sued.

16 3. Enter into contracts, including intergovernmental agreements under
17 title 11, chapter 7, article 3, as necessary to carry out the purposes and
18 requirements of this chapter. The district may contract with a county sports
19 authority established under title 11, chapter 5 to carry out any power of the
20 district.

21 4. Adopt administrative rules as necessary to administer and operate
22 the district and any property under its jurisdiction.

23 5. Adopt rules that allow weighted voting by board members and
24 establish conditions for terminating the district.

25 6. Employ an executive director and administrative and clerical
26 employees, or contract for other management personnel, and prescribe the
27 terms and conditions of their employment as necessary to carry out the
28 purposes of the district.

29 7. Acquire by any lawful means and operate, maintain, encumber and
30 dispose of real and personal property and interests in property. A district
31 established under section 48-4202, subsection A may acquire real property by
32 eminent domain. A district established under section 48-4202, subsection B
33 shall not acquire real property by eminent domain. A district established
34 under section 48-4202, subsection C shall not acquire or own real property or
35 interests in real property.

36 8. Administer trusts declared or established for the district, receive
37 and hold in trust or otherwise property located in or out of this state and,
38 if not otherwise provided, dispose of the property for the benefit of the
39 district.

40 9. Retain legal counsel and other consultants as necessary to carry
41 out the purposes of the district.

42 B. The board of directors, on behalf of a district established
43 pursuant to section 48-4202, subsection B, may:

1 1. Use revenues paid to the district pursuant to section 42-5031 and
2 other revenues the district may receive from other sources, for the purposes
3 set forth in section 48-4204, subsection B.

4 2. Enter into agreements with developers, contractors, tenants and
5 other users of all or part of a multipurpose facility as determined
6 appropriate.

7 3. Pledge all or part of the revenues described in section 42-5031,
8 subsection B to secure the district's bonds or other financial obligations
9 issued or incurred under this chapter for the construction of all or part of
10 a multipurpose facility.

11 4. ENTER INTO CONTRACTS, AGREEMENTS AND OTHER TRANSACTIONS THAT MAY
12 SURVIVE THE DISTRICT'S TERMINATION. SUCH A TRANSACTION MUST INCLUDE
13 PROVISIONS FOR THE SUCCESSION TO THE DISTRICT'S INTEREST UNTIL ALL OF THE
14 OBLIGATIONS AND INTERESTS OF THE DISTRICT ARE SATISFIED.

15 C. The board of directors of a district established pursuant to
16 section 48-4202, subsection B shall provide public outreach and education on
17 the purpose and activities of the district, including:

18 1. Presentations to the governing bodies of the municipalities in the
19 county in which the district is located.

20 2. Presentations to community, civic and business organizations.

21 3. Printed or electronic materials that support the purposes of this
22 subsection.

23 D. The board of directors shall:

24 1. Appoint from among its members a chairman, a secretary and such
25 other officers as may be necessary to conduct its business. The board of
26 directors may appoint the chief financial officer of the county as the
27 district treasurer of a countywide district established under section
28 48-4202, subsection A. If the board does not appoint the chief financial
29 officer, the county treasurer is designated ex officio as the treasurer. The
30 board of directors of a district that is established pursuant to section
31 48-4202, subsection B shall designate a member of the board with financial
32 management or accounting experience or a person with whom the board has
33 contracted for financial management as treasurer of the district. The county
34 treasurer is designated ex officio as the treasurer of a district that is
35 established pursuant to section 48-4202, subsection C.

36 2. Keep and maintain a complete and accurate record of all its
37 proceedings. All proceedings and records of the board shall be open to the
38 public as required by title 38, chapter 3, article 3.1 and title 39,
39 chapter 1.

40 3. Provide for the use, maintenance and operation of the properties
41 and interests controlled by the district.

42 E. The board of directors of a district that is established pursuant
43 to section 48-4202, subsection B shall determine by agreement the
44 distribution of revenues from operating and using the multipurpose facilities
45 among the municipalities and any participating Indian tribe or community.

1 F. The directors, officers and employees of the district are subject
2 to title 38, chapter 3, article 8 relating to conflicts of interest.

3 G. This state and political subdivisions of this state other than the
4 district are not liable for any financial or other obligations of the
5 district and the financial or other obligations do not constitute a debt or
6 liability of this state or any political subdivision of this state, other
7 than the district.

8 Sec. 9. Section 48-4204, Arizona Revised Statutes, is amended to read:
9 48-4204. Constructing and operating a stadium and other
10 structures; regulating alcoholic beverages

11 A. From the taxes and surcharges levied pursuant to article 2 of this
12 chapter for use with respect to major league baseball spring training, the
13 district may acquire land and construct, finance, furnish, maintain, improve,
14 operate, market and promote the use of existing or proposed major league
15 baseball spring training facilities or stadiums and other structures,
16 utilities, roads, parking areas or buildings necessary for full use of the
17 training facilities or stadiums for sports and other purposes and do all
18 things necessary or convenient to accomplish those purposes. The board shall
19 require that any project undertaken by the district include financial
20 participation from the county or municipality in which the project is
21 located, from a private party or from any combination of these entities which
22 equals or exceeds one-half of the amount to be expended or distributed by the
23 district. Capital improvement funds expended at any time after June 1, 1991
24 by a county, municipality or private party for a purpose authorized by this
25 section may be deemed financial participation with respect to any project the
26 district may undertake.

27 B. From the taxes and charges levied or identified pursuant to section
28 48-4237 for use with respect to multipurpose facilities and from other monies
29 lawfully available to the district, the district may acquire land and
30 construct, finance, furnish, maintain, improve, operate, market and promote
31 the use of multipurpose facilities and other structures, utilities, roads,
32 parking areas or buildings necessary for full use of the multipurpose
33 facilities and do all things necessary or convenient to accomplish those
34 purposes. Public funds identified in section 48-4237, including funds
35 distributed pursuant to section 42-5031, may only be used for the components
36 for a multipurpose facility which are owned by the district or which are
37 publicly owned, except that monies paid to the district pursuant to section
38 42-5031 may only be used for the following purposes until a notice to proceed
39 is issued for a hotel and convention center ~~located on~~ AS A PRIMARY OR
40 SECONDARY COMPONENT OF the multipurpose facility ~~site~~ AS DEFINED IN SECTION
41 48-4201, PARAGRAPH 4, SUBDIVISION (a) OR (b):

- 42 1. Debt service for bonds issued by the district before January 1,
43 2009.
- 44 2. Contractual obligations incurred by the district before June 1,
45 2009.

1 3. Fiduciary, reasonable legal and administrative expenses of the
2 district.

3 4. The design and construction of the hotel and convention center
4 ~~located on the multipurpose facility site.~~

5 C. ANY COMPONENT OF THE MULTIPURPOSE FACILITY OR OTHER COMMERCIAL REAL
6 ESTATE DEVELOPMENT UNDER SUBSECTION B OF THIS SECTION MAY INCLUDE
7 PRIVATELY-OWNED PROJECTS AS FOLLOWS:

8 1. THE PROJECT MUST COMPLY WITH ALL APPLICABLE MUNICIPAL CODES.

9 2. IN THE BOARD'S JUDGMENT, THE PROJECT MUST EITHER:

10 (a) SUBSTANTIALLY INCREASE TAX REVENUE, EMPLOYMENT OR PUBLIC
11 PEDESTRIAN TRAFFIC AT THE PROJECT SITE.

12 (b) CREATE AN EXTRAORDINARY INCREASE IN TAX REVENUE, EMPLOYMENT OR
13 PUBLIC PEDESTRIAN TRAFFIC THROUGHOUT ALL OR PART OF THE DISTRICT.

14 3. ANY FINANCIAL ASSISTANCE FOR THE PROJECT MAY NOT VIOLATE ARTICLE
15 IX, SECTION 7, CONSTITUTION OF ARIZONA, RELATING TO DONATIONS OR GRANTS OF
16 PUBLIC MONIES.

17 4. THE DEVELOPER MAY TRANSFER TO THE DISTRICT, AND THE DISTRICT MAY
18 ACCEPT AND HOLD ONE OR MORE CONSERVATION EASEMENTS OVER THE PROJECT PURSUANT
19 TO TITLE 33, CHAPTER 2, ARTICLE 4 IN RETURN FOR FINANCIAL ASSISTANCE FROM THE
20 DISTRICT TO THE PROJECT.

21 ~~C.~~ D. A district established pursuant to section 48-4202, subsection
22 B may not use monies distributed pursuant to section 42-5031 for the salaries
23 or compensation of any employee of the municipality in which the district is
24 located.

25 ~~D.~~ E. Pursuant to AN intergovernmental agreement with the Arizona
26 board of regents, from the revenues collected from assessments pursuant to
27 section 48-4235 for use with respect to Arizona board of regents owned
28 intercollegiate athletic facilities, the district may construct, reconstruct,
29 finance, furnish, maintain and improve existing intercollegiate athletic
30 facilities located on Arizona board of regents' property, including
31 utilities, roads, parking areas or buildings necessary for full use of the
32 athletic facilities.

33 ~~E.~~ F. Title 34 applies to the district, except that regardless of the
34 funding source for design and construction of facilities and structures the
35 district may establish alternative systems and procedures, including the use
36 of the design-build method of construction or the use of qualifications-based
37 selection of contractors with experience in stadium design or construction,
38 to expedite the design and construction or reconstruction of any of its
39 facilities or structures or any facilities or structures leased to it or used
40 by it pursuant to an intergovernmental agreement. For the purposes of this
41 subsection:

42 1. "Design-build" means a process of entering into and managing a
43 contract between the district and another party in which the other party
44 agrees to both design and build a structure, a facility or other items
45 specified in the contract.

1 5. A description of and the amount of municipal payments pursuant to
2 section 42-5031, subsection ~~B~~ C during the preceding fiscal year and the
3 cumulative amount of those payments through the end of the preceding fiscal
4 year.

5 6. The public use of each component of the multipurpose facility.

6 7. Revenues derived from each component of the multipurpose facility
7 and other revenues of the district by source.

8 8. District projects that are currently under construction and that
9 are included in the district's plans for capital improvements and investment.

10 C. The audit shall make findings and recommendations regarding the
11 construction, financing, operation and maintenance of each component of the
12 multipurpose facility, including whether the facility exceeds, meets or fails
13 to meet nationally recognized design and performance standards.

14 D. The district and the board of directors shall cooperate with and
15 submit to the auditor general and the auditor contracted to conduct the audit
16 information necessary to conduct and complete the audit in a timely manner.

17 E. Within forty-five days after the audit is released, the board of
18 directors shall:

19 1. Hold a public hearing on the audit's findings and recommendations
20 and allow any person to make or submit oral or written comments on the audit.

21 2. By majority vote adopt a public response agreeing, agreeing with
22 reservations or disagreeing with each finding and recommendation in the
23 audit.

24 F. The auditor general shall distribute copies of the audit and the
25 board of director's response to:

26 1. The mayor and governing body of the municipality in which the
27 district is located.

28 2. The governor.

29 3. The president of the senate and the speaker of the house of
30 representatives.

31 4. The department of revenue and the state treasurer.

32 5. The secretary of state.

33 6. Any other person who requests a copy of the audit.

34 G. The cost incurred by the auditor general in contracting with
35 independent auditors under this section is an operating expense of the
36 district and shall be paid from revenues payable to the district pursuant to
37 section 42-5031. The auditor general shall deposit the payments in the audit
38 services revolving fund established by section 41-1279.06.

39 H. At the request of the chairperson of the Joint committee on capital
40 review, the executive director or a representative of the board of directors
41 shall appear before the joint committee on capital review to report on any
42 aspect of the district's operation, including the activities and financial
43 performance of the district during the previous fiscal year, the district's
44 plans for capital improvements and investment and the district's response to
45 the audit conducted under this section.

1 D. The board shall set the rate of the tax at not more than five per
2 cent of the transaction privilege tax rate prescribed by section 42-5010,
3 subsection A applying on January 1, 1990 to each person engaging or
4 continuing in the district in a business taxed under title 42, chapter 5,
5 article 1, or in the case of persons subject to the tax imposed under section
6 42-5352, subsection A, at a rate of not more than .1525 cents per gallon of
7 jet fuel sold.

8 E. If authorized by an election held pursuant to this section, the
9 board may:

10 1. Pledge all or part of the revenues from a tax under this section to
11 secure the district's bonds or other financial obligations issued or incurred
12 under this chapter for the multipurpose facilities.

13 2. Pledge all or part of the incremental increase in the municipal
14 transaction privilege taxes generated in all or a designated geographic area
15 of the district during a period of time before, during and after any
16 specified national championship sporting event or international games hosted
17 in the multipurpose facilities to secure the district's bonds or other
18 financial obligations issued or incurred under this chapter for the
19 construction of the multipurpose facilities.

20 3. Impose a surcharge pursuant to the procedures and limits of section
21 48-4234 in all or a designated geographic area of the district during a
22 period of time before, during and after any specified national championship
23 sporting event or international games hosted in the multipurpose facilities
24 except that a car rental surcharge imposed pursuant to this paragraph shall
25 not apply to the lease or rental of a motor vehicle as a replacement vehicle
26 owned by the lessee for personal use. For the purposes of this paragraph,
27 "replacement vehicle" means a vehicle loaned by a motor vehicle repair
28 facility or dealer, or that an individual rents temporarily, to use while a
29 vehicle owned by the individual is not in use because of breakdown, repair,
30 service, damage, or loss as defined in the individual's applicable private
31 passenger automobile insurance policy.

32 4. Levy and, if levied, the department of revenue shall collect a tax
33 at a rate of not to exceed one per cent of the gross proceeds of sales or
34 gross income from the business of every person engaging or continuing in the
35 district in a business taxed under sections 42-5070 and 42-5074 during a
36 period of time before, during and after any specified national championship
37 sporting event or international games hosted in the multipurpose facilities
38 to secure the district's bonds or other financial obligations issued or
39 incurred under this chapter for the construction of the multipurpose
40 facilities.

41 5. Use amounts paid to the district pursuant to section 42-5031 and
42 received from the multipurpose facility site the boundaries or boundary
43 amendment of which are described in the publicity pamphlet as allowed by law,
44 including securing the district's bonds or other financial obligations issued

1 or incurred under this chapter for the construction of the multipurpose
2 facilities ~~which are owned by the district or which are publicly owned.~~

3 F. Unless the context otherwise requires, section 42-6102 governs the
4 administration of any tax imposed under this section.

5 G. Each month the state treasurer shall remit to the district
6 treasurer the net revenues collected under this section during the second
7 preceding month. The district treasurer shall deposit the monies in the
8 stadium district fund. Revenues from a tax under this section shall not be
9 commingled with revenues collected pursuant to this article for any other
10 purpose but shall be separately accounted for and used solely with respect to
11 uses authorized in section 48-4204, subsection B.

12 H. In addition to other requirements prescribed by law, the board
13 shall prepare, print and distribute publicity pamphlets concerning the
14 proposed issue to be submitted to the voters. The board shall distribute one
15 copy of the publicity pamphlet at least ten but not more than thirty days
16 before the election to each household containing a registered voter in the
17 district. The publicity pamphlet shall contain all of the following:

- 18 1. The date of the election.
- 19 2. The location of the polling places and the times the polling places
20 will be open.
- 21 3. A true copy of the title and text of the resolution proposing the
22 tax.
- 23 4. A summary of the purposes for which the tax is proposed to be
24 levied and a description of the multipurpose facilities.
- 25 5. The estimated cost of the multipurpose facility to be financed.
- 26 6. An estimate of the annual amount of revenues to be raised from the
27 proposed tax.
- 28 7. The geographic area, time period and amount of any tax, tax
29 distribution, or surcharge proposed under subsection E of this section.