

REFERENCE TITLE: stadium district reform; Rio Nuevo

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# **SB 1337**

Introduced by  
Senator Melvin

AN ACT

AMENDING SECTIONS 42-5031, 48-4202, 48-4204 AND 48-4231.01, 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 42-5031, Arizona Revised Statutes, is amended to  
3 read:

4 42-5031. Distribution of multipurpose facility revenues to  
5 district

6 A. Subject to the requirements of subsection D of this section, if a  
7 county stadium district is authorized by an election pursuant to section  
8 48-4237, subsection E, paragraph 5 to use the amounts paid to the district  
9 pursuant to subsection B of this section as permitted by law, then after  
10 delivery of a resolution of the district board of directors requesting  
11 payment, which resolution shall contain notice of the exercise of the option  
12 to begin payments provided for in this subsection, the state treasurer shall  
13 pay each month, beginning with the second calendar month after the optional  
14 payment commencement event contained in the resolution, from the amount  
15 designated as distribution base pursuant to section 42-5029, subsection D,  
16 the amount determined under subsection B of this section to the district.  
17 Payments under this section shall continue until July 1, 2025 or until the  
18 date all authorized debt service payments are completed as provided by  
19 section 48-4203, subsection B, paragraph 3, whichever date is earlier.

20 B. The amount to be paid each month under subsection A of this section  
21 is one-half of the amount of state transaction privilege tax revenues  
22 received in the second preceding calendar month from all persons conducting  
23 business under any business classification under this article at a  
24 multipurpose facility site, or in the construction of a multipurpose  
25 facility, the public or district owned components of which cost at least two  
26 hundred million dollars to construct. In no event shall the amount to be  
27 paid each month under this section exceed the net new state transaction  
28 privilege tax revenues received from the multipurpose facility site as  
29 compared to the revenues received in the same month during the twelve months  
30 prior to the month in which the public vote pursuant to section 48-4237 is  
31 held. The amount paid to the district shall not exceed the amount required  
32 to service the debts and obligations of the district and to meet the purposes  
33 set forth in section 48-4204, subsection B.

34 C. The primary component, as described in section 48-4201, shall be  
35 constructed during the first phase of the project.

36 D. To qualify for payments under this section, the municipality in  
37 which the multipurpose facility site is located must either obtain voter  
38 approval for a local transaction privilege tax to pay costs associated with a  
39 multipurpose facility, or make a financial commitment by intergovernmental  
40 agreement between the municipality and the district to make direct payments  
41 to the district from any lawful source, including municipal transaction  
42 privilege taxes or to expend monies for land, infrastructure or other  
43 improvements directly related to the multipurpose facility or the  
44 multipurpose facility site, ~~BY JUNE 30, 2012 AND by the end of the date~~  
45 ~~referred to in subsection A of this section~~ EACH FISCAL BIENNIUM THEREAFTER,

1 in an aggregate amount equal to the amount received by the district IN THAT  
2 BIENNIUM pursuant to this section.

3 E. 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 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 of this section.

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

17 Sec. 2. Section 48-4202, Arizona Revised Statutes, is amended to read:  
18 48-4202. Formation of district

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

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

43 C. The board of supervisors of any county in which a state supported  
44 university is established may organize a single university athletic  
45 facilities district if the board determines that the public convenience,

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

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

14 E. The board of directors of a district established under subsection B  
15 of this section shall consist of MEMBERS APPOINTED TO STAGGERED FOUR-YEAR  
16 TERMS OF OFFICE AS FOLLOWS:

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

24 2. Two members who are appointed by the president of the senate, at  
25 least one of whom must reside in the municipality in which the district is  
26 located. ~~The members appointed by the president serve at the pleasure of the  
27 president.~~

28 3. Two members who are appointed by the speaker of the house of  
29 representatives, at least one of whom must reside in the municipality in  
30 which the district is located. ~~The members appointed by the speaker serve at  
31 the pleasure of the speaker.~~

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

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

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

1 I. Subject to limitations imposed by this chapter, by  
2 intergovernmental agreement and by the ordinance or resolution authorizing  
3 the formation of the district, the district is a tax levying public  
4 improvement district and a political taxing subdivision of this state and has  
5 all the powers, privileges and immunities granted generally to municipal  
6 corporations for the purposes of implementing this chapter, including:

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

9 2. Immunity of its property, bonds and interest on and transfer of its  
10 bonds from taxation.

11 3. EXEMPTION FROM THE PROVISIONS OF ARTICLE IX, SECTION 7,  
12 CONSTITUTION OF ARIZONA, AS PROVIDED BY ARTICLE XIII, SECTION 7, CONSTITUTION  
13 OF ARIZONA.

14 Sec. 3. Section 48-4204, Arizona Revised Statutes, is amended to read:  
15 48-4204. Constructing and operating a stadium and other  
16 structures; regulating alcoholic beverages

17 A. From the taxes and surcharges levied pursuant to article 2 of this  
18 chapter for use with respect to major league baseball spring training, the  
19 district may acquire land and construct, finance, furnish, maintain, improve,  
20 operate, market and promote the use of existing or proposed major league  
21 baseball spring training facilities or stadiums and other structures,  
22 utilities, roads, parking areas or buildings necessary for full use of the  
23 training facilities or stadiums for sports and other purposes and do all  
24 things necessary or convenient to accomplish those purposes. The board shall  
25 require that any project undertaken by the district include financial  
26 participation from the county or municipality in which the project is  
27 located, from a private party or from any combination of these entities ~~which~~  
28 ~~THAT~~ equals or exceeds one-half of the amount to be expended or distributed  
29 by the district. Capital improvement funds expended at any time after June  
30 1, 1991 by a county, municipality or private party for a purpose authorized  
31 by this section may be deemed financial participation with respect to any  
32 project the district may undertake.

33 B. From the taxes and charges levied or identified pursuant to section  
34 48-4237 for use with respect to multipurpose facilities and from other monies  
35 lawfully available to the district, the district may acquire land and  
36 construct, finance, furnish, maintain, improve, operate, market and promote  
37 the use of multipurpose facilities and other structures, utilities, roads,  
38 parking areas or buildings necessary for full use of the multipurpose  
39 facilities and do all things necessary or convenient to accomplish those  
40 purposes. THE ALLOCATION, BUDGETING AND EXPENDITURE OF MONIES OF THE  
41 DISTRICT FROM ANY SOURCE ARE UNDER THE EXCLUSIVE AUTHORITY OF THE BOARD OF  
42 DIRECTORS. MONIES OF THE DISTRICT FROM ANY SOURCE MAY BE USED ONLY ON  
43 PROJECTS THAT ARE ENTIRELY WITHIN THE DISTRICT BOUNDARIES OR ON IMPROVEMENTS  
44 TO PARCELS OF REAL PROPERTY THAT ARE LOCATED BOTH WITHIN AND OUTSIDE THE  
45 DISTRICT BOUNDARIES. Public funds identified in section 48-4237, including

1 funds distributed pursuant to section 42-5031, may only be used for the  
2 components for a multipurpose facility ~~which~~ THAT are owned by the district  
3 or ~~which~~ THAT are publicly owned, except that:

4 1. AN ANNUAL AMOUNT OF UP TO FIFTEEN PER CENT OF THE DISTRICT'S  
5 ADMINISTRATIVE OPERATIONS BUDGET MAY BE USED EACH YEAR FOR COMMUNITY  
6 DEVELOPMENT PROJECTS TO FURTHER THE COMMUNITY AND EDUCATION COMPONENTS OF THE  
7 DISTRICT'S PLAN FOR CAPITAL IMPROVEMENTS AND INVESTMENT.

8 2. Monies paid to the district pursuant to section 42-5031 may only be  
9 used for the following purposes until a notice to proceed is issued for a  
10 hotel and convention center located on the multipurpose facility site:

11 ~~1-~~ (a) Debt service for bonds issued by the district before January  
12 1, 2009.

13 ~~2-~~ (b) Contractual obligations incurred by the district before June  
14 1, 2009.

15 ~~3-~~ (c) Fiduciary, reasonable legal and administrative expenses of the  
16 district.

17 ~~4-~~ (d) The design and construction of the hotel and convention center  
18 located on the multipurpose facility site.

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

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

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

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

44 2. "Qualifications-based selection" means a process of entering into  
45 and managing a contract between the district and another party in which the

1 other party is selected by the district on the basis of the party's  
2 qualifications and experience in designing or constructing facilities,  
3 structures or other items similar to those the district is authorized to  
4 construct or lease. The other party may be selected by direct selection or  
5 by public competition.

6 F. For the purposes of financing, designing, constructing,  
7 reconstructing or operating facilities or structures, the district is not the  
8 agent of any municipality, this state or any agency or instrumentality of  
9 this state participating in the funding of such facilities or structures.

10 G. Subject to the requirements of title 4, the board of directors may  
11 permit and regulate the sale, use and consumption of alcoholic beverages at  
12 events held on property acquired, leased or subleased under this article.

13 Sec. 4. Section 48-4231.01, Arizona Revised Statutes, is amended to  
14 read:

15 48-4231.01. Financial and performance audits of districts  
16 owning multipurpose facilities; appearance before  
17 joint committee on capital review

18 A. Beginning in 2010 and every three years thereafter, the auditor  
19 general shall contract with an independent auditor to conduct a performance  
20 audit as defined in section 41-1278, including a financial audit, of each  
21 district organized under section 48-4202, subsection B. The independent  
22 auditor must have national status with expertise in evaluating public  
23 construction, ownership and management of capital improvements that include  
24 hospitality, convention and sports venue facilities. The audit must be  
25 completed within one hundred twenty days after the end of the fiscal year.

26 B. The audit shall include consideration of:

27 1. Capital costs, including debt service, of the multipurpose facility  
28 and other assets of the district.

29 2. The level of the district's indebtedness, the amount of principal,  
30 interest and other debt service expenses paid in the preceding fiscal year  
31 and the remaining term to maturity with respect to each outstanding bond  
32 issue.

33 3. Operation and maintenance costs of the multipurpose facility and  
34 other assets of the district.

35 4. The district's overall expenditures in the preceding fiscal year,  
36 including:

37 (a) The level of expenses for administration, planning, travel and  
38 entertainment.

39 (b) The success of those expenditures in supporting and achieving the  
40 district's purposes.

41 5. A description of and the amount of municipal payments pursuant to  
42 section 42-5031, subsection D during the preceding fiscal year and the  
43 cumulative amount of those payments through the end of the preceding fiscal  
44 year.

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

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

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

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

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

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

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

16           2. By majority vote adopt a public response agreeing, agreeing with  
17 reservations or disagreeing with each finding and recommendation in the  
18 audit.

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

21           1. The mayor and governing body of the municipality in which the  
22 district is located.

23           2. The governor.

24           3. The president of the senate and the speaker of the house of  
25 representatives.

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

27           5. The secretary of state.

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

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

34           H. ~~At the request of the chairperson of the joint committee on capital~~  
35 ~~review, the executive director or a representative of the board of directors~~  
36 ~~shall appear before the joint committee on capital review to report on any~~  
37 ~~aspect~~ AT LEAST ONCE EACH CALENDAR YEAR THE EXECUTIVE DIRECTOR, CHAIRPERSON  
38 OF THE BOARD OF DIRECTORS OR OTHER OFFICER DESIGNATED BY THE BOARD OF  
39 DIRECTORS SHALL REPORT TO THE JOINT COMMITTEE ON CAPITAL REVIEW AND TO THE  
40 JOINT LEGISLATIVE AUDIT COMMITTEE ON ALL ASPECTS of the district's operation,  
41 including the activities and financial performance of the district during the  
42 previous fiscal year, the district's plans for capital improvements and  
43 investment and the district's response to the audit conducted under this  
44 section.

