

REFERENCE TITLE: renewable energy and conservation districts

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HB 2584

Introduced by
Representatives Sherwood, Orr

AN ACT

AMENDING SECTION 48-572, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO RENEWABLE ENERGY AND CONSERVATION IMPROVEMENT DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-572, Arizona Revised Statutes, is amended to
3 read:

4 48-572. Purposes for which public improvements may be
5 undertaken; powers incidental to public improvements

6 A. ~~When~~ IF the public interest or convenience requires, the governing
7 body of a municipality may:

8 1. Order the whole or any portion, either in length or width, of one
9 or more of the streets of the municipality graded or regraded, paved or
10 repaved, or otherwise improved or reimproved.

11 2. Order the construction, reconstruction or repair of any tunnel,
12 subway, viaduct or conduit in, on, under or over any street, or land of the
13 municipality or any land on, under or over which the municipality may have an
14 easement or right-of-way therefor.

15 3. Order the construction or reconstruction of sidewalks, crosswalks,
16 curbs, gutters, culverts, bridges, tunnels, siphons, manholes, steps,
17 parkings and parkways and also pipes, hydrants and appliances for fire
18 protection.

19 4. Order construction, reconstruction or acquisition of sewers,
20 ditches, drains, conduits, pipelines and channels for sanitary and drainage
21 purposes, or either or both ~~thereof~~ OF, with outlets, cesspools, manholes,
22 catch basins, flush tanks, septic tanks, connecting sewers, ditches, drains,
23 conduits, channels and other appurtenances in, under, over or through any
24 street, or any land of the municipality or any right-of-way granted or
25 obtained for ~~such~~ THAT purpose, either within or without the limits of the
26 municipality.

27 5. Order construction, reconstruction or acquisition of waterworks,
28 ditches, canals, channels, conduits, pipelines and siphons, together with the
29 necessary or usual appurtenances for carrying storm water or water from
30 irrigation ditches, watercourses, streams or springs into, through or out of
31 the municipality, in, under, over or through any street, or any land of the
32 municipality or any right-of-way granted or obtained for ~~such~~ THAT purpose,
33 either within or without the limits of the municipality.

34 6. Order construction, reconstruction or acquisition of breakwater
35 levees or walls, docks, wharves, marinas, boat harbors and related
36 facilities.

37 7. Order construction, reconstruction or acquisition of lighting
38 plants and poles, wires, conduits, lamps, standards and other appliances for
39 the purpose of lighting and beautifying the streets improved.

40 8. Order the whole or any portion of any off-street parking area and
41 entrances thereto of the municipality graded or regraded, paved or repaved,
42 or otherwise improved or reimproved, order lighting plants and poles, wires,
43 conduits, lamps, standards, and other appliances for the purpose of lighting,
44 landscaping and beautifying the streets or off-street parking areas and
45 entrances thereto to be improved and order construction on ~~such~~ THE land of

1 parking structures that may have any portion at, above or below grade. If in
 2 connection with any lot or parcel within a proposed assessment district
 3 adequate off-street parking facilities have been provided, ~~such~~ THE lot or
 4 parcel shall be excluded from the assessment district and shall not be
 5 assessed for ~~such~~ THE improvements if within the time and in the manner
 6 provided in section 48-579, subsection C the owner or owners file a written
 7 objection to the extent of the assessment district. For purposes of this
 8 paragraph in cities having a zoning code or ordinance, unless the off-street
 9 parking facilities provided meet or exceed the requirements of the zoning
 10 code or ordinance for a lot or parcel of that size in that zone, then ~~such~~
 11 THE off-street parking facilities shall not be deemed adequate. In cities
 12 not having a zoning code or ordinance, the facilities provided shall not be
 13 deemed adequate unless parking space for one motor vehicle is provided for
 14 each three hundred square feet of floor space in the building served by ~~such~~
 15 THE off-street parking site. If any lot or parcel within a proposed
 16 assessment district organized for improvements provided for in this paragraph
 17 is zoned and used exclusively for single family residential purposes, ~~such~~
 18 THE lot or parcel shall be excluded from the assessment district and shall
 19 not be assessed for ~~such~~ THE improvements if within the time and in the
 20 manner provided in section 48-579, subsection C the owner or owners file a
 21 written objection to the extent of the assessment district.

22 9. Order the construction or reconstruction of any work incidental to
 23 or connected with the improvements set forth in this subsection.

24 10. Pursuant to section 48-622, and notwithstanding any other law,
 25 construct, acquire or improve a wastewater treatment facility, drinking
 26 water facility or nonpoint source project with monies borrowed from or
 27 financial assistance including forgivable principal provided by the water
 28 infrastructure finance authority of Arizona.

29 11. PURSUANT TO ARTICLE 7 OF THIS CHAPTER, PROVIDE FOR THE USE OF
 30 ENERGY OR WATER EFFICIENT SYSTEMS.

31 B. In addition to all powers specifically granted by or reasonably
 32 inferred under the provisions of this article, cities and towns, acting
 33 through their governing bodies, may:

34 1. Join with other cities or towns or any improvement district or
 35 sanitary district or the state, or any of its departments or agencies, the
 36 federal government or any of its departments, agencies or instrumentalities,
 37 in the construction, operation or maintenance of improvements authorized by
 38 this section.

39 2. Join with any other city, town, improvement district or sanitary
 40 district in improving streets running ~~upon~~ ON or along the boundaries of the
 41 city or town and levy assessments or issue bonds for the proportionate part
 42 of the city or town of the cost of the improvement.

43 3. Accept from the state, or federal government, or any agency,
 44 department or instrumentality of either, grants for or in aid of the
 45 construction of any of the improvements provided by this article, and enter

1 into contracts with the state, the federal government, or any agency,
 2 department or instrumentality of either or both, for the construction or
 3 supervision of construction by the state, the federal government or any
 4 agency, department or instrumentality of either or both of any ~~such~~
 5 improvements, in accordance with the plans, specifications, rules and
 6 regulations of the state, the federal government, or any agency, department
 7 or instrumentality of either or both, but reserving to the city or town the
 8 right to assess against the property benefited by the improvement, and
 9 located within the city or town, that portion of the cost of the improvement
 10 ~~which~~ THAT does not qualify for aid under the state or federal grant.

11 Sec. 2. Title 48, chapter 4, Arizona Revised Statutes, is amended by
 12 adding article 7, to read:

13 ARTICLE 7. RENEWABLE ENERGY AND CONSERVATION
 14 IMPROVEMENT DISTRICTS

15 48-751. Definitions

16 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

17 1. "ASSESSMENT" MEANS A SPECIAL ASSESSMENT MADE UNDER THIS ARTICLE FOR
 18 THE PURPOSE OF FINANCING OR OTHERWISE SECURING PAYMENT OBLIGATIONS UNDER A
 19 THIRD-PARTY LEASE OR SERVICE AGREEMENT FOR AN IMPROVEMENT MADE PURSUANT TO
 20 THIS ARTICLE.

21 2. "DISTRICT" MEANS A RENEWABLE ENERGY AND CONSERVATION IMPROVEMENT
 22 DISTRICT FORMED PURSUANT TO THIS ARTICLE.

23 3. "DISTRICT BOARD" MEANS THE BOARD OF DIRECTORS OF THE DISTRICT,
 24 WHICH SHALL BE COMPRISED OF THE MEMBERS OF THE GOVERNING BODY OF THE
 25 MUNICIPALITY.

26 4. "GOVERNING BODY" MEANS THE BODY THAT BY LAW IS CONSTITUTED AS THE
 27 LEGISLATIVE DEPARTMENT OF THE MUNICIPALITY.

28 5. "IMPROVEMENT" MEANS ANY SYSTEM, FIXTURE, PRODUCT, EQUIPMENT OR
 29 DEVICE TO BE LOCATED ON REAL PROPERTY WITHIN THE DISTRICT FOR THE PURPOSE OF
 30 MAKING THE PROPERTY MORE ENERGY OR WATER EFFICIENT OR INDEPENDENT, INCLUDING
 31 ANY ENERGY EFFICIENCY FIXTURE, PRODUCT, EQUIPMENT OR DEVICES, RENEWABLE
 32 ENERGY SYSTEMS, ELECTRIC VEHICLE CHARGING SYSTEMS, WATER CONSERVATION SYSTEMS
 33 OR WATER RESOURCE MANAGEMENT SYSTEMS.

34 6. "MUNICIPALITY" MEANS A CITY, TOWN OR COUNTY.

35 7. "OWNER" MEANS THE PERSON WHO OWNS THE FEE TITLE TO THE REAL
 36 PROPERTY.

37 8. "REAL PROPERTY" MEANS ANY REAL PROPERTY, OTHER THAN A RESIDENTIAL
 38 STRUCTURE CONTAINING FEWER THAN FIVE DWELLING UNITS.

39 48-752. Formation

40 A. WHEN THE PUBLIC INTEREST OR CONVENIENCE REQUIRES, THE GOVERNING
 41 BODY OF A MUNICIPALITY ON ITS OWN INITIATIVE FOLLOWING NOTICE AND A PUBLIC
 42 HEARING, MAY ADOPT A RESOLUTION ORDERING THE FORMATION OF A DISTRICT. THE
 43 DISTRICT SHALL BE COMPRISED OF ANY REAL PROPERTY LOCATED WITHIN THE CORPORATE
 44 BOUNDARIES OF THE MUNICIPALITY THAT FROM TIME TO TIME IS SUBJECT TO A
 45 VOLUNTARY WRITTEN AGREEMENT BETWEEN THE DISTRICT AND THE OWNER OF THE REAL

PROPERTY IN ACCORDANCE WITH THIS ARTICLE. THE DISTRICT MAY INCLUDE NONCONTIGUOUS REAL PROPERTY WHOLLY WITHIN THE BOUNDARIES OF THE MUNICIPALITY. TWO OR MORE MUNICIPALITIES, BY RESOLUTION OF THEIR RESPECTIVE GOVERNING BODIES, MAY JOIN TOGETHER TO FORM A MULTIJURISDICTIONAL DISTRICT FOR THE PURPOSES AUTHORIZED BY THIS ARTICLE.

B. ON ITS FORMATION, THE DISTRICT IS A SPECIAL PURPOSE DISTRICT FOR PURPOSES OF ARTICLE IX, SECTION 19, CONSTITUTION OF ARIZONA, AND A TAX LEVYING PUBLIC IMPROVEMENT DISTRICT FOR THE PURPOSES OF ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA. THE DISTRICT IS A CORPORATE AND POLITICAL BODY AND, EXCEPT AS OTHERWISE LIMITED, MODIFIED OR PROVIDED BY THIS ARTICLE, HAS ALL OF THE RIGHTS, POWERS AND IMMUNITIES OF MUNICIPAL CORPORATIONS AND MUNICIPAL IMPROVEMENT DISTRICTS.

C. THE DISTRICT SHALL KEEP RECORDS AS OTHERWISE PROVIDED BY LAW. THE MEMBERS OF THE GOVERNING BODY ARE NOT ELIGIBLE TO RECEIVE COMPENSATION FOR THEIR SERVICES AS MEMBERS OF THE DISTRICT BOARD. THE GOVERNING BODY SHALL COMPLY WITH TITLE 38, CHAPTER 3, ARTICLE 3.1 AS A SEPARATE POLITICAL SUBDIVISION.

48-753. Powers of a district

A. A DISTRICT SHALL HAVE ALL THE POWERS OTHERWISE GRANTED TO A DISTRICT PURSUANT TO THIS ARTICLE, INCLUDING THE POWER TO:

1. ENTER INTO CONTRACTS AND INTERGOVERNMENTAL AGREEMENTS.
2. LOAN OR GRANT MONIES, OR OTHERWISE COLLECT PAYMENTS OR FEES UNDER A THIRD-PARTY LEASE OR SERVICE AGREEMENT, FOR ANY IMPROVEMENT IN THE DISTRICT AUTHORIZED PURSUANT TO A WRITTEN AGREEMENT AS PRESCRIBED IN SECTION 48-754.
3. WITH THE WRITTEN CONSENT OF THE OWNER, LEVY AND COLLECT ASSESSMENTS AND RECORD NOTICES AGAINST REAL PROPERTY WITHIN THE DISTRICT.
4. EMPLOY STAFF AND CONSULTANTS OR REIMBURSE THE MUNICIPALITY FOR STAFF, CONSULTANT SERVICES AND SUPPORT FACILITIES SUPPLIED BY THE MUNICIPALITY.
5. ENTER INTO AN AGREEMENT WITH A PUBLIC OR PRIVATE ENTITY TO ADMINISTER THE RESPONSIBILITIES AND DUTIES OF THE DISTRICT ON BEHALF OF THE DISTRICT BOARD.
6. ACCEPT GIFTS, CONTRIBUTIONS, BEQUESTS, GRANTS OR LOANS FOR IMPROVEMENTS AND THE ADMINISTRATIVE COSTS OF THE DISTRICT AND COMPLY WITH ANY REQUIREMENT OF THE GIFTS, CONTRIBUTIONS, BEQUESTS, GRANTS OR LOANS THAT IS NOT INCONSISTENT WITH THIS ARTICLE.
7. PAY THE FINANCIAL, LEGAL AND ADMINISTRATIVE COSTS OF THE DISTRICT.
8. ISSUE SPECIAL ASSESSMENT LIEN BONDS.
9. ADOPT AND CHANGE A SEAL.
10. SUE AND BE SUED.

48-754. Written agreements; consent of owners; lienholders

A. ONLY THOSE OWNERS OF REAL PROPERTY THAT ARE LOCATED WITHIN THE CORPORATE BOUNDARIES OF THE MUNICIPALITY FOR WHICH THE DISTRICT HAS BEEN FORMED, AND WHO HAVE ENTERED INTO VOLUNTARY WRITTEN AGREEMENTS WITH THE DISTRICT BOARD PURSUANT TO THIS SECTION SHALL BE INCLUDED WITHIN THE DISTRICT

1 AND SUBJECT TO AN ASSESSMENT UNDER THIS ARTICLE. THOSE OWNERS MAY ENTER INTO
 2 A VOLUNTARY WRITTEN AGREEMENT WITH THE DISTRICT BOARD FOR THE PURPOSES OF
 3 FINANCING IMPROVEMENTS AS PRESCRIBED IN THIS ARTICLE TO BE LOCATED ON THE
 4 OWNER'S REAL PROPERTY. THE WRITTEN AGREEMENT SHALL PROVIDE THAT THE TOTAL
 5 COST OF THE IMPROVEMENTS FINANCED BY THE DISTRICT INCLUDING INTEREST AND FEES
 6 AS ESTABLISHED BY THE DISTRICT BOARD SHALL BE ASSESSED AGAINST THE OWNER'S
 7 REAL PROPERTY, AND SHALL CONSTITUTE THE OWNER'S CONSENT TO BE SUBJECT TO AN
 8 ASSESSMENT IN THAT AMOUNT UNTIL PAID IN FULL PURSUANT TO SECTION 48-755.

9 B. FOR ANY REAL PROPERTY THAT IS SUBJECT TO A FIRST MORTGAGE OR FIRST
 10 DEED OF TRUST AT THE TIME OF THE EXECUTION OF THE VOLUNTARY WRITTEN AGREEMENT
 11 PRESCRIBED BY SUBSECTION A OF THIS SECTION, THE AGREEMENT SHALL INCLUDE THE
 12 WRITTEN CONSENT OF THE HOLDER OF THAT FIRST MORTGAGE OR FIRST DEED OF
 13 TRUST.

14 C. THE DISTRICT SHALL RECORD A NOTICE OF THE WRITTEN AGREEMENT AGAINST
 15 THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL
 16 PROPERTY IS LOCATED. THE NOTICE SHALL CONTAIN, AT A MINIMUM, A DESCRIPTION
 17 OF THE REAL PROPERTY, THE NAME AND ADDRESS OF THE OWNER AND THE DISTRICT, A
 18 REFERENCE TO THE AUTHORITY OF THE DISTRICT PURSUANT TO THIS ARTICLE, THE
 19 AMOUNT OF THE ASSESSMENT AND THE DURATION OF THE WRITTEN AGREEMENT.

20 48-755. Special assessments; assessment lien bonds

21 A. AN ASSESSMENT LEVIED BY VOLUNTARY WRITTEN AGREEMENT PURSUANT TO
 22 THIS ARTICLE SHALL CONSTITUTE A FIRST LIEN ON THE REAL PROPERTY SUBJECT ONLY
 23 TO GENERAL PROPERTY TAXES AND PRIOR SPECIAL ASSESSMENTS. THE LIEN SHALL
 24 CONTINUE UNTIL THE ASSESSMENT, INCLUDING ANY INTEREST, FEES OR PENALTIES, IS
 25 PAID IN FULL. THE ASSESSMENT SHALL BE COLLECTIBLE IN THE MANNER AND BY THE
 26 OFFICERS PROVIDED BY LAW FOR THE COLLECTION AND ENFORCEMENT OF GENERAL TAXES
 27 THAT THE MUNICIPALITY IS AUTHORIZED TO LEVY. ALL STATUTES PROVIDING FOR THE
 28 LEVY AND COLLECTION OF COUNTY AND CITY TAXES, INCLUDING THE COLLECTION OF
 29 DELINQUENT TAXES AND SALE OF PROPERTY FOR NONPAYMENT OF TAXES, APPLY TO THE
 30 ASSESSMENTS TO BE LEVIED BY THIS ARTICLE. EXCEPT AS OTHERWISE PROVIDED IN A
 31 WRITTEN AGREEMENT BETWEEN THE DISTRICT AND THE OWNER PURSUANT TO SECTION
 32 48-754, IF AN OWNER FAILS TO PAY AN ASSESSMENT THE PROCEDURES FOR COLLECTION
 33 OF DELINQUENT ASSESSMENTS, SALE OF DELINQUENT PROPERTY AND ISSUANCE AND
 34 EFFECT OF THE DEED PRESCRIBED BY SECTIONS 48-601, 48-602, 48-603, 48-604,
 35 48-605, 48-606 AND 48-607 APPLY, AS NEARLY AS PRACTICABLE, BUT THE DISTRICT
 36 OR THE MUNICIPALITY IS NOT REQUIRED TO PURCHASE THE DELINQUENT LAND AT THE
 37 SALE IF THERE IS NO OTHER PURCHASER.

38 B. NOTWITHSTANDING ANY OTHER LAW, AT THE TIME OF A TRANSFER OF
 39 PROPERTY OWNERSHIP INCLUDING FORECLOSURE, THE PAST DUE BALANCES OF ANY
 40 ASSESSMENT UNDER THIS ARTICLE AND ANY PENALTY SHALL BE DUE FOR PAYMENT, BUT
 41 FUTURE PAYMENTS SHALL CONTINUE AS A LIEN ON THE REAL PROPERTY AND SHALL BE
 42 THE RESPONSIBILITY OF THE PERSON OR ENTITY ACQUIRING TITLE TO THE REAL
 43 PROPERTY. AN ASSESSMENT OR PENALTY CONSTITUTES A LIEN IN THE SAME MANNER AS
 44 GENERAL TAXES OR THE MUNICIPALITY EXCEPT THAT THE LIEN DOES NOT HAVE PRIORITY
 45 OVER THE LIEN OF AN EXISTING FIRST MORTGAGE OR EXISTING FIRST DEED OF TRUST

1 UNLESS THAT LIENHOLDER CONSENTED TO THE ASSESSMENT IN A WRITTEN AGREEMENT AS
2 PRESCRIBED IN SECTION 48-754.

3 C. THE DISTRICT MAY ISSUE AND SELL SPECIAL ASSESSMENT LIEN BONDS
4 PURSUANT TO THE PROCEDURES PRESCRIBED IN SECTION 48-721 OR WITH PROCEDURES AS
5 SIMILAR TO THOSE AS ARE PRACTICABLE. THE SPECIAL ASSESSMENT LIEN BONDS SHALL
6 BE PAYABLE FROM AMOUNTS COLLECTED FROM THE ASSESSMENTS UNDER THIS ARTICLE,
7 FROM AMOUNTS AVAILABLE FROM TIME TO TIME IN ANY RESERVE FUND ESTABLISHED FOR
8 THOSE BONDS AND FROM ANY OTHER AMOUNTS AVAILABLE FOR THOSE PURPOSES UNDER
9 THIS ARTICLE.

10 Sec. 3. Legislative intent

11 The legislature finds, determines and declares that:

12 1. The development and creation of new jobs and opportunities within
13 the energy and construction industries of this state are critically important
14 to the growth of the economy in this state in the twenty-first century.

15 2. The installation of energy efficiency upgrades in homes and
16 buildings within this state will continue to play a central and critical role
17 in the future of this state and of the nation as a whole and will advance the
18 security, economic well-being and public and environmental health of this
19 state, as well as contribute to the energy independence of our nation.

20 3. The development, production and efficient use of renewable energy
21 will continue to play a central and critical role in the future of this state
22 and of the nation as a whole and will advance the security, economic
23 well-being and public and environmental health of this state, as well as
24 contribute to the energy independence of our nation.

25 4. The conservation and efficient use of water resources likewise play
26 a central and critical role in the future of this state and its individual
27 cities and counties and serve to advance the security, economic well-being
28 and public and environmental health of this state.

29 5. The inclusion of energy efficiency and renewable energy production
30 projects and water conservation improvements and water resource management
31 improvements for use in improvement districts, and the powers conferred under
32 this article, as well as the expenditures of public monies made pursuant to
33 this article, serve a valid public purpose, and that the enactment of this
34 section is expressly declared to be in the public interest.