

REFERENCE TITLE: water and energy improvement districts

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HB 2206

Introduced by
Representatives Orr, Sherwood

AN ACT

AMENDING SECTION 48-572, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 4, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 7; RELATING TO WATER AND ENERGY 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 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, with outlets, cesspools, manholes, catch
22 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 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 purpose, either
33 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 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 lot or parcel
4 shall be excluded from the assessment district and shall not be assessed for
5 such improvements if within the time and in the manner provided in section
6 48-579, subsection C the owner or owners file a written objection to the
7 extent of the assessment district. For THE purposes of this paragraph in
8 cities having a zoning code or ordinance, unless the off-street parking
9 facilities provided meet or exceed the requirements of the zoning code or
10 ordinance for a lot or parcel of that size in that zone, then such off-street
11 parking facilities shall not be deemed adequate. In cities not having a
12 zoning code or ordinance, the facilities provided shall not be deemed
13 adequate unless parking space for one motor vehicle is provided for each
14 three hundred square feet of floor space in the building served by such
15 off-street parking site. If any lot or parcel within a proposed assessment
16 district organized for improvements provided for in this paragraph is zoned
17 and used exclusively for single family residential purposes, such lot or
18 parcel shall be excluded from the assessment district and shall not be
19 assessed for such improvements if within the time and in the manner provided
20 in section 48-579, subsection C the owner or owners file a written objection
21 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 OR DEVICES.

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 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 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. WATER AND ENERGY IMPROVEMENT DISTRICTS

14 48-751. Definitions

15 IN THIS ARTICLE, UNLESS THE CONTEXT OTHERWISE REQUIRES:

16 1. "DISTRICT" MEANS A WATER AND ENERGY IMPROVEMENT DISTRICT THAT IS
17 ESTABLISHED AND DESIGNATED UNDER THIS ARTICLE.

18 2. "GOVERNING BODY" MEANS THE BODY THAT BY LAW IS CONSTITUTED AS THE
19 LEGISLATIVE DEPARTMENT OF THE LOCAL GOVERNMENT.

20 3. "LOCAL GOVERNMENT" MEANS A CITY, TOWN OR COUNTY.

21 4. "PROGRAM" MEANS A PROGRAM THAT IS ESTABLISHED UNDER THIS ARTICLE.

22 5. "QUALIFIED IMPROVEMENT" MEANS AN IMPROVEMENT THAT IS FIXED TO
23 QUALIFIED REAL PROPERTY AND THAT IS INTENDED TO MAKE THE PROPERTY MORE ENERGY
24 OR WATER EFFICIENT OR INDEPENDENT, INCLUDING A PRODUCT, DEVICE OR INTERACTING
25 GROUP OF PRODUCTS OR DEVICES ON THE CUSTOMER'S SIDE OF THE METER THAT USE
26 ENERGY TECHNOLOGY TO GENERATE ELECTRICITY, PROVIDE THERMAL ENERGY OR REGULATE
27 TEMPERATURE.

28 6. "QUALIFIED PROJECT" MEANS THE INSTALLATION OR MODIFICATION OF A
29 QUALIFIED IMPROVEMENT.

30 7. "QUALIFIED REAL PROPERTY" MEANS PRIVATELY OWNED COMMERCIAL OR
31 INDUSTRIAL REAL PROPERTY OR RESIDENTIAL REAL PROPERTY WITH FIVE OR MORE
32 DWELLING UNITS.

33 48-752. Establishment of program; financing

34 A. THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY DETERMINE THAT IT IS
35 CONVENIENT AND ADVANTAGEOUS TO ESTABLISH A PROGRAM UNDER THIS ARTICLE.

36 B. AN AUTHORIZED OFFICIAL OF THE LOCAL GOVERNMENT THAT ESTABLISHES A
37 PROGRAM MAY ENTER INTO A WRITTEN CONTRACT WITH A RECORD OWNER OF QUALIFIED
38 REAL PROPERTY IN A DISTRICT THAT IS DESIGNATED UNDER THIS ARTICLE TO IMPOSE
39 AN ASSESSMENT TO REPAY THE OWNER'S FINANCING OF A QUALIFIED PROJECT ON THE
40 OWNER'S PROPERTY. A THIRD PARTY OR, IF AUTHORIZED BY THE PROGRAM, THE LOCAL
41 GOVERNMENT MAY PROVIDE THE FINANCING TO BE REPAID THROUGH ASSESSMENTS.

42 C. IF THE PROGRAM PROVIDES FOR THIRD-PARTY FINANCING, THE AUTHORIZED
43 OFFICIAL OF THE LOCAL GOVERNMENT WHO ENTERS INTO A WRITTEN CONTRACT WITH A
44 PROPERTY OWNER UNDER SUBSECTION B OF THIS SECTION MUST ALSO ENTER INTO A

1 WRITTEN CONTRACT WITH THE PARTY THAT PROVIDES THE FINANCING FOR A QUALIFIED
2 PROJECT UNDER THE PROGRAM IN ORDER TO SERVICE THE DEBT THROUGH ASSESSMENTS.

3 D. IF THE PROGRAM PROVIDES FOR LOCAL GOVERNMENT FINANCING, THE WRITTEN
4 CONTRACT PRESCRIBED BY SUBSECTION B OF THIS SECTION MUST BE A CONTRACT TO
5 FINANCE THE QUALIFIED PROJECT THROUGH ASSESSMENTS.

6 E. THE FINANCING FOR WHICH ASSESSMENTS ARE IMPOSED MAY INCLUDE ANY OF
7 THE FOLLOWING:

8 1. THE COST OF MATERIALS AND LABOR NECESSARY FOR THE INSTALLATION OR
9 MODIFICATION OF A QUALIFIED IMPROVEMENT.

10 2. PERMIT FEES.

11 3. INSPECTION FEES.

12 4. LENDER FEES.

13 5. PROGRAM APPLICATION AND ADMINISTRATIVE FEES.

14 6. PROJECT DEVELOPMENT AND ENGINEERING FEES.

15 7. THIRD-PARTY REVIEW FEES, INCLUDING FEES FOR VERIFICATION REVIEWS,
16 PRESCRIBED BY SECTION 48-757.

17 8. ANY OTHER FEES OR COSTS THAT MAY BE INCURRED BY THE PROPERTY OWNER
18 INCIDENT TO THE INSTALLATION, MODIFICATION OR IMPROVEMENT ON A SPECIFIC OR
19 PRO RATA BASIS, AS DETERMINED BY THE LOCAL GOVERNMENT.

20 48-753. Designation of district

21 A. THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY DETERMINE THAT IT IS
22 CONVENIENT AND ADVANTAGEOUS TO DESIGNATE AN AREA WITHIN THE LOCAL
23 GOVERNMENT'S JURISDICTION AS A DISTRICT WITHIN WHICH AUTHORIZED LOCAL
24 GOVERNMENT OFFICIALS AND RECORD OWNERS OF QUALIFIED REAL PROPERTY MAY ENTER
25 INTO WRITTEN CONTRACTS TO IMPOSE ASSESSMENTS TO REPAY THE FINANCING BY OWNERS
26 OF QUALIFIED PROJECTS ON THE OWNERS' PROPERTY AND, IF AUTHORIZED BY THE LOCAL
27 GOVERNMENT PROGRAM, FINANCE THE QUALIFIED PROJECT. ONLY THOSE RECORD OWNERS
28 OF QUALIFIED REAL PROPERTY THAT IS LOCATED WITHIN THE JURISDICTIONAL
29 BOUNDARIES OF THE LOCAL GOVERNMENT FOR WHICH THE PROGRAM HAS BEEN FORMED AND
30 WHO HAVE ENTERED INTO VOLUNTARY WRITTEN AGREEMENTS PURSUANT TO THIS ARTICLE
31 MAY BE INCLUDED WITHIN THE DISTRICT AND ARE SUBJECT TO AN ASSESSMENT UNDER
32 THIS ARTICLE.

33 B. AN AREA THAT IS DESIGNATED AS A DISTRICT BY THE GOVERNING BODY OF A
34 LOCAL GOVERNMENT UNDER THIS SECTION SHALL BE COMPOSED OF ANY QUALIFIED REAL
35 PROPERTY THAT IS LOCATED WITHIN THE JURISDICTIONAL BOUNDARIES OF THE LOCAL
36 GOVERNMENT AND THAT FROM TIME TO TIME IS SUBJECT TO A VOLUNTARY WRITTEN
37 AGREEMENT BETWEEN THE DISTRICT AND THE RECORD OWNER OF THE QUALIFIED REAL
38 PROPERTY PURSUANT TO THIS ARTICLE. THE DISTRICT MAY INCLUDE NONCONTIGUOUS
39 REAL PROPERTY IF IT IS WHOLLY WITHIN THE JURISDICTIONAL BOUNDARIES OF THE
40 LOCAL GOVERNMENT.

41 48-754. Procedure for establishment of program; amendment of
42 program

43 A. TO ESTABLISH A PROGRAM UNDER THIS ARTICLE, THE GOVERNING BODY OF A
44 LOCAL GOVERNMENT SHALL TAKE THE FOLLOWING ACTIONS IN THE FOLLOWING ORDER:

45 1. ADOPT A RESOLUTION OF INTENT THAT INCLUDES ALL OF THE FOLLOWING:

- 1 (a) A FINDING THAT, IF APPROPRIATE, FINANCING QUALIFIED PROJECTS
2 THROUGH CONTRACTUAL ASSESSMENTS IS A VALID PUBLIC PURPOSE.
- 3 (b) A STATEMENT THAT THE LOCAL GOVERNMENT INTENDS TO MAKE CONTRACTUAL
4 ASSESSMENTS TO REPAY FINANCING FOR QUALIFIED PROJECTS AVAILABLE TO PROPERTY
5 OWNERS.
- 6 (c) A DESCRIPTION OF THE TYPES OF QUALIFIED PROJECTS THAT MAY BE
7 SUBJECT TO CONTRACTUAL ASSESSMENTS.
- 8 (d) A DESCRIPTION OF THE BOUNDARIES OF THE DISTRICT.
- 9 (e) A DESCRIPTION OF ANY PROPOSED ARRANGEMENTS FOR THIRD-PARTY
10 FINANCING TO BE AVAILABLE OR ANY LOCAL GOVERNMENT FINANCING TO BE PROVIDED
11 FOR QUALIFIED PROJECTS.
- 12 (f) A DESCRIPTION OF LOCAL GOVERNMENT DEBT SERVICING PROCEDURES IF
13 THIRD-PARTY FINANCING WILL BE PROVIDED AND IF ASSESSMENTS WILL BE COLLECTED
14 TO SERVICE A THIRD-PARTY DEBT.
- 15 (g) A REFERENCE TO THE REPORT ON THE PROPOSED PROGRAM THAT IS PREPARED
16 ACCORDING TO SECTION 48-755 AND A STATEMENT THAT IDENTIFIES THE LOCATION
17 WHERE THE REPORT IS AVAILABLE FOR PUBLIC INSPECTION.
- 18 (h) A STATEMENT OF THE TIME AND PLACE FOR A PUBLIC HEARING ON THE
19 PROPOSED PROGRAM.
- 20 (i) A STATEMENT THAT IDENTIFIES THE APPROPRIATE LOCAL OFFICIAL AND THE
21 APPROPRIATE ASSESSOR FOR THE PURPOSES OF CONSULTATION REGARDING COLLECTING
22 THE PROPOSED CONTRACTUAL ASSESSMENTS BY WAY OF PROPERTY TAXES THAT ARE
23 IMPOSED ON THE ASSESSED PROPERTY.
- 24 2. HOLD A PUBLIC HEARING AT WHICH THE PUBLIC MAY COMMENT ON THE
25 PROPOSED PROGRAM, INCLUDING THE REPORT THAT IS REQUIRED BY SECTION 48-755.
- 26 3. ADOPT A RESOLUTION THAT ESTABLISHES THE PROGRAM AND THE TERMS OF
27 THE PROGRAM, INCLUDING EACH ITEM THAT IS INCLUDED IN THE REPORT UNDER SECTION
28 48-755 AND A DESCRIPTION OF EACH ASPECT OF THE PROGRAM THAT MAY BE AMENDED
29 ONLY AFTER ANOTHER PUBLIC HEARING IS HELD. THE RESOLUTION MAY INCORPORATE
30 THE REPORT OR THE AMENDED VERSION OF THE REPORT, AS APPROPRIATE, BY
31 REFERENCE.
- 32 B. THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY AMEND A PROGRAM BY
33 RESOLUTION.
- 34 C. ON PROPER FORMATION OF A DISTRICT, A LOCAL GOVERNMENT MAY:
- 35 1. HIRE AND SET THE COMPENSATION OF A PROGRAM ADMINISTRATOR AND
36 PROGRAM STAFF.
- 37 2. CONTRACT FOR PROFESSIONAL SERVICES THAT ARE NECESSARY TO ADMINISTER
38 A PROGRAM.
- 39 3. IMPOSE FEES TO OFFSET THE COSTS OF ADMINISTERING A PROGRAM. THE
40 FEES THAT ARE AUTHORIZED BY THIS PARAGRAPH MAY BE ASSESSED AS:
- 41 (a) A PROGRAM APPLICATION FEE THAT THE PROPERTY OWNER WHO REQUESTS TO
42 PARTICIPATE IN THE PROGRAM PAYS.
- 43 (b) A COMPONENT OF THE INTEREST RATE ON THE ASSESSMENT IN THE WRITTEN
44 CONTRACT BETWEEN THE LOCAL GOVERNMENT AND THE PROPERTY OWNER.
- 45 (c) A COMBINATION OF SUBDIVISIONS (a) AND (b) OF THIS PARAGRAPH.

1 48-755. Report regarding assessment; demonstration of financial
 2 ability

3 A. THE REPORT FOR A PROPOSED PROGRAM REQUIRED BY SECTION 48-754 MUST
 4 INCLUDE:

5 1. A MAP THAT SHOWS THE BOUNDARIES OF THE PROPOSED DISTRICT.

6 2. A FORM CONTRACT BETWEEN THE LOCAL GOVERNMENT AND THE PROPERTY OWNER
 7 THAT SPECIFIES THE TERMS OF BOTH OF THE FOLLOWING:

8 (a) THE ASSESSMENT UNDER THE PROGRAM.

9 (b) THE FINANCING THAT A THIRD PARTY OR THE LOCAL GOVERNMENT, AS
 10 APPROPRIATE, PROVIDES.

11 3. IF THE PROPOSED PROGRAM PROVIDES FOR THIRD-PARTY FINANCING, A FORM
 12 CONTRACT BETWEEN THE LOCAL GOVERNMENT AND THE THIRD PARTY REGARDING THE
 13 SERVICING OF THE DEBT THROUGH ASSESSMENTS.

14 4. A DESCRIPTION OF TYPES OF QUALIFIED PROJECTS THAT ARE ELIGIBLE FOR
 15 CONTRACTUAL ASSESSMENTS.

16 5. A STATEMENT THAT IDENTIFIES A LOCAL GOVERNMENT OFFICIAL WHO IS
 17 AUTHORIZED TO ENTER INTO WRITTEN CONTRACTS ON BEHALF OF THE LOCAL GOVERNMENT.

18 6. A PLAN FOR ENSURING SUFFICIENT CAPITAL FOR THIRD-PARTY FINANCING
 19 AND, IF APPROPRIATE, RAISING CAPITAL FOR LOCAL GOVERNMENT FINANCING FOR
 20 QUALIFIED PROJECTS.

21 7. IF BONDS WILL BE ISSUED TO PROVIDE CAPITAL TO FINANCE QUALIFIED
 22 PROJECTS AS PART OF THE PROGRAM AS PROVIDED BY SECTION 48-764, ALL OF THE
 23 FOLLOWING APPLY:

24 (a) A MAXIMUM AGGREGATE ANNUAL DOLLAR AMOUNT FOR FINANCING THROUGH
 25 CONTRACTUAL ASSESSMENTS TO BE PROVIDED BY THE LOCAL GOVERNMENT UNDER THE
 26 PROGRAM.

27 (b) A METHOD FOR RANKING REQUESTS FROM PROPERTY OWNERS FOR FINANCING
 28 THROUGH CONTRACTUAL ASSESSMENTS IN PRIORITY ORDER IF REQUESTS APPEAR LIKELY
 29 TO EXCEED THE AUTHORIZATION AMOUNT.

30 (c) A METHOD FOR DETERMINING THE INTEREST RATE AND PERIOD DURING WHICH
 31 CONTRACTING OWNERS WOULD PAY AN ASSESSMENT AND THE MAXIMUM AMOUNT OF AN
 32 ASSESSMENT.

33 8. A METHOD FOR ENSURING THAT THE PERIOD OF THE CONTRACTUAL ASSESSMENT
 34 DOES NOT EXCEED THE USEFUL LIFE OF THE QUALIFIED PROJECT THAT IS THE BASIS
 35 FOR THE ASSESSMENT.

36 9. A DESCRIPTION OF THE APPLICATION PROCESS AND ELIGIBILITY
 37 REQUIREMENTS FOR FINANCING QUALIFIED PROJECTS TO BE REPAYED THROUGH
 38 CONTRACTUAL ASSESSMENTS UNDER THE PROGRAM.

39 10. A METHOD AS PRESCRIBED BY SUBSECTION B OF THIS SECTION FOR ENSURING
 40 THAT PROPERTY OWNERS WHO REQUEST TO PARTICIPATE IN THE PROGRAM DEMONSTRATE
 41 THE FINANCIAL ABILITY TO FULFILL FINANCIAL OBLIGATIONS TO BE REPAYED THROUGH
 42 CONTRACTUAL ASSESSMENTS.

43 11. A STATEMENT THAT EXPLAINS THE MANNER IN WHICH PROPERTY WILL BE
 44 ASSESSED AND ASSESSMENTS WILL BE COLLECTED.

- 1 12. A STATEMENT THAT EXPLAINS THE LENDER NOTICE REQUIREMENT PROVIDED BY
2 SECTION 48-756.
- 3 13. A STATEMENT THAT EXPLAINS THE REVIEW REQUIREMENT PROVIDED BY
4 SECTION 48-757.
- 5 14. A DESCRIPTION OF MARKETING AND PARTICIPANT EDUCATION SERVICES TO BE
6 PROVIDED FOR THE PROGRAM.
- 7 15. A DESCRIPTION OF QUALITY ASSURANCE AND ANTIFRAUD MEASURES TO BE
8 INSTITUTED FOR THE PROGRAM.
- 9 16. THE PROCEDURES FOR COLLECTING THE PROPOSED CONTRACTUAL ASSESSMENTS.
- 10 B. THE METHOD FOR ENSURING A DEMONSTRATION OF FINANCIAL ABILITY UNDER
11 SUBSECTION A OF THIS SECTION MUST BE BASED ON APPROPRIATE UNDERWRITING
12 FACTORS, INCLUDING:
- 13 1. PROVIDING FOR VERIFICATION OF ALL OF THE FOLLOWING:
- 14 (a) THAT THE PROPERTY OWNER WHO REQUESTS TO PARTICIPATE UNDER THE
15 PROGRAM IS ALL OF THE FOLLOWING:
- 16 (i) THE LEGAL OWNER OF THE QUALIFIED REAL PROPERTY TO BE BENEFITED.
17 (ii) CURRENT ON MORTGAGE AND PROPERTY TAX PAYMENTS.
18 (iii) NOT INSOLVENT OR IN BANKRUPTCY PROCEEDINGS.
- 19 (b) THAT THE TITLE OF THE QUALIFIED REAL PROPERTY TO BE BENEFITED IS
20 NOT IN DISPUTE.
- 21 2. REQUIRING AN APPROPRIATE RATIO OF THE AMOUNT OF THE ASSESSMENT TO
22 THE ASSESSED VALUE OF THE PROPERTY.
- 23 C. THE LOCAL GOVERNMENT SHALL MAKE THE REPORT AVAILABLE FOR PUBLIC
24 INSPECTION AT BOTH OF THE FOLLOWING:
- 25 1. THE LOCAL GOVERNMENT'S WEBSITE.
- 26 2. THE OFFICE OF THE OFFICIAL WHO IS DESIGNATED TO ENTER INTO WRITTEN
27 CONTRACTS ON BEHALF OF THE LOCAL GOVERNMENT UNDER THE PROGRAM.
- 28 48-756. Notice to mortgage holder required for participation
29 BEFORE A LOCAL GOVERNMENT MAY ENTER INTO A WRITTEN CONTRACT WITH A
30 RECORD OWNER OF QUALIFIED REAL PROPERTY TO IMPOSE AN ASSESSMENT TO REPAY THE
31 FINANCING OF A QUALIFIED PROJECT UNDER THIS ARTICLE, BOTH OF THE FOLLOWING
32 MUST OCCUR:
- 33 1. THE HOLDER OF ANY MORTGAGE OR DEED OF TRUST ON THE PROPERTY MUST BE
34 GIVEN WRITTEN NOTICE OF THE OWNER'S INTENTION TO PARTICIPATE IN A PROGRAM
35 UNDER THIS ARTICLE ON OR BEFORE THE THIRTIETH DAY BEFORE THE DATE THE WRITTEN
36 CONTRACT FOR ASSESSMENT BETWEEN THE OWNER AND THE LOCAL GOVERNMENT IS
37 EXECUTED.
- 38 2. A WRITTEN CONSENT FROM THE HOLDER OF THE MORTGAGE OR DEED OF TRUST
39 ON THE PROPERTY MUST BE OBTAINED.
- 40 48-757. Review required
- 41 A. A PROGRAM THAT IS ESTABLISHED UNDER THIS ARTICLE MUST REQUIRE A
42 REVIEW OF WATER OR ENERGY BASELINE CONDITIONS AND A REVIEW OF THE PROJECTED
43 WATER OR ENERGY SAVINGS FOR EACH PROPOSED QUALIFIED PROJECT.

1 B. AFTER A QUALIFIED PROJECT IS COMPLETED, THE LOCAL GOVERNMENT SHALL
2 OBTAIN VERIFICATION THAT THE QUALIFIED PROJECT WAS PROPERLY COMPLETED AND IS
3 OPERATING AS INTENDED.

4 C. AN INDEPENDENT THIRD PARTY SHALL CONDUCT THE BASELINE WATER OR
5 ENERGY REVIEW OR VERIFICATION REVIEW UNDER THIS SECTION.

6 48-758. Direct acquisition by owner

7 THE PROPOSED ARRANGEMENTS FOR FINANCING A QUALIFIED PROJECT MAY
8 AUTHORIZE THE PROPERTY OWNER TO PURCHASE DIRECTLY THE RELATED EQUIPMENT AND
9 MATERIALS FOR THE INSTALLATION OR MODIFICATION OF A QUALIFIED IMPROVEMENT AND
10 CONTRACT DIRECTLY, INCLUDING THROUGH LEASE, POWER PURCHASE AGREEMENT OR OTHER
11 SERVICE CONTRACT, FOR THE INSTALLATION OR MODIFICATION OF A QUALIFIED
12 IMPROVEMENT.

13 48-759. Recording of notice of contractual assessment required

14 A. A LOCAL GOVERNMENT THAT AUTHORIZES FINANCING THROUGH CONTRACTUAL
15 ASSESSMENTS UNDER THIS ARTICLE SHALL RECORD A WRITTEN NOTICE OF EACH
16 CONTRACTUAL ASSESSMENT IN THE REAL PROPERTY RECORDS OF THE COUNTY IN WHICH
17 THE PROPERTY IS LOCATED.

18 B. THE NOTICE PRESCRIBED BY THIS SECTION MUST CONTAIN ALL OF THE
19 FOLLOWING:

- 20 1. THE AMOUNT OF THE ASSESSMENT.
- 21 2. THE LEGAL DESCRIPTION OF THE PROPERTY.
- 22 3. THE NAME OF EACH PROPERTY OWNER.
- 23 4. A REFERENCE TO THE STATUTORY ASSESSMENT LIEN PROVIDED UNDER THIS
24 ARTICLE.

25 48-760. Exercise of powers

26 THE GOVERNING BODY OF A LOCAL GOVERNMENT THAT ESTABLISHES A PROGRAM AS
27 PRESCRIBED BY SECTION 48-754 MAY EXERCISE THE POWERS THAT ARE GRANTED UNDER
28 THIS ARTICLE.

29 48-761. Authorized assessments

30 A. AN ASSESSMENT UNDER THIS ARTICLE MAY BE IMPOSED TO REPAY THE
31 FINANCING OF QUALIFIED PROJECTS ON QUALIFIED REAL PROPERTY THAT IS LOCATED IN
32 A DISTRICT DESIGNATED UNDER THIS ARTICLE.

33 B. AN ASSESSMENT UNDER THIS ARTICLE MAY NOT BE IMPOSED TO REPAY THE
34 FINANCING OF:

- 35 1. FACILITIES FOR UNDEVELOPED LOTS OR LOTS THAT ARE UNDERGOING
36 DEVELOPMENT AT THE TIME OF THE ASSESSMENT.
- 37 2. THE PURCHASE OR INSTALLATION OF PRODUCTS OR DEVICES THAT ARE NOT
38 PERMANENTLY FIXED TO REAL PROPERTY.

39 C. AN ASSESSMENT MAY BE IMPOSED UNDER THIS ARTICLE ONLY IF THERE IS A
40 WRITTEN CONTRACT REGARDING THE ASSESSMENT WITH THE RECORD OWNER OF THE
41 QUALIFIED REAL PROPERTY TO BE ASSESSED.

42 48-762. Lien; enforcement; delinquency

43 A. A CONTRACTUAL ASSESSMENT UNDER THIS ARTICLE AND ANY INTEREST OR
44 PENALTIES ON THE ASSESSMENT:

1 1. IS A FIRST AND PRIOR LIEN AGAINST THE REAL PROPERTY ON WHICH THE
2 ASSESSMENT IS IMPOSED FROM THE DATE ON WHICH THE NOTICE OF CONTRACTUAL
3 ASSESSMENT IS RECORDED AS PROVIDED BY SECTION 48-761 AND UNTIL THE
4 ASSESSMENT, INTEREST OR PENALTY IS PAID.

5 2. HAS THE SAME PRIORITY STATUS AS A LIEN FOR ANY OTHER AD VALOREM
6 TAX.

7 B. THE LIEN THAT ARISES PURSUANT TO THIS SECTION RUNS WITH THE LAND,
8 AND THAT PORTION OF THE ASSESSMENT UNDER THE ASSESSMENT CONTRACT THAT HAS NOT
9 YET BECOME DUE IS NOT ELIMINATED BY FORECLOSURE OF A PROPERTY TAX LIEN.

10 C. THE ASSESSMENT LIEN MAY BE ENFORCED BY THE LOCAL GOVERNMENT IN THE
11 SAME MANNER THAT A PROPERTY TAX LIEN AGAINST REAL PROPERTY MAY BE ENFORCED BY
12 THE LOCAL GOVERNMENT.

13 D. DELINQUENT INSTALLMENTS OF THE ASSESSMENTS INCUR INTEREST AND
14 PENALTIES IN THE SAME MANNER AS DELINQUENT PROPERTY TAXES.

15 E. A LOCAL GOVERNMENT MAY RECOVER COSTS AND EXPENSES, INCLUDING
16 ATTORNEY FEES, IN A SUIT TO COLLECT A DELINQUENT INSTALLMENT OF AN ASSESSMENT
17 IN THE SAME MANNER AS IN A SUIT TO COLLECT A DELINQUENT PROPERTY TAX.

18 48-763. Collection of assessments

19 THE GOVERNING BODY OF A LOCAL GOVERNMENT MAY CONTRACT WITH THE
20 GOVERNING BODY OF ANOTHER JURISDICTION OR DISTRICT, INCLUDING THE COUNTY
21 ASSESSOR OF THE COUNTY IN WHICH THE DISTRICT IS TO BE LOCATED, TO PERFORM THE
22 DUTIES OF THE LOCAL GOVERNMENT RELATING TO THE COLLECTION OF ASSESSMENTS THAT
23 THE LOCAL GOVERNMENT IMPOSES UNDER THIS ARTICLE.

24 48-764. Bonds or notes; security; public purpose

25 A. A LOCAL GOVERNMENT MAY ISSUE BONDS OR NOTES TO FINANCE QUALIFIED
26 PROJECTS THROUGH CONTRACTUAL ASSESSMENTS UNDER THIS ARTICLE.

27 B. BONDS OR NOTES THAT ARE ISSUED UNDER THIS SECTION MAY NOT BE
28 GENERAL OBLIGATIONS OF THE LOCAL GOVERNMENT. THE BONDS OR NOTES MUST BE
29 SECURED BY ONE OR MORE OF THE FOLLOWING AS PROVIDED BY THE GOVERNING BODY OF
30 THE LOCAL GOVERNMENT IN THE RESOLUTION OR ORDINANCE THAT APPROVES THE BONDS
31 OR NOTES:

32 1. PAYMENTS OF CONTRACTUAL ASSESSMENTS ON BENEFITED PROPERTY IN ONE OR
33 MORE SPECIFIED DISTRICTS DESIGNATED UNDER THIS ARTICLE.

34 2. RESERVES THAT THE LOCAL GOVERNMENT ESTABLISHES FROM GRANTS, BONDS
35 OR NET PROCEEDS OR OTHER LAWFULLY AVAILABLE FUNDS.

36 3. MUNICIPAL BOND INSURANCE, LINES OF CREDIT, PUBLIC OR PRIVATE
37 GUARANTIES, STANDBY BOND PURCHASE AGREEMENTS, COLLATERAL ASSIGNMENTS,
38 MORTGAGES OR ANY OTHER AVAILABLE MEANS OF PROVIDING CREDIT SUPPORT OR
39 LIQUIDITY.

40 4. ANY OTHER FUNDS THAT ARE LAWFULLY AVAILABLE FOR PURPOSES THAT ARE
41 CONSISTENT WITH THIS ARTICLE.

42 C. A LOCAL GOVERNMENT PLEDGE OF ASSESSMENTS, FUNDS OR CONTRACTUAL
43 RIGHTS IN CONNECTION WITH THE ISSUANCE OF BONDS OR NOTES BY THE LOCAL
44 GOVERNMENT UNDER THIS ARTICLE IS A FIRST LIEN ON THE ASSESSMENTS, FUNDS OR
45 CONTRACTUAL RIGHTS THAT ARE PLEDGED IN FAVOR OF THE PERSON TO WHOM THE PLEDGE

1 IS GIVEN, WITHOUT FURTHER ACTION BY THE LOCAL GOVERNMENT. THE LIEN IS VALID
2 AND BINDING AGAINST ANY OTHER PERSON, WITH OR WITHOUT NOTICE.

3 D. BONDS OR NOTES THAT ARE ISSUED UNDER THIS ARTICLE FURTHER AN
4 ESSENTIAL PUBLIC AND GOVERNMENTAL PURPOSE, INCLUDING:

- 5 1. IMPROVEMENT OF THE RELIABILITY OF THE STATE ELECTRICAL SYSTEM.
- 6 2. REDUCTION OF ENERGY COSTS.
- 7 3. ECONOMIC STIMULATION AND DEVELOPMENT.
- 8 4. ENHANCEMENT OF PROPERTY VALUES.
- 9 5. ENHANCEMENT OF EMPLOYMENT OPPORTUNITIES.
- 10 6. REDUCTION IN GREENHOUSE GAS EMISSIONS.

11 48-765. Joint implementation

12 A. ANY COMBINATION OF LOCAL GOVERNMENTS MAY AGREE TO JOINTLY IMPLEMENT
13 OR ADMINISTER A PROGRAM UNDER THIS ARTICLE.

14 B. IF TWO OR MORE LOCAL GOVERNMENTS IMPLEMENT A PROGRAM JOINTLY, A
15 SINGLE PUBLIC HEARING HELD JOINTLY BY THE COOPERATING LOCAL GOVERNMENTS IS
16 SUFFICIENT TO SATISFY THE REQUIREMENT OF SECTION 48-754, SUBSECTION A,
17 PARAGRAPH 2.

18 C. ONE OR MORE LOCAL GOVERNMENTS MAY CONTRACT WITH A THIRD PARTY,
19 INCLUDING ANOTHER LOCAL GOVERNMENT, TO ADMINISTER A PROGRAM.

20 48-766. Prohibited acts

21 A LOCAL GOVERNMENT THAT ESTABLISHES A DISTRICT UNDER THIS ARTICLE MAY
22 NOT:

23 1. MAKE THE ISSUANCE OF A PERMIT, LICENSE OR OTHER AUTHORIZATION FROM
24 THE LOCAL GOVERNMENT TO A PERSON WHO OWNS PROPERTY IN THE DISTRICT CONTINGENT
25 ON THE PERSON ENTERING INTO A WRITTEN CONTRACT TO REPAY THE FINANCING OF A
26 QUALIFIED PROJECT THROUGH CONTRACTUAL ASSESSMENTS UNDER THIS ARTICLE.

27 2. OTHERWISE COMPEL A PERSON WHO OWNS PROPERTY IN THE DISTRICT TO
28 ENTER INTO A WRITTEN CONTRACT TO REPAY THE FINANCING OF A QUALIFIED PROJECT
29 THROUGH CONTRACTUAL ASSESSMENTS UNDER THIS ARTICLE.

30 Sec. 3. Legislative intent

31 The legislature finds, determines and declares that:

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

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

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

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

5 5. The inclusion of energy efficiency and renewable energy production
6 projects and water conservation improvements and water resource management
7 improvements for use in improvement districts, and the powers conferred under
8 title 48, chapter 4, article 7, Arizona Revised Statutes, as added by this
9 act, as well as the expenditures of public monies made pursuant to title 48,
10 chapter 4, article 7, Arizona Revised Statutes, as added by this act, serve a
11 valid public purpose, and that the enactment of this section is expressly
12 declared to be in the public interest.