

REFERENCE TITLE: community facilities districts; formation; governance

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

# HB 2568

Introduced by  
Representative Gowan

AN ACT

AMENDING SECTIONS 48-701, 48-702, 48-711 AND 48-723, ARIZONA REVISED  
STATUTES; RELATING TO COMMUNITY FACILITIES DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 48-701, Arizona Revised Statutes, is amended to  
3 read:  
4 48-701. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Clerk" includes any person or official who performs the duties of  
7 clerk of the municipality or county or any person appointed by the district  
8 board to be the district clerk pursuant to section 48-711, ~~subsection D.~~  
9 2. "County" means a county that forms a community facilities district  
10 pursuant to this article in an unincorporated area or in an incorporated area  
11 with the municipality's consent.  
12 3. "Debt service" means the principal of, interest on and premium, if  
13 any, on the bonds, when due, whether at maturity or prior redemption and fees  
14 and costs of registrars, trustees, paying agents or other agents necessary to  
15 handle the bonds and the costs of credit enhancement or liquidity support.  
16 4. "District" means a tax levying community facilities district formed  
17 pursuant to this article by a municipality or formed pursuant to this article  
18 by a county in an unincorporated area or in an incorporated area with the  
19 municipality's consent.  
20 5. "District board" means the board of directors of the district,  
21 which shall ~~be comprised~~ CONSIST of the members of the governing body of the  
22 municipality or county, ex officio, or, ~~at the option of the governing body,~~  
23 five directors appointed by the governing body ~~under this article~~ PURSUANT TO  
24 SECTION 48-711.  
25 6. "Enhanced municipal services" means public service provided by a  
26 county or municipality within the district at a higher level or to a greater  
27 degree than provided in the remainder of the county or municipality,  
28 including such services as public safety, fire protection, street or sidewalk  
29 cleaning or landscape maintenance in public areas.  
30 7. "General obligation bond" means a bond that is issued pursuant to  
31 section 48-719 and that is secured by a pledge of ad valorem taxes levied by  
32 the district.  
33 8. "General plan" means the general plan described in section 48-702,  
34 subsection B, as the plan may be amended.  
35 9. "Governing body" means the body or board ~~which~~ THAT by law is  
36 constituted as the legislative department of the municipality or county.  
37 10. "Municipality" means an incorporated city or town.  
38 11. "Owner" means the person who, on the day the action, election or  
39 proceeding is begun or held, appears to be the owner of real property as  
40 shown on the property tax assessment roll.  
41 12. "Public infrastructure" means all improvements listed in this  
42 paragraph that will result in a beneficial use principally to land within the  
43 geographical limits of the district and may include a district's share of any  
44 improvements listed in this paragraph if the district board determines such  
45 share is proportionate to the beneficial use of such improvements to land

1 within the geographical limits of the district, improvements within or  
2 outside the geographical limits of the district, necessary or incidental  
3 work, whether newly constructed, renovated or existing, and all necessary or  
4 desirable appurtenances. For the purposes of this paragraph, adoption by the  
5 district board of a resolution of intent pursuant to section 48-715 shall  
6 conclusively establish that the improvements or, if applicable, share of the  
7 improvements that are the subject of the resolution will result in a  
8 beneficial use principally to land within the geographical limits of the  
9 district. Public infrastructure improvements are:

10 (a) Sanitary sewage systems, including collection, transport, storage,  
11 treatment, dispersal, effluent use and discharge.

12 (b) Drainage and flood control systems, including collection,  
13 transport, diversion, storage, detention, retention, dispersal, use and  
14 discharge.

15 (c) Water systems for domestic, industrial, irrigation, municipal or  
16 fire protection purposes, including production, collection, storage,  
17 treatment, transport, delivery, connection and dispersal, but not including  
18 facilities for agricultural irrigation purposes unless for the repair or  
19 replacement of existing facilities when required by other improvements  
20 permitted by this article.

21 (d) Highways, streets, roadways and parking facilities, including all  
22 areas for vehicular use for travel, ingress, egress and parking.

23 (e) Areas for pedestrian, equestrian, bicycle or other nonmotor  
24 vehicle use for travel, ingress, egress and parking.

25 (f) Pedestrian malls, parks, recreational facilities other than  
26 stadiums, and open space areas for the use of members of the public for  
27 entertainment, assembly and recreation.

28 (g) Landscaping, including earthworks, structures, lakes and other  
29 water features, plants, trees and related water delivery systems.

30 (h) Public buildings, public safety facilities and fire protection  
31 facilities.

32 (i) Lighting systems.

33 (j) Traffic control systems and devices, including signals, controls,  
34 markings and signage.

35 (k) Equipment, vehicles, furnishings and other personalty related to  
36 the items listed in this paragraph.

37 13. "Public infrastructure purpose" means:

38 (a) Planning, design, engineering, construction, acquisition or  
39 installation of public infrastructure.

40 (b) Acquiring, converting, renovating or improving existing facilities  
41 for public infrastructure.

42 (c) Acquiring interests in real property for public infrastructure.

43 (d) Establishing, maintaining and replenishing reserves from any  
44 source described in section 48-717 or from any other source in order to  
45 secure payment of debt service on bonds.

1 (e) Notwithstanding section 48-589, funding and paying from bond  
2 proceeds interest accruing on bonds for a period of not to exceed three years  
3 from their date of issuance.

4 (f) Providing for the timely payment of debt service on bonds or other  
5 indebtedness of the district.

6 (g) Refinancing any matured or unmatured bonds with new bonds.

7 (h) Incurring expenses of the district incident to and reasonably  
8 necessary to carry out the purposes specified in this paragraph.

9 14. "Revenue bonds" means those bonds that are issued pursuant to  
10 section 48-720 and that are secured by a pledge of revenues of the district  
11 or revenues collected by the county or municipality and returned to the  
12 district.

13 15. "Treasurer" includes any person or official who performs the duties  
14 of treasurer of the municipality or county or any person appointed by the  
15 district board as the district treasurer pursuant to section  
16 48-711, ~~subsection D~~.

17 Sec. 2. Section 48-702, Arizona Revised Statutes, is amended to read:  
18 48-702. Resolution declaring intention to form district

19 A. If the public convenience and necessity require, and on  
20 presentation of a petition signed by the owners of at least twenty-five ~~per~~  
21 ~~cent~~ PERCENT of the land area proposed to be included in the district, the  
22 governing body may adopt a resolution declaring its intention to form a  
23 community facilities district ~~to~~ THAT SHALL include contiguous or  
24 noncontiguous property ~~which shall be~~ THAT IS wholly within the corporate  
25 boundaries of the municipality or county. BEGINNING WITH DISTRICTS FORMED  
26 AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, IF THE LAND  
27 PROPOSED TO BE INCLUDED IN THE DISTRICT IS MORE THAN SIX HUNDRED ACRES, ON  
28 PRESENTATION OF A PETITION SIGNED BY THE OWNERS OF ALL OF THE LAND AREA  
29 PROPOSED TO BE INCLUDED IN THE DISTRICT, THE GOVERNING BODY SHALL ADOPT A  
30 RESOLUTION DECLARING ITS INTENTION TO FORM A COMMUNITY FACILITIES DISTRICT TO  
31 INCLUDE CONTIGUOUS OR NONCONTIGUOUS PROPERTY THAT IS WHOLLY WITHIN THE  
32 CORPORATE BOUNDARIES OF THE MUNICIPALITY OR COUNTY. The resolution shall  
33 state the following:

34 1. The area or areas to be included in the district.

35 2. The purposes for which the district is to be formed.

36 3. That a general plan for the district is on file with the clerk.

37 4. The date, time and place of the hearing to be held on the formation  
38 of the district.

39 5. The place where written objections to the formation of the district  
40 may be filed.

41 6. That formation of the district may result in the levy of taxes to  
42 pay the costs of improvements constructed by the district and for their  
43 operation and maintenance.

44 7. A reference to this article.

1           8. Whether the district will be governed by a district board ~~comprised~~  
2 ~~THAT CONSISTS~~ of the members of the governing body, ex officio, or, at the  
3 option of the governing body ~~OR, FOR DISTRICTS FORMED AFTER THE EFFECTIVE~~  
4 ~~DATE OF THIS AMENDMENT TO THIS SECTION, AT THE OPTION OF THE LANDOWNERS~~ and  
5 if the total area to be included in the district is larger than six hundred  
6 acres, five directors appointed ~~by the governing body~~ PURSUANT TO SECTION  
7 48-711, SUBSECTION C.

8           B. Before adopting a resolution under this section, a general plan for  
9 the district shall be filed with the clerk setting out a general description  
10 of the public infrastructure improvements for which the district is proposed  
11 to be formed and the general areas to be improved.

12           Sec. 3. Section 48-711, Arizona Revised Statutes, is amended to read:  
13 ~~48-711.~~ Records; board of directors; open meetings

14           A. The district shall keep the following records ~~which~~ THAT shall be  
15 open to public inspection:

- 16           1. Minutes of all meetings of the district board.
- 17           2. All resolutions.
- 18           3. Accounts showing all monies received and disbursed.
- 19           4. The annual budget.
- 20           5. All other records required to be maintained by law.

21           B. If the resolution ordering formation of the district provides that  
22 the district will be governed by a district board appointed by the governing  
23 body, each appointed director shall serve for a term of six years, except  
24 that two directors initially appointed by the governing body in the  
25 resolution shall serve for a term of four years. The resolution shall state  
26 which directors shall serve four year terms and which shall serve six year  
27 terms. On the expiration of the term of an appointed director, the governing  
28 body shall appoint a person to fill the position ~~AND, FOR DISTRICTS FORMED ON~~  
29 ~~OR AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, SHALL DO SO IN~~  
30 ~~A MANNER THAT COMPLIES WITH THIS SECTION AND THAT MAINTAINS THE COMPOSITION~~  
31 ~~OF THE BOARD AS PRESCRIBED BY SUBSECTION C OF THIS SECTION.~~ If a vacancy  
32 occurs on the district board because of death, resignation or inability of  
33 the director to discharge the duties of director, the vacancy shall be filled  
34 by appointment made by the governing body ~~AND, FOR DISTRICTS FORMED ON OR~~  
35 ~~AFTER THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION, IN A MANNER THAT~~  
36 ~~COMPLIES WITH THIS SECTION AND THAT MAINTAINS THE COMPOSITION OF THE BOARD AS~~  
37 ~~PRESCRIBED BY SUBSECTION C OF THIS SECTION.~~ A director appointed by the  
38 governing body ~~AFTER A VACANCY~~ shall hold office for the remainder of the  
39 unexpired term until ~~his~~ THAT DIRECTOR'S successor is appointed. ~~An~~  
40 ~~appointed~~ A director ~~APPOINTED PURSUANT TO THIS SUBSECTION IN A DISTRICT~~  
41 ~~FORMED BEFORE THE EFFECTIVE DATE OF THIS AMENDMENT TO THIS SECTION~~ shall not  
42 be a landowner owning more than forty acres in the district, an elected  
43 official of the municipality or county or an employee or agent of the  
44 landowner or municipality or county but may be a director of more than one  
45 district.

1 C. BEGINNING WITH DISTRICTS FORMED ON OR AFTER THE EFFECTIVE DATE OF  
2 THIS AMENDMENT TO THIS SECTION, THE APPOINTED DISTRICT BOARD SHALL CONSIST OF  
3 TWO MEMBERS WHO ARE SELECTED BY THE GOVERNING BODY, TWO MEMBERS WHO ARE  
4 SELECTED BY DESIGNATION OF THE PERSONS WHO EACH OWN MORE THAN TWENTY-FIVE  
5 ACRES IN THE DISTRICT AND ONE MEMBER WHO IS SELECTED BY THE GOVERNING BODY  
6 FROM A LIST OF AT LEAST FOUR PERSONS WHO ARE SUBMITTED BY DESIGNATION OF THE  
7 PERSONS WHO EACH OWN MORE THAN TWENTY-FIVE ACRES IN THE DISTRICT. A DIRECTOR  
8 APPOINTED PURSUANT TO THIS SUBSECTION MAY BE A DIRECTOR OF MORE THAN ONE  
9 DISTRICT.

10 D. The members of the governing body of the ~~municipality or county~~  
11 DISTRICT are not eligible to receive compensation for their services as  
12 members of the district board.

13 ~~E.~~ E. The board of directors shall comply with title 38, chapter 3,  
14 article 3.1 as a separate political subdivision.

15 ~~D.~~ F. The district MANAGER, clerk and ~~district~~ treasurer shall be the  
16 MANAGER, clerk ~~of the municipality or county~~ and ~~the~~ treasurer of the  
17 municipality or county, respectively, unless the district board appoints a  
18 district MANAGER, clerk and ~~district~~ treasurer.

19 Sec. 4. Section 48-723, Arizona Revised Statutes, is amended to read:  
20 48-723. District taxes; annual financial estimate and budget

21 A. Except as provided in subsection D of this section and at any time  
22 after the hearing on formation of the district, the district board, or, if  
23 before formation, the governing body, may call an election to submit to the  
24 qualified electors of the district or to the persons qualified to vote  
25 pursuant to section 48-707, subsection G the question of authorizing the  
26 district board to levy an ad valorem tax on the assessed value of all the  
27 real and personal property in the district at a rate or rates ~~which~~ THAT do  
28 not exceed the maximum rate or rates specified in the ballot. All taxes  
29 attributable to the operation and maintenance expenses of the district,  
30 excluding expenses for an area described in section 48-709, subsection G,  
31 shall not exceed, FOR DISTRICTS FORMED BEFORE THE EFFECTIVE DATE OF THIS  
32 AMENDMENT TO THIS SECTION, an amount equal to thirty cents per one hundred  
33 dollars of assessed valuation for all real and personal property in the  
34 district OR FOR DISTRICTS FORMED ON OR AFTER THE EFFECTIVE DATE OF THIS  
35 AMENDMENT TO THIS SECTION, FIFTY CENTS PER ONE HUNDRED DOLLARS OF ASSESSED  
36 VALUATION FOR ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT, unless, FOR ANY  
37 DISTRICT, a higher rate is approved by a vote of the electors of the  
38 district, or by the persons who are qualified to vote as provided in section  
39 48-707, subsection G, voting at an election not less than three years after  
40 the date of the formation of the district. The election may be held in  
41 conjunction with the formation election. Once approved at an election, the  
42 maximum rate remains in effect until increased or decreased at a subsequent  
43 election. If a maximum rate is in effect, the district board, on petition of  
44 twenty-five ~~per cent~~ PERCENT of the qualified electors of the district, or by  
45 those persons owning twenty-five ~~per cent~~ PERCENT of the land area who are

1 qualified to vote pursuant to section 48-707, subsection G, shall call an  
2 election to reduce the maximum tax rate but not below the lesser of that rate  
3 determined by the district board to be necessary to maintain the district's  
4 facilities and improvements or the actual rate then in effect. On the  
5 presentation to the district board of a petition signed by the owners of a  
6 majority of the property in the district, the district board shall adopt a  
7 resolution to reduce or eliminate the portion of the tax, beginning the next  
8 fiscal year, required for one or more enhanced municipal services specified  
9 in the petition. Signatures on a petition to reduce or eliminate a tax are  
10 valid for a period of sixty days.

11 B. The district may not levy, other than for the payment of debt  
12 service on general obligation bonds, at a rate or rates in excess of the  
13 maximum rate then in effect.

14 C. When levying an ad valorem tax, the district board shall make  
15 annual statements and estimates of the operation and maintenance expenses of  
16 the district, the costs of capital improvements to be financed by the tax  
17 levy or levies and the amount of all other expenditures for public  
18 infrastructure and enhanced municipal services proposed to be paid from the  
19 tax levy or levies and of the amount to be raised to pay general obligation  
20 bonds of the district, all of which shall be provided for by the levy and  
21 collection of ad valorem taxes on the assessed value of all the real and  
22 personal property in the district. The district board shall file the annual  
23 statements and estimates with the clerk. The district board shall publish a  
24 notice of the filing of the estimate, shall hold hearings on the portions of  
25 the estimate not relating to debt service on general obligation bonds and  
26 shall adopt a budget. The board, on or before the date set by law for  
27 certifying the annual budget of the county or municipality, shall fix, levy  
28 and assess the amounts to be raised by ad valorem taxes of the district and  
29 shall cause certified copies of the order to be delivered to the board of  
30 supervisors and to the department of revenue. All statutes relating to the  
31 levy and collection of general county taxes, including the collection of  
32 delinquent taxes and sale of property for nonpayment of taxes, apply to the  
33 district taxes provided for by this section.