

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

HOUSE BILL 2568

AN ACT

AMENDING SECTIONS 48-701, 48-702 AND 48-711, 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.