

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 65
HOUSE BILL 2151

AN ACT

AMENDING SECTION 48-805.01, ARIZONA REVISED STATUTES; RELATING TO FIRE DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-805.01, Arizona Revised Statutes, is amended
3 to read:

4 48-805.01. Separate legal entities; joint exercise of powers

5 A. If public agencies identified in subsection B of this section
6 form a separate legal entity pursuant to section 11-952, the entity has
7 the powers common to the contracting powers specified in the agreement and
8 may jointly exercise powers held in common by the contracting parties in a
9 manner or according to the method provided in the agreement.
10 Notwithstanding title 38, an officer or elected member of the governing
11 body of a party to the agreement may also act in the capacity of a member
12 of the governing body of the separate legal entity. In its own name and
13 subject to ~~the provisions of~~ the agreement, the separate legal entity,
14 subject to existing applicable law, may:

15 1. Make and enter into contracts, including contracts, leases or
16 other transactions with one or more of the parties to the agreement
17 forming the separate legal entity.

18 2. Employ agents and employees.

19 3. Acquire, hold or dispose of property.

20 4. Acquire, construct, manage, maintain and operate buildings,
21 works, infrastructure, apparatus, equipment and improvements.

22 5. Incur debts, liabilities and obligations.

23 6. Sue and be sued.

24 B. Cities, towns, counties and fire districts established pursuant
25 to this title may form a separate legal entity pursuant to section 11-952,
26 for the purposes of jointly exercising powers held in common by the
27 contracting parties. Common powers of the contracting parties when
28 otherwise authorized pursuant to state law may include fire protection,
29 the preservation of life, providing emergency medical services, and
30 carrying out its other powers and duties, including providing ambulance
31 transportation services when authorized to do so pursuant to title 36,
32 chapter 21.1, article 2. Any separate legal entity formed pursuant to
33 this section shall include a fire district. The intergovernmental
34 agreement must state the intent to form a separate legal entity pursuant
35 to this subsection. The governing body of a separate legal entity formed
36 pursuant to this subsection shall be composed of officials elected to one
37 or more of the governing bodies of the political subdivisions that are
38 parties to the agreement, or their designees. A separate legal entity
39 identified pursuant to this subsection:

40 1. Is a political subdivision of this state having:

41 (a) The governmental and proprietary powers that are common to the
42 contracting parties specified in the agreement and those powers provided
43 for in section 11-952 and this section.

1 (b) The rights and immunities of the parties that are granted by
2 the constitution and statutes of this state, including immunity of its
3 property from taxation.

4 2. May separately contract for an undertaking with any two or more
5 of the parties or other public agencies or other entities. Limitations on
6 the exercise of common powers shall be applicable only to the parties to
7 the agreement participating in the undertaking.

8 3. MAY ESTABLISH ANY GOVERNANCE AND BOARD STRUCTURE NECESSARY TO
9 CARRY OUT ITS POWERS AND DUTIES SUBJECT TO THE REQUIREMENTS OF SECTION
10 11-952 AND THIS SECTION.

11 4. IF SPECIFIED IN THE AGREEMENT, IS THE AUTHORITY THAT HAS
12 JURISDICTION FOR THE PURPOSE OF FIRE CODE ADMINISTRATION AND ENFORCEMENT
13 FOR THE PARTIES TO THE AGREEMENT.

14 5. SHALL BE PROVIDED A .GOV IDENTIFIER FOR THE WEBSITE USED TO
15 CARRY OUT ITS POWERS AND DUTIES BY THE APPLICABLE GOVERNMENTAL ISSUER.

16 ~~5.~~ 6. In addition to other powers provided for in the agreement by
17 a vote of its governing body, may incur obligations payable from the
18 entity's revenues, to pay the costs and expenses of acquiring or
19 constructing any structures, facilities or equipment necessary to
20 effectuate the purposes of the agreement subject to the following
21 conditions and requirements:

22 (a) The parties to the agreement, with the approval of each
23 participating entity's voters, may issue general obligation bonds for the
24 purpose of funding the costs and expenses of acquiring or constructing any
25 structures, facilities or equipment necessary to effectuate the purposes
26 of the agreement. Each of the participating party's general obligation
27 bonding authority is limited to that of each party's enabling legislation.

28 (b) The general obligation bonds are payable from the taxes or
29 assessments paid to, or to be levied or collected by, the entity or the
30 political subdivisions that are parties to the agreement that forms the
31 entity.

32 (c) The general obligation bonds are limited to an amount as
33 authorized by the qualified electors that are parties to the agreement and
34 are subject to the requirements of sections 35-431 and 48-806.

35 C. For the purposes of subsection B of this section, "undertaking":

36 1. Means one or more of the following:

37 (a) Purchasing, constructing, leasing or acquiring any real or
38 personal property, works, apparatus, equipment or facilities that the
39 political subdivisions that formed the entity are authorized by law to
40 purchase, construct, lease or otherwise acquire.

41 (b) Improving, reconstructing, extending or adding to any real or
42 personal property, works, apparatus, equipment or facilities owned or
43 operated by the entity.

44 (c) Any program of development involving real or personal property,
45 works, apparatus, equipment or facilities that the entity is authorized by

1 law to purchase, construct, lease or otherwise acquire or the improvement,
2 reconstruction, extension or addition to the program.

3 (d) Providing fire protection, for the preservation of life, for
4 providing emergency medical services and for carrying out its other powers
5 and duties, including providing ambulance transportation services when
6 authorized to do so pursuant to title 36, chapter 21.1, article 2 and
7 purchasing, constructing, leasing or acquiring, or the extension or
8 addition of, works, apparatus, equipment or facilities designed to serve
9 areas or territories already being served by any of the parties to the
10 agreement.

11 2. Does not include the acquisition by eminent domain of existing
12 works or facilities of a political subdivision.

13 D. The exercise of joint powers does not create any expansion of a
14 certificate of necessity issued pursuant to title 36, chapter 21.1,
15 article 2 or the operating rights as defined by the certificate of
16 necessity held by one or more of the entities entering into a joint powers
17 authority. ~~Such~~ THE operating rights ~~shall~~ remain the same as those
18 rights granted to the certificate of necessity holder at the date of the
19 establishment of the joint powers authority unless modified pursuant to
20 title 36, chapter 21.1, article 2.

21 E. A FIRE DISTRICT BOARD THAT PARTICIPATES IN AN AGREEMENT TO FORM
22 A SEPARATE LEGAL ENTITY PURSUANT TO THIS SECTION:

23 1. IS NOT SUBJECT TO THE PUBLIC MEETING REQUIREMENTS PROVIDED IN
24 SECTION 48-805.

25 2. SHALL HOLD A PUBLIC MEETING AT LEAST ONCE EVERY NINETY DAYS OR
26 AS NECESSARY TO CARRY OUT ITS POWERS AND DUTIES.

27 3. IF A CUMULATIVE FINANCIAL REPORT REVIEW OCCURS AT LEAST ONCE
28 EVERY NINETY DAYS, IS CONSIDERED COMPLIANT WITH SECTION 48-807,
29 SUBSECTION P.

30 F. A MUNICIPALITY THAT PARTICIPATES IN AN AGREEMENT TO FORM A
31 SEPARATE LEGAL ENTITY PURSUANT TO THIS SECTION IS NOT SUBJECT TO A LIMIT
32 ON THE DURATION OF THE AGREEMENT.

APPROVED BY THE GOVERNOR MARCH 23, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 23, 2018.