

REFERENCE TITLE: county improvement districts; repayment agreements

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

# HB 2190

Introduced by  
Representative Mitchell

AN ACT

AMENDING SECTIONS 48-901, 48-909 AND 48-909.01, ARIZONA REVISED STATUTES;  
RELATING TO COUNTY 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 48-901, Arizona Revised Statutes, is amended to  
3 read:  
4 48-901. Definitions  
5 In this article, unless the context otherwise requires:  
6 1. "Assessment" or "assessment roll" means a special assessment  
7 made under this article.  
8 2. "Block" means a parcel of ground, regular or irregular, bounded  
9 by streets or by streets and district boundary lines.  
10 3. "Chairman of the board" means the person designated to preside  
11 over meetings of the board of directors.  
12 4. "Clerk" or "district clerk" means the clerk of the board of  
13 supervisors, who shall be the clerk under this article and in whose office  
14 shall be filed all papers directed or required to be filed with the clerk.  
15 5. "Commercial farming" means the intensive cultivation of arable  
16 land by the raising of agricultural or horticultural products as a  
17 principal source of the owner's livelihood.  
18 6. "Commercial stock raising" means the breeding, raising and care  
19 of domestic animals as a principal source of the owner's livelihood.  
20 7. "Contractor" includes personal representatives or assignee of  
21 the contractor.  
22 8. "Delinquency" means delinquency in the payment of an assessment.  
23 9. "Engineer" or "district engineer" means a person designated or  
24 employed by the board of directors of a district to perform any or all of  
25 the engineering work authorized to be done by the district under this  
26 article.  
27 10. "Improvement bond" means a bond issued under this article.  
28 11. "Lighting plants" includes electric light plants, electric  
29 power plants, gas plants, distribution systems, poles, parts, pipes,  
30 conduits, wires, tanks, reservoirs, generators for gas or electricity,  
31 transmission lines, towers, lamps, transformers of every character,  
32 machinery, apparatus, equipment and all appliances and structures  
33 necessary or incidental to the construction, installation or operation of  
34 a complete electric light, power and gas plant and distribution system  
35 placed on the streets improved, though extended beyond.  
36 12. "Lot" includes any portion, piece, parcel or subdivision of  
37 land, but not property owned or controlled by any person as a railroad  
38 right of way.  
39 13. "Owner" means the person in whom legal title appears by  
40 recorded deed, or the person in possession under claim or title, or the  
41 person exercising acts of ownership for himself or as the personal  
42 representative of the owner, including the boards of trustees of school  
43 districts and the boards of education of high school districts owning  
44 property within the proposed improvement district.

1 14. "Sewers" ~~include~~ INCLUDES wastewater treatment facilities,  
2 tunnels, excavations, ditches, drains, conduits, channels, outlets,  
3 outfalls, cesspools, manholes, catch basins, flush tanks, septic tanks,  
4 connecting sewers of every character, machinery, apparatus, equipment and  
5 all appliances and structures necessary or incidental to the construction,  
6 installation or operation of a complete sewer system for either sanitary  
7 or drainage purposes.

8 15. "Street" includes avenues, alleys, highways, lanes, crossings,  
9 intersections, courts, places and grounds opened or dedicated to public  
10 use and public ways.

11 16. "Street superintendent" or "superintendent" means a county  
12 employee designated by the board of supervisors to perform the duties of  
13 street superintendent for all the districts organized under this article  
14 in any county.

15 17. "Time of delinquency" means the time when assessments become  
16 delinquent.

17 18. "Treasurer" or "district treasurer" means the treasurer of the  
18 county in which a district is situated, who shall be the treasurer of the  
19 district.

20 19. "Unincorporated area" means any portion of a county not within  
21 the limits of an incorporated city or town, so situated that any of the  
22 improvements provided for in this article might reasonably or properly be  
23 made or constructed for the benefit of the inhabitants of the area under  
24 existing special assessment statutes if the area were situated within an  
25 incorporated city or town.

26 20. "Wastewater systems" means sewers and other wastewater  
27 treatment facilities.

28 21. "Waterworks" means works for the storage or development of  
29 water for domestic uses, ~~and includes~~ INCLUDING DRINKING WATER TREATMENT  
30 FACILITIES, wells, pumping machinery, power plants, pipelines and all  
31 equipment necessary for ~~the purpose~~ THOSE PURPOSES.

32 22. "Work" or "improvement" includes any of the improvements  
33 mentioned and authorized to be made in this article, the construction,  
34 reconstruction and repair of all or any portion of any such improvement,  
35 and labor, services, expenses and material necessary or incidental  
36 thereto.

37 Sec. 2. Section 48-909, Arizona Revised Statutes, is amended to  
38 read:

39 48-909. Purposes for which public improvements may be  
40 undertaken; powers incidental to public  
41 improvements

42 A. When the public interest or convenience requires, the board of  
43 directors of an improvement district may order:

- 1           1. The whole or any portion, either in length or width, of one or  
2 more of the streets of the district graded or regraded, paved or repaved,  
3 landscaped or otherwise maintained, improved or reimproved.
- 4           2. The acquisition, construction, reconstruction or repair of any  
5 street, tunnel, subway, viaduct or conduit in, on, under or over which the  
6 district may have an easement or right-of-way therefor.
- 7           3. The construction or reconstruction of sidewalks, crosswalks,  
8 curbs, gutters, culverts, bridges, tunnels, siphons, manholes, steps,  
9 parkings and parkways.
- 10          4. The placement, replacement or repair of pipes, hydrants and  
11 appliances for fire protection.
- 12          5. The acquisition, construction, reconstruction, maintenance or  
13 repair of wastewater treatment facilities, sewers, ditches, drains,  
14 conduits, pipelines and channels for sanitary and drainage purposes, with  
15 outlets, cesspools, manholes, catch basins, flush tanks, septic tanks,  
16 connecting sewers, ditches, drains, conduits, channels and other  
17 appurtenances in, under, over or through any street or any land of the  
18 district or any right-of-way granted or obtained for such A purpose,  
19 either within or without the district limits.
- 20          6. The acquisition, construction, reconstruction, MAINTENANCE or  
21 repair of waterworks, INCLUDING DRINKING WATER TREATMENT FACILITIES, for  
22 the delivery of water for domestic purposes, and of wells, ditches,  
23 canals, channels, conduits, pipelines and siphons, together with the  
24 necessary or usual appurtenances for carrying storm water or water from  
25 irrigation ditches, watercourses, streams or springs into, through or out  
26 of ~~such~~ THE district in, under, over or through any street, or any land of  
27 the district or any right-of-way granted or obtained for such A purpose,  
28 either within or without the district limits. ~~Nothing in~~ This section  
29 ~~shall be construed to~~ DOES NOT prohibit the board of directors of an  
30 improvement district from purchasing an existing domestic water delivery  
31 system within the district or outside the district or constructing an  
32 initial or improving an existing domestic water delivery system inside or  
33 outside the district.
- 34          7. The construction, reconstruction or repair of breakwater levees  
35 or walls, riverbank protection or replacement of riverbanks and supporting  
36 land. A district established for this purpose shall cooperate and  
37 coordinate its plans and activities with the county flood control district  
38 established in the county and any incorporated city or town in which the  
39 district is established.
- 40          8. The acquisition, construction, reconstruction or repair of  
41 lighting plants and poles, wire conduits, lamps, standards and other  
42 appliances for the purpose of lighting and beautifying streets or other  
43 public lands.
- 44          9. The construction, reconstruction or repair of any work  
45 incidental to or connected with any ~~such~~ improvement.

1           10. The acquisition, in the name of the district, by gift, purchase  
2 or otherwise and the maintenance, repair, improvement or disposal of any  
3 real or personal property necessary or convenient for district operation  
4 for a community center, park or recreational area.

5           11. Pursuant to section 48-902, the board of directors of an  
6 improvement district may contract for or in any other manner provide  
7 transportation services within the district.

8           B. In addition to the powers specifically granted by or reasonably  
9 inferred from this article, an improvement district through its board of  
10 directors may:

11           1. Acquire by gift, purchase, condemnation or otherwise in the name  
12 of the district and own, control, manage and dispose of any real or  
13 personal property or interest in ~~such~~ **THE** property necessary or convenient  
14 for the construction, operation and maintenance of any of the improvements  
15 provided for by this article.

16           2. Join with any other improvement district, any city, town,  
17 governmental agency or Indian tribe, or any agency or instrumentality of  
18 an Indian tribe, or any person in the construction, operation or  
19 maintenance of any of the improvements hereby authorized.

20           3. Join with any other improvement district or any city, town,  
21 county or Indian tribe, or any agency or instrumentality of an Indian  
22 tribe, in improving streets running ~~upon~~ **ON** or along the boundary of the  
23 district and levy assessments and issue bonds for the district's part of  
24 the cost of ~~such~~ **THOSE** improvements.

25           4. Sell, lease or otherwise dispose of any property of the district  
26 or interest in ~~such~~ **THE** property when the property is no longer required  
27 for the purposes of the district or the use of which may be permitted  
28 without interfering with the use thereof by the district.

29           5. Sell or otherwise dispose of any property or material acquired  
30 in the construction or operation of any improvements as a by-product or  
31 otherwise, and acquire rights-of-way for ~~such~~ **THE** disposal by condemnation  
32 or otherwise.

33           6. Accept from ~~the~~ **THIS** state ~~of Arizona~~ or the federal government,  
34 or any agency, department or instrumentality of either, grants for or in  
35 aid of the construction of any of the improvements provided for by this  
36 chapter.

37           7. Notwithstanding any other law, sell improvement bonds to the  
38 federal government, or any agency, department or instrumentality of the  
39 federal government, for the construction of any of the improvements  
40 provided by this chapter.

41           8. Enter into contracts with ~~the~~ **THIS** state ~~of Arizona~~ or the  
42 federal government, or any agency, department or instrumentality of either  
43 or both, for the construction or supervision of construction by the state  
44 of Arizona or the federal government, or any agency, department or  
45 instrumentality of either or both, but reserving to the district the right

1 to assess against the property benefited by the improvement, and located  
2 within the district, that portion of the cost of the improvement ~~which~~  
3 ~~THAT~~ does not qualify for aid under a state or federal grant.

4 9. Operate, maintain and repair the streets within the district and  
5 any improvements made pursuant to this chapter.

6 10. Do all things incidental to the exercise of the powers granted  
7 by this article.

8 C. A county improvement district formed for the purpose of  
9 purchasing an existing or constructing a new domestic water delivery  
10 system within the district or outside the district shall have the same  
11 authority and responsibility as an incorporated city or town pursuant to  
12 title 45 and chapters 22 and 28 of this title.

13 D. An improvement district ~~which~~ ~~THAT~~ proposes to provide domestic  
14 water service within the certificated area of a public service corporation  
15 serving domestic water shall provide just compensation to the public  
16 service corporation pursuant to section 9-516 for the facilities or  
17 certificated area taken. The right to compensation for a public service  
18 corporation from an improvement district shall not apply if no facilities  
19 of the public service corporation are actually acquired by the improvement  
20 district and either of the following conditions exist:

21 1. At the time the law providing for compensation became effective  
22 the certificated area for which compensation is sought is an area ~~which~~  
23 ~~THAT~~ was within the boundaries of an improvement district.

24 2. A certificate is issued to a public service corporation for any  
25 area ~~which~~ ~~THAT~~ is within an improvement district at the time the  
26 certificate is issued.

27 E. If the county board of supervisors determines that the public  
28 interest or convenience so requires, an improvement district that is  
29 formed for the purposes of providing domestic water service pursuant to  
30 article 4 of this chapter may also provide domestic wastewater service.

31 Sec. 3. Section 48-909.01, Arizona Revised Statutes, is amended to  
32 read:

33 48-909.01. Wastewater treatment facility; waterworks; sewer  
34 collection system and nonpoint source projects;  
35 financial assistance loan repayment agreements;  
36 definition

37 A. Notwithstanding any other law, a county improvement district,  
38 including a domestic wastewater improvement district, may construct or  
39 improve a wastewater treatment facility, sewer collection system,  
40 ~~WATERWORKS, INCLUDING A DRINKING WATER TREATMENT FACILITY~~, or nonpoint  
41 source project or any combination of those projects with monies borrowed  
42 from or financial assistance provided by the water infrastructure finance  
43 authority of Arizona pursuant to title 49, chapter 8.

44 B. To repay financial assistance from the water infrastructure  
45 finance authority of Arizona, a county improvement district, including a

1 domestic wastewater improvement district, may enter into a financial  
 2 assistance loan repayment agreement with the authority **TO REPAY ANY**  
 3 **FINANCIAL ASSISTANCE PROVIDED BY THE WATER INFRASTRUCTURE FINANCE**  
 4 **AUTHORITY OF ARIZONA**. A financial assistance loan repayment agreement is  
 5 payable from any revenues otherwise authorized by law to be pledged to  
 6 repay long-term indebtedness. A financial assistance loan repayment  
 7 agreement may be secured either by assessments or by a pledge of revenues  
 8 of the district or any combination of those sources. If the financial  
 9 assistance loan repayment agreement is secured in whole or in part by  
 10 assessments levied pursuant to this article, the financial assistance loan  
 11 repayment agreement shall be treated as a series of bonds to the extent  
 12 that they are secured by those assessments and the board of directors of  
 13 the district has all powers and duties to collect assessment installments  
 14 and enforce delinquent assessments through sale and eventual issuance of  
 15 deeds in the same manner as if the assessments were evidenced by bonds.

16 C. The board of directors of the district shall obtain approval for  
 17 the financial assistance loan repayment agreement in the same manner  
 18 provided by law for approving and issuing bonds or other long-term  
 19 indebtedness that is secured by those assessments or revenues or a  
 20 combination of assessments and revenues that are to be pledged to repay  
 21 the loan.

22 D. A financial assistance loan repayment agreement entered into  
 23 pursuant to this section shall contain the covenants and conditions  
 24 pertaining to constructing a wastewater treatment facility, sewer  
 25 collection system, **WATERWORKS, INCLUDING A DRINKING WATER TREATMENT**  
 26 **FACILITY**, or nonpoint source project or any combination of those projects  
 27 and repaying the loan as the water infrastructure finance authority of  
 28 Arizona deems proper. Financial assistance loan repayment agreements may  
 29 provide for paying interest on the unpaid principal balance of the  
 30 agreement at the rates established in the agreement. The agreement may  
 31 also provide for paying the district's proportionate share of the expenses  
 32 of administering the clean water revolving fund established by section  
 33 49-1221 and may provide that the district pay financing and loan  
 34 administration fees approved by the water infrastructure authority of  
 35 Arizona. These costs may be included in the assessment and revenue  
 36 amounts pledged to repay the financial assistance loan repayment  
 37 agreement. Districts are bound by and shall fully perform the financial  
 38 assistance loan repayment agreements, and the agreements are incontestable  
 39 after the loan is funded by the water infrastructure finance authority of  
 40 Arizona. The district shall also agree to pay the authority's costs in  
 41 issuing bonds or otherwise borrowing to fund a loan.

42 E. The water infrastructure finance authority of Arizona shall not  
 43 require that payment of a financial assistance loan repayment agreement be  
 44 made from other than those sources permitted in subsection B of this  
 45 section. The financial assistance loan repayment agreement may also

1 include covenants concerning the operation of the system, the setting of  
2 rates and provisions for the appointment of a receiver to take charge of  
3 and operate a sewer collection SYSTEM, A WATERWORKS, INCLUDING A DRINKING  
4 WATER TREATMENT FACILITY, and A wastewater treatment system if the  
5 financial assistance loan repayment agreement is not paid in a timely  
6 manner and, in the sole discretion of the water infrastructure finance  
7 authority of Arizona, if the district will not be able to cure the  
8 default.

9 F. A district may employ or contract for the services of attorneys,  
10 accountants, financial consultants and other experts in their fields as  
11 deemed necessary to perform services with respect to the financial  
12 assistance loan repayment agreement. These costs are incidental expenses  
13 and shall be included in any assessments.

14 G. This section is supplemental and alternative to any other law  
15 under which a district may borrow ~~money~~ MONIES or issue bonds. This  
16 section ~~shall not be construed as~~ IS NOT the exclusive authorization to  
17 enter into loan agreements with the water infrastructure finance authority  
18 of Arizona.

19 H. A district may borrow additional monies or enter into additional  
20 financial assistance loan repayment agreements with the water  
21 infrastructure finance authority in an amount up to the amount approved  
22 pursuant to subsection C of this section less the amount that the district  
23 is obligated to repay to the water infrastructure finance authority OF  
24 ARIZONA pursuant to a financial assistance loan repayment agreement.

25 I. For THE purposes of this section, "nonpoint source project" has  
26 the same meaning prescribed in section 49-1201.