

State of Arizona
House of Representatives
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 88
HOUSE BILL 2114

AN ACT

AMENDING SECTIONS 11-251, 11-256 AND 48-3603, ARIZONA REVISED STATUTES;
RELATING TO COUNTY REAL ESTATE.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-251, Arizona Revised Statutes, is amended to
3 read:

4 11-251. Powers of board

5 The board of supervisors, under such limitations and restrictions as
6 are prescribed by law, may:

7 1. Supervise the official conduct of all county officers and
8 officers of all districts and other subdivisions of the county charged
9 with assessing, collecting, safekeeping, managing or disbursing the public
10 revenues, see that the officers faithfully perform their duties and direct
11 prosecutions for delinquencies, and, when necessary, require the officers
12 to renew their official bonds, make reports and present their books and
13 accounts for inspection.

14 2. Divide the counties into districts or precincts as required by
15 law, change the districts or precincts and create others as convenience
16 requires.

17 3. Establish, abolish and change election precincts, appoint
18 inspectors and judges of elections, canvass election returns, declare the
19 result and issue certificates thereof.

20 4. Lay out, maintain, control and manage public roads, ferries and
21 bridges within the county and levy such tax for that purpose as may be
22 authorized by law.

23 5. Provide for the care and maintenance of the sick of the county,
24 erect and maintain hospitals for that purpose and, in its discretion,
25 provide a farm in connection with the county hospital and adopt ordinances
26 for working the farm.

27 6. Provide suitable rooms for county purposes.

28 7. Purchase, receive by donation or lease real or personal property
29 necessary for the use of the county prison and take care of, manage and
30 control the property, but a purchase of real property shall not be made
31 unless the value has been previously estimated by three disinterested
32 citizens of the county, appointed by the board for that purpose, and not
33 more than the appraised value shall be paid for the property.

34 8. Cause to be erected and furnished a courthouse, jail and
35 hospital and other buildings as necessary, and construct and establish a
36 branch jail, when necessary, at a point distant from the county seat.

37 9. Sell at public auction, after thirty days' previous notice given
38 by publication in a newspaper of the county, stating the time and place of
39 the auction, and convey to the highest bidder, for cash or contract of
40 purchase extending not more than ten years after the date of sale and on
41 such terms and for such consideration as the board shall prescribe, any
42 property belonging to the county that the board deems advantageous for the
43 county to sell, or that the board deems unnecessary for use by the county,
44 and shall pay the proceeds of the sale into the county treasury for use of
45 the county, except that personal property need not be sold but may be used

1 as a trade-in on the purchase of personal property when the board deems
2 this disposition of the personal property to be in the best interests of
3 the county. If the property for sale is real property, the board shall
4 have the property appraised by ~~a qualified independent fee appraiser who~~
5 ~~has an office located in this state~~ AN APPRAISER WHO IS LICENSED OR
6 CERTIFIED PURSUANT TO TITLE 32, CHAPTER 36. The appraiser shall establish
7 a ~~minimum price that~~ MARKET VALUE AS DEFINED IN SECTION 28-7091 FOR THE
8 PROPERTY. THE MINIMUM ACCEPTABLE BID FOR THE PURCHASE OF THE PROPERTY
9 shall be at least ninety percent of the ~~appraised~~ MARKET value, EXCEPT
10 THAT IF THE PROPERTY HAS NO MARKET VALUE OR A NET VALUE AS DEFINED IN
11 SECTION 28-7095, SUBSECTION F OF \$10,000 OR LESS, THE VALUE OF THE
12 PROPERTY MAY BE JUSTIFIED BY A MARKET ANALYSIS THAT IS BASED ON COMPARABLE
13 SALES. The notice regarding the sale of real property shall be published
14 in the county where the property is situated and may be published in one
15 or more other counties, and shall contain, among other things, the
16 appraised value, the minimum acceptable sale price, and the common and
17 legal description of the real property. Notwithstanding the requirement
18 for a sale at public auction prescribed in this paragraph, a county, with
19 unanimous consent of the board and without a public auction, may sell or
20 lease any county property to any other duly constituted governmental
21 entity, including the state, cities, towns and other counties. A county,
22 with unanimous consent of the board and without public auction, may grant
23 an easement on county property for public purposes to a utility as defined
24 in section 40-491. A county, with unanimous consent of the board and
25 without public auction, may sell or lease any county property for a
26 specific use to any solely charitable, social or benevolent nonprofit
27 organization incorporated or operating in this state. A county may
28 dispose of surplus equipment and materials that have little or no value or
29 that are unauctionable in any manner authorized by the board.

30 10. Examine and exhibit the accounts and performance of all
31 officers having the care, management, collection or disbursement of monies
32 belonging to the county or appropriated by law or otherwise for the use
33 and benefit of the county. The working papers and other audit files in an
34 examination and audit of the accounts and performance of a county officer
35 are not public records and are exempt from title 39, chapter 1. The
36 information contained in the working papers and audit files prepared
37 pursuant to a specific examination or audit is not subject to disclosure,
38 except to the county attorney and the attorney general in connection with
39 an investigation or action taken in the course of their official duties.

40 11. Examine, settle and allow all accounts legally chargeable
41 against the county, order warrants to be drawn on the county treasurer for
42 that purpose and provide for issuing the warrants.

43 12. Levy such tax annually on the taxable property of the county as
44 may be necessary to defray the general current expenses thereof, including

- 1 salaries otherwise unprovided for, and levy such other taxes as are
2 required to be levied by law.
- 3 13. Equalize assessments.
- 4 14. Direct and control the prosecution and defense of all actions
5 to which the county is a party, and compromise them.
- 6 15. Insure the county buildings in the name of and for the benefit
7 of the county.
- 8 16. Fill by appointment all vacancies occurring in county or
9 precinct offices.
- 10 17. Adopt provisions necessary to preserve the health of the
11 county, and provide for the expenses thereof.
- 12 18. With the approval of the department of health services,
13 contract with any qualified person to provide all or part of the health
14 services, funded through the department of health services with federal or
15 state monies, that the board in its discretion extends to residents of the
16 county.
- 17 19. Contract for county printing and advertising, and provide books
18 and stationery for county officers.
- 19 20. Provide for rebinding county records, or, if necessary, the
20 transcribing of county records.
- 21 21. Make and enforce necessary rules and regulations for the
22 government of its body, the preservation of order and the transaction of
23 business.
- 24 22. Adopt a seal for the board, a description and impression of
25 which shall be filed by the clerk in the office of the county recorder and
26 the secretary of state.
- 27 23. Establish, maintain and conduct or aid in establishing,
28 maintaining and conducting public aviation fields, purchase, receive by
29 donation or lease any property necessary for that purpose, lease, at a
30 nominal rental if desired, sell such aviation fields or property to the
31 United States or any department, or sell or lease such aviation fields to
32 a city, exchange lands acquired pursuant to this section for other lands,
33 or act in conjunction with the United States in maintaining, managing and
34 conducting all such property. If any such property or part of that
35 property is not needed for these purposes, it shall be sold by the board
36 and the proceeds shall be paid into the general fund of the county.
- 37 24. Acquire and hold property for the use of county fairs, ~~and~~
38 conduct, take care of and manage them.
- 39 25. Authorize the sheriff to offer a reward, not exceeding ~~ten~~
40 ~~thousand dollars~~ \$10,000 in one case, for information leading to the
41 arrest and conviction of persons charged with crime.
- 42 26. Contract for the transportation of insane persons to the state
43 hospital or direct the sheriff to transport such persons. The county is
44 responsible for such expense to the extent the expense is not covered by
45 any ~~third party~~ THIRD-PARTY payor.

1 27. Provide for the reasonable expenses of burial for deceased
2 indigents as provided in section 36-831 and maintain a permanent register
3 of deceased indigents, including name, age and date of death, and when
4 burial occurs, the board shall mark the grave with a permanent marker
5 giving the name, age, and date of birth, if known.

6 28. Sell or grant to the United States the title or interest of the
7 county in any toll road or toll train in or partly within a national park,
8 on such terms as may be agreed on by the board and the secretary of the
9 interior of the United States.

10 29. Enter into agreements for acquiring rights-of-way,
11 construction, reconstruction or maintenance of highways in their
12 respective counties, including highways that pass through Indian
13 reservations, with the government of the United States, acting through its
14 duly authorized officers or agents pursuant to any act of Congress, except
15 that the governing body of any Indian tribe whose lands are affected must
16 consent to the use of its land, and any such agreements entered into
17 before June 26, 1952 are validated and confirmed.

18 30. Do and perform all other acts and things necessary to the full
19 discharge of its duties as the legislative authority of the county
20 government, including receiving and accepting payment of monies by credit
21 card or debit card, or both. Any fees or costs incurred by the use of the
22 credit or debit card shall be paid by the person tendering payment unless
23 the charging entity determines that the financial benefits of accepting
24 credit cards or debit cards exceeds the additional processing fees.

25 31. Make and enforce all local, police, sanitary and other
26 regulations not in conflict with general law.

27 32. Budget for funds for foster home care during the school week
28 for children with intellectual disabilities and children with other
29 disabilities who reside within the county and attend a school for students
30 with disabilities in a city or town within the county.

31 33. Do and perform all acts necessary to enable the county to
32 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
33 508), as amended.

34 34. Provide a plan or plans for its employees that provide tax
35 deferred annuity and deferred compensation plans as authorized pursuant to
36 title 26, United States Code. Such plans shall allow voluntary
37 participation by all employees of the county. Participating employees
38 shall authorize the board to make reductions in their remuneration as
39 provided in an executed deferred compensation agreement.

40 35. Adopt and enforce standards for shielding and filtration of
41 commercial or public outdoor portable or permanent light fixtures in
42 proximity to astronomical or meteorological laboratories.

43 36. Subject to the prohibitions, restrictions and limitations as
44 set forth in section 11-812, adopt and enforce standards for excavation,

1 landfill and grading to prevent unnecessary loss from erosion, flooding
2 and landslides.

3 37. Make and enforce necessary ordinances for the operation and
4 licensing of any establishment not in the limits of an incorporated city
5 or town in which is carried on the business of providing baths, showers or
6 other forms of hydrotherapy or any service of manual massage of the human
7 body.

8 38. Provide pecuniary compensation as salary or wages for overtime
9 work performed by county employees, including those employees covered by
10 title 23, chapter 2, article 9. In so providing, the board may establish
11 salary and wage plans incorporating classifications and conditions
12 prescribed by the federal fair labor standards act.

13 39. Establish, maintain and operate facilities that provide for
14 physical evaluation, diagnosis and treatment of patients and that do not
15 keep patients overnight as bed patients or treat patients under general
16 anesthesia.

17 40. Enact ordinances under its police authority prescribing
18 reasonable curfews in the entire unincorporated area or any area less than
19 the entire unincorporated area of the county for minors and fines not to
20 exceed the fine for a petty offense for violation of such ordinances.
21 This paragraph does not require a request from an association or a
22 majority of the residents of an area before the board may enact an
23 ordinance applicable to the entire or any portion of the unincorporated
24 area. An ordinance enacted pursuant to this paragraph shall provide that
25 a minor is not violating a curfew if the minor is accompanied by a parent,
26 a guardian or an adult having supervisory custody, is on an emergency
27 errand or has been specifically directed to the location on reasonable,
28 legitimate business or some other activity by the parent, guardian or
29 adult having supervisory custody. If no curfew ordinance is applicable
30 to a particular unincorporated area of the county, the board may adopt a
31 curfew ordinance on the request or petition of either:

32 (a) A homeowners' association that represents a majority of the
33 homeowners in the area covered by the association and to which the curfew
34 would apply.

35 (b) A majority of the residents of the area to which the curfew
36 would apply.

37 41. Lease or sublease personal property owned by the county to
38 other political subdivisions of this state to be used for a public
39 purpose.

40 42. In addition to the agreements authorized by section 11-651,
41 enter into long-term agreements for the purchase of personal property,
42 provided that the board may cancel any such agreement at the end of a
43 fiscal year, at which time the seller may repossess the property and the
44 agreement ~~shall be~~ IS deemed terminated.

1 43. Make and enforce necessary ordinances not in conflict with the
2 laws of this state to regulate off-road recreational motor vehicles that
3 are operated within the county on public lands without lawful authority or
4 on private lands without the consent of the lawful owner or that generate
5 air pollution. For the purposes of this paragraph, "off-road recreational
6 motor vehicle" means three and four wheel vehicles manufactured for
7 recreational nonhighway ~~all-terrain~~ ALL-TERRAIN travel.

8 44. Acquire land for roads, drainage ways and other public purposes
9 by exchange without public auction, except that notice shall be published
10 thirty days before the exchange, listing the property ownership and
11 descriptions.

12 45. Purchase real property for public purposes, provided that final
13 payment ~~shall be~~ IS made not later than five years after the date of
14 purchase.

15 46. Lease-purchase real property and improvements for real property
16 for public purposes, provided that final payment ~~shall be~~ IS made not
17 later than twenty-five years after the date of purchase. Any increase in
18 the final payment date from fifteen years up to the maximum of twenty-five
19 years shall be made only on unanimous approval by the board of
20 supervisors.

21 47. Make and enforce ordinances for the protection and disposition
22 of domestic animals subject to inhumane, unhealthful or dangerous
23 conditions or circumstances. An ordinance enacted pursuant to this
24 paragraph shall not restrict or limit the authority of the game and fish
25 commission to regulate the taking of wildlife. This paragraph does not
26 limit or restrict the authority granted to cities, towns or counties
27 pursuant to section 13-2910. For the purposes of this paragraph, "domestic
28 animal" means an animal kept as a pet and not primarily for economic
29 purposes.

30 48. If a part of a parcel of land is to be taken for roads,
31 drainage, flood control or other public purposes and the board and the
32 affected property owner determine that the remainder will be left in such
33 a condition as to give rise to a claim or litigation concerning severance
34 or other damage, acquire the whole parcel by purchase, donation,
35 dedication, exchange, condemnation or other lawful means, and the
36 remainder may be sold or exchanged for other properties needed for any
37 public purpose.

38 49. Make and enforce necessary rules providing for the
39 reimbursement of travel and subsistence expenses of members of county
40 boards, commissions and advisory committees when acting in the performance
41 of their duties, if the board, commission or advisory committee is
42 authorized or required by federal or state law or county ordinance, and
43 the members serve without compensation.

1 50. Provide a plan or plans for county employee benefits that allow
2 for participation in a cafeteria plan that meets the requirements of the
3 United States internal revenue code of 1986.

4 51. Provide for fringe benefits for county employees, including
5 sick leave, personal leave, vacation and holiday pay and jury duty pay.

6 52. Make and enforce ordinances that are more restrictive than
7 state requirements to reduce or encourage the reduction of carbon monoxide
8 and ozone levels, provided an ordinance does not establish a standard for
9 vehicular emissions, including ordinances to reduce or encourage the
10 reduction of the commuter use of motor vehicles by employees of the county
11 and employees whose place of employment is in unincorporated areas of the
12 county.

13 53. Make and enforce ordinances to provide for the reimbursement of
14 up to one hundred percent of the cost to county employees of public bus or
15 van pool transportation to and from their place of employment.

16 54. Lease for public purposes any real property, improvements for
17 real property and personal property under the same terms and conditions,
18 to the extent applicable, as are specified in sections 11-651 and 11-653
19 for lease-purchases.

20 55. Enact ordinances prescribing regulation of alarm systems and
21 providing for civil penalties to reduce the incidence of false alarms at
22 business and residential structures relating to burglary, robbery, fire
23 and other emergencies not within the limits of an incorporated city or
24 town.

25 56. In addition to paragraph 9 of this section, and notwithstanding
26 section 23-504, sell or dispose of, at no less than ~~fair~~ market value,
27 county personal property that the board deems no longer useful or
28 necessary through a retail outlet or to another government entity if the
29 personal property has a ~~fair~~ market value of not more than ~~one thousand~~
30 ~~dollars~~ \$1,000, or by retail sale or private bid, if the personal property
31 has a ~~fair~~ market value of not more than ~~fifteen thousand dollars~~
32 \$15,000. Notice of sales in excess of ~~one thousand dollars~~ \$1,000 shall
33 include a description and sale price of each item and shall be published
34 in a newspaper of general circulation in the county, and for thirty days
35 after notice other bids may be submitted that exceed the sale price by at
36 least five percent. The county shall select the highest bid received at
37 the end of the thirty-day period.

38 57. Sell services, souvenirs, sundry items or informational
39 publications that are uniquely prepared for use by the public and by
40 employees and license and sell information systems and intellectual
41 property developed from county resources that the county is not obligated
42 to provide as a public record.

43 58. On unanimous consent of the board of supervisors, license,
44 lease or sell any county property pursuant to paragraphs 56 and 57 of this
45 section at less than ~~fair~~ market value to any other governmental entity,

1 including this state, cities, towns, public improvement districts or other
2 counties within or outside of this state, or for a specific purpose to any
3 charitable, social or benevolent nonprofit organization incorporated or
4 operating in this state.

5 59. On unanimous consent of the board of supervisors, provide
6 technical assistance and related services to a fire district pursuant to
7 an intergovernmental agreement.

8 60. Adopt contracting procedures for the operation of a county
9 health system pursuant to section 11-291. Before the adoption of
10 contracting procedures the board shall hold a public hearing. The board
11 shall publish one notification in a newspaper of general circulation in
12 the county seat at least fifteen days before the hearing.

13 61. Enter into an intergovernmental agreement pursuant to chapter
14 7, article 3 of this title for a city or town to provide emergency fire or
15 emergency medical services pursuant to section 9-500.23 to a county island
16 as defined in section 11-251.12. The board may charge the owners of
17 record in the county island a fee to cover the cost of an
18 intergovernmental agreement that provides fire and emergency medical
19 services.

20 62. In counties that employ or have designated an animal control
21 county enforcement agent pursuant to section 11-1005, enter into
22 agreements with foundations or charitable organizations to solicit
23 donations, property or services, excluding enforcement or inspection
24 services, for use by the county enforcement agent solely to perform
25 nonmandated services and to fund capital improvements for county animal
26 control, subject to annual financial and performance audits by an
27 independent party as designated by the county board of supervisors. For
28 the purposes of this paragraph, nonmandated services are limited to low
29 cost spay and neuter services, public education and outreach efforts, pet
30 adoption efforts, care for pets that are victims of cruelty or neglect and
31 support for volunteer programs.

32 63. Adopt and provide for the enforcement of ordinances prohibiting
33 open fires and campfires on designated lands in the unincorporated areas
34 of the county when a determination of emergency is issued by the county
35 emergency management officer and the board deems it necessary to protect
36 public health and safety on those lands.

37 64. Fix the amount of license fees to be paid by any person, firm,
38 corporation or association for carrying on any game or amusement business
39 in unincorporated areas of the county and prescribe the method of
40 collection or payment of those fees, for a stated period in advance, and
41 fix penalties for failure to comply by fine. This article does not
42 authorize any county to require an occupational license or fee for any
43 activity if state law precludes requiring such a license or fee.

44 65. Adopt and enforce ordinances for the prevention, abatement and
45 removal of graffiti, providing that any restrictions on the retail display

1 of potential graffiti tools be limited to any of the following, as
2 determined by the retail business:

3 (a) In a place that is in the line of sight of a cashier or in the
4 line of sight from a work station normally continuously occupied during
5 business hours.

6 (b) In a manner that makes the product accessible to a patron of
7 the business establishment only with the assistance of an employee of the
8 establishment.

9 (c) In an area electronically protected, or viewed by surveillance
10 equipment that is monitored, during business hours.

11 66. Adopt ordinances and fees related to the implementation of a
12 local stormwater quality program pursuant to title 49, chapter 2,
13 article 11.

14 Sec. 2. Section 11-256, Arizona Revised Statutes, is amended to
15 read:

16 11-256. Lease or sublease of county lands and buildings;
17 exceptions

18 A. The board may lease or sublease, for a term not to exceed
19 twenty-five years plus an option to renew for an additional period not
20 exceeding twenty-five years, any land or building owned by or under the
21 control of the county.

22 B. ~~An experienced appraiser shall be appointed to~~ AN APPRAISER WHO
23 IS LICENSED OR CERTIFIED PURSUANT TO TITLE 32, CHAPTER 36 SHALL determine
24 the rental valuation of such land or building, except that ~~the appointment~~
25 ~~of an appraiser~~ AN APPRAISAL is not required for the lease of any land or
26 building that ~~is valued at five thousand dollars~~ HAS A RENTAL VALUE OF
27 \$5,000 or less PER MONTH if the value of the land or building has been
28 ~~estimated and~~ justified by a market analysis that is based on comparable
29 sales OR RENTALS.

30 C. Such land or building shall be leased or subleased at a public
31 auction to the highest responsible bidder, provided that the amount of bid
32 is at least ninety ~~per cent~~ PERCENT of the rental valuation as determined
33 by the appraiser or the market analysis, and subject to such other terms
34 and conditions as the board may prescribe.

35 D. Notice of a proposed lease or sublease shall be given by
36 publication, once each week for four consecutive weeks, in a newspaper of
37 general circulation in the county. The notice shall state the period and
38 all material conditions of the proposed lease, and the day on which the
39 auction will be held, which shall be not less than thirty days after last
40 publication of the notice.

41 E. NOTWITHSTANDING SUBSECTIONS C AND D OF THIS SECTION THE BOARD
42 MAY LEASE PROPERTIES WITHOUT PUBLIC AUCTION UNDER THE FOLLOWING
43 CONDITIONS:

44 1. THE BOARD POSTS A NOTICE IN A CONSPICUOUS PLACE ON THE AFFECTED
45 PROPERTY. THE NOTICE SHALL SUMMARIZE THE PROPOSED LEASE AND SHALL PROVIDE

1 INFORMATION ON THE PROCESS FOR AN INTERESTED PERSON TO REQUEST THAT
2 PROPOSED ACTION BE SUBMITTED TO PUBLIC AUCTION. THE NOTICE SHALL BE
3 POSTED FOR AT LEAST FIFTEEN DAYS BEFORE THE EXECUTION OF THE LEASE.

4 2. THE BOARD POSTS A NOTICE ON THE BOARD'S WEBSITE THAT SPECIFIES
5 THE AFFECTED PROPERTY, SUMMARIZES THE PROPOSED LEASE AND PROVIDES
6 INFORMATION ON THE PROCESS FOR AN INTERESTED PERSON TO REQUEST THAT THE
7 PROPOSED ACTION BE SUBMITTED TO PUBLIC AUCTION. THE NOTICE SHALL BE
8 POSTED ON THE WEBSITE FOR AT LEAST FIFTEEN DAYS BEFORE THE EXECUTION OF
9 THE LEASE.

10 3. THE BOARD PUBLISHES IN THE LOCAL NEWSPAPER WHERE THE BOARD
11 REGULARLY PUBLISHES NOTICES AT THE BEGINNING OF THE FIFTEEN-DAY POSTING
12 PERIOD A SUMMARY OF THE PROPOSED LEASE THAT PROVIDES INFORMATION ON THE
13 PROCESS FOR AN INTERESTED PERSON TO REQUEST THAT THE PROPOSED ACTION BE
14 SUBMITTED TO PUBLIC AUCTION.

15 4. THE BOARD ESTABLISHES A PROCESS THAT ALLOWS AN INTERESTED PERSON
16 TO REQUEST IN WRITING THAT THE PROPOSED LEASE BE SUBMITTED TO PUBLIC
17 AUCTION. IF DURING THE FIFTEEN-DAY POSTING PERIOD A PERSON REQUESTS THAT
18 THE PROPOSED LEASE BE SUBMITTED TO PUBLIC AUCTION THE BOARD SHALL FOLLOW
19 THE PROCEDURES SET FORTH IN THIS SECTION.

20 5. THE RENTAL VALUE OF THE PROPERTY IS LESS THAN \$5,000 PER MONTH.

21 ~~F.~~ F. Subsections C and D OF THIS SECTION do not apply to leases
22 granting a leasehold interest to a person or entity that owned, leased or
23 otherwise possessed the property to be leased immediately before purchase
24 or acquisition by the county or to other persons or entities leasing
25 property for a term that would expire within four years after the purchase
26 or acquisition by the county. A lease entered into pursuant to this
27 subsection shall be for at least ninety ~~per cent~~ PERCENT of, but not more
28 than, the appraised rental valuation or market analysis determined
29 pursuant to subsection B OF THIS SECTION.

30 ~~F.~~ G. This section is supplementary to and not in conflict with
31 other statutes governing or regulating powers of boards of supervisors.

32 Sec. 3. Section 48-3603, Arizona Revised Statutes, is amended to
33 read:

34 48-3603. Powers, duties and immunities of district and board;
35 exemptions

36 A. A county flood control district organized under this article is
37 a political taxing subdivision of this state and has all the powers,
38 privileges and immunities granted generally to municipal corporations by
39 the constitution and laws of this state, including immunity of its
40 property and bonds from taxation.

41 B. The board of directors shall exercise all powers and duties in
42 the acquisition and operation of the properties of the district and in
43 carrying out its regulatory functions under this article as are ordinarily
44 exercised by the governing body of a municipal corporation.

1 C. A district organized under this article, acting through its
2 board of directors, may:

3 1. Acquire by eminent domain, purchase, donation, dedication,
4 exchange or other lawful means rights-of-way for and construct, operate
5 and maintain flood control works and storm drainage facilities within or
6 without the district for the benefit of the district.

7 2. Acquire by eminent domain, purchase, donation, dedication,
8 exchange or other lawful means and dispose of by sale, exchange or other
9 lawful means real and personal property within the boundaries of the
10 district.

11 3. Contract and join with this state, the United States or any
12 other flood control district or floodplain board, municipality, political
13 subdivision, governmental agency, irrigation or agricultural improvement
14 district, association, corporation or individual in acquiring,
15 constructing, maintaining and operating flood control works, and
16 regulating floodplains.

17 4. Enter into contracts of indemnity to indemnify this state, the
18 United States or any other flood control district, municipality, political
19 subdivision, governmental agency, irrigation or agricultural improvement
20 district, association, corporation or individual against liability by
21 virtue of injuries, losses or damages occurring through the use of their
22 facilities, structures, streets, rights-of-way or properties in connection
23 with the operation of a flood control district and the regulation of
24 floodplains.

25 5. Acquire and maintain existing flood control and drainage
26 facilities within the district for the benefit of the district if mutually
27 agreeable to the owners of such facilities.

28 6. Acquire, convert and maintain surplus irrigation facilities as
29 storm drainage facilities if mutually agreeable to owners of such
30 facilities.

31 7. Construct, maintain and operate flood control and storm drainage
32 facilities and regulate floodplains in the district by agreement with this
33 state, counties, other municipal corporations, political subdivisions and
34 other persons and reimburse the agencies or persons for the cost of the
35 work.

36 8. On the dissolution of any other flood control district, assume
37 the assets and obligations of the other district.

38 9. Enter into intergovernmental agreements with other public
39 agencies pursuant to title 11, chapter 7, article 3 to carry out the
40 objects and purposes of the district.

41 10. Apply for, obtain, expend and repay flood control loans
42 pursuant to title 45, chapter 8, article 5.

43 11. Apply to the director of water resources for alternative flood
44 control assistance for flood control projects pursuant to section 45-1471,
45 except that the director shall not grant any such assistance for any

1 project unless the director has approved the project in advance of
2 planning.

3 12. Sue and be sued, enter into contracts and generally do all
4 things that may be necessary to construct, acquire and maintain
5 facilities, operate the district and perform its regulatory functions and
6 that are in the interests of the district.

7 13. Adopt rules and bylaws for its orderly operation as it sees
8 fit.

9 14. Appoint a chief engineer and general manager, who may be the
10 county engineer.

11 15. Appoint a treasurer, who may be the county treasurer, an
12 attorney, who may be the county attorney, and other employees it considers
13 desirable and necessary to carry out the purposes of the district. Any
14 other work required by the district may be performed by regular employees
15 of the county on assignment by the board of supervisors, except that
16 regular county employees shall not undertake construction projects with an
17 estimated cost of ~~five thousand dollars~~ \$5,000 or more.

18 16. Allow variances from the terms or regulations adopted pursuant
19 to this article to the extent permitted by section 48-3609, subsection B,
20 paragraph 7 and if, owing to peculiar conditions, a strict interpretation
21 would work an unnecessary hardship, if in granting the variance the
22 general intent and purposes of this article and the regulations will be
23 preserved.

24 17. Construct, operate and maintain artificial groundwater recharge
25 facilities, and, if organized in a county having a population of more than
26 five hundred thousand persons, underground storage and recovery
27 facilities, if they have flood control benefits, and contract and join
28 with the United States, this state and other governmental units for the
29 purpose of constructing, operating and maintaining multipurpose
30 groundwater recharge, underground storage and recovery and flood control
31 facilities, except that a district shall not expend district funds for any
32 underground storage and recovery facility that does not have flood control
33 benefits.

34 18. Acquire real property by purchase, donation, dedication,
35 exchange or other lawful means, except by eminent domain, in areas
36 suitable for groundwater recharge projects.

37 19. Cooperate and join with other entities that engage in
38 underground water storage and recovery projects under title 45, chapter
39 3.1, including multi-county water conservation districts and other
40 political subdivisions.

41 20. Either alone, or by entering into any combination of contracts
42 with this state, the United States, any other flood control district, a
43 floodplain board, a municipality or other political subdivision, a
44 government agency, an irrigation or agricultural improvement district or

1 an association, corporation or individual, implement flood control
2 enhancement solutions including:

3 (a) Assistance for property owners within the floodplain and
4 through the elevation, bank stabilization and flood proofing of existing
5 structures.

6 (b) Preservation and restoration of the floodplain.

7 (c) Maintenance of flood warning systems and associated flood
8 response plans.

9 (d) Construction of bridges or other access over watercourses that
10 are impassable to emergency vehicle traffic for fourteen or more days a
11 year.

12 21. If a part of a parcel of land is to be taken for drainage,
13 basins, impoundments or any other flood control related use and the board
14 and the affected property owner determine that the remainder will be left
15 in such a condition as to give rise to a claim or litigation concerning
16 severance or other damage, acquire the whole parcel by purchase, donation,
17 dedication, exchange, condemnation or other lawful means, and the
18 remainder may be sold or exchanged for other properties needed for flood
19 control use.

20 22. Adopt and enforce civil penalties for violations of its
21 regulations or ordinances and for unauthorized damage and interference to
22 those district facilities that are authorized pursuant to this chapter.

23 23. Pursuant to the authority prescribed in this chapter, appoint
24 hearing officers to hear and determine actions.

25 24. For any district that intends to take enforcement action
26 pursuant to section 48-3615.01, adopt written rules of procedure for the
27 hearing and review of decisions on actions prescribed by this chapter.

28 25. Establish a board of hearing review to review decisions of
29 hearing officers that are issued pursuant to section 48-3615.01. The
30 board of hearing review shall consist of one member from each board of
31 directors' district or the board of directors may authorize the citizens'
32 flood control advisory board or the board of review to designate a like
33 number of its members to serve as the board of hearing review.

34 26. Authorize the chief engineer of the district to apply for and
35 obtain administrative search warrants for entry and inspection from a
36 local court of general jurisdiction to determine if violations of section
37 48-3609, 48-3613, 48-3614 or 48-3615 have occurred. The warrants shall be
38 served by a peace officer as defined in section 1-215. A report of any
39 inspections made pursuant to this section shall be prepared and made
40 available in the records of the district and a copy mailed or otherwise
41 delivered to the owner within fifteen days after the inspection of the
42 owner's premises.

43 D. The board shall adopt and enforce floodplain regulations as
44 provided in section 48-3609.

1 E. The board may adopt a fee schedule for review of applications
2 for permits and variances from or interpretations of the floodplain
3 regulations.

4 F. The affirmative vote of a majority of the board of directors is
5 necessary to approve any measure. One member may adjourn any meeting at
6 which a quorum is not present.

7 G. The board shall keep a proper written record of all of ~~its~~ THE
8 BOARD'S proceedings, which shall be open to public inspection.

9 H. The accounts of the district are subject to annual and other
10 audits as provided by law.

11 I. Section 9-403 does not apply to a flood control district
12 organized under this article and section 9-402 does not apply when the
13 district is selling property to this state, ~~or~~ a political subdivision,
14 ANY SPECIAL DISTRICT WITH TAXING AUTHORITY, A PUBLIC SCHOOL, A COMMUNITY
15 COLLEGE OR A UNIVERSITY. Before selling any property to this state, ~~or~~ a
16 political subdivision of this state, ANY SPECIAL DISTRICT WITH TAXING
17 AUTHORITY, A PUBLIC SCHOOL, A COMMUNITY COLLEGE OR A UNIVERSITY, the flood
18 control district shall obtain an appraisal of the ~~fair~~ market value of the
19 property AS DEFINED IN SECTION 28-7091 PREPARED by a person who is
20 LICENSED OR certified pursuant to title 32, chapter 36. If any property
21 sold by the district to this state, ~~or~~ a political subdivision, ANY
22 SPECIAL DISTRICT WITH TAXING AUTHORITY, A PUBLIC SCHOOL, A COMMUNITY
23 COLLEGE OR A UNIVERSITY without complying with section 9-402 is
24 subsequently sold by ~~this state or political subdivision~~ THE GRANTEE as
25 undeveloped property for a price exceeding the original sale price, the
26 district shall be paid the difference between the original price and the
27 subsequent sale price. ~~For the purposes of this subsection, "political~~
28 ~~subdivision" means any incorporated city or town, county, school district,~~
29 ~~fire district, charter school, community college or university.~~

30 J. The district and its employees and officers are not liable for
31 any injury or property damage that may arise out of a plan or design for
32 construction, maintenance or improvement to a dam, levee, berm, channel,
33 canal or culvert or any other flood control project the district is
34 authorized to plan, design, construct, maintain or improve when a
35 reasonably adequate warning of any unreasonably dangerous hazard is given
36 to potentially affected property owners in a manner that owners may take
37 suitable precautions to protect themselves and their property. The
38 warning shall include information for the property owner regarding a
39 national flood insurance program. A warning is sufficient pursuant to
40 this subsection if the warning is provided to a single property owner of
41 the parcel, and notice to subsequent property owners is not required. The
42 immunities prescribed by this subsection are in addition to and not in
43 derogation or limitation of the immunities granted a district, employee or
44 officer as otherwise provided by law and apply if either or both of the
45 following conditions are met:

- 1 1. The project is funded wholly or partially by federal monies.
- 2 2. The project is planned or designed to meet a recurrence interval
- 3 approved by the district's board of directors.
- 4 K. Section 9-402 does not apply to the grant of an easement on or a
- 5 lease of district real property to any party other than this state or a
- 6 political subdivision of this state as prescribed by this subsection. A
- 7 district may authorize the grant of an easement on or a lease of district
- 8 real property without public auction under the following conditions:
- 9 1. The district posts a notice in a conspicuous place on the
- 10 affected property. The notice shall summarize the proposed easement or
- 11 lease and shall provide information on the process for an interested
- 12 person to request that the proposed action be submitted to public auction.
- 13 The notice shall be posted for at least fifteen days before the execution
- 14 of the easement or lease.
- 15 2. The district posts a notice on the district's website that
- 16 specifies the affected property, summarizes the proposed easement or lease
- 17 and provides information on the process for an interested person to
- 18 request that the proposed action be submitted to public auction. The
- 19 notice shall be posted on the website for at least fifteen days before the
- 20 execution of the easement or lease.
- 21 3. The district publishes in the local newspaper where the district
- 22 regularly publishes notices at the beginning of the fifteen-day posting
- 23 period a summary of the proposed easement or lease that provides
- 24 information on the process for an interested person to request that the
- 25 proposed action be submitted to public auction.
- 26 4. The district establishes a process that allows an interested
- 27 person to request in writing that the proposed easement or lease be
- 28 submitted to public auction. If during the fifteen-day posting period a
- 29 person requests that the proposed easement or lease be submitted to public
- 30 auction the district shall follow the procedure set forth in section
- 31 9-402.
- 32 5. For proposed leases only, the ~~appraised~~ MARKET value for the
- 33 rental of the district real property is less than ~~five thousand dollars~~
- 34 \$5,000 per month.
- 35 6. The reimbursement to the district for the easement granted or
- 36 the lease executed is not less than the ~~appraised~~ MARKET value of the
- 37 property as determined by the district.

APPROVED BY THE GOVERNOR APRIL 16, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2019.