

State of Arizona
Senate
Fifty-fourth Legislature
First Regular Session
2019

CHAPTER 117
SENATE BILL 1159

AN ACT

AMENDING SECTIONS 48-805.01 AND 48-807, 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 agreement, the separate legal entity, subject to existing
14 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 7. Require all current and prospective employees and volunteers to
25 submit a full set of fingerprints to the joint powers authority for the
26 purpose of obtaining a state and federal criminal records check pursuant
27 to section 41-1750 and Public Law 92-544. The department of public safety
28 may exchange this fingerprint data with the federal bureau of
29 investigation.

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

1 1. Is a political subdivision of this state having:
2 (a) The governmental and proprietary powers that are common to the
3 contracting parties specified in the agreement and those powers provided
4 for in section 11-952 and this section.
5 (b) The rights and immunities of the parties that are granted by
6 the constitution and statutes of this state, including immunity of its
7 property from taxation.
8 2. May separately contract for an undertaking with any two or more
9 of the parties or other public agencies or other entities. Limitations on
10 the exercise of common powers shall be applicable only to the parties to
11 the agreement participating in the undertaking.
12 3. May establish any governance and board structure necessary to
13 carry out its powers and duties subject to the requirements of section
14 11-952 and this section.
15 4. If specified in the agreement, is the authority that has
16 jurisdiction for the purpose of fire code administration and enforcement
17 for the parties to the agreement.
18 5. Shall be provided a .gov identifier for the website used to
19 carry out its powers and duties by the applicable governmental issuer.
20 6. In addition to other powers provided for in the agreement by a
21 vote of its governing body, may incur obligations payable from the
22 entity's revenues, to pay the costs and expenses of acquiring or
23 constructing any structures, facilities or equipment necessary to
24 effectuate the purposes of the agreement subject to the following
25 conditions and requirements:
26 (a) The parties to the agreement, with the approval of each
27 participating entity's voters, may issue general obligation bonds for the
28 purpose of funding the costs and expenses of acquiring or constructing any
29 structures, facilities or equipment necessary to effectuate the purposes
30 of the agreement. Each of the participating party's general obligation
31 bonding authority is limited to that of each party's enabling legislation.
32 (b) The general obligation bonds are payable from the taxes or
33 assessments paid to, or to be levied or collected by, the entity or the
34 political subdivisions that are parties to the agreement that forms the
35 entity.
36 (c) The general obligation bonds are limited to an amount as
37 authorized by the qualified electors that are parties to the agreement and
38 are subject to the requirements of sections 35-431 and 48-806.
39 7. MAY USE THE TITLE FIRE AUTHORITY, FIRE AND MEDICAL AUTHORITY,
40 FIRE AND EMERGENCY MEDICAL SERVICES AUTHORITY, FIRE AND AMBULANCE
41 AUTHORITY OR AMBULANCE AUTHORITY TO IDENTIFY THE SEPARATE LEGAL ENTITY
42 FORMED PURSUANT TO THIS SECTION. THE TITLES PRESCRIBED IN THIS PARAGRAPH
43 MAY NOT BE USED IN THE NAME, TITLE OR DESIGNATION OF OTHER STATE OR LOCAL
44 AGENCIES, BUSINESS ENTITIES OR NONPROFIT ORGANIZATIONS.

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

2 1. Means one or more of the following:

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

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

10 (c) Any program of development involving real or personal property,
11 works, apparatus, equipment or facilities that the entity is authorized by
12 law to purchase, construct, lease or otherwise acquire or the improvement,
13 reconstruction, extension or addition to the program.

14 (d) Providing fire protection, for the preservation of life, for
15 providing emergency medical services and for carrying out its other powers
16 and duties, including providing ambulance transportation services when
17 authorized to do so pursuant to title 36, chapter 21.1, article 2 and
18 purchasing, constructing, leasing or acquiring, or the extension or
19 addition of, works, apparatus, equipment or facilities designed to serve
20 areas or territories already being served by any of the parties to the
21 agreement.

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

24 D. The exercise of joint powers does not create any expansion of a
25 certificate of necessity issued pursuant to title 36, chapter 21.1,
26 article 2 or the operating rights as defined by the certificate of
27 necessity held by one or more of the entities entering into a joint powers
28 authority. The operating rights remain the same as those rights granted
29 to the certificate of necessity holder at the date of the establishment of
30 the joint powers authority unless modified pursuant to title 36, chapter
31 21.1, article 2.

32 E. A fire district board that participates in an agreement to form
33 a separate legal entity pursuant to this section:

34 1. Is not subject to the public meeting requirements provided in
35 section 48-805.

36 2. Shall hold a public meeting at least once every ninety days or
37 as necessary to carry out its powers and duties.

38 3. If a cumulative financial report review occurs at least once
39 every ninety days, is considered compliant with section 48-807,
40 subsection P, EXCEPT THAT ADVERSE FINANCIAL IMPACT REPORTING SHALL BE
41 REPORTED AS PROVIDED BY SECTION 48-807, SUBSECTION P.

1 F. A municipality that participates in an agreement to form a
2 separate legal entity pursuant to this section is not subject to a limit
3 on the duration of the agreement.

4 Sec. 2. Section 48-807, Arizona Revised Statutes, is amended to
5 read:

6 48-807. County fire district assistance tax; annual budget;
7 override; monthly financial reports

8 A. The board of supervisors of a county shall levy, at the time of
9 levying other property taxes, a county fire district assistance tax on the
10 taxable property in the county of not more than ~~ten cents~~ \$.10 per ~~one~~
11 ~~hundred dollars~~ \$100 of assessed valuation. The tax levy provided for in
12 this subsection shall be a levy of secondary property taxes and shall not
13 be subject to title 42, chapter 17, article 2. The county treasurer shall
14 pay to each fire district, including a fire district formed pursuant to
15 section 48-851, in the county from the proceeds of the tax an amount equal
16 to twenty percent of the property tax levy adopted by the district for the
17 fiscal year in which the tax will be levied, except that:

18 1. The amount of assistance from the county to a fire district
19 shall be reduced as follows:

20 (a) Through the fiscal year that ends June 30, 2012, by the dollar
21 amount that the fire district receives from the fire district assistance
22 tax that exceeds ~~three hundred thousand dollars~~ \$300,000 from and after
23 June 30 of each fiscal year.

24 (b) Beginning with the fiscal year that starts July 1, 2012, by the
25 dollar amount that the fire district receives from the fire district
26 assistance tax that exceeds ~~four hundred thousand dollars~~ \$400,000 from
27 and after June 30 of each fiscal year, without regard to whether the
28 district is located in more than one county.

29 (c) Except as provided in paragraph 2 of this subsection, if the
30 total amount to be paid to all districts in the county under this
31 paragraph exceeds the amount to be raised by the levy of ~~ten cents~~ \$.10
32 per ~~one hundred dollars~~ \$100 assessed valuation, then the county treasurer
33 shall pay an amount less than twenty percent of the property tax levy of
34 each district. The amount to be paid by the county treasurer to each
35 district shall be determined by multiplying the proceeds of the county
36 fire district assistance tax against the proportion that twenty percent of
37 the property tax levy of each district bears to the total of twenty
38 percent of the property tax levies of all fire districts in the county.

39 2. For fiscal years beginning from and after July 1, 1992, the
40 amount of assistance from the county to a fire district shall not be less
41 than the assistance provided from and after June 30, 1991 through June 30,
42 1992, if, for the fiscal year in which the tax will be levied, the
43 district levies a tax, in addition to any tax levied under section 48-806,
44 of ~~three dollars~~ \$3 per ~~one hundred dollars~~ \$100 of assessed valuation and
45 the assessed valuation is at least ninety percent of the assessed

1 valuation for the 1991 tax year. This paragraph does not apply to fire
2 districts subject to paragraph 1, subdivision (a) or (b) of this
3 subsection.

4 B. For the purpose of subsection A of this section, the property
5 tax levy of the fire district shall include in lieu contributions pursuant
6 to chapter 1, article 8 of this title but shall not include property tax
7 levies to be applied to the payment of principal and interest on bonds
8 issued pursuant to section 48-806.

9 C. Beginning with the fiscal year that starts July 1, 2016, a
10 consolidated district shall not receive more than the maximum allowable
11 amount in fire district assistance tax monies as prescribed in subsection
12 D of this section, without regard to whether the consolidated district is
13 located in more than one county.

14 D. Beginning with the fiscal year that starts July 1, 2016, for any
15 two or more fire districts that merge or consolidate to form a
16 consolidated district on or after July 1, 2014, the consolidated district
17 may continue to receive monies in an amount not to exceed the sum of the
18 average of the amount of fire district assistance tax monies received by
19 each of the consolidating or merging districts in the five fiscal years
20 immediately preceding the merger or consolidation as prescribed in
21 subsection A of this section, without regard to whether the consolidated
22 district is located in more than one county.

23 E. For a consolidated district that is formed in any fiscal year
24 beginning July 1, 2014 or later and that is receiving fire district
25 assistance tax monies that are reduced as prescribed in subsection A,
26 paragraph 1, subdivision (c) of this section, if the total amount of fire
27 district assistance tax monies that would be paid to all districts in the
28 county pursuant to subsection A of this section is less than the amount of
29 monies that would be raised by the levy of ~~ten cents~~ **\$.10** per ~~one hundred~~
30 ~~dollars~~ **\$100** assessed valuation, the county treasurer shall pay the
31 consolidated district the amount of fire district assistance tax monies
32 prescribed by subsection A of this section that would have been paid to
33 the districts at the time the districts merged or consolidated.

34 F. The board, based on the budget submitted by the district, shall
35 levy, in addition to any tax levied as provided in section 48-806, a tax
36 not to exceed ~~three dollars twenty-five cents~~ **\$3.25** per ~~one hundred~~
37 ~~dollars~~ **\$100** of assessed valuation, or the amount of the levy in the
38 preceding tax year multiplied by 1.08, whichever levy is less, and minus
39 any amounts required to reduce the levy pursuant to subsection I of this
40 section, against all property situated within the district boundaries and
41 appearing on the last assessment roll. The levy shall be made and the
42 taxes collected in the manner, at the time and by the officers provided by
43 law for the collection of general county taxes.

1 G. The qualified electors of the district, voting in an election as
2 prescribed by subsection H of this section, may authorize the board to
3 levy a tax exceeding the limits prescribed by subsection F of this section
4 under one, but not both, of the following options:

5 1. The electors may authorize a permanent override allowing annual
6 levies without reference to the levy in the preceding tax year, but
7 remaining subject to the tax rate limit of ~~three dollars twenty-five cents~~
8 ~~\$3.25~~ per ~~one hundred dollars~~ \$100 of assessed valuation. An election for
9 the purposes of this paragraph must be held at a regularly scheduled
10 general election held on the first Tuesday following the first Monday in
11 November as prescribed by section 16-204, subsection F.

12 2. If the net assessed valuation of all property in the district
13 declines by a combined total of twenty percent or more over two
14 consecutive valuation years, the electors voting at the next regularly
15 scheduled general election held on the first Tuesday following the first
16 Monday in November as prescribed by section 16-204, subsection F may
17 authorize an override for five consecutive tax years allowing annual
18 levies that are exempt from the tax rate limit of ~~three dollars~~
19 ~~twenty-five cents~~ \$3.25, but subject to an annual levy limit of the amount
20 of the levy in the preceding tax year multiplied by 1.05. After the fifth
21 tax year, the district is again subject to the limits prescribed by
22 subsection F of this section, computed by multiplying the levy beginning
23 in the year preceding the override by 1.08 for each year through the
24 current tax year.

25 H. The call for an override election held for the purposes of
26 subsection G of this section must state:

27 1. The purpose for requesting additional secondary property tax
28 revenue for the district.

29 2. If the voters approve the levy:

30 (a) The maximum dollar amount of secondary property tax that may be
31 collected in the first year compared to the existing maximum secondary
32 property tax levy prescribed in subsection F of this section.

33 (b) The estimated secondary property tax rate to fund the proposed
34 levy under subdivision (a) of this paragraph in the first tax year
35 compared to the secondary property tax rate levied in the current year.

36 I. If the district annexes additional territory, the limit under
37 subsection F of this section shall be adjusted by applying the district's
38 tax rate to the assessed valuation of the annexed property in the
39 preceding tax year. If districts are merged or consolidated under this
40 chapter, the limitation under this subsection in the first year after the
41 districts are merged or consolidated is the total of the levies of the
42 merged or consolidated districts in the preceding tax year multiplied by
43 1.08 or the amount of the levies allowed by the maximum rate prescribed by
44 subsection F of this section, whichever is less.

1 J. The district shall maintain any property tax revenues collected
2 in excess of the sum of the amounts of taxes collectible pursuant to
3 section 42-17054 and the allowable levy determined under subsection F of
4 this section in a separate fund and used to reduce the property tax levy
5 in the following tax year.

6 K. The levy limit under this section is considered to be increased
7 each year to the maximum limit permissible under subsection F of this
8 section regardless of whether the district actually levies taxes up to the
9 maximum permissible amount in that year.

10 L. The county treasurer shall keep the money received from taxes
11 levied pursuant to subsection F of this section in a separate fund known
12 as the "fire district general fund" of the district for which collected.
13 Any surplus remaining in the fire district general fund at the end of the
14 fiscal year shall be credited to the fire district general fund of the
15 district for which it was collected for the succeeding fiscal year and
16 after subtraction of accounts payable and encumbrances, shall be used to
17 reduce the property tax levy in the following tax year.

18 M. A fire district may maintain separate accounts with a financial
19 institution that is authorized to do business in this state for the
20 purpose of operating a payroll account or for holding special revenues or
21 ambulance revenues, or both, as necessary to fulfill the district's
22 fiduciary responsibilities.

23 N. A fire district, through the county treasurer, shall establish
24 the relevant governmental funds necessary for the proper management and
25 fiscal accountability of district monies from property taxes, grants,
26 contributions and donations, as defined by the government accounting
27 standards board. Unless the monies received are legally restricted by
28 contract, agreement or law, those monies may be transferred between fund
29 accounts according to the original or amended budget of the fire district.

30 O. A fire district shall reconcile all balance sheet accounts for
31 accounts for each calendar month of the fiscal year within thirty days
32 after the end of that calendar month. The fire district board shall
33 review the reconciled balance sheet accounts monthly, except that for a
34 fire district that is governed by a three-member board, the board may
35 review the reconciled balance sheet accounts every two months.

36 P. A fire district shall produce monthly financial reports to
37 include a register of checks, substitute checks, warrants and deposits, a
38 record of electronic funds transfers, a statement of financial activities
39 and a statement of net assets for each calendar month. A fire district
40 shall produce a cash flow projection report for each fiscal year. The
41 cash flow projection report shall be updated monthly with the actual
42 revenues and expenditures from the preceding month. Each month, the fire
43 district board shall review the financial reports, the updated cash flow
44 projections report and all month-end fund statements and reports of the
45 preceding month to include those reports provided by the county treasurer

1 and each of the financial institutions in which the district maintains an
2 account, except that for a fire district that is governed by a
3 three-member board, the board may review the reports and statements
4 prescribed by this subsection every two months. Any financial report or
5 cash flow projection report that would indicate that the district is
6 likely to violate section 48-805.02, subsection D, paragraph 1 or that
7 would indicate an adverse impact on the ongoing operations or liquidity of
8 the district shall be reported by the fire district board chairman in
9 writing and delivered by certified mail to the county treasurer and the
10 county board of supervisors within ten days after the discovery.

11 Q. WITHIN SIXTY DAYS AFTER SUBMITTAL OF A WRITTEN REPORT PURSUANT
12 TO SUBSECTION P OF THIS SECTION BY THE FIRE DISTRICT BOARD CHAIRMAN TO THE
13 COUNTY TREASURER AND THE COUNTY BOARD OF SUPERVISORS THAT STATES THE FIRE
14 DISTRICT IS LIKELY TO VIOLATE SECTION 48-805.02, SUBSECTION D, PARAGRAPH 1
15 OR THAT INDICATES AN ADVERSE IMPACT ON THE ONGOING OPERATIONS OR LIQUIDITY
16 OF THE FIRE DISTRICT, THE DISTRICT SHALL COMPLETE A STUDY OF MERGER,
17 CONSOLIDATION OR JOINT OPERATING ALTERNATIVES. THE FIRE DISTRICT SHALL
18 HOLD A SPECIAL PUBLIC MEETING AS PRESCRIBED IN SECTION 48-805.02,
19 SUBSECTION D TO PRESENT THE FINDINGS OF THE STUDY. WITHIN FIVE DAYS AFTER
20 THE SPECIAL PUBLIC MEETING, THE FIRE DISTRICT BOARD CHAIRMAN SHALL SUBMIT
21 THE FINDINGS OF THE STUDY TO THE COUNTY TREASURER AND COUNTY BOARD OF
22 SUPERVISORS.

23 ~~R.~~ R. Notwithstanding section 11-605, a fire district may register
24 or record warrants, substitute checks or electronic funds transfers only
25 if separate accounts are maintained by the county treasurer for each
26 governmental fund of a fire district. Warrants, substitute checks or
27 electronic funds transfers may be registered or recorded only on the
28 maintenance and operation account, the unrestricted capital outlay account
29 and the special revenue account, and only if the total cash balance of all
30 three accounts is insufficient to pay the warrants, substitute checks or
31 electronic funds transfers and after any revolving line of credit has been
32 expended as prescribed in section 11-635.

33 ~~R.~~ S. When a fire district has adopted a budget and the board of
34 supervisors has levied a fire district tax as provided in subsection F of
35 this section and the district has insufficient money in the district's
36 general fund with the county treasurer to operate the district, the
37 chairman of the board, on or after August 1 of each year, may draw
38 warrants, substitute checks or electronic funds transfers for the purposes
39 prescribed in section 48-805 on the county treasurer, payable on November
40 1 of that year or on April 1 of the succeeding year. The aggregate
41 amounts of the warrants, substitute checks or electronic funds transfers
42 may not exceed ninety percent of the taxes levied by the county for the
43 district's current fiscal year. If the treasurer cannot pay a warrant,
44 substitute check or electronic funds transfer for lack of funds in the
45 fire district general fund, the warrant or substitute check shall be

1 endorsed and registered, or the electronic funds transfer shall be
2 recorded, and the warrant, substitute check or electronic funds transfer
3 shall bear interest and be redeemed as provided by law for county
4 warrants, substitute checks or electronic funds transfers, except that the
5 warrants, substitute checks or electronic funds transfers are payable only
6 from the fire district general fund.

APPROVED BY THE GOVERNOR APRIL 22, 2019.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 22, 2019.