

REFERENCE TITLE: **community facilities districts**

State of Arizona
House of Representatives
Fifty-fourth Legislature
Second Regular Session
2020

HB 2493

Introduced by
Representatives Toma: Cook, Udall

AN ACT

AMENDING SECTIONS 48-701, 48-702, 48-703, 48-704, 48-705, 48-707, 48-708, 48-711, 48-716, 48-721, 48-722 AND 48-723, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 4, ARTICLE 6, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-729; RELATING TO COMMUNITY FACILITIES DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-701, Arizona Revised Statutes, is amended to
3 read:

4 48-701. Definitions

5 In this article, unless the context otherwise requires:

6 1. "Clerk" includes any person or official who performs the duties
7 of clerk of the municipality or county or any person appointed by the
8 district board to be the district clerk pursuant to section 48-711.

9 2. "County" means a county that forms a community facilities
10 district pursuant to this article in an unincorporated area or in an
11 incorporated area with the municipality's consent.

12 3. "Debt service" means the principal of, interest on and premium,
13 if any, on the bonds, when due, whether at maturity or prior redemption
14 and fees and costs of registrars, trustees, paying agents or other agents
15 necessary to handle the bonds and the costs of credit enhancement or
16 liquidity support.

17 4. "District" means a tax levying community facilities district
18 formed pursuant to this article by a municipality or formed pursuant to
19 this article by a county in an unincorporated area or in an incorporated
20 area with the municipality's consent.

21 5. "District board" means the board of directors of the district.

22 6. "Enhanced municipal services" means public service provided by a
23 county or municipality within the district at a higher level or to a
24 greater degree than provided in the remainder of the county or
25 municipality, including such services as public safety, fire protection,
26 street or sidewalk cleaning or landscape maintenance in public areas.

27 7. "Entity" means any of the following:

28 (a) A corporation.

29 (b) A general partnership, including a general partnership that is
30 registered as a limited liability partnership.

31 (c) A limited partnership, including a limited partnership that is
32 registered as a limited liability partnership.

33 (d) A limited liability company, including a professional limited
34 liability company.

35 (e) A business trust, statutory trust entity or similar trust.

36 (f) An unincorporated association.

37 (g) A cooperative.

38 (h) Any other person that has a separate legal existence or has the
39 power to acquire an interest in real property in its own name other than
40 any of the following:

41 (i) An individual.

42 (ii) A testamentary, inter vivos or charitable trust, with the
43 exception of a business trust, statutory trust entity or similar trust.

44 (iii) A decedent's estate.

1 (iv) A government, a governmental or political subdivision, a
2 governmental agency or entity or a municipal corporation.

3 8. "General obligation bond" means a bond that is issued pursuant
4 to section 48-719 and that is secured by a pledge of ad valorem taxes
5 levied by the district.

6 9. "General plan" means the general plan described in section
7 48-702, subsection D, as the plan may be amended.

8 10. "Governing body" means the body or board that by law is
9 constituted as the legislative department of the municipality or county.

10 11. "Municipality" means an incorporated city or town.

11 12. "NET PREMIUM" MEANS THE DIFFERENCE BETWEEN THE PAR AMOUNT OF
12 THE GENERAL OBLIGATION BOND ISSUE AND THE GENERAL OBLIGATION BOND ISSUE
13 PRICE THAT IS DETERMINED PURSUANT TO UNITED STATES DEPARTMENT OF THE
14 TREASURY REGULATIONS.

15 ~~12.~~ 13. "Owner" means the person or entity that, on the day the
16 action, election or proceeding is begun or held, appears to be the owner
17 of real property as shown on the property tax assessment roll.

18 ~~13.~~ 14. "Public infrastructure" means all improvements listed in
19 this paragraph that will result in a beneficial use principally to land
20 within the geographical limits of the district and may include a
21 district's share of any improvements listed in this paragraph if the
22 district board determines such share is proportionate to the beneficial
23 use of such improvements to land within the geographical limits of the
24 district, improvements within or outside the geographical limits of the
25 district, necessary or incidental work, whether newly constructed,
26 renovated or existing, and all necessary or desirable appurtenances. For
27 the purposes of this paragraph, adoption by the district board of a
28 resolution of intent pursuant to section 48-715 shall conclusively
29 establish that the improvements or, if applicable, share of the
30 improvements that are the subject of the resolution will result in a
31 beneficial use principally to land within the geographical limits of the
32 district. Public infrastructure improvements are:

33 (a) Sanitary sewage systems, including collection, transport,
34 storage, treatment, dispersal, effluent use and discharge.

35 (b) Drainage and flood control systems, including collection,
36 transport, diversion, storage, detention, retention, dispersal, use and
37 discharge.

38 (c) Water systems for domestic, industrial, irrigation, municipal
39 or fire protection purposes, including production, collection, storage,
40 treatment, transport, delivery, connection and dispersal, but not
41 including facilities for agricultural irrigation purposes unless for the
42 repair or replacement of existing facilities when required by other
43 improvements ~~permitted~~ ALLOWED by this article.

44 (d) Highways, streets, roadways and parking facilities, including
45 all areas for vehicular use for travel, ingress, egress and parking.

1 (e) Areas for pedestrian, equestrian, bicycle or other nonmotor
2 vehicle use for travel, ingress, egress and parking.

3 (f) Pedestrian malls, parks, recreational facilities other than
4 stadiums, and open space areas for the use of members of the public for
5 entertainment, assembly and recreation.

6 (g) Landscaping, including earthworks, structures, lakes and other
7 water features, plants, trees and related water delivery systems.

8 (h) Public buildings, public safety facilities and fire protection
9 facilities.

10 (i) Lighting systems.

11 (j) Traffic control systems and devices, including signals,
12 controls, markings and signage.

13 (k) Equipment, vehicles, furnishings and other personalty related
14 to the items listed in this paragraph.

15 ~~14.~~ 15. "Public infrastructure purpose" means:

16 (a) Planning, design, engineering, construction, acquisition or
17 installation of public infrastructure.

18 (b) Acquiring, converting, renovating or improving existing
19 facilities for public infrastructure.

20 (c) Acquiring interests in real property for public infrastructure.

21 (d) Establishing, maintaining and replenishing reserves from any
22 source described in section 48-717 or from any other source in order to
23 secure payment of debt service on bonds.

24 (e) Notwithstanding section 48-589, funding and paying from bond
25 proceeds interest accruing on bonds for a period of not to exceed three
26 years ~~from~~ AFTER their date of issuance.

27 (f) Providing for the timely payment of debt service on bonds or
28 other indebtedness of the district.

29 (g) Refinancing any matured or unmatured bonds with new bonds.

30 (h) Incurring expenses of the district incident to and reasonably
31 necessary to carry out the purposes specified in this paragraph.

32 ~~15.~~ 16. "Revenue bonds" means those bonds that are issued pursuant
33 to section 48-720 and that are secured by a pledge of revenues of the
34 district or revenues collected by the county or municipality and returned
35 to the district.

36 ~~16.~~ 17. "Treasurer" includes any person or official who performs
37 the duties of treasurer of the municipality or county or any person
38 appointed by the district board as the district treasurer pursuant to
39 section 48-711.

40 Sec. 2. Section 48-702, Arizona Revised Statutes, is amended to
41 read:

42 48-702. Resolution declaring intention to form district

43 A. If the public convenience and necessity require, and on
44 presentation of a petition signed by the owners of at least twenty-five
45 percent of the land area proposed to be included in the district, the

1 governing body may adopt a resolution declaring its intention to form a
2 community facilities district that shall include contiguous or
3 noncontiguous property that is wholly within the corporate boundaries of
4 the municipality or county.

5 B. On presentation of a petition signed by the owners of at least
6 twenty-five percent of the land area proposed to be included in the
7 district and a completed application for formation of a district by an
8 individual or entity, the governing body of a municipality or county
9 within sixty days after submission of the completed application shall hold
10 a public hearing to consider the application for formation of the
11 district. Immediately after completion of the hearing, the governing body
12 may adopt a resolution declaring its intention to form a community
13 facilities district that shall include contiguous or noncontiguous
14 property that is wholly within the corporate boundaries of the
15 municipality or county. If the governing body does not adopt a resolution
16 declaring its intention to form a district, the governing body shall
17 provide a written basis for not adopting the resolution and shall identify
18 the specific changes needed for the application to be approved. This
19 subsection does not create a presumption of district formation.

20 C. The resolution adopted by the governing body shall state the
21 following:

- 22 1. The area or areas to be included in the district.
- 23 2. The purposes for which the district is to be formed.
- 24 3. That a general plan for the district is on file with the clerk
25 OF THE MUNICIPALITY OR COUNTY, AS APPLICABLE.
- 26 4. The date, time and place of the hearing to be held on the
27 formation of the district.
- 28 5. The place where written objections to the formation of the
29 district may be filed.
- 30 6. That formation of the district may result in the levy of taxes
31 to pay the costs of improvements constructed by the district and for their
32 operation and maintenance.
- 33 7. A reference to this article.
- 34 8. Whether the district will be governed by a district board that
35 consists of the members of the governing body, ex officio, AND IF
36 REQUESTED PURSUANT TO THIS SECTION, with two additional DISTRICT BOARD
37 members who are initially designated by the owner who owns the largest
38 amount of privately owned acreage in the proposed district and who are
39 appointed by the governing body, or, at the option of the governing body,
40 five directors appointed by the governing body. The applicant for
41 formation of the district shall provide in the application WHETHER TWO
42 OWNER-DESIGNATED DISTRICT BOARD MEMBERS ARE TO BE APPOINTED AND SHALL
43 PROVIDE a process for the designation of the two additional district board
44 members, if applicable, on completion of the development of all of the
45 property in the district, as certified by the applicant or its successors,

1 and may provide for the designation of **ADDITIONAL DISTRICT** board members
2 on expiration of the term of additional district board members and for the
3 designation of ~~a~~ **AN ADDITIONAL DISTRICT** board member if a vacancy occurs
4 on the district board because of the death, resignation or inability to
5 discharge the duties ~~of director~~ of an additional district board member.

6 D. A completed application **ALSO** shall include at least the
7 following information:

8 1. A petition signed by the owners of at least twenty-five percent
9 of the land to be included in the district.

10 2. A description of the applicant, including the corporate and
11 organizational structure of the entity or individual making the
12 application, the names of all officers and corporate directors directly
13 related to or associated with the proposed district, the name, address and
14 telephone number of the primary contact for the applicant, the names of
15 any legal representatives, engineers, architects, financial consultants or
16 other consultants significantly involved in the application and a general
17 description of the applicant's experience with similar types of
18 developments.

19 3. A general plan setting out a general description of the public
20 infrastructure for which the district is proposed to be formed, the
21 general areas to be improved and the estimated costs of construction or
22 acquisition of the public infrastructure to be financed, constructed or
23 acquired by the district.

24 4. A preliminary financing plan that includes the sources and uses
25 of monies for the public improvements.

26 E. In reviewing an application for formation of a district in a
27 county, the governing body of the county may consider the district's
28 proximity to a city or town, its inclusion in a metropolitan planning area
29 or county growth area, the availability and capacity of utilities and
30 public infrastructure, including the transportation network, law
31 enforcement services, current levels of other public services and the
32 terms of existing zoning, development agreements and capital improvement
33 plans.

34 Sec. 3. Section 48-703, Arizona Revised Statutes, is amended to
35 read:

36 **48-703. Notice**

37 A. The clerk **OF THE MUNICIPALITY OR COUNTY** shall execute a notice
38 ~~which~~ **THAT** shall read substantially as follows:

39 To whom it may concern:

40 The governing body of the (city) (town) (county) of
41 _____, on _____ (Date) _____, adopted the attached resolution
42 declaring its intention to form a tax levying community
43 facilities district. A hearing on formation will be held
44 on _____ (Date) _____, at _____ (Time) _____ at _____ (Location) _____.

45 All persons owning or claiming an interest in property in the

1 proposed district who object to the inclusion of their land in
2 the district, to the formation of the district or to the
3 contents of the general plan must file a written objection
4 with the undersigned at the following address before the time
5 set for the hearing.

6 (Date)_____

7 _____
8 Clerk

9 _____
10 Address

11 (Name of municipality or county)

12 B. A copy of the resolution declaring the governing body's
13 intention to form the district shall be attached to the notice and the
14 clerk OF THE MUNICIPALITY OR COUNTY shall cause a copy to be mailed to the
15 owners of real property in the district as shown on the most recent
16 property tax assessment roll and to all other persons claiming an interest
17 in such property who have filed a written request for a copy of the notice
18 within the six months preceding or at any time following the adoption of
19 the resolution of intent to form the district. The clerk OF THE
20 MUNICIPALITY OR COUNTY shall also publish a copy of the notice and
21 resolution at least once in the official newspaper of the municipality or
22 county, if there is one, or, if there is no official newspaper of the
23 municipality, in a newspaper of general circulation in the county in which
24 the municipality is located. The mailing and publication shall be
25 completed at least twenty days before the date set for hearing. The clerk
26 OF THE MUNICIPALITY OR COUNTY shall execute an affidavit of mailing
27 stating the date of mailing and the names and addresses of the persons to
28 whom the notices and copies of the resolutions were mailed. The clerk OF
29 THE MUNICIPALITY OR COUNTY shall obtain an affidavit from the newspaper in
30 which the publication was made. The clerk OF THE MUNICIPALITY OR COUNTY
31 shall cause both affidavits to be placed in the official records of the
32 municipality or county. The affidavits are conclusive evidence of the
33 mailing and publishing of notice. Notice shall not be held invalid for
34 failure of delivery to the addressee.

35 C. If the clerk OF THE MUNICIPALITY OR COUNTY is informed that the
36 person listed on the assessment roll is no longer the owner and the name
37 and address of the successor owner become known, the clerk OF THE
38 MUNICIPALITY OR COUNTY shall cause a copy of the notice and resolution to
39 be mailed to the successor owner as soon as practicable after learning of
40 the change of ownership.

41 Sec. 4. Section 48-704, Arizona Revised Statutes, is amended to
42 read:

43 48-704. Hearing on objections

44 A. Within thirty days after adoption of the resolution of intent to
45 form a district, any person claiming an interest in real property that the

1 resolution discloses is situated in the district may file a written
2 objection with the clerk OF THE MUNICIPALITY OR COUNTY THAT ADOPTED THE
3 RESOLUTION before 5:00 p.m. on the business day preceding the date and
4 time set for the hearing on the question of formation of the
5 district. The objection may raise one or more of the following:

6 1. That the objector's property would not be benefited from the
7 improvements set forth in the general plan and that the property should be
8 excluded from the district.

9 2. That the district should not be formed, stating the specific
10 reasons.

11 3. That the general plan should be modified, stating the reasons
12 for modification.

13 B. At the hearing, including any adjournments or continuances, the
14 governing body shall hear and pass only on the written objections and the
15 testimony and evidence presented in support of or opposition to the
16 objections. The hearing shall be either transcribed by a court reporter
17 or recorded by a tape recorder. The court reporter's transcript or a
18 transcription of the tape recording certified to be true and correct by
19 the clerk OF THE MUNICIPALITY OR COUNTY shall be filed in the official
20 records of the governing body.

21 C. In furtherance of the hearing, the clerk OF THE MUNICIPALITY OR
22 COUNTY, on written request or praecipe being presented, shall issue
23 subpoenas or subpoenas duces tecum to compel the attendance and testimony
24 of any person or the submission of any documents at the hearing.
25 Compliance with the subpoena shall be enforced as if the subpoena were
26 issued by a clerk of the superior court.

27 D. Testimony at the hearing need not be under oath, unless
28 requested by any owner or required by the governing ~~board~~ BODY. Requests
29 by owners that the testimony be under oath must be made in writing and be
30 filed with, or served on, the clerk OF THE MUNICIPALITY OR COUNTY before
31 the hearing begins or the request is deemed waived.

32 E. The minutes or a copy of a written transcript or a tape
33 recording of the proceedings of a hearing conducted pursuant to this
34 section shall be open to public inspection three working days after the
35 conclusion of a hearing. Any person may request to examine or be
36 furnished copies, printouts, photographs, transcripts or recordings of a
37 hearing during regular office hours of the governing body. The custodian
38 of the records shall furnish the copies, printouts, photographs,
39 transcripts or recordings and may charge a reasonable fee that does not
40 exceed the actual cost of reproducing the item requested.

41 Sec. 5. Section 48-705, Arizona Revised Statutes, is amended to
42 read:

43 48-705. Order forming district; election

44 A. After the hearing, the governing body may adopt a resolution
45 ordering the formation of the district, deleting any property determined

1 not to be benefited by the district or modifying the general plan and then
2 ordering the formation of the district or determining that the district
3 not be formed. A resolution ordering formation of the district shall
4 state whether the district will be governed by a district board that
5 consists of the members of the governing body, ex officio, AND IF
6 REQUESTED PURSUANT TO SECTION 48-702, with two additional DISTRICT BOARD
7 members who are initially designated by the owner who owns the largest
8 amount of privately owned acreage in the district and who are appointed by
9 the governing body, or, at the option of the governing body, five
10 directors appointed by the governing body. The resolution shall contain
11 the names of the ~~five~~ initial ~~directors~~ APPOINTED DISTRICT BOARD MEMBERS
12 and the terms of office of each.

13 B. If the governing body determines that the district should be
14 formed, it shall submit the formation to an election of the owners of land
15 in the district who are qualified electors of this state and other
16 landowners, according to section 48-3043, unless a petition is presented
17 to the governing body pursuant to section 48-707, subsection F. Each
18 owner has the number of votes or portions of votes equal to the number of
19 acres or portions of acres rounded upward to the nearest one-fifth of an
20 acre owned by that owner in the submitted district. In addition to
21 holding the landowner election required by this subsection or receipt of
22 the landowner petition pursuant to section 48-707, subsection F, and
23 subject to section 48-707, subsection G, the governing body shall submit
24 the formation of the district to a vote of the qualified electors who
25 reside within the boundaries of the proposed district.

26 Sec. 6. Section 48-707, Arizona Revised Statutes, is amended to
27 read:

28 48-707. Notice and conduct of elections; waiver

29 A. Any election under this article shall be a nonpartisan election
30 called by posting notices in three public places within the boundaries of
31 the district not less than twenty days before the election. Notice shall
32 also be published in a newspaper of general circulation in the
33 municipality or county or if there is no newspaper so circulated in the
34 municipality in a newspaper of general circulation in the county in which
35 the municipality is located once a week for two consecutive weeks before
36 the election. The notice shall state:

37 1. The place of holding the election.

38 2. The hours during the day, not less than six, in which the polls
39 will be open.

40 3. If it is a formation election, the boundaries of the proposed
41 district.

42 4. If it is a bond election, the amount of bonds to be authorized
43 for the district, the maximum rate of interest to be borne on the bonds,
44 the maximum term of the bonds, not exceeding twenty-five years, and the
45 purposes for which the monies raised will be used.

1 5. If it is an ad valorem tax levy election pursuant to section
2 48-723, the maximum tax rate per ~~one hundred dollars~~ \$100 of NET assessed
3 LIMITED PROPERTY valuation to be imposed, the purposes for which the
4 monies raised will be used and the existing maximum tax rate, if any.

5 6. That a general plan is on file with the clerk OF THE
6 MUNICIPALITY OR COUNTY THAT ADOPTED THE RESOLUTION ORDERING THE FORMATION
7 OF THE DISTRICT AS PRESCRIBED BY SECTION 48-705.

8 B. The district board or the governing body, as applicable, shall
9 determine the date of the election and the polling places for the election
10 and may consolidate county precincts. For other than a formation election
11 pursuant to section 48-705, subsection B, and an election held pursuant to
12 subsection G of this section, precinct registers shall be used. The
13 county recorder shall submit precinct registers on the request of the
14 clerk OF THE DISTRICT BOARD OR THE CLERK OF THE MUNICIPALITY OR COUNTY, AS
15 APPLICABLE, and if the district includes land lying partly in and partly
16 out of any county election precinct, the precinct registers may contain
17 the names of all registered voters in the precinct and the election boards
18 at those precincts shall require that a prospective elector execute an
19 affidavit stating that the elector is also a qualified elector of the
20 district. For formation elections and elections held pursuant to
21 subsection G of this section, a prospective elector shall execute an
22 affidavit stating that the elector is the owner of land in the proposed
23 district and is a qualified elector of this state or otherwise qualified
24 to vote pursuant to section 48-3043 and stating the area of land in acres
25 owned by the elector. Election board members may administer oaths or take
26 all affirmations for these purposes. A community facilities district
27 election held pursuant to this article is not subject to title 16, chapter
28 2, article 3.

29 C. Except as otherwise provided by this article, the election shall
30 comply with the general election laws of this state, except that the words
31 to appear on the ballots shall be for a formation election "district, yes"
32 and "district, no", for a bond election "bonds, yes" and "bonds, no", for
33 a tax election if no tax is in place "tax, yes" and "tax, no" and for a
34 tax election to change an existing maximum or eliminate an existing tax
35 "tax change, yes" and "tax change, no". The returns of election shall be
36 made to the governing body or, if after formation, to the district board.

37 D. Within fourteen days after an election, the governing body, or
38 if after formation, the district board, shall meet and canvass the
39 returns, and if a majority of the votes cast at the election is in favor
40 of formation, issuing the bonds, imposing the tax or changing the tax, the
41 governing body or the district board, as appropriate, shall enter that
42 fact on its minutes. The canvass may be continued from time to time.
43 Failure of a majority to vote in favor of the matter submitted does not
44 prejudice the submission of the same or similar matters at a later
45 election.

1 E. If a person listed on the assessment roll is no longer the owner
2 of land in the district and the name of the successor owner becomes known
3 and is verified by recorded deed or other similar evidence of transfer of
4 ownership, the successor owner is deemed to be the owner for the purposes
5 of this article.

6 F. Notwithstanding any other provision of this article, if a
7 petition for formation is signed by owners of all of the land in the
8 district described in the petition and is approved by the municipality or
9 county, the municipality or county may waive any or all requirements of
10 posting, publication, mailing, notice, hearing and landowner election. On
11 receipt of such a petition, and after approval by an election of resident
12 electors, if any, the municipality or county shall declare the district
13 formed without being required to comply with the provisions of this
14 article for posting, publication, mailing, notice, hearing or landowner
15 election.

16 G. Notwithstanding any other provision of this article, if no
17 person has registered to vote within the district within fifty days
18 immediately preceding any scheduled election date, any election required
19 to be held pursuant to this article shall be held with the vote by the
20 owners of land within the district who are qualified electors of this
21 state and other landowners according to section 48-3043. Each owner has
22 the number of votes or portion of votes equal to the number of acres or
23 portion of acres rounded upward to the nearest one-fifth of an acre owned
24 in the district by that person.

25 H. For a district that is proposed to be formed by a county, a
26 district may be formed only if a petition for formation is signed by the
27 owners of all of the land in the district that is described in the
28 petition and if it is approved by the county. If the district is proposed
29 to be formed in a county island, as defined in section 11-251.12, **THAT IS**
30 in existence on ~~the effective date of this amendment to this section~~
31 **SEPTEMBER 21, 2006**, the petition must be signed by the owners of all of
32 the land in the district that is described in the petition and the
33 district must be approved by the county and by the municipality or all
34 municipalities that form the county island. If the petition is signed by
35 the owners of all of the land in the district, the county may waive any or
36 all requirements of posting, publication, mailing, notice, hearing and
37 landowner election. On receipt of such a petition, and after approval by
38 an election of one hundred ~~per cent~~ **PERCENT** of the resident electors, if
39 any, the county shall declare the district formed without being required
40 to comply with the provisions of this article for posting.

41 Sec. 7. Section 48-708, Arizona Revised Statutes, is amended to
42 read:

43 **48-708. Formation; debt limitation; disclosure**

44 A. If the formation of the district is approved by a majority of
45 the votes cast at the election, the governing body shall order the

1 formation, ~~AND IF APPLICABLE,~~ appoint the initial directors of the
 2 district board ~~that~~ WHO are not members of the governing body, ex officio,
 3 set the district boundaries and order that a map showing the district
 4 boundaries be drawn and a copy of the order forming the district be
 5 delivered to the county assessor and the board of supervisors of the
 6 county in which the district is located and to the department of revenue.
 7 A notice of the formation showing the number and date of the order and
 8 giving a description of the land included in the district shall be
 9 recorded with the county recorder.

10 B. On its formation, the district is a special purpose district for
 11 purposes of article IX, section 19, Constitution of Arizona, a tax levying
 12 public improvement district for the purposes of article XIII, section 7,
 13 Constitution of Arizona, and a municipal corporation for all purposes of
 14 title 35, chapter 3, articles 3, 3.1, 3.2, 4 and 5. A district that
 15 distributes or sells groundwater is a private water company only for
 16 purposes of title 45, chapters 2 and 3.1. Except as otherwise provided in
 17 this section, a district is considered to be a municipal corporation and
 18 political subdivision of this state, separate and apart from the
 19 municipality or county. Under no circumstances may the amount of
 20 indebtedness evidenced by general obligation bonds issued pursuant to
 21 section 48-719 and revenue bonds issued pursuant to section 48-720 exceed
 22 the estimated cost of the public infrastructure improvements plus all
 23 costs connected with the public infrastructure purposes and issuance and
 24 sale of bonds, including, without limitation, credit enhancement and
 25 liquidity support fees and costs. The total aggregate outstanding amount
 26 of bonds and any other indebtedness for which the full faith and credit of
 27 the district are pledged shall not exceed sixty percent of the aggregate
 28 of the estimated market value of the real property and improvements in the
 29 district after the public infrastructure of the district is completed plus
 30 the value of the public infrastructure owned or to be acquired by the
 31 district with the proceeds of the bonds.

32 C. On formation of the district, the district board shall make a
 33 good faith effort to implement the general plan for the public
 34 infrastructure of the district and any development agreement entered into
 35 pursuant to section 9-500.05 between the governing body and owners of land
 36 in the district. The district board shall be considered a party to that
 37 agreement.

38 D. For districts approved after August 9, 2017, the district board
 39 shall require that a seller of a property in the district who is otherwise
 40 required to obtain a subdivision public report as prescribed by section
 41 32-2183 disclose to a prospective purchaser the existence of the district,
 42 the purpose for which the district was formed as set forth in the
 43 resolution adopted by the governing body, the estimated tax rate and the
 44 estimated annual tax amount that is based on applying that tax rate to a
 45 hypothetical residential property value.

1 E. Fees and other charges assessed by a municipality or county in
2 connection with the submission and consideration of an application to form
3 a district shall not exceed ~~fifteen thousand dollars~~ \$15,000. If an
4 application is denied by the governing body, the municipality or county
5 may not assess a fee or other charge in connection with the submission and
6 consideration of a substantially similar application that is submitted
7 within one year following the denial. Fees and other charges assessed by
8 a municipality, county or district in connection with the administration
9 of a district, including the issuance and sale of bonds, shall not exceed
10 the actual expense incurred by the municipality, county or district for
11 staff and consultant services and support facilities supplied by the
12 municipality, county or district or the financial, legal and
13 administrative costs of the district that are not reimbursed from proceeds
14 of the bonds or other district revenue. Any fees or other charges paid by
15 the applicant before formation of the district that exceed the actual
16 costs of forming the district shall be ~~used~~ TRANSFERRED by the
17 municipality or county TO THE DISTRICT AND THE DISTRICT SHALL USE THE
18 TRANSFERRED MONIES solely to support the formation or administration of
19 the district, including the issuance and sale of bonds.

20 Sec. 8. Section 48-711, Arizona Revised Statutes, is amended to
21 read:

22 48-711. Records; district board; terms; vacancies; open
23 meetings

24 A. The district shall keep the following records that shall be open
25 to public inspection:

- 26 1. Minutes of all meetings of the district board.
- 27 2. All resolutions.
- 28 3. Accounts showing all monies received and disbursed.
- 29 4. The annual budget.
- 30 5. All other records required to be maintained by law.

31 B. If the resolution ordering formation of the district provides
32 that the district will be governed by a district board that consists of
33 five directors who are appointed by the governing body, all of the
34 following apply:

35 1. Each appointed director shall serve for a term of six years,
36 except that two directors initially appointed by the governing body in the
37 resolution shall serve for a term of four years.

38 2. The resolution shall state which directors shall serve four-year
39 terms and which shall serve six-year terms.

40 3. On the expiration of the term of an appointed director, the
41 governing body shall appoint a person to fill the position.

42 4. If a vacancy occurs on the district board because of death,
43 resignation or inability of the director to discharge the duties of
44 director, the vacancy shall be filled by appointment made by the governing
45 body.

1 C. If the resolution ordering formation of the district provides
2 that the district will be governed by a district board that consists of
3 the members of the governing body, ex officio, with two additional members
4 who are initially designated by the owner who owns the largest amount of
5 privately owned acreage in the district and who are appointed by the
6 governing body, all of the following apply:

7 1. Each of the additional appointed ~~directors~~ DISTRICT BOARD
8 MEMBERS shall serve for a term of six years.

9 2. On the expiration of the term of an additional appointed
10 ~~director~~ DISTRICT BOARD MEMBER, the governing body shall appoint a person
11 according to the process for designating a ~~director~~ DISTRICT BOARD MEMBER
12 for a term of office as prescribed in the application for formation of the
13 district submitted pursuant to section 48-702, or if no process is
14 prescribed in the application for formation, the owner who owns the
15 largest amount of privately owned acreage in the district at the time the
16 term expires shall designate a person to fill the position and the
17 governing body shall appoint that person to fill the position.

18 3. If a vacancy occurs on a district board because of death,
19 resignation or inability of either of the additional appointed members to
20 discharge the duties of ~~director~~ AN ADDITIONAL DISTRICT BOARD MEMBER, the
21 governing body shall appoint a person according to the process for
22 designating a person to fill a vacancy on the district board as prescribed
23 in the application for formation of the district submitted pursuant to
24 section 48-702, or if no process for filling a vacancy is prescribed in
25 the application for formation, the vacancy shall be filled by a person who
26 is designated by the owner who owns the largest amount of privately owned
27 acreage in the district at the time of the vacancy and who is appointed by
28 the governing body to fill the vacancy.

29 D. A ~~director~~ DISTRICT BOARD MEMBER appointed by the governing body
30 to fill a vacancy on the district board shall hold office for the
31 remainder of the unexpired term until that ~~director's~~ DISTRICT BOARD
32 MEMBER'S successor is appointed.

33 E. An appointed ~~director~~ DISTRICT BOARD MEMBER shall not be a
34 landowner owning more than forty acres in the district, an elected
35 official of the municipality or county or an employee or agent of the
36 landowner or municipality or county but may be a director of more than one
37 district.

38 F. The members of the governing body of the municipality or county
39 are not eligible to receive compensation for their services as members of
40 the district board.

41 G. The DISTRICT board ~~of directors~~ shall comply with title 38,
42 chapter 3, article 3.1 as a separate political subdivision, and the
43 members of the DISTRICT board ~~of directors~~ are deemed public officers for
44 the purposes of and shall comply with title 38, chapter 3, article 8.

1 H. The district manager, clerk and treasurer shall be the manager,
2 clerk and treasurer of the municipality or county, respectively, unless
3 the district board appoints a district manager, clerk and treasurer.

4 Sec. 9. Section 48-716, Arizona Revised Statutes, is amended to
5 read:

6 48-716. Budget

7 On or before July 15 each year, the ~~district~~ treasurer shall prepare
8 a proposed budget for the ensuing fiscal year to be submitted to the
9 district board for approval. The DISTRICT board shall indicate its
10 approval of the budget by resolution, which shall provide for a hearing on
11 the budget as approved. Notice of the hearing on the budget shall be
12 provided in the manner prescribed by section 48-715. The municipality OR
13 COUNTY may review the proposed annual budget and may submit written
14 comments to the DISTRICT board for its assistance and information in
15 adopting its annual budget. At the conclusion of the budget hearing, the
16 district board, by resolution, shall adopt the budget as finally approved
17 by the DISTRICT board. The budget shall be adopted before October 1 each
18 year.

19 Sec. 10. Section 48-721, Arizona Revised Statutes, is amended to
20 read:

21 48-721. Special assessments; special assessment bonds

22 A. The district board, by resolution and pursuant to the procedures
23 prescribed by sections 48-576 through 48-589, as nearly as practicable, or
24 such other procedures as the district board provides, may levy an
25 assessment of the costs of any public infrastructure purpose, any
26 operation and maintenance of public infrastructure or any enhanced
27 municipal services on any land in the district based on the benefit
28 determined by the district board to be received by the land. ~~Prior to~~
29 BEFORE the issuance of special assessment bonds the district may enter
30 into a written agreement with a landowner as to the manner in which the
31 assessment is to be allocated if the land is to be divided into more than
32 one parcel. If an issue of special assessment ~~then~~ bonds finances more
33 than one purpose or service, the benefit received by the land, in the
34 discretion of the district, may be determined by reference to the purposes
35 and services as a whole or individually. The assessment may be based on
36 estimated costs and amended to reflect actual costs, and the preparation
37 of plans and specifications and the awarding of the contract are not a
38 prerequisite to the levying of the assessment. An owner of land on which
39 an assessment has been levied may seek judicial review of whether the land
40 is benefited by the proposed infrastructure, on the merits, by special
41 action filed with the court of appeals pursuant to the procedures of
42 section 48-706, within thirty days after the effective date of the
43 resolution.

44 B. After adoption by the district board of a resolution levying a
45 special assessment on property in the district pursuant to section 48-709,

1 subsection A, paragraph 11 the district board may issue and sell special
2 assessment ~~lien~~ bonds payable from amounts collected from the special
3 assessments, from amounts available from time to time in any reserve fund
4 established for those SPECIAL ASSESSMENT bonds and from any other amounts
5 available for those purposes as prescribed by section 48-717. The
6 district and the county treasurer for the county in which the district is
7 located may enter into an agreement for the county treasurer to collect
8 the district's special assessments in the manner and by the officers
9 provided by law for the collection and enforcement of general taxes. The
10 district and the county treasurer may provide by agreement for the payment
11 of the county treasurer's collection expenses directly related to the levy
12 of the special assessment and, if so provided, the levy of the special
13 assessment may include an amount for compensation of the county treasurer
14 directly related to the collection of the special assessment. The
15 compensation received by the county treasurer pursuant to the agreement
16 shall be governed by section 11-496. The district board may also issue
17 and sell bond anticipation notes pursuant to the procedures prescribed in
18 section 48-2081 or with procedures as similar to those as is practicable.
19 The assessment shall be a first lien on the property assessed subject only
20 to general property taxes and prior special assessments. In the event of
21 nonpayment of an assessment and except as otherwise provided in an
22 agreement between the district and the county treasurer pursuant to this
23 section, the procedures for collection of delinquent assessments, sale of
24 delinquent property and issuance and effect of the superintendent's deed
25 prescribed by sections 48-601 through 48-607 apply, as nearly as
26 practicable, except that in no event is the district or the municipality
27 required to purchase the delinquent land at the sale if there is no other
28 purchaser. If the landowner owns more than one parcel in the district,
29 the district board may provide procedures for the collection and
30 enforcement of assessments as the board deems appropriate by contract with
31 a landowner to ~~permit~~ ALLOW the sale of any or all of the landowner's
32 parcels in the district if the landowner becomes delinquent as to any
33 parcel that the landowner owns in the district.

34 C. On adoption of the resolution, but before issuance of the
35 special assessment ~~lien~~ bonds, the district may direct the treasurer to
36 make demand on the owners of the property so assessed, as shown on the
37 property tax roll, for advance payment of the amount assessed. The demand
38 shall state a date not less than twenty days after the date of adoption of
39 the ordinance after which the treasurer may refuse to accept advance
40 payments of the assessment. The treasurer shall certify to the clerk on
41 or after the date specified in the demand the amount collected and the
42 assessments remaining unpaid against each parcel of land assessed.
43 Special assessment ~~lien~~ bonds may not be issued in an amount in excess of
44 the amount assessed in the ordinance or, if advance payments are demanded,

1 the amount certified to the clerk. The district may adopt procedures for
2 prepayment and provisions for payment and reallocation of assessments.

3 D. The district, by resolution and pursuant to the procedures
4 prescribed by article 4 of this chapter, as nearly as practicable, may
5 issue and sell refunding bonds to refund any special assessment bonds of
6 the district.

7 Sec. 11. Section 48-722, Arizona Revised Statutes, is amended to
8 read:

9 48-722. Terms of bonds

10 A. Notwithstanding article 2 of this chapter, with respect to any
11 bonds the district board shall prescribe the denominations of the bonds,
12 the size of each issue and the form of the bonds and shall establish the
13 maturities, interest payment dates and interest rates, whether fixed or
14 variable, not exceeding the maximum rate stated in the notice of the
15 election or the resolution of the district board. The bonds may be sold
16 by competitive bid or negotiated sale for public or private offering at,
17 below or above par. If the bonds are sold below par, the aggregate amount
18 of discount and interest to be paid on the bonds shall not exceed the
19 amount of interest ~~which~~ THAT would have been payable on those bonds
20 pursuant to the maturity schedule prescribed by the district board at the
21 maximum rate set out in the bond resolution.

22 B. IF GENERAL OBLIGATION BONDS OF THE DISTRICT ARE SOLD ABOVE PAR,
23 THE AMOUNT OF NET PREMIUM ASSOCIATED WITH A GENERAL OBLIGATION BOND ISSUE
24 MAY BE USED ONLY FOR THE FOLLOWING PURPOSES:

25 1. TO PAY ANY OR ALL COSTS INCURRED IN ISSUING THE GENERAL
26 OBLIGATION BONDS.

27 2. AS A DEPOSIT IN A DEBT SERVICE FUND AND USED ONLY TO PAY
28 INTEREST ON THE ISSUE OF GENERAL OBLIGATION BONDS.

29 C. IF USED FOR ANY PURPOSE OTHER THAN AS PRESCRIBED IN SUBSECTION B
30 OF THIS SECTION, AND IF THE DISTRICT HAS GENERAL OBLIGATION BOND VOTER
31 AUTHORIZATION AND AVAILABLE CAPACITY UNDER ITS DEBT LIMITATIONS PRESCRIBED
32 BY SECTION 48-708, SUBSECTION B, THE AMOUNT OF NET PREMIUM USED FOR THAT
33 PURPOSE SHALL REDUCE IN AN EQUAL AMOUNT BOTH THE AVAILABLE AGGREGATE
34 INDEBTEDNESS CAPACITY OF THE DISTRICT PRESCRIBED IN SECTION 48-708,
35 SUBSECTION B AND THE PRINCIPAL AMOUNT AUTHORIZED AT THE GENERAL OBLIGATION
36 BOND ELECTION FOR THE DISTRICT FROM WHICH THE ISSUE OF GENERAL OBLIGATION
37 BONDS IS BEING SOLD. ANY NET PREMIUM THAT IS USED AS PRESCRIBED IN THIS
38 SUBSECTION SHALL BE AMORTIZED FOR ALL DEBT LIMITATION PURPOSES ON A PRO
39 RATA BASIS EACH YEAR BY MULTIPLYING THE NET PREMIUM USED BY A PERCENTAGE
40 EQUAL TO THE PERCENTAGE OF THE TOTAL PRINCIPAL AMOUNT OF THE GENERAL
41 OBLIGATION BOND ISSUE THAT MATURES IN THAT YEAR.

42 D. The proceeds of the sales shall be deposited with the treasurer,
43 or with a trustee or agent designated by the district board, to the credit
44 of the district to be withdrawn for the purposes provided by this
45 article. Pending that use, the proceeds may be invested as determined by

1 the district. The bonds may contain such terms, conditions, covenants and
 2 agreements as the district board deems proper. The bonds may be payable
 3 from any combination of taxes, revenues or special assessments of the
 4 types described in sections 48-719, 48-720 and 48-721 and as specified in
 5 the bonds provided that all applicable requirements of those sections are
 6 met.

7 Sec. 12. Section 48-723, Arizona Revised Statutes, is amended to
 8 read:

9 48-723. District taxes; annual financial estimate and budget

10 A. Except as provided in subsection D of this section and at any
 11 time after the hearing on formation of the district, the district board,
 12 or, if before formation, the governing body, may call an election to
 13 submit to the qualified electors of the district or to the persons
 14 qualified to vote pursuant to section 48-707, subsection G the question of
 15 authorizing the district board to levy an ad valorem tax on the NET
 16 assessed LIMITED PROPERTY value of all the real and personal property in
 17 the district at a rate or rates ~~which~~ THAT do not exceed the maximum rate
 18 or rates specified in the ballot. All taxes attributable to the operation
 19 and maintenance expenses of the district, excluding expenses for an area
 20 described in section 48-709, subsection G, shall not exceed an amount
 21 equal to ~~thirty cents~~ \$.30 per ~~one hundred dollars~~ \$100 of NET assessed
 22 LIMITED PROPERTY valuation for all real and personal property in the
 23 district, unless a higher rate is approved by a vote of the electors of
 24 the district, or by the persons who are qualified to vote as provided in
 25 section 48-707, subsection G, voting at an election not less than three
 26 years after the date of the formation of the district. The election may
 27 be held in conjunction with the formation election. Once approved at an
 28 election, the maximum rate remains in effect until increased or decreased
 29 at a subsequent election. If a maximum rate is in effect, the district
 30 board, on petition of twenty-five ~~per cent~~ PERCENT of the qualified
 31 electors of the district, or by those persons owning twenty-five ~~per cent~~
 32 PERCENT of the land area who are qualified to vote pursuant to section
 33 48-707, subsection G, shall call an election to reduce the maximum tax
 34 rate but not below the lesser of that rate determined by the district
 35 board to be necessary to maintain the district's facilities and
 36 improvements or the actual rate then in effect. On the presentation to
 37 the district board of a petition signed by the owners of a majority of the
 38 property in the district, the district board shall adopt a resolution to
 39 reduce or eliminate the portion of the tax, beginning the next fiscal
 40 year, required for one or more enhanced municipal services specified in
 41 the petition. Signatures on a petition to reduce or eliminate a tax are
 42 valid for a period of sixty days.

43 B. The district may not levy, other than for the payment of debt
 44 service on general obligation bonds, at a rate or rates in excess of the
 45 maximum rate then in effect.

1 C. When levying an ad valorem tax, the district board shall make
2 annual statements and estimates of the operation and maintenance expenses
3 of the district, the costs of capital improvements to be financed by the
4 tax levy or levies and the amount of all other expenditures for public
5 infrastructure and enhanced municipal services proposed to be paid from
6 the tax levy or levies and of the amount to be raised to pay general
7 obligation bonds of the district, all of which shall be provided for by
8 the levy and collection of ad valorem taxes on the NET assessed LIMITED
9 PROPERTY value of all the real and personal property in the district. The
10 district board shall file the annual statements and estimates with the
11 clerk OF THE DISTRICT. The district board shall publish a notice of the
12 filing of the estimate, shall hold hearings on the portions of the
13 estimate not relating to debt service on general obligation bonds and
14 shall adopt a budget. The DISTRICT board, on or before the date set by
15 law for certifying the annual budget of the county or municipality, shall
16 fix, levy and assess the amounts to be raised by ad valorem taxes of the
17 district and shall cause certified copies of the order to be delivered to
18 the board of supervisors and to the department of revenue. All statutes
19 relating to the levy and collection of general county taxes, including the
20 collection of delinquent taxes and sale of property for nonpayment of
21 taxes, apply to the district taxes provided for by this section.

22 Sec. 13. Title 48, chapter 4, article 6, Arizona Revised Statutes,
23 is amended by adding section 48-729, to read:

24 48-729. District board composition reconciliation; petition

25 FOR DISTRICTS THAT ARE FORMED AFTER AUGUST 9, 2017 AND BEFORE THE
26 EFFECTIVE DATE OF THIS SECTION AND FOR WHICH THE DISTRICT BOARD CONSISTS
27 OF THE GOVERNING BODY OF THE MUNICIPALITY OR COUNTY, EX OFFICIO, WITH TWO
28 ADDITIONAL DISTRICT BOARD MEMBERS WHO WERE INITIALLY DESIGNATED BY AN
29 OWNER WHO OWNED THE LARGEST AMOUNT OF PRIVATELY OWNED ACREAGE IN THE
30 DISTRICT AT FORMATION AND WHO WERE APPOINTED BY THE GOVERNING BODY, BOTH
31 OF THE FOLLOWING APPLY:

32 1. AT ANY TIME AFTER RECEIPT OF A PETITION SIGNED BY THE OWNERS OF
33 A MAJORITY OF THE PRIVATELY OWNED REAL PROPERTY WITHIN THE BOUNDARIES OF
34 THE DISTRICT AS MEASURED BY SQUARE FOOTAGE OR ACREAGE, THE DISTRICT BOARD
35 MAY ADOPT A RESOLUTION TO RECONCILE THE DISTRICT BOARD COMPOSITION BY
36 PERMANENTLY REMOVING FROM THE BOARD THE TWO ADDITIONAL APPOINTED DISTRICT
37 BOARD MEMBERS AND THEIR POSITIONS ON THE BOARD.

38 2. ON REMOVAL OF THE TWO ADDITIONAL DISTRICT BOARD MEMBERS AND
39 THEIR POSITIONS AS PRESCRIBED IN PARAGRAPH 1 OF THIS SECTION, THE DISTRICT
40 SHALL BE GOVERNED BY A DISTRICT BOARD THAT CONSISTS OF THE GOVERNING BODY
41 OF THE MUNICIPALITY OR COUNTY, EX OFFICIO.

42 Sec. 14. Emergency

43 This act is an emergency measure that is necessary to preserve the
44 public peace, health or safety and is operative immediately as provided by
45 law.