

House Engrossed

theme park districts; extension

State of Arizona
House of Representatives
Fifty-fifth Legislature
First Regular Session
2021

HOUSE BILL 2835

AN ACT

AMENDING SECTIONS 48-6201, 48-6202, 48-6204, 48-6231, 48-6232, 48-6233, 48-6253, 48-6272, 48-6281 AND 48-6282, ARIZONA REVISED STATUTES; AMENDING LAWS 2005, CHAPTER 248, SECTION 2, AS AMENDED BY LAWS 2007, CHAPTER 216, SECTION 17 AND LAWS 2012, CHAPTER 206, SECTION 13; RELATING TO THEME PARK DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-6201, Arizona Revised Statutes, is amended to
3 read:

4 48-6201. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Board" means the board of directors of a district.

7 2. "District" means a theme park district established pursuant to
8 this chapter.

9 3. "Site host" means a city, ~~OR county or Indian tribe, nation,~~
10 ~~community or band.~~

11 4. "Theme park":

12 (a) Means any combination of recreational, entertainment, **SPORTS,**
13 amusement and cultural venues and parking facilities with a central access
14 designed and built around a particular time, place, story or subject,
15 including consistent presentation of architecture, costuming, merchandise,
16 food, games, rides and attractions.

17 (b) **INCLUDES ANY BUILDINGS AND IMPROVEMENTS USED FOR OVERNIGHT**
18 **LODGING OR ACCOMMODATION OF THEME PARK PATRONS AND OTHER GUESTS.**

19 Sec. 2. Section 48-6202, Arizona Revised Statutes, is amended to
20 read:

21 48-6202. Formation of district

22 A. The governing bodies of a city with a population of more than
23 one million persons and a county with a population of more than one
24 hundred twenty-five thousand ~~but less than one hundred fifty thousand~~
25 persons and a city with a population of more than three thousand persons
26 ~~but less than five thousand persons~~ that is located entirely in that
27 county may establish in any combination that includes the county a theme
28 park district as provided by this chapter. For the purposes of this
29 subsection, the population shall be determined according to the most
30 recent population estimate data produced by the office of economic
31 opportunity at the time the district is established. The district may
32 include theme park sites in one or both cities or in the county
33 establishing the district, or in any combination of a city or cities and a
34 county, including a combination of a county with a population of more than
35 one hundred twenty-five thousand ~~but less than one hundred fifty thousand~~
36 persons and a city with a population of more than three thousand persons
37 ~~but less than five thousand persons~~ that is located entirely in that
38 county. The city or cities and the county shall establish the
39 geographical boundaries of the district, which shall include only the
40 sites of the theme parks. The district may be established with a single
41 theme park site. ~~;~~ Any additional sites may be added after the district
42 is initially established and the geographical boundaries of the district
43 may be revised after it is initially established.

1 B. The district is a corporate and political body and, except as
2 otherwise limited, modified or provided by this chapter, has all of the
3 rights, powers and immunities of municipal corporations.

4 C. The district is considered to be a tax levying public
5 improvement district for the purposes of article XIII, section 7,
6 Constitution of Arizona.

7 D. The district is regarded as performing a governmental function
8 in carrying out the purposes of this chapter. The property acquired,
9 LEASED or constructed by the district, the activities of the district in
10 maintaining and caring for the property and the monies derived by the
11 district from operating the property are exempt from state and local
12 income and property taxation. A HOTEL BUILDING THAT IS LOCATED IN A
13 DISTRICT THAT IS LESS THAN TWENTY ACRES AND CONTAINS LESS THAN ONE MILLION
14 SQUARE FEET OF BUILDING OR OTHER IMPROVEMENTS IS NOT EXEMPT FROM STATE AND
15 LOCAL PROPERTY TAXATION. AT THE CONCLUSION OF THE LEASE, THAT HOTEL
16 BUILDING SHALL BE RETURNED TO THE LESSEE UNDER THE LEASE WITH THE DISTRICT
17 AND IF SUBJECT TO A GROUND LEASE WITH A TAX EXEMPT ENTITY, THE HOTEL
18 BUILDING AND OTHER IMPROVEMENTS ARE SUBJECT TO STATE AND LOCAL PROPERTY
19 TAXATION AS POSSESSORY IMPROVEMENTS ON GOVERNMENT PROPERTY AS DEFINED IN
20 SECTION 42-15301.

21 Sec. 3. Section 48-6204, Arizona Revised Statutes, is amended to
22 read:

23 48-6204. Administrative powers and duties

24 A. The board of directors, on behalf of the district, may:

25 1. Adopt and use a corporate seal.

26 2. Sue and be sued.

27 3. Enter into contracts, including intergovernmental agreements
28 under title 11, chapter 7, article 3, as necessary to carry out the
29 purposes and requirements of this chapter.

30 4. Adopt administrative rules as necessary to administer and
31 operate the district and any property under its jurisdiction.

32 5. Acquire by any lawful means, except the power of eminent domain,
33 and operate, maintain, encumber, LEASE and dispose of real and personal
34 property and interests in property.

35 6. Retain legal counsel and other consultants as necessary to carry
36 out the purposes of the district.

37 B. The board of directors shall:

38 1. Appoint from among its members a ~~chairman~~ CHAIRPERSON, a
39 secretary and such other officers as may be necessary to conduct its
40 business.

41 2. Designate a fiscal agent to deposit, hold, invest and disburse
42 the district's monies.

43 3. Provide for the acquisition, construction, RENOVATION,
44 REDEVELOPMENT, LEASE, use and maintenance of the properties and interests
45 owned or controlled by the district.

1 4. Keep and maintain a complete and accurate record of all of its
2 proceedings. The board is a public body for purposes of title 38, chapter
3 3, article 3.1 and title 39, chapter 1.

4 5. Enter into intergovernmental agreements with the county and
5 city, pursuant to title 11, chapter 7, article 3, for administrative and
6 staff support and meeting accommodations for accomplishing the purposes of
7 the district.

8 6. Enter into contracts, **LEASES** and other agreements in the
9 interest of the district or to carry out and accomplish the purposes of
10 this chapter, including construction contracts and agreements with users
11 of the theme parks.

12 7. Contract for consulting, legal, accounting and other outside
13 professional services, including a professional facility management
14 company.

15 Sec. 4. Section 48-6231, Arizona Revised Statutes, is amended to
16 read:

17 **48-6231. Constructing and maintaining theme parks; limitation**
18 **on retail sales**

19 A. The district may provide for the construction, financing,
20 furnishing and maintenance of one or more theme parks in both the city or
21 cities and the county establishing the district. The district shall own
22 **OR LEASE** all buildings and other improvements it constructs, **RENOVATES OR**
23 **REDEVELOPS** subject only to liens and other security interests of record.
24 The district may construct its facilities on real property owned **OR LEASED**
25 by the district or leased by the district from one or more site hosts as
26 provided by section 48-6233.

27 **B. ON FULL REPAYMENT OF THE BONDS PRESCRIBED BY SECTION 48-6253,**
28 **ANY REAL PROPERTY, BUILDINGS OR OTHER IMPROVEMENTS CONVEYED OR LEASED TO**
29 **THE DISTRICT WILL BE RECONVENED BY THE DISTRICT TO THE LESSEE UNDER THE**
30 **LEASE WITH THE DISTRICT.**

31 **C. ANY CONSTRUCTION ON OR FOR THE THEME PARK MAY INCLUDE THE**
32 **RENOVATION OR REDEVELOPMENT OF EXISTING BUILDINGS OR IMPROVEMENTS AND**
33 **THEME PARK FACILITIES ARE NOT LIMITED TO NEW BUILDINGS OR IMPROVEMENTS.**

34 ~~B.~~ **D.** Not more than one-half of the business conducted at any
35 theme park facility may consist of retail sales of tangible personal
36 property, measured either by the number of employees assigned to retail
37 sales or the square footage of the facility used for retail sales. For
38 the purposes of this subsection, "retail sales" means the sale of tangible
39 personal property to an ultimate consumer. Retail sales do not include:

40 1. Sales of food and beverages for consumption on the premises of
41 the theme park facility.

42 2. The distribution without charge of promotional products that
43 display the theme park logo or trademark.

44 3. Sales solely to employees of the theme park.

~~c. E. Title 34 applies to the district, except that~~
Notwithstanding ~~TITLE 34~~ OR title 41, chapter 23, the district may use alternative systems and procedures, including design-build construction and qualifications-based selection of contractors ~~OR ANY OTHER SYSTEM OR PROCEDURE THAT THE DISTRICT DEEMS APPROPRIATE~~, either by direct selection or by public competition, to expedite the design and construction of any of its facilities or structures or any facilities or structures leased to it or used by it pursuant to an intergovernmental agreement. ~~NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION OR ANY OTHER STATUTE, THE DISTRICT SHALL APPROVE ALL ARCHITECTS, DESIGNERS, ENGINEERS AND CONTRACTORS THAT ARE SELECTED BY THE DEVELOPER.~~ For the purposes of this subsection:

1. "Design-build" means a process of entering into and managing a contract between the district and another party in which the other party agrees to both design and build any structure, facility or other items specified in the contract.

2. "Qualifications-based selection" means a process of entering into and managing a contract between the district and another party in which the other party is selected by the district on the basis of the party's qualifications and experience in designing or constructing facilities, structures or other items similar to those the district is authorized to construct or lease.

Sec. 5. Section 48-6232, Arizona Revised Statutes, is amended to read:

48-6232. Operational powers of district

The district, through the board of directors, may:

1. Approve contractors and architects ~~for the construction of~~ TO CONSTRUCT facilities, unless an architect will be employed directly by a contractor.

2. Negotiate agreements with the contractor and architect, unless the architect will be employed directly by the contractor.

3. Work with the users, contractors and architects to prepare a themed design for the facilities.

4. Prepare construction budgets and schedules.

5. Prepare the annual operating budget for the district pursuant to section 48-6251.

6. Negotiate LEASE OR use agreements with parties that will occupy and use the district facilities.

7. Review construction change order requests.

8. Arrange for capital financing, as needed.

9. In consultation with the users of the district's facilities, negotiate one or more contracts for the LEASE, use, management, operation and maintenance of the district's facilities.

1 10. Take any other actions that are necessary to ensure that the
2 district's facilities are constructed according to the schedule and
3 budget.

4 Sec. 6. Section 48-6233, Arizona Revised Statutes, is amended to
5 read:

6 48-6233. Site host relations

7 A. The district may locate any of its facilities on real property
8 leased from one or more site hosts. The district may negotiate agreements
9 with site hosts, including intergovernmental agreements pursuant to title
10 11, chapter 7, article 3 if a site host is a public agency as defined in
11 section 11-951, concerning the real property, infrastructure and parking
12 to be provided by the site host. All agreements must:

13 1. Provide that the site host shall indemnify and hold the district
14 harmless from any liability to the extent resulting from the negligent or
15 intentional acts or omissions of the site host or its representatives and
16 agents or employees resulting from any access ways provided by the site
17 host and reasonably used by the public for ingress and egress to the land,
18 infrastructure and parking facilities provided by the site host for use in
19 connection with any theme park.

20 2. Require the site host to maintain insurance or an adequate
21 self-insurance plan for any liability of the site host, with a waiver of
22 sovereign immunity if necessary.

23 B. Before entering into an agreement with any site host, the
24 district shall require assurance that the site host has the financial
25 capability to perform its obligations under any agreement with the
26 district.

27 ~~C. If a site host is an Indian tribe, nation, band or community:~~

28 ~~1. The site host must provide assurance to the district that the~~
29 ~~real property is not and will not be made part of an Indian reservation~~
30 ~~under the laws of the United States during the term of the lease agreement~~
31 ~~with the site host.~~

32 ~~2. The site host must provide assurance to the district that the~~
33 ~~site host has legal authority to lease the real property to the district~~
34 ~~for uses consistent with the purposes of this chapter for the term of the~~
35 ~~lease agreement with the site host.~~

36 ~~3. The district shall require as terms of the agreement between the~~
37 ~~district and the site host:~~

38 ~~(a) A waiver of sovereign immunity to allow the district to enforce~~
39 ~~the agreement.~~

40 ~~(b) The site host's consent to the jurisdiction of state and~~
41 ~~federal courts.~~

42 ~~(c) A waiver of the right to require the district to exhaust tribal~~
43 ~~remedies before bringing an action in state or federal courts.~~

44 ~~(d) That state and federal law will govern the interpretation of~~
45 ~~any agreements entered into between the district and the site host.~~

~~(e) That the site host will not prevent, impair or impede the imposition, collection and administration of district taxes as provided by section 48-6253.~~

~~4. Gambling shall not be allowed in the district pursuant to any tribal-state gaming compact under title 5, chapter 6. The district shall require, as a term of the agreement between the district and the site host, that the site host shall not operate or support gambling within fifty miles of the exterior boundaries of the district pursuant to any tribal-state gaming compact under title 5, chapter 6.~~

Sec. 7. Section 48-6253, Arizona Revised Statutes, is amended to read:

48-6253. Transaction privilege tax; administration; expiration

A. The district shall levy a transaction privilege tax on business activity in the district that is subject to taxation under title 42, chapter 5. The tax shall be levied at UP TO a MAXIMUM rate of nine ~~per cent~~ PERCENT of the gross proceeds of sales or gross income derived from the business, including admission and user fees. THE BOARD MAY USE ITS DISCRETION IN APPROVING DIFFERING PERCENTAGE RATES FOR THE TAX IMPOSED PURSUANT TO THIS SECTION THAT MAY VARY BY TYPE OF TANGIBLE PERSONAL PROPERTY SOLD OR BY REVENUE SOURCE.

B. THE BOARD MAY NOT APPROVE A TAX RATE THAT IS LESS THAN NINE PERCENT FOR A THEME PARK IF ALL OF THE FOLLOWING APPLY:

1. THE TOTAL AMOUNT OF BONDS SOLD FOR THE THEME PARK IS LESS THAN \$300,000,000.

2. THE THEME PARK IS LESS THAN TWENTY ACRES.

3. THE THEME PARK CONTAINS LESS THAN ONE MILLION SQUARE FEET OF BUILDINGS OR OTHER IMPROVEMENTS.

~~B.~~ C. The tax imposed pursuant to this section is in addition to transaction privilege and use taxes imposed by this state pursuant to title 42, chapter 5 and any county, city, town or other local transaction privilege tax.

~~C.~~ D. Unless the context otherwise requires, section 42-6102 governs the administration of the tax imposed under this section.

~~D.~~ E. Each month the state treasurer shall remit to the district the net revenues collected under this section during the preceding month. The district shall deposit the monies in the district's general fund.

~~E.~~ F. The tax imposed pursuant to this section expires when all bonds, interest and other charges related to bonds issued under article 4 of this chapter have been paid. The district shall immediately notify the department of revenue when those expenses have been satisfied. Any amounts collected after payment of the bonds, interest and related charges, after audit by the auditor general, shall be retained or remitted by the state treasurer and credited to the state general fund.

1 Sec. 8. Section 48-6272, Arizona Revised Statutes, is amended to
2 read:

3 48-6272. Authorization of revenue bonds; conditional
4 expiration

5 A. Subject to subsections D and E of this section, the district may
6 issue negotiable revenue bonds pursuant to this article in a principal
7 amount that is necessary to:

8 1. Provide sufficient monies for theme park purposes. The board
9 may segregate any theme park purpose for separate financing, and may issue
10 bonds separately or together, in one or more issues.

11 2. Establish and fully or partially fund any reserves or sinking
12 accounts established by the bond resolution.

13 3. Issue refunding bonds if the board considers refunding to be
14 expedient. The board may provide for investing and holding the proceeds
15 of the refunding bonds in trust for the benefit of the holders of the
16 bonds being refunded.

17 4. Refund any bonds issued by the district if the bonds are secured
18 from the same source of revenues as the bonds authorized in this article
19 by issuing new bonds, whether the bonds to be refunded have or have not
20 matured.

21 5. Issue bonds partly to refund outstanding bonds and partly for
22 any theme park purpose consistent with this article.

23 B. Bonds issued pursuant to this article shall not exceed an
24 outstanding principal amount of ~~one billion dollars~~ \$2,000,000,000, except
25 for refunding bonds and other bonds issued to refund outstanding bonds of
26 the district.

27 C. The board shall authorize the bonds by resolution. The
28 resolution shall prescribe:

29 1. The district's revenue sources that are pledged and dedicated to
30 secure the bonds.

31 2. The rate or rates of interest, which may be fixed or variable,
32 the date or dates on which interest is payable and the denominations of
33 the bonds.

34 3. The date or dates of the bonds and maturity, which shall be
35 within thirty years after the date of issuance.

36 4. The manner of executing the bonds.

37 5. The medium and place of payment.

38 6. The terms of redemption, which may provide for a premium for
39 early redemption.

40 D. The board shall not issue bonds under this article unless it
41 receives irrevocable and legally enforceable financial participation
42 commitments from private nongovernmental entities for theme park purposes,
43 including from new market tax credits, in an amount equal to twenty ~~per~~
44 ~~cent~~ PERCENT of the principal amount of the bond issue.

1 E. The authority of the board of directors to issue bonds under
2 this article expires if the board fails to issue any bonds on or before
3 December 31, ~~2020~~ 2031.

4 Sec. 9. Section 48-6281, Arizona Revised Statutes, is amended to
5 read:

6 48-6281. Investment of monies in the bond proceeds account

7 A. The board may authorize the district fiscal agent to invest
8 monies in the bond proceeds account in the manner prescribed by section
9 48-6283.

10 B. The order directing an investment shall state a date on which
11 the proceeds from the sale of the bonds will be needed for use, and the
12 fiscal agent shall make the investment in such a way as to mature on or
13 before the specified date.

14 C. All monies earned as interest or otherwise derived from the
15 investment of the monies in the bond proceeds account shall be ~~credited to~~
16 ~~the district's general fund~~ USED TO PAY ALL BONDS, INTEREST AND OTHER
17 CHARGES RELATED TO BONDS ISSUED UNDER ARTICLE 4 OF THIS CHAPTER.

18 Sec. 10. Section 48-6282, Arizona Revised Statutes, is amended to
19 read:

20 48-6282. Investment of monies in debt service account

21 A. The board may authorize the district fiscal agent to invest and
22 reinvest any monies in the debt service account as provided by section
23 48-6283.

24 B. The order directing an investment shall state a date on which
25 the monies and other resources in the debt service account will be needed
26 for use, and the fiscal agent shall make the investment in such a way as
27 to mature on or before the specified date.

28 C. All monies earned as interest or otherwise derived from the
29 investment of the monies in the debt service account shall be credited to
30 the district's general fund AND APPLIED TO BOND DEBT AS IT ACCRUES.

31 Sec. 11. Laws 2005, chapter 248, section 2, as amended by Laws
32 2007, chapter 216, section 17 and Laws 2012, chapter 206, section 13, is
33 amended to read:

34 Sec. 2. Conditional delayed repeal

35 Title 48, chapter 36, Arizona Revised Statutes, is repealed from and
36 after December 31, ~~2020~~ 2031 if the board of directors fails to issue
37 bonds pursuant to that chapter by that date.