

REFERENCE TITLE: eminent domain; existing contracts

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

# HB 2049

Introduced by  
Representative Weninger

AN ACT

AMENDING SECTION 9-511, ARIZONA REVISED STATUTES; RELATING TO EMINENT DOMAIN.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-511, Arizona Revised Statutes, is amended to  
3 read:

4 9-511. Power to engage in business of public nature; outside  
5 water rates; right of eminent domain

6 A. A municipal corporation may engage in any business or enterprise  
7 ~~which~~ THAT may be engaged in by persons by virtue of a franchise from the  
8 municipal corporation, and may construct, purchase, acquire, own and  
9 maintain within or without its corporate limits any such business or  
10 enterprise. A municipal corporation may also purchase, acquire and own  
11 real property for sites and rights-of-way for public utility and public  
12 park purposes, and for the location thereon of waterworks, electric and  
13 gas plants, municipal quarantine stations, garbage reduction plants,  
14 electric lines for the transmission of electricity, ~~AND~~ pipelines for the  
15 transportation of oil, gas, water and sewage, and for plants for the  
16 manufacture of any material for public improvement purposes or public  
17 buildings. If a municipality provides water to another municipality, the  
18 rates it charges for the water to the public in the other municipality  
19 shall be one of the following:

20 1. The same or less than the rates it charges its own residents for  
21 water.

22 2. The same or less than the rates the other municipality charges  
23 its residents for water.

24 3. If the other municipality does not provide water, the average  
25 rates charged for water to the residents in the other municipality by  
26 private water companies.

27 4. Rates determined by a contract ~~which~~ THAT is approved by both  
28 municipalities and in which such rates are justified by a cost of service  
29 study or by any other method agreed to by both municipalities.

30 B. ~~Nothing in~~ This section ~~shall~~ DOES NOT affect a surcharge on  
31 water provided to another municipality adopted ~~prior to~~ BEFORE July 1,  
32 1986 provided that the surcharge did not exceed thirty ~~percent~~ PERCENT of  
33 the rates the municipality providing the water ~~charges~~ CHARGED its own  
34 residents and except that any increase in the percentage of such surcharge  
35 proposed after August 13, 1986 shall be subject to the requirements of  
36 this section.

37 C. The municipality may exercise the right of eminent domain either  
38 within or without its corporate limits for the purposes ~~as stated~~  
39 PRESCRIBED in subsection A OF THIS SECTION, and may establish, lay and  
40 operate a plant, electric line or pipeline ~~upon~~ ON any land or  
41 right-of-way taken ~~thereunder~~ UNDER EMINENT DOMAIN, and may manufacture  
42 material for public improvement purposes and barter or exchange it for  
43 other material to be used in public improvements in the municipal  
44 corporation, or sell it to other municipal corporations for like purposes,  
45 and for any and all such purposes. IF A MUNICIPALITY EXERCISES THE RIGHT

1 OF EMINENT DOMAIN TO ACQUIRE A PUBLIC UTILITY BUSINESS OR ENTERPRISE, THE  
2 MUNICIPALITY SHALL ASSUME ALL EXISTING ASSETS AND CONTRACTUAL OBLIGATIONS  
3 ASSOCIATED WITH PROVIDING CURRENT AND FUTURE UTILITY SERVICE IN THE  
4 CERTIFICATE OF CONVENIENCE AND NECESSITY THAT IS BEING CONDEMNED UNLESS  
5 ALL PARTIES TO THE CONTRACTUAL OBLIGATIONS AGREE OTHERWISE. IF, WITHIN  
6 SIXTY DAYS OF RECEIVING THE MUNICIPALITY'S OFFER TO PURCHASE THE PROPERTY  
7 PURSUANT TO SECTION 12-1116, SUBSECTION A, THE UTILITY BEING CONDEMNED  
8 ENTERS INTO A CONTRACT IN BAD FAITH AND FOR THE PURPOSE OF IMPEDING  
9 CONDEMNATION, SUCH A CONTRACT IS AGAINST PUBLIC POLICY AND VOID.