

REFERENCE TITLE: water; augmentation authority; special districts

State of Arizona
Senate
Fifty-fifth Legislature
First Regular Session
2021

SB 1386

Introduced by
Senator Shope

AN ACT

AMENDING SECTION 45-1901, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 11, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-1948; AMENDING SECTION 45-1972, ARIZONA REVISED STATUTES; AMENDING TITLE 45, CHAPTER 11, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-1973.01; AMENDING SECTIONS 48-901, 48-909, 48-909.01, 48-1014 AND 48-1019, ARIZONA REVISED STATUTES; RELATING TO WATER SUPPLY DEVELOPMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 45-1901, Arizona Revised Statutes, is amended to read:

45-1901. Definitions

In this chapter, unless the context otherwise requires:

1. "Active management area" means an active management area established under chapter 2 of this title.

2. "ANNUAL CONTRACT ASSESSMENT" MEANS AN AMOUNT THAT IS CHARGED BY THE AUTHORITY ON CONTRACT LAND AND THAT IS SPECIFIED IN THE CONTRACT EXECUTED BETWEEN THE AUTHORITY AND THE CONTRACT LAND OWNER.

~~2.~~ 3. "Authority" means a county water augmentation authority established under this chapter.

~~3.~~ 4. "Board" means the board of directors of the authority.

5. "CONTRACT LAND" MEANS REAL PROPERTY THAT MEETS THE REQUIREMENTS OF SECTION 45-1948.

~~4.~~ 6. "County" means the county containing over fifty ~~per cent~~ PERCENT of the area of the authority.

~~5.~~ 7. "Operating unit" means a county, city, town, water company or political subdivision, this state, the United States, an Indian tribe or any other public or private entity with which an authority has a contractual relationship for the acquisition, delivery, exchange, treatment, storage or recharge of water.

~~6.~~ 8. "Project" means a facility necessary or convenient to obtain, divert, withdraw, transport, exchange, deliver, treat or recharge water, including rights-of-way, real and personal property, interests in property and improvements to property that are necessary or appropriate to maintain and operate the facilities.

~~7.~~ 9. "Water company" means either a private water company as defined in section 45-402 or an irrigation district that primarily serves municipal water.

10. "WATER PROVIDER" MEANS ANY OF THE FOLLOWING:

(a) A MUNICIPAL WATER DELIVERY SYSTEM AS DEFINED IN SECTION 42-5301.

(b) A COUNTY WATER AUGMENTATION AUTHORITY ESTABLISHED UNDER THIS CHAPTER.

(c) AN INDIAN TRIBE.

(d) A COMMUNITY FACILITIES DISTRICT FORMED PURSUANT TO TITLE 48, CHAPTER 4, ARTICLE 6.

Sec. 2. Title 45, chapter 11, article 3, Arizona Revised Statutes, is amended by adding section 45-1948, to read:

45-1948. Qualification as contract land

A. REAL PROPERTY QUALIFIES AS CONTRACT LAND ONLY IF ALL OF THE FOLLOWING APPLY:

1. THE REAL PROPERTY IS LOCATED IN AN ACTIVE MANAGEMENT AREA IN WHICH THE AUTHORITY IS LOCATED.

1 2. THE OWNER OF THE REAL PROPERTY, OR OTHER PERSON OR ENTITY, SUCH
2 AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY
3 HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN APPROVED BY THE
4 AUTHORITY AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY
5 WHERE THE REAL PROPERTY IS LOCATED AND THAT:

6 (a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY.

7 (b) DECLARES THE INTENT OF THE OWNER THAT THE REAL PROPERTY QUALIFY
8 AS CONTRACT LAND UNDER THIS CHAPTER.

9 (c) DECLARES THAT, IN ORDER TO FACILITATE FINANCING, EACH PARCEL OF
10 CONTRACT LAND THEREAFTER ESTABLISHED AT THE REAL PROPERTY IS SUBJECT TO A
11 CONTRACT LAND ASSESSMENT TO BE DETERMINED BY THE AUTHORITY.

12 (d) DECLARES THAT QUALIFYING AS CONTRACT LAND AND SUBJECTING THE
13 REAL PROPERTY TO THE CONTRACT LAND ASSESSMENT DIRECTLY BENEFITS THE REAL
14 PROPERTY BY INCREASING THE POTENTIAL OF THE PROPERTY TO QUALIFY FOR A
15 CERTIFICATE OF ASSURED WATER SUPPLY ISSUED BY THE DEPARTMENT OF WATER
16 RESOURCES PURSUANT TO CHAPTER 2, ARTICLE 9 OF THIS TITLE, THEREBY ALLOWING
17 THE DEVELOPMENT, USE AND ENJOYMENT OF THE REAL PROPERTY.

18 (e) CONTAINS A COVENANT THAT IS BINDING AGAINST THE REAL PROPERTY
19 AND EACH PARCEL OF CONTRACT LAND THEREAFTER ESTABLISHED AT THE REAL
20 PROPERTY TO PAY TO THE AUTHORITY A CONTRACT LAND ASSESSMENT BASED ON THE
21 AMOUNT DETERMINED BY THE CONTRACT.

22 (f) DECLARES THAT THE AUTHORITY MAY IMPOSE A LIEN ON THE REAL
23 PROPERTY AND EACH PARCEL OF CONTRACT LAND THEREAFTER ESTABLISHED AT THE
24 REAL PROPERTY TO SECURE PAYMENT OF THE CONTRACT LAND ASSESSMENT AND ANY
25 APPLICABLE FEES.

26 (g) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS
27 CONTAINED IN THE DECLARATION RUN WITH THE LAND AND BIND ALL SUCCESSORS AND
28 ASSIGNS OF THE OWNER.

29 B. THE DECLARATION MAY CONTAIN COVENANTS, CONDITIONS AND
30 RESTRICTIONS IN ADDITION TO THOSE PRESCRIBED BY THIS SECTION. THE
31 DECLARATION MAY BE AN AMENDMENT OR SUPPLEMENT TO COVENANTS, CONDITIONS AND
32 RESTRICTIONS RECORDED AGAINST DEVELOPED OR UNDEVELOPED LAND.

33 C. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, NO REAL PROPERTY
34 QUALIFIES AS CONTRACT LAND UNLESS THE WATER PROVIDER THAT WILL PROVIDE
35 WATER TO THE REAL PROPERTY THAT IS SUBJECT TO THE DECLARATION ENTERS INTO
36 AND RECORDS IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY
37 IS LOCATED AN AGREEMENT BETWEEN THE AUTHORITY AND THE WATER PROVIDER THAT
38 CONTAINS BOTH OF THE FOLLOWING:

39 1. THE LEGAL DESCRIPTION OF THE REAL PROPERTY AND THE TAX PARCEL
40 NUMBERS FOR THE REAL PROPERTY.

41 2. AN AGREEMENT BY THE WATER PROVIDER TO SUBMIT TO THE AUTHORITY BY
42 MARCH 31 OF EACH YEAR AFTER THE RECORDATION OF THE INSTRUMENT INFORMATION
43 AS THE AUTHORITY MAY REASONABLY REQUEST.

D. REAL PROPERTY PREVIOUSLY ACCEPTED AS CONTRACT LAND PURSUANT TO SUBSECTION A OF THIS SECTION TERMINATES ITS CONTRACT LAND STATUS ONLY IF ALL OF THE FOLLOWING APPLY:

1. NO LOT OR PARCEL OF SUBDIVIDED LAND WITHIN THE REAL PROPERTY HAS BEEN SOLD OR LEASED TO A RETAIL PURCHASER OR LESSEE. FOR THE PURPOSES OF THIS PARAGRAPH, "RETAIL PURCHASER OR LESSEE" MEANS A PURCHASER OR LESSEE OF A LOT OR PARCEL OF SUBDIVIDED LANDS THAT IS ENTITLED TO RECEIVE A PUBLIC REPORT FROM THE SELLER OR LESSOR PURSUANT TO SECTION 32-2183, SUBSECTION I.

2. THE STATE REAL ESTATE COMMISSIONER HAS NOT ISSUED A PUBLIC REPORT FOR THE REAL PROPERTY.

3. IF LOT OR PARCEL BOUNDARIES WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY, THE PLANNING AGENCY HAVING PLANNING AUTHORITY OVER THE REAL PROPERTY HAS APPROVED A PLAT VACATING THE LOT OR PARCEL BOUNDARIES THAT WERE PREVIOUSLY RECORDED FOR THE REAL PROPERTY.

4. THE OWNER OR OWNERS OF THE REAL PROPERTY OR OTHER PERSON OR ENTITY, SUCH AS A PROPERTY OWNERS' OR HOMEOWNERS' ASSOCIATION, IF THE PERSON OR ENTITY HAS PROPER AUTHORITY, RECORDS A DECLARATION THAT HAS BEEN EXECUTED BY THE AUTHORITY AND THE DIRECTOR OF WATER RESOURCES AGAINST THE REAL PROPERTY IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED AND THAT:

(a) CONTAINS THE LEGAL DESCRIPTION OF THE REAL PROPERTY THAT IS SUBSTANTIALLY SIMILAR TO THE LEGAL DESCRIPTION OF THE REAL PROPERTY INCLUDED IN THE DECLARATION RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION.

(b) DECLARES THAT THE COVENANTS, CONDITIONS AND RESTRICTIONS PREVIOUSLY RECORDED PURSUANT TO SUBSECTION A, PARAGRAPH 2 OF THIS SECTION ARE REVOKED.

5. THE AGREEMENT RECORDED PURSUANT TO SUBSECTION C OF THIS SECTION HAS BEEN REVOKED BY MUTUAL AGREEMENT OF THE PARTIES TO THAT AGREEMENT AND THE WATER PROVIDER HAS RECORDED NOTICE OF THE REVOCATION IN THE OFFICIAL RECORDS OF THE COUNTY WHERE THE REAL PROPERTY IS LOCATED.

6. IF THE DEPARTMENT OF WATER RESOURCES HAS ISSUED A CERTIFICATE OF ASSURED WATER SUPPLY FOR THE REAL PROPERTY, THE DIRECTOR OF WATER RESOURCES HAS REVOKED THE CERTIFICATE PURSUANT TO A WRITTEN AGREEMENT FOR REVOCATION ENTERED INTO BETWEEN THE HOLDER OF THE CERTIFICATE AND THE DIRECTOR.

Sec. 3. Section 45-1972, Arizona Revised Statutes, is amended to read:

45-1972. Groundwater augmentation and conservation assistance fee; transfer to authority

A. Within sixty days after the authority is formed, the department shall transfer to the secretary-treasurer of the authority one-half of all unencumbered monies and the accrued interest on those monies that were collected in the active management area in which the authority is located

1 during the prior year pursuant to section 45-611, subsection C,
2 paragraph 2.

3 B. Each year the director shall transfer an amount of not ~~more~~ LESS
4 than ~~two hundred thousand dollars~~ \$200,000 to the secretary-treasurer of
5 the authority from the monies collected in that year in the active
6 management area in which the authority is located pursuant to section
7 45-611, subsection C, paragraphs 2 and 3. The director shall specify the
8 amount from each funding source to be transferred.

9 C. The secretary-treasurer shall deposit the transferred monies in
10 the general fund of the authority, and the authority may spend the monies
11 to carry out the purposes of this chapter.

12 Sec. 4. Title 45, chapter 11, article 4, Arizona Revised Statutes,
13 is amended by adding section 45-1973.01, to read:

14 45-1973.01. Annual contract assessment

15 A. ON OR BEFORE THE THIRD MONDAY OF AUGUST OF EACH YEAR, THE
16 AUTHORITY SHALL CHARGE AN ANNUAL CONTRACT ASSESSMENT AGAINST EACH PARCEL
17 OF CONTRACT LAND THAT IS SUBJECT TO AN ANNUAL CONTRACT ASSESSMENT. THIS
18 CHARGE BECOMES A LIEN ON THE PARCEL AND SHALL BE COLLECTED IN THE SAME
19 MANNER AS AN AD VALOREM TAX. THE ANNUAL CONTRACT ASSESSMENTS SHALL BE
20 CALCULATED BY THE AUTHORITY PURSUANT TO THIS CHAPTER AND THE APPLICABLE
21 CONTRACT FOR THE CONTRACT LAND THAT HAS BEEN RECORDED AGAINST THAT LAND.

22 B. THE AUTHORITY SHALL PROMPTLY CERTIFY THE ANNUAL CONTRACT
23 ASSESSMENTS TO THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE
24 AUTHORITY IS ESTABLISHED, AND THE BOARD OF SUPERVISORS AT THE TIME OF
25 LEVYING GENERAL COUNTY TAXES SHALL TAKE THE NECESSARY STEPS FOR COLLECTION
26 OF ANNUAL CONTRACT ASSESSMENTS AGAINST THE PARCELS WITHIN THAT COUNTY.

27 C. THE SECRETARY-TREASURER SHALL DEPOSIT THE ANNUAL CONTRACT
28 ASSESSMENTS IN THE GENERAL FUND OF THE AUTHORITY AND THE AUTHORITY MAY
29 SPEND THE MONIES IN THE FUND ONLY FOR THE PURPOSES AUTHORIZED BY THIS
30 CHAPTER.

31 D. ALL PROVISIONS OF THE GENERAL REVENUE LAWS FOR THE COLLECTION OF
32 TAXES ON REAL ESTATE FOR COUNTY PURPOSES APPLY TO THE COLLECTION OF THE
33 ANNUAL CONTRACT ASSESSMENTS IMPOSED BY THIS CHAPTER, INCLUDING ALL
34 REMEDIES OF THE REVENUE LAWS FOR COLLECTING DELINQUENT TAXES AND
35 PROVISIONS RELATING TO SALES OF REAL PROPERTY FOR DELINQUENT TAXES. THE
36 EXEMPTIONS APPLICABLE TO AD VALOREM TAXES DO NOT APPLY TO ANNUAL CONTRACT
37 ASSESSMENTS CHARGED PURSUANT TO THIS SECTION.

38 Sec. 5. Section 48-901, Arizona Revised Statutes, is amended to
39 read:

40 48-901. Definitions

41 In this article, unless the context otherwise requires:

42 1. "Assessment" or "assessment roll" means a special assessment
43 made under this article.

44 2. "Block" means a parcel of ground, regular or irregular, bounded
45 by streets or by streets and district boundary lines.

1 3. "Chairman of the board" means the person designated to preside
2 over meetings of the board of directors.

3 4. "Clerk" or "district clerk" means the clerk of the board of
4 supervisors, who shall be the clerk under this article and in whose office
5 shall be filed all papers directed or required to be filed with the clerk.

6 5. "Commercial farming" means the intensive cultivation of arable
7 land by the raising of agricultural or horticultural products as a
8 principal source of the owner's livelihood.

9 6. "Commercial stock raising" means the breeding, raising and care
10 of domestic animals as a principal source of the owner's livelihood.

11 7. "Contractor" includes personal representatives or assignee of
12 the contractor.

13 8. "Delinquency" means delinquency in the payment of an assessment.

14 9. "Engineer" or "district engineer" means a person designated or
15 employed by the board of directors of a district to perform any or all of
16 the engineering work authorized to be done by the district under this
17 article.

18 10. "Improvement bond" means a bond issued under this article.

19 11. "Lighting plants" includes electric light plants, electric
20 power plants, gas plants, distribution systems, poles, parts, pipes,
21 conduits, wires, tanks, reservoirs, generators for gas or electricity,
22 transmission lines, towers, lamps, transformers of every character,
23 machinery, apparatus, equipment and all appliances and structures
24 necessary or incidental to the construction, installation or operation of
25 a complete electric light, power and gas plant and distribution system
26 placed on the streets improved, though extended beyond.

27 12. "Lot" includes any portion, piece, parcel or subdivision of
28 land, but not property owned or controlled by any person as a railroad
29 right of way.

30 13. "Owner" means the person in whom legal title appears by
31 recorded deed, or the person in possession under claim or title, or the
32 person exercising acts of ownership for himself or as the personal
33 representative of the owner, including the boards of trustees of school
34 districts and the boards of education of high school districts owning
35 property within the proposed improvement district.

36 14. "Sewers" includes wastewater treatment facilities, tunnels,
37 excavations, ditches, drains, conduits, channels, outlets, outfalls,
38 cesspools, manholes, catch basins, flush tanks, septic tanks, connecting
39 sewers of every character, machinery, apparatus, equipment and all
40 appliances and structures necessary or incidental to the construction,
41 installation or operation of a complete sewer system for either sanitary
42 or drainage purposes.

43 15. "Street" includes avenues, alleys, highways, lanes, crossings,
44 intersections, courts, places and grounds opened or dedicated to public
45 use and public ways.

16. "Street superintendent" or "superintendent" means a county employee designated by the board of supervisors to perform the duties of street superintendent for all the districts organized under this article in any county.

17. "Time of delinquency" means the time when assessments become delinquent.

18. "Treasurer" or "district treasurer" means the treasurer of the county in which a district is situated, who shall be the treasurer of the district.

19. "Unincorporated area" means any portion of a county not within the limits of an incorporated city or town, so situated that any of the improvements provided for in this article might reasonably or properly be made or constructed for the benefit of the inhabitants of the area under existing special assessment statutes if the area were situated within an incorporated city or town.

20. "Wastewater systems" means sewers and other wastewater treatment facilities.

21. "WATER ASSETS" MEANS WATER AND WATER RIGHTS, INCLUDING GROUNDWATER, SURFACE WATER, TREATED WASTEWATER, CENTRAL ARIZONA PROJECT WATER, COLORADO RIVER WATER, STORED WATER AS DEFINED IN SECTION 45-802.01, LONG-TERM STORAGE CREDITS AS DEFINED IN SECTION 45-802.01, GRANDFATHERED RIGHTS AS DEFINED IN SECTION 45-402, GRANDFATHERED RIGHT EXTINGUISHMENT CREDITS, GROUNDWATER WITHDRAWAL PERMITS AND EXCHANGED WATER.

~~21.~~ 22. "Waterworks" means works for the storage or development of water for domestic uses, including drinking water treatment facilities, wells, pumping machinery, power plants, pipelines and all equipment necessary for those purposes.

~~22.~~ 23. "Work" or "improvement" includes any of the improvements mentioned and authorized to be made in this article, INCLUDING WATER ASSETS, the ACQUISITION, CREATION, construction, reconstruction and repair of all or any portion of any such improvement, and labor, services, expenses and material necessary or incidental thereto.

Sec. 6. Section 48-909, Arizona Revised Statutes, is amended to read:

48-909. Purposes for which public improvements may be undertaken; powers incidental to public improvements

A. When the public interest or convenience requires, the board of directors of an improvement district may order:

1. The whole or any portion, either in length or width, of one or more of the streets of the district graded or regraded, paved or repaved, landscaped or otherwise maintained, improved or reimproved.

2. The acquisition, construction, reconstruction or repair of any street, tunnel, subway, viaduct or conduit in, on, under or over which the district may have an easement or right-of-way therefor.

1 3. The construction or reconstruction of sidewalks, crosswalks,
2 curbs, gutters, culverts, bridges, tunnels, siphons, manholes, steps,
3 parkings and parkways.

4 4. The placement, replacement or repair of pipes, hydrants and
5 appliances for fire protection.

6 5. The acquisition, construction, reconstruction, maintenance or
7 repair of wastewater treatment facilities, sewers, ditches, drains,
8 conduits, pipelines and channels for sanitary and drainage purposes, with
9 outlets, cesspools, manholes, catch basins, flush tanks, septic tanks,
10 connecting sewers, ditches, drains, conduits, channels and other
11 appurtenances in, under, over or through any street or any land of the
12 district or any right-of-way granted or obtained for such a purpose,
13 either within or without the district limits.

14 6. The acquisition, construction, reconstruction, maintenance or
15 repair of waterworks, including drinking water treatment facilities, for
16 the delivery of water for domestic purposes, and of wells, ditches,
17 canals, channels, conduits, pipelines and siphons, together with the
18 necessary or usual appurtenances for carrying storm water or water from
19 irrigation ditches, watercourses, streams or springs into, through or out
20 of the district in, under, over or through any street, or any land of the
21 district or any right-of-way granted or obtained for such a purpose,
22 either within or without the district limits. This section does not
23 prohibit the board of directors of an improvement district from purchasing
24 an existing domestic water delivery system within the district or outside
25 the district or constructing an initial or improving an existing domestic
26 water delivery system inside or outside the district.

27 7. The construction, reconstruction or repair of breakwater levees
28 or walls, riverbank protection or replacement of riverbanks and supporting
29 land. A district established for this purpose shall cooperate and
30 coordinate its plans and activities with the county flood control district
31 established in the county and any incorporated city or town in which the
32 district is established.

33 8. The acquisition, construction, reconstruction or repair of
34 lighting plants and poles, wire conduits, lamps, standards and other
35 appliances for the purpose of lighting and beautifying streets or other
36 public lands.

37 9. The construction, reconstruction or repair of any work
38 incidental to or connected with any improvement.

39 10. The acquisition, in the name of the district, by gift, purchase
40 or otherwise and the maintenance, repair, improvement or disposal of any
41 real or personal property necessary or convenient for district operation
42 for a community center, park or recreational area.

43 11. Pursuant to section 48-902, the board of directors of an
44 improvement district may contract for or in any other manner provide
45 transportation services within the district.

1 12. THE ACQUISITION, CREATION, MAINTENANCE OR PLEDGE OF WATER
2 ASSETS FOR THE PURPOSE OF MUNICIPAL, INDUSTRIAL, COMMERCIAL OR DOMESTIC
3 DEVELOPMENT.

4 B. In addition to the powers specifically granted by or reasonably
5 inferred from this article, an improvement district through its board of
6 directors may:

7 1. Acquire by gift, purchase, condemnation or otherwise in the name
8 of the district and own, control, manage and dispose of any real or
9 personal property or interest in the property necessary or convenient for
10 the construction, operation and maintenance of any of the improvements
11 provided for by this article.

12 2. Join with any other improvement district, any city, town,
13 governmental agency or Indian tribe, or any agency or instrumentality of
14 an Indian tribe, or any person in the construction, operation or
15 maintenance of any of the improvements hereby authorized.

16 3. Join with any other improvement district or any city, town,
17 county or Indian tribe, or any agency or instrumentality of an Indian
18 tribe, in improving streets running on or along the boundary of the
19 district and levy assessments and issue bonds for the district's part of
20 the cost of those improvements.

21 4. Sell, lease or otherwise dispose of any property of the district
22 or interest in the property when the property is no longer required for
23 the purposes of the district or the use of which may be permitted without
24 interfering with the use thereof by the district.

25 5. Sell or otherwise dispose of any property or material acquired
26 in the construction or operation of any improvements as a by-product or
27 otherwise, and acquire rights-of-way for the disposal by condemnation or
28 otherwise.

29 6. Accept from this state or the federal government, or any agency,
30 department or instrumentality of either, grants for or in aid of the
31 construction of any of the improvements provided for by this chapter.

32 7. Notwithstanding any other law, sell improvement bonds to the
33 federal government, or any agency, department or instrumentality of the
34 federal government, for the construction of any of the improvements
35 provided by this chapter.

36 8. Enter into contracts with this state or the federal government,
37 or any agency, department or instrumentality of either or both, for the
38 construction or supervision of construction by ~~the~~ THIS state ~~of Arizona~~
39 or the federal government, or any agency, department or instrumentality of
40 either or both, but reserving to the district the right to assess against
41 the property benefited by the improvement, and located within the
42 district, that portion of the cost of the improvement that does not
43 qualify for aid under a state or federal grant.

44 9. Operate, maintain and repair the streets within the district and
45 any improvements made pursuant to this chapter.

10. Do all things incidental to the exercise of the powers granted by this article.

C. A county improvement district formed for the purpose of purchasing an existing or constructing a new domestic water delivery system within the district or outside the district shall have the same authority and responsibility as an incorporated city or town pursuant to title 45 and chapters 22 and 28 of this title.

D. An improvement district that proposes to provide domestic water service within the certificated area of a public service corporation serving domestic water shall provide just compensation to the public service corporation pursuant to section 9-516 for the facilities or certificated area taken. The right to compensation for a public service corporation from an improvement district shall not apply if no facilities of the public service corporation are actually acquired by the improvement district and either of the following conditions exist:

1. At the time the law providing for compensation became effective the certificated area for which compensation is sought is an area that was within the boundaries of an improvement district.

2. A certificate is issued to a public service corporation for any area that is within an improvement district at the time the certificate is issued.

E. If the county board of supervisors determines that the public interest or convenience so requires, an improvement district that is formed for the purposes of providing domestic water service pursuant to article 4 of this chapter may also provide domestic wastewater service.

Sec. 7. Section 48-909.01, Arizona Revised Statutes, is amended to read:

48-909.01. Wastewater treatment facility; waterworks; sewer collection system and nonpoint source projects; financial assistance loan repayment agreements; definitions

A. Notwithstanding any other law, a county improvement district, including a domestic wastewater improvement district, may construct or improve a wastewater treatment facility, sewer collection system, waterworks, including a drinking water treatment facility, or nonpoint source project OR UNDERTAKE WATER SUPPLY DEVELOPMENT or any combination of those projects with monies borrowed from or financial assistance provided by the water infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

B. To repay financial assistance from the water infrastructure finance authority of Arizona, a county improvement district, including a domestic wastewater improvement district, may enter into a financial assistance loan repayment agreement with the authority to repay any financial assistance provided by the water infrastructure finance authority of Arizona. A financial assistance loan repayment agreement is

1 payable from any revenues otherwise authorized by law to be pledged to
2 repay long-term indebtedness. A financial assistance loan repayment
3 agreement may be secured either by assessments or by a pledge of revenues
4 of the district or any combination of those sources. If the financial
5 assistance loan repayment agreement is secured in whole or in part by
6 assessments levied pursuant to this article, the financial assistance loan
7 repayment agreement shall be treated as a series of bonds to the extent
8 that they are secured by those assessments and the board of directors of
9 the district has all powers and duties to collect assessment installments
10 and enforce delinquent assessments through sale and eventual issuance of
11 deeds in the same manner as if the assessments were evidenced by bonds.

12 C. The board of directors of the district shall obtain approval for
13 the financial assistance loan repayment agreement in the same manner
14 provided by law for approving and issuing bonds or other long-term
15 indebtedness that is secured by those assessments or revenues or a
16 combination of assessments and revenues that are to be pledged to repay
17 the loan.

18 D. A financial assistance loan repayment agreement entered into
19 pursuant to this section shall contain the covenants and conditions
20 pertaining to constructing a wastewater treatment facility, sewer
21 collection system, waterworks, including a drinking water treatment
22 facility, or nonpoint source project OR WATER SUPPLY DEVELOPMENT or any
23 combination of those projects and repaying the loan as the water
24 infrastructure finance authority of Arizona deems proper. Financial
25 assistance loan repayment agreements may provide for paying interest on
26 the unpaid principal balance of the agreement at the rates established in
27 the agreement. The agreement may also provide for paying the district's
28 proportionate share of the expenses of administering the clean water
29 revolving fund established by section 49-1221 and may provide that the
30 district pay financing and loan administration fees approved by the water
31 infrastructure authority of Arizona. These costs may be included in the
32 assessment and revenue amounts pledged to repay the financial assistance
33 loan repayment agreement. Districts are bound by and shall fully perform
34 the financial assistance loan repayment agreements, and the agreements are
35 incontestable after the loan is funded by the water infrastructure finance
36 authority of Arizona. The district shall also agree to pay the
37 authority's costs in issuing bonds or otherwise borrowing to fund a loan.

38 E. The water infrastructure finance authority of Arizona shall not
39 require that payment of a financial assistance loan repayment agreement be
40 made from other than those sources permitted in subsection B of this
41 section. The financial assistance loan repayment agreement may also
42 include covenants concerning the operation of the system, the setting of
43 rates and provisions for the appointment of a receiver to take charge of
44 and operate a sewer collection system, a waterworks, including a drinking
45 water treatment facility, and a wastewater treatment system if the

1 financial assistance loan repayment agreement is not paid in a timely
2 manner and, in the sole discretion of the water infrastructure finance
3 authority of Arizona, if the district will not be able to cure the
4 default.

5 F. A district may employ or contract for the services of attorneys,
6 accountants, financial consultants and other experts in their fields as
7 deemed necessary to perform services with respect to the financial
8 assistance loan repayment agreement. These costs are incidental expenses
9 and shall be included in any assessments.

10 G. This section is supplemental and alternative to any other law
11 under which a district may borrow monies or issue bonds. This section is
12 not the exclusive authorization to enter into loan agreements with the
13 water infrastructure finance authority of Arizona.

14 H. A district may borrow additional monies or enter into additional
15 financial assistance loan repayment agreements with the water
16 infrastructure finance authority in an amount up to the amount approved
17 pursuant to subsection C of this section less the amount that the district
18 is obligated to repay to the water infrastructure finance authority of
19 Arizona pursuant to a financial assistance loan repayment agreement.

20 I. For the purposes of this section: ~~;~~

21 1. "Nonpoint source project" has the same meaning prescribed in
22 section 49-1201.

23 2. "WATER SUPPLY DEVELOPMENT" HAS THE SAME MEANING PRESCRIBED IN
24 SECTION 49-1201.

25 Sec. 8. Section 48-1014, Arizona Revised Statutes, is amended to
26 read:

27 48-1014. Powers and duties of an elected or appointed board
28 of directors

29 A. The board of directors of a domestic water improvement district
30 or domestic wastewater improvement district elected or appointed pursuant
31 to this article shall have all the powers and duties of the board of
32 supervisors sitting as the board of directors of a county improvement
33 district formed for the purposes prescribed in section 48-909, subsection
34 A, paragraph 1, 2, 3, 4, 5, ~~or~~ 6 OR 12, including the related powers and
35 duties prescribed in section 48-909, subsection B and section 48-910, and
36 that are not in conflict with this article. A single district may be
37 formed for or converted to a combination of water and wastewater purposes.

38 B. Additions to and alterations of the district shall be made as
39 follows:

40 1. A petition addressed to the district governing board requesting
41 the addition or alteration may be filed with the clerk of the governing
42 body, if signed by a majority of the persons owning property and by the
43 owners of fifty-one ~~per cent~~ PERCENT or more of the assessed valuation of
44 the property within the limits of the proposed addition or alteration.

2. A petition with the required number of signatures shall not be declared void on account of any alleged defect, but the governing body shall allow the petition to be amended in form and substance to conform to the requirements of this article. One or more similar petitions, or copies of the same petition with additional signatures, for the addition to or alteration of the improvement district may be filed before the time of the hearing on the first petition, and shall be considered as though filed with the first petition. The petition shall be presumed to contain the signatures of the persons whose signatures appear on the petition, unless the contrary is proved.

3. The petition shall set forth:

(a) The name of the improvement district to which the addition or alteration is proposed.

(b) The necessity for the proposed addition or alteration.

(c) That the public convenience, necessity or welfare will be promoted by the addition or alteration of the district and that the property to be included in the district will be benefited.

(d) The boundaries of the proposed addition or alteration.

4. Each copy of the petition shall be verified by one of the petitioners and shall be accompanied by a plat or sketch indicating the approximate area and boundaries of the district.

5. On receipt of a petition for an addition or alteration of a district, the governing body shall set a date for a hearing on the petition not later than forty days after presentation of the petition. At the hearing all interested property owners may appear and be heard on any matter relating to the addition to or alteration of the district. Any person wishing to object to the addition or alteration may file, before the date set for the hearing, the person's objections with the clerk of the governing body.

6. Notice announcing the hearing and stating the boundaries of the proposed addition or alteration shall be published twice in a newspaper of general circulation in the county within which the district is located. The publications shall be one week apart, and the first publication shall be not less than ten days before the date of the hearing. The notice shall also be mailed by first class mail at least twenty days before the hearing to the property owners within the area of the proposed addition or alteration according to the names and addresses that appear on the most recent property tax assessment roll.

7. At the hearing, if it appears after consideration of all objections that the petition is signed by the requisite number of property owners, and that the public convenience, necessity or welfare will be promoted by the addition to or alteration of the district, the governing body by formal order shall declare its findings and order the addition to or alteration of the district.

8. If the governing board finds that the public convenience, necessity or welfare will not be promoted by the addition to or alteration of the district, the governing body by formal order shall declare its findings.

C. Notwithstanding subsection B of this section, any property owner whose land is within a county that contains an improvement district and whose land is adjacent to the boundaries of the improvement district may request in writing that the governing body of the district amend the district boundaries to include that property owner's land. If the governing body determines that the inclusion of that property will benefit the district and the property owner, the boundary change may be made by order of the governing body and is final on the recording of the governing body's order that includes a legal description of the property that is added to the district. A petition is not required for an amendment to an improvement district's boundaries made pursuant to this subsection.

D. On approval of any boundary change of the district, the district board may order the successful petitioners or requesters to pay all of the costs of the boundary change.

Sec. 9. Section 48-1019, Arizona Revised Statutes, is amended to read:

48-1019. Drinking water facility and wastewater facility projects; financial assistance loan repayment agreements; definitions

A. Notwithstanding any other law, a domestic water or wastewater improvement district may construct, acquire, or improve a drinking water, wastewater or water reclamation facility **OR UNDERTAKE WATER SUPPLY DEVELOPMENT** with monies borrowed from or financial assistance, including forgivable principal, provided by the water infrastructure finance authority of Arizona pursuant to title 49, chapter 8.

B. To repay financial assistance from the authority a district may enter into a financial assistance loan repayment agreement with the authority. A financial assistance loan repayment agreement is payable from any revenues otherwise authorized by law to be used to pay long-term obligations.

C. For a district with a population of more than fifty thousand persons, the board of directors of the district shall submit the question of entering and performing a financial assistance loan repayment agreement to the qualified electors voting at a regular or special election in the district. An election is not required if voter approval has previously been obtained for substantially the same project with another funding source. For a district with a population of fifty thousand persons or less, the board may enter into the financial assistance loan repayment agreement on the approval of the board and an election is not required.

D. A financial assistance loan repayment agreement entered into pursuant to this section shall contain the covenants and conditions

1 pertaining to WATER SUPPLY DEVELOPMENT OR TO the construction, acquisition
2 or improvement of a drinking water, wastewater or water reclamation
3 facility and repayment of the loan as the authority deems proper.
4 Financial assistance loan repayment agreements may provide for the payment
5 of interest on the unpaid principal balance of the agreement at the rates
6 established in the agreement. The agreement may also provide for payment
7 of the domestic water or wastewater improvement district's proportionate
8 share of the expenses of administering the drinking water revolving fund
9 established by sections 49-1221 and 49-1241 and may provide that the
10 domestic water or wastewater improvement district pay financing and loan
11 administration fees approved by the authority. These costs may be
12 included in the assessment or revenue amounts pledged to repay the
13 loan. Districts are bound by and shall fully perform the loan repayment
14 agreements, and the agreements are incontestable after the loan is funded
15 by the authority. The domestic water improvement district shall also
16 agree to pay the authority's costs in issuing bonds or otherwise borrowing
17 to fund a loan.

18 E. A financial assistance loan repayment agreement under this
19 section does not create a debt of the domestic water or wastewater
20 improvement district, and the authority shall not require that payment of
21 a loan agreement be made from other than those sources permitted in
22 subsection B of this section.

23 F. A domestic water or wastewater improvement district may employ
24 or contract for the services of attorneys, accountants, financial
25 consultants and other experts in their field as deemed necessary to
26 perform services with respect to the financial assistance loan repayment
27 agreement.

28 G. This section is supplemental and alternative to any other law
29 under which a district may borrow money or issue bonds. This section
30 ~~shall be construed as~~ CONSTITUTES the exclusive authorization to enter
31 into loan agreements with the authority.

32 H. A district may borrow additional monies or enter into additional
33 financial assistance loan repayment agreements with the water
34 infrastructure finance authority in an amount up to the amount approved
35 pursuant to subsection C of this section less the amount that the district
36 is obligated to repay to the water infrastructure finance authority
37 pursuant to a financial assistance loan repayment agreement.

38 I. For the purposes of this section:

39 1. "Authority" means the water infrastructure finance authority of
40 Arizona.

41 2. "WATER SUPPLY DEVELOPMENT" HAS THE SAME MEANING PRESCRIBED IN
42 SECTION 49-1201.