

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1189
(Reference to Senate engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 48-6808, Arizona Revised Statutes, is amended
3 to read:

4 48-6808. Powers of a revitalization district

5 A. In addition to the powers otherwise granted to a district
6 pursuant to this article, a district ~~may~~, to further the implementation of
7 the general plan, MAY:

8 1. Enter into contracts and spend monies for any infrastructure
9 purpose with respect to the district. ANY CONSTRUCTION CONTRACTS THE
10 DISTRICT ENTERS INTO PURSUANT TO THIS ARTICLE SHALL COMPLY WITH SUBSECTION
11 F OF THIS SECTION.

12 2. Enter into intergovernmental agreements as prescribed in title
13 11, chapter 7, article 3 for the financing, planning, design, inspection,
14 ownership, control, maintenance, operation or repair of infrastructure or
15 the provision of enhanced municipal services by the municipality in the
16 district, including an intergovernmental agreement with an Indian tribe or
17 community.

18 3. Sell, lease or otherwise dispose of district property if the
19 sale, lease or conveyance is not a violation of the terms of any contract
20 or bond resolution of the district.

21 4. Reimburse a municipality for providing enhanced municipal
22 services in the district.

23 5. Operate, maintain and repair infrastructure.

24 6. Establish, charge and collect user fees, rates or charges for
25 the use of any infrastructure or service.

26 7. Employ staff, counsel and consultants.

27 8. Reimburse a municipality for staff and consultant services and
28 support facilities supplied by the municipality.

29 9. Accept gifts or grants and incur and repay loans for any
30 infrastructure purpose.

31 10. Enter into agreements with landowners and the municipality for
32 the collection of fees and charges from landowners for infrastructure
33 purposes, the advance of monies by landowners for infrastructure purposes
34 or the granting of real property by the landowner for infrastructure
35 purposes.

36 11. After approval at an election held pursuant to section 48-6818,
37 levy and assess the costs of any infrastructure purpose on any land
38 benefited in the district.

1 12. Pay the financial, legal and administrative costs of the
2 district.

3 13. Enter into contracts, agreements and trust indentures to obtain
4 credit enhancement or liquidity support for its bonds and process the
5 issuance, registration, transfer and payment of its bonds and the
6 disbursement and investment of proceeds of the bonds.

7 14. With the consent of the governing body of the municipality that
8 formed the district, enter into agreements with persons outside of the
9 district to provide services to persons and property outside of the
10 district.

11 15. With the consent of the applicable governmental entity, use
12 public easements and rights-of-way in or across public property, roadways,
13 highways, streets or other thoroughfares and other public easements and
14 rights-of-way, whether in or out of the geographical limits of the
15 district or the municipality.

16 B. In connection with any power authorized by statute, the district
17 may:

18 1. Contract.

19 2. Enter into intergovernmental agreements pursuant to title 11,
20 chapter 7, article 3.

21 3. Adopt and change a seal.

22 4. Sue and be sued.

23 5. Enter into development agreements, as defined in section
24 9-500.05.

25 C. The district shall not be used to finance or facilitate the
26 acquisition, operation, maintenance, construction or operation of a sports
27 stadium or other sports facility that is designed specifically for or used
28 specifically by a professional sports team, including a clubhouse, a
29 practice facility or any other related facility or on-site infrastructure
30 or related parking facilities for those purposes. This subsection does
31 not apply to the financing, acquisition, operation, maintenance or
32 construction of a multipurpose event center.

33 D. Public infrastructure other than personalty may be located only
34 in or on lands owned by the state, a county, a municipality or the
35 district or dedicated or otherwise designated as public roadways,
36 highways, streets, thoroughfares, easements or rights-of-way, whether in
37 or out of the district or the municipality. Personalty may be used only
38 for purposes authorized by the district board.

39 E. An agreement pursuant to subsection A, paragraph 10 of this
40 section may include agreements to repay all or part of such advances, fees
41 and charges from the proceeds of bonds if issued or from advances, fees
42 and charges collected from other landowners or users or those having a
43 right to use any infrastructure. A person does not have authority to
44 compel the issuance or sale of the bonds of the district or the exercise
45 of any taxing power of the district to make repayment under any agreement.

46 F. ANY CONSTRUCTION CONTRACT THE DISTRICT ENTERS INTO MUST INCLUDE
47 PROVISIONS FOR ALL OF THE FOLLOWING:

48 1. ALLOWING A CONTRACTOR TO SUSPEND PERFORMANCE OR TERMINATE A
49 CONSTRUCTION CONTRACT WITH A DISTRICT FOR FAILURE BY THE DISTRICT TO MAKE

1 TIMELY PAYMENT OF AMOUNTS CERTIFIED AND APPROVED FOR PAYMENT. THE
2 CONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE DISTRICT AT LEAST SEVEN
3 CALENDAR DAYS BEFORE THE INTENDED SUSPENSION OR TERMINATION UNLESS A
4 SHORTER NOTICE PERIOD IS PRESCRIBED IN THE CONSTRUCTION CONTRACT. A
5 CONTRACTOR SHALL NOT BE DEEMED IN BREACH OF THE CONSTRUCTION CONTRACT FOR
6 SUSPENDING PERFORMANCE OR TERMINATING UNDER THIS PARAGRAPH. A
7 CONSTRUCTION CONTRACT SHALL NOT EXTEND THE TIME PERIOD FOR A CONTRACTOR TO
8 SUSPEND PERFORMANCE OR TERMINATE UNDER THIS PARAGRAPH.

9 2. ALLOWING A SUBCONTRACTOR TO SUSPEND PERFORMANCE OR TERMINATE A
10 CONTRACT WITH A GENERAL CONTRACTOR OR SUBCONTRACTOR FOR A DISTRICT IF BOTH
11 OF THE FOLLOWING OCCUR:

12 (a) THE DISTRICT FAILS TO MAKE TIMELY PAYMENT OF AMOUNTS CERTIFIED
13 AND APPROVED FOR THE SUBCONTRACTOR'S WORK.

14 (b) THE CONTRACTOR FAILS TO PAY THE SUBCONTRACTOR FOR THAT
15 CERTIFIED AND APPROVED WORK. THE SUBCONTRACTOR SHALL PROVIDE WRITTEN
16 NOTICE TO THE CONTRACTOR AND DISTRICT AT LEAST THREE CALENDAR DAYS BEFORE
17 THE INTENDED SUSPENSION OR TERMINATION UNLESS A SHORTER NOTICE PERIOD IS
18 PRESCRIBED IN THE CONTRACT. A SUBCONTRACTOR SHALL NOT BE DEEMED IN BREACH
19 FOR SUSPENDING PERFORMANCE OR TERMINATING UNDER THIS PARAGRAPH.

20 3. ALLOWING A SUBCONTRACTOR TO SUSPEND PERFORMANCE OR TERMINATE IF
21 THE DISTRICT MAKES TIMELY PAYMENT OF CERTIFIED AND APPROVED AMOUNTS FOR
22 THE SUBCONTRACTOR'S WORK BUT THE CONTRACTOR FAILS TO PAY THE
23 SUBCONTRACTOR. THE SUBCONTRACTOR SHALL PROVIDE WRITTEN NOTICE TO THE
24 CONTRACTOR AND DISTRICT AT LEAST SEVEN CALENDAR DAYS BEFORE THE INTENDED
25 SUSPENSION OR TERMINATION UNLESS A SHORTER NOTICE PERIOD IS PRESCRIBED IN
26 THE CONTRACT. A SUBCONTRACTOR SHALL NOT BE DEEMED IN BREACH FOR
27 SUSPENDING PERFORMANCE OR TERMINATING UNDER THIS PARAGRAPH.

28 4. ALLOWING A SUBCONTRACTOR TO SUSPEND PERFORMANCE OR TERMINATE IF
29 THE DISTRICT DECLINES TO APPROVE AND CERTIFY PORTIONS OF THE CONTRACTOR'S
30 BILLING FOR THE SUBCONTRACTOR'S WORK FOR REASONS THAT ARE NOT THE FAULT OF
31 OR DIRECTLY RELATED TO THAT SUBCONTRACTOR'S WORK. THE SUBCONTRACTOR SHALL
32 PROVIDE WRITTEN NOTICE TO THE CONTRACTOR AND DISTRICT AT LEAST SEVEN
33 CALENDAR DAYS BEFORE THE INTENDED SUSPENSION OR TERMINATION UNLESS A
34 SHORTER NOTICE PERIOD IS PRESCRIBED IN THE CONTRACT. A SUBCONTRACTOR
35 SHALL NOT BE DEEMED IN BREACH FOR SUSPENDING PERFORMANCE OR TERMINATING
36 UNDER THIS PARAGRAPH.

37 5. ALLOWING A CONTRACTOR OR SUBCONTRACTOR THAT SUSPENDS PERFORMANCE
38 AS PRESCRIBED IN THIS SUBSECTION TO CEASE FURNISHING FURTHER LABOR,
39 MATERIALS OR SERVICES UNTIL BEING PAID THE AMOUNT THAT WAS CERTIFIED AND
40 APPROVED, TOGETHER WITH ANY REASONABLE COSTS INCURRED FOR MOBILIZATION
41 RESULTING FROM ANY SHUTDOWN OR RESTART OF THE PROJECT.

42 6. REQUIRING THE AWARD OF REASONABLE ATTORNEY FEES AND COSTS TO THE
43 SUCCESSFUL PARTY IN ANY ACTION OR ARBITRATION TO ENFORCE RIGHTS UNDER THIS
44 SUBSECTION.

45 7. REQUIRING THAT ANY WRITTEN NOTICE PRESCRIBED BY THIS SUBSECTION
46 IS DEEMED PROVIDED IF EITHER OF THE FOLLOWING OCCURS:

47 (a) THE WRITTEN NOTICE IS DELIVERED IN PERSON TO THE INDIVIDUAL,
48 MEMBER OR OFFICER OF THE ENTITY FOR WHICH IT WAS INTENDED.

1 (b) THE WRITTEN NOTICE IS SENT BY ANY METHOD THAT PROVIDES WRITTEN,
2 THIRD-PARTY VERIFICATION OF DELIVERY TO THE LAST KNOWN BUSINESS ADDRESS OF
3 THE PARTY GIVING NOTICE.

4 Sec. 2. Applicability

5 Section 48-6808, Arizona Revised Statutes, as amended by this act,
6 applies to any revitalization district infrastructure construction
7 contract executed after the effective date of this act."

8 Amend title to conform

MICHAEL WAY

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