

PROPOSED
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2999
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 9-463.05, Arizona Revised Statutes, is amended
3 to read:

4 9-463.05. Development fees; imposition by cities and towns;
5 infrastructure improvements plan; annual report;
6 advisory committee; limitation on actions;
7 definitions

8 A. A municipality may assess development fees to offset costs to
9 the municipality associated with providing necessary public services to a
10 development, including the costs of infrastructure, improvements, real
11 property, engineering and architectural services, financing and
12 professional services required for the preparation or revision of a
13 development fee pursuant to this section, including the relevant portion
14 of the infrastructure improvements plan.

15 B. Development fees assessed by a municipality under this section
16 are subject to the following requirements:

17 1. Development fees shall result in a beneficial use to the
18 development.

19 2. The municipality shall calculate the development fee based on
20 the infrastructure improvements plan adopted pursuant to this section.

21 3. The development fee shall not exceed a proportionate share of
22 the cost of necessary public services, based on service units, needed to
23 provide necessary public services to the development.

24 4. Costs for necessary public services made necessary by new
25 development shall be based on the same level of service provided to
26 existing development in the service area.

27 5. Development fees may not be used for any of the following:

28 (a) Construction, acquisition or expansion of public facilities or
29 assets other than necessary public services or facility expansions
30 identified in the infrastructure improvements plan.

31 (b) Repair, operation or maintenance of existing or new necessary
32 public services or facility expansions.

33 (c) Upgrading, updating, expanding, correcting or replacing
34 existing necessary public services to serve existing development in order
35 to meet stricter safety, efficiency, environmental or regulatory
36 standards.

37 (d) Upgrading, updating, expanding, correcting or replacing
38 existing necessary public services to provide a higher level of service to
39 existing development.

1 (e) Administrative, maintenance or operating costs of the
2 municipality.

3 6. Any development for which a development fee has been paid is
4 entitled to the use and benefit of the services for which the fee was
5 imposed and is entitled to receive immediate service from any existing
6 facility with available capacity to serve the new service units if the
7 available capacity has not been reserved or pledged in connection with the
8 construction or financing of the facility.

9 7. Development fees may be collected if any of the following
10 occurs:

11 (a) The collection is made to pay for a necessary public service or
12 facility expansion that is identified in the infrastructure improvements
13 plan and the municipality plans to complete construction and to have the
14 service available within the time period established in the infrastructure
15 ~~improvement~~ IMPROVEMENTS plan, but in no event longer than the time period
16 provided in subsection H, paragraph 3 of this section.

17 (b) The municipality reserves in the infrastructure improvements
18 plan adopted pursuant to this section or otherwise agrees to reserve
19 capacity to serve future development.

20 (c) The municipality requires or agrees to allow the owner of a
21 development to construct or finance the necessary public service or
22 facility expansion and any of the following ~~apply~~ APPLIES:

23 (i) The costs incurred or money advanced are credited against or
24 reimbursed from the development fees otherwise due from a development.

25 (ii) The municipality reimburses the owner for those costs from the
26 development fees paid from all developments that will use those necessary
27 public services or facility expansions.

28 (iii) For those costs incurred the municipality allows the owner to
29 assign the credits or reimbursement rights from the development fees
30 otherwise due from a development to other developments for the same
31 category of necessary public services in the same service area.

32 8. Projected interest charges and other finance costs may be
33 included in determining the amount of development fees only if the monies
34 are used for the payment of principal and interest on the portion of the
35 bonds, notes or other obligations issued to finance construction of
36 necessary public services or facility expansions identified in the
37 infrastructure improvements plan.

38 9. Monies received from development fees assessed pursuant to this
39 section shall be placed in a separate fund and accounted for separately
40 and may only be used for the purposes authorized by this section. Monies
41 received from a development fee identified in an infrastructure
42 improvements plan adopted or updated pursuant to subsection D of this
43 section shall be used to provide the same category of necessary public
44 services or facility expansions for which the development fee was assessed
45 and for the benefit of the same service area, as defined in the
46 infrastructure improvements plan, in which the development fee was
47 assessed. Interest earned on monies in the separate fund shall be
48 credited to the fund.

1 10. The schedule for payment of fees shall be provided by the
2 municipality. Based on the cost identified in the infrastructure
3 improvements plan, the municipality shall provide a credit toward the
4 payment of a development fee for the required or agreed to dedication of
5 public sites, improvements and other necessary public services or facility
6 expansions included in the infrastructure improvements plan and for which
7 a development fee is assessed, to the extent the public sites,
8 improvements and necessary public services or facility expansions are
9 provided by the developer, A COMMUNITY FACILITIES DISTRICT ESTABLISHED
10 UNDER TITLE 48, CHAPTER 4, ARTICLE 6 OR AN INFRASTRUCTURE FINANCE DISTRICT
11 ESTABLISHED UNDER TITLE 48, CHAPTER 40. The developer of residential
12 dwelling units shall be required to pay development fees when construction
13 permits for the dwelling units are issued, or at a later time if specified
14 in a development agreement pursuant to section 9-500.05. If a development
15 agreement provides for fees to be paid at a time later than the issuance
16 of construction permits, the deferred fees shall be paid ~~no~~ NOT later than
17 fifteen days after the issuance of a certificate of occupancy. The
18 development agreement shall provide for the value of any deferred fees to
19 be supported by appropriate security, including a surety bond, letter of
20 credit or cash bond.

21 11. If a municipality requires as a condition of development
22 approval the construction or improvement of, contributions to or
23 dedication of any facilities that were not included in a previously
24 adopted infrastructure improvements plan, the municipality shall cause the
25 infrastructure improvements plan to be amended to include the facilities
26 and shall provide a credit toward the payment of a development fee for the
27 construction, improvement, contribution or dedication of the facilities to
28 the extent that the facilities will substitute for or otherwise reduce the
29 need for other similar facilities in the infrastructure improvements plan
30 for which development fees were assessed.

31 12. The municipality shall forecast the contribution to be made in
32 the future in cash or by taxes, fees, assessments or other sources of
33 revenue derived from the property owner towards the capital costs of the
34 necessary public service covered by the development fee and shall include
35 these contributions in determining the extent of the burden imposed by the
36 development. Beginning August 1, 2014, for purposes of calculating the
37 required offset to development fees pursuant to this subsection, if a
38 municipality imposes a construction contracting or similar excise tax rate
39 in excess of the percentage amount of the transaction privilege tax rate
40 imposed on the majority of other transaction privilege tax
41 classifications, the entire excess portion of the construction contracting
42 or similar excise tax shall be treated as a contribution to the capital
43 costs of necessary public services provided to development for which
44 development fees are assessed, unless the excess portion was already taken
45 into account for such purpose pursuant to this subsection.

46 13. If development fees are assessed by a municipality, the fees
47 shall be assessed against commercial, residential and industrial
48 development, except that the municipality may distinguish between
49 different categories of residential, commercial and industrial development

1 in assessing the costs to the municipality of providing necessary public
2 services to new development and in determining the amount of the
3 development fee applicable to the category of development. If a
4 municipality agrees to waive any of the development fees assessed on a
5 development, the municipality shall reimburse the appropriate development
6 fee accounts for the amount that was waived. The municipality shall
7 provide notice of any such waiver to the advisory committee established
8 pursuant to subsection G of this section within thirty days.

9 14. In determining and assessing a development fee applying to land
10 in a community facilities district established under title 48, chapter 4,
11 article 6 OR AN INFRASTRUCTURE FINANCE DISTRICT ESTABLISHED UNDER TITLE
12 48, CHAPTER 40, the municipality shall take into account all public
13 infrastructure provided by the district and capital costs paid by the
14 district for necessary public services and shall not assess a portion of
15 the development fee based on the infrastructure or costs.

16 C. A municipality shall give at least thirty days' advance notice
17 of intention to assess a development fee and shall release to the public
18 and post on its website or the website of an association of cities and
19 towns if a municipality does not have a website a written report of the
20 land use assumptions and infrastructure improvements plan adopted pursuant
21 to subsection D of this section. The municipality shall conduct a public
22 hearing on the proposed development fee at any time after the expiration
23 of the ~~thirty-day~~ THIRTY-DAY notice of intention to assess a development
24 fee and at least thirty days before the scheduled date of adoption of the
25 fee by the governing body. Within sixty days after the date of the public
26 hearing on the proposed development fee, a municipality shall approve or
27 disapprove the imposition of the development fee. A municipality shall
28 not adopt an ordinance, order or resolution approving a development fee as
29 an emergency measure. A development fee assessed pursuant to this section
30 shall not be effective until seventy-five days after its formal adoption
31 by the governing body of the municipality. Nothing in this subsection
32 shall affect any development fee adopted before July 24, 1982.

33 D. Before the adoption or amendment of a development fee, the
34 governing body of the municipality shall adopt or update the land use
35 assumptions and infrastructure improvements plan for the designated
36 service area. The municipality shall conduct a public hearing on the land
37 use assumptions and infrastructure improvements plan at least thirty days
38 before the adoption or update of the plan. The municipality shall release
39 the plan to the public, post the plan on its website or the website of an
40 association of cities and towns if the municipality does not have a
41 website, including in the posting its land use assumptions, the time
42 period of the projections, a description of the necessary public services
43 included in the infrastructure improvements plan and a map of the service
44 area to which the land use assumptions apply, make available to the public
45 the documents used to prepare the assumptions and plan and provide public
46 notice at least sixty days before the public hearing, subject to the
47 following:

48 1. The land use assumptions and infrastructure improvements plan
49 shall be approved or disapproved within sixty days after the public

1 hearing on the land use assumptions and infrastructure improvements plan
2 and at least thirty days before the public hearing on the report required
3 by subsection C of this section. A municipality shall not adopt an
4 ordinance, order or resolution approving the land use assumptions or
5 infrastructure improvements plan as an emergency measure.

6 2. An infrastructure improvements plan shall be developed by
7 qualified professionals using generally accepted engineering and planning
8 practices pursuant to subsection E of this section.

9 3. A municipality shall update the land use assumptions and
10 infrastructure improvements plan at least every five years. The initial
11 ~~five-year~~ FIVE-YEAR period begins on the day the infrastructure
12 improvements plan is adopted. The municipality shall review and evaluate
13 its current land use assumptions and shall cause an update of the
14 infrastructure improvements plan to be prepared pursuant to this section.

15 4. Within sixty days after completion of the updated land use
16 assumptions and infrastructure improvements plan, the municipality shall
17 schedule and provide notice of a public hearing to discuss and review the
18 update and shall determine whether to amend the assumptions and plan.

19 5. A municipality shall hold a public hearing to discuss the
20 proposed amendments to the land use assumptions, the infrastructure
21 improvements plan or the development fee. The land use assumptions and
22 the infrastructure improvements plan, including the amount of any proposed
23 changes to the development fee per service unit, shall be made available
24 to the public on or before the date of the first publication of the notice
25 of the hearing on the amendments.

26 6. The notice and hearing procedures prescribed in paragraph 1 of
27 this subsection apply to a hearing on the amendment of land use
28 assumptions, an infrastructure improvements plan or a development fee.
29 Within sixty days after the date of the public hearing on the amendments,
30 a municipality shall approve or disapprove the amendments to the land use
31 assumptions, infrastructure improvements plan or development fee. A
32 municipality shall not adopt an ordinance, order or resolution approving
33 the amended land use assumptions, infrastructure improvements plan or
34 development fee as an emergency measure.

35 7. The advisory committee established under subsection G of this
36 section shall file its written comments on any proposed or updated land
37 use assumptions, infrastructure improvements plan and development fees
38 before the fifth business day before the date of the public hearing on the
39 proposed or updated assumptions, plan and fees.

40 8. If, at the time an update as prescribed in paragraph 3 of this
41 subsection is required, the municipality determines that no changes to the
42 land use assumptions, infrastructure improvements plan or development fees
43 are needed, the municipality may as an alternative to the updating
44 requirements of this subsection publish notice of its determination on its
45 website and include the following:

46 (a) A statement that the municipality has determined that no change
47 to the land use assumptions, infrastructure improvements plan or
48 development fee is necessary.

1 (b) A description and map of the service area in which an update
2 has been determined to be unnecessary.

3 (c) A statement that by a specified date, which shall be at least
4 sixty days after the date of publication of the first notice, a person may
5 make a written request to the municipality requesting that the land use
6 assumptions, infrastructure improvements plan or development fee be
7 updated.

8 (d) A statement identifying the person or entity to whom the
9 written request for an update should be sent.

10 9. If, by the date specified pursuant to paragraph 8 of this
11 subsection, a person requests in writing that the land use assumptions,
12 infrastructure improvements plan or development fee be updated, the
13 municipality shall cause, accept or reject an update of the assumptions
14 and plan to be prepared pursuant to this subsection.

15 10. Notwithstanding the notice and hearing requirements for adoption
16 of an infrastructure improvements plan, a municipality may amend an
17 infrastructure improvements plan adopted pursuant to this section without
18 a public hearing if the amendment addresses only elements of necessary
19 public services in the existing infrastructure improvements plan and the
20 changes to the plan will not, individually or cumulatively with other
21 amendments adopted pursuant to this subsection, increase the level of
22 service in the service area or cause a development fee increase of greater
23 than five ~~per cent~~ PERCENT when a new or modified development fee is
24 assessed pursuant to this section. The municipality shall provide notice
25 of any such amendment at least thirty days before adoption, shall post the
26 amendment on its website or on the website of an association of cities and
27 towns if the municipality does not have a website and shall provide notice
28 to the advisory committee established pursuant to subsection G of this
29 section that the amendment complies with this subsection.

30 E. For each necessary public service that is the subject of a
31 development fee, the infrastructure improvements plan shall include:

32 1. A description of the existing necessary public services in the
33 service area and the costs to upgrade, update, improve, expand, correct or
34 replace those necessary public services to meet existing needs and usage
35 and stricter safety, efficiency, environmental or regulatory standards,
36 which shall be prepared by qualified professionals licensed in this state,
37 as applicable.

38 2. An analysis of the total capacity, the level of current usage
39 and commitments for usage of capacity of the existing necessary public
40 services, which shall be prepared by qualified professionals licensed in
41 this state, as applicable.

42 3. A description of all or the parts of the necessary public
43 services or facility expansions and their costs necessitated by and
44 attributable to development in the service area based on the approved land
45 use assumptions, including a forecast of the costs of infrastructure,
46 improvements, real property, financing, engineering and architectural
47 services, which shall be prepared by qualified professionals licensed in
48 this state, as applicable.

1 4. A table establishing the specific level or quantity of use,
2 consumption, generation or discharge of a service unit for each category
3 of necessary public services or facility expansions and an equivalency or
4 conversion table establishing the ratio of a service unit to various types
5 of land uses, including residential, commercial and industrial.

6 5. The total number of projected service units necessitated by and
7 attributable to new development in the service area based on the approved
8 land use assumptions and calculated pursuant to generally accepted
9 engineering and planning criteria.

10 6. The projected demand for necessary public services or facility
11 expansions required by new service units for a period not to exceed ten
12 years.

13 7. A forecast of revenues generated by new service units other than
14 development fees, which shall include estimated state-shared revenue,
15 highway ~~users~~ **USER** revenue, federal revenue, ad valorem property taxes,
16 construction contracting or similar excise taxes and the capital recovery
17 portion of utility fees attributable to development based on the approved
18 land use assumptions, and a plan to include these contributions in
19 determining the extent of the burden imposed by the development as
20 required in subsection B, paragraph 12 of this section.

21 F. A municipality's development fee ordinance shall provide that a
22 new development fee or an increased portion of a modified development fee
23 shall not be assessed against a development for twenty-four months after
24 the date that the municipality issues the final approval for a commercial,
25 industrial or multifamily development or the date that the first building
26 permit is issued for a residential development pursuant to an approved
27 site plan or subdivision plat, provided that no subsequent changes are
28 made to the approved site plan or subdivision plat that would increase the
29 number of service units. If the number of service units increases, the
30 new or increased portion of a modified development fee shall be limited to
31 the amount attributable to the additional service units. The twenty-four
32 month period shall not be extended by a renewal or amendment of the site
33 plan or the final subdivision plat that was the subject of the final
34 approval. The municipality shall issue, on request, a written statement
35 of the development fee schedule applicable to the development. If, after
36 the date of the municipality's final approval of a development, the
37 municipality reduces the development fee assessed on development, the
38 reduced fee shall apply to the development.

39 G. A municipality shall do one of the following:

40 1. Before the adoption of proposed or updated land use assumptions,
41 infrastructure improvements plan and development fees as prescribed in
42 subsection D of this section, the municipality shall appoint an
43 infrastructure improvements advisory committee, subject to the following
44 requirements:

45 (a) The advisory committee shall be composed of at least five
46 members who are appointed by the governing body of the municipality. At
47 least fifty ~~per cent~~ **PERCENT** of the members of the advisory committee must
48 be representatives of the real estate, development or building industries,
49 of which at least one member of the committee must be from the home

1 building industry. Members shall not be employees or officials of the
2 municipality.

3 (b) The advisory committee shall serve in an advisory capacity and
4 shall:

5 (i) Advise the municipality in adopting land use assumptions and in
6 determining whether the assumptions are in conformance with the general
7 plan of the municipality.

8 (ii) Review the infrastructure improvements plan and file written
9 comments.

10 (iii) Monitor and evaluate implementation of the infrastructure
11 improvements plan.

12 (iv) Every year file reports with respect to the progress of the
13 infrastructure improvements plan and the collection and expenditures of
14 development fees and report to the municipality any perceived inequities
15 in implementing the plan or imposing the development fee.

16 (v) Advise the municipality of the need to update or revise the
17 land use assumptions, infrastructure improvements plan and development
18 fee.

19 (c) The municipality shall make available to the advisory committee
20 any professional reports with respect to developing and implementing the
21 infrastructure improvements plan.

22 (d) The municipality shall adopt procedural rules for the advisory
23 committee to follow in carrying out the committee's duties.

24 2. In lieu of creating an advisory committee pursuant to paragraph
25 1 of this subsection, provide for a biennial certified audit of the
26 municipality's land use assumptions, infrastructure improvements plan and
27 development fees. An audit pursuant to this paragraph shall be conducted
28 by one or more qualified professionals who are not employees or officials
29 of the municipality and who did not prepare the infrastructure
30 improvements plan. The audit shall review the progress of the
31 infrastructure improvements plan, including the collection and
32 expenditures of development fees for each project in the plan, and
33 evaluate any inequities in implementing the plan or imposing the
34 development fee. The municipality shall post the findings of the audit on
35 the municipality's website or the website of an association of cities and
36 towns if the municipality does not have a website and shall conduct a
37 public hearing on the audit within sixty days of the release of the audit
38 to the public.

39 H. On written request, an owner of real property for which a
40 development fee has been paid after July 31, 2014 is entitled to a refund
41 of a development fee or any part of a development fee if:

42 1. Pursuant to subsection B, paragraph 6 of this section, existing
43 facilities are available and service is not provided.

44 2. The municipality has, after collecting the fee to construct a
45 facility when service is not available, failed to complete construction
46 within the time period identified in the infrastructure improvements plan,
47 but in no event later than the time period specified in paragraph 3 of
48 this subsection.

1 3. For a development fee other than a development fee for water or
2 wastewater facilities, any part of the development fee is not spent as
3 authorized by this section within ten years after the fee has been paid
4 or, for a development fee for water or wastewater facilities, any part of
5 the development fee is not spent as authorized by this section within
6 fifteen years after the fee has been paid.

7 I. If the development fee was collected for the construction of all
8 or a portion of a specific item of infrastructure, and on completion of
9 the infrastructure the municipality determines that the actual cost of
10 construction was less than the forecasted cost of construction on which
11 the development fee was based and the difference between the actual and
12 estimated cost is greater than ten per cent, the current owner may receive
13 a refund of the portion of the development fee equal to the difference
14 between the development fee paid and the development fee that would have
15 been due if the development fee had been calculated at the actual
16 construction cost.

17 J. A refund shall include any interest earned by the municipality
18 from the date of collection to the date of refund on the amount of the
19 refunded fee. All refunds shall be made to the record owner of the
20 property at the time the refund is paid. If the development fee is paid
21 by a governmental entity, the refund shall be paid to the governmental
22 entity.

23 K. A development fee that was adopted before January 1, 2012 may
24 continue to be assessed only to the extent that it will be used to provide
25 a necessary public service for which development fees can be assessed
26 pursuant to this section and shall be replaced by a development fee
27 imposed under this section on or before August 1, 2014. Any municipality
28 having a development fee that has not been replaced under this section on
29 or before August 1, 2014 shall not collect development fees until the
30 development fee has been replaced with a fee that complies with this
31 section. Any development fee monies collected before January 1, 2012
32 remaining in a development fee account:

33 1. Shall be used towards the same category of necessary public
34 services as authorized by this section.

35 2. If development fees were collected for a purpose not authorized
36 by this section, shall be used for the purpose for which they were
37 collected on or before January 1, 2020, and after which, if not spent,
38 shall be distributed equally among the categories of necessary public
39 services authorized by this section.

40 L. A moratorium shall not be placed on development for the sole
41 purpose of awaiting completion of all or any part of the process necessary
42 to develop, adopt or update development fees.

43 M. In any judicial action interpreting this section, all powers
44 conferred on municipal governments in this section shall be narrowly
45 construed to ensure that development fees are not used to impose on new
46 residents a burden all taxpayers of a municipality should bear equally.

47 N. Each municipality that assesses development fees shall submit an
48 annual report accounting for the collection and use of the fees for each
49 service area. The annual report shall include the following:

1 1. The amount assessed by the municipality for each type of
2 development fee.

3 2. The balance of each fund maintained for each type of development
4 fee assessed as of the beginning and end of the fiscal year.

5 3. The amount of interest or other earnings on the monies in each
6 fund as of the end of the fiscal year.

7 4. The amount of development fee monies used to repay:

8 (a) Bonds issued by the municipality to pay the cost of a capital
9 improvement project that is the subject of a development fee assessment,
10 including the amount needed to repay the debt service obligations on each
11 facility for which development fees have been identified as the source of
12 funding and the time frames in which the debt service will be repaid.

13 (b) Monies advanced by the municipality from funds other than the
14 funds established for development fees in order to pay the cost of a
15 capital improvement project that is the subject of a development fee
16 assessment, the total amount advanced by the municipality for each
17 facility, the source of the monies advanced and the terms under which the
18 monies will be repaid to the municipality.

19 5. The amount of development fee monies spent on each capital
20 improvement project that is the subject of a development fee assessment
21 and the physical location of each capital improvement project.

22 6. The amount of development fee monies spent for each purpose
23 other than a capital improvement project that is the subject of a
24 development fee assessment.

25 0. Within ninety days following the end of each fiscal year, each
26 municipality shall submit a copy of the annual report to the city clerk
27 and post the report on the municipality's website or the website of an
28 association of cities and towns if the municipality does not have a
29 website. Copies shall be made available to the public on request. The
30 annual report may contain financial information that has not been audited.

31 P. A municipality that fails to file the report and post the report
32 on the municipality's website or the website of an association of cities
33 and towns if the municipality does not have a website as required by this
34 section shall not collect development fees until the report is filed and
35 posted.

36 Q. Any action to collect a development fee shall be commenced
37 within two years after the obligation to pay the fee accrues.

38 R. A municipality may continue to assess a development fee adopted
39 before January 1, 2012 for any facility that was financed before June 1,
40 2011 if:

41 1. Development fees were pledged to repay debt service obligations
42 related to the construction of the facility.

43 2. After August 1, 2014, any development fees collected under this
44 subsection are used solely for the payment of principal and interest on
45 the portion of the bonds, notes or other debt service obligations issued
46 before June 1, 2011 to finance construction of the facility.

47 S. Through August 1, 2014, a development fee adopted before January
48 1, 2012 may be used to finance construction of a facility and may be
49 pledged to repay debt service obligations if:

1 1. The facility that is being financed is a facility that is
2 described under subsection T, paragraph 7, subdivisions (a) through (g) of
3 this section.

4 2. The facility was included in an infrastructure improvements plan
5 adopted before June 1, 2011.

6 3. The development fees are used for the payment of principal and
7 interest on the portion of the bonds, notes or other debt service
8 obligations issued to finance construction of the necessary public
9 services or facility expansions identified in the infrastructure
10 ~~improvement~~ IMPROVEMENTS plan.

11 T. For the purposes of this section:

12 1. "Dedication" means the actual conveyance date or the date an
13 improvement, facility or real or personal property is placed into service,
14 whichever occurs first.

15 2. "Development" means:

16 (a) The subdivision of land.

17 (b) The construction, reconstruction, conversion, structural
18 alteration, relocation or enlargement of any structure that adds or
19 increases the number of service units.

20 (c) Any use or extension of the use of land that increases the
21 number of service units.

22 3. "Facility expansion" means the expansion of the capacity of an
23 existing facility that serves the same function as an otherwise new
24 necessary public service in order that the existing facility may serve new
25 development. Facility expansion does not include the repair, maintenance,
26 modernization or expansion of an existing facility to better serve
27 existing development.

28 4. "Final approval" means:

29 (a) For a nonresidential or multifamily development, the approval
30 of a site plan or, if no site plan is submitted for the development, the
31 approval of a final subdivision plat.

32 (b) For a single family residential development, the approval of a
33 final subdivision plat.

34 5. "Infrastructure improvements plan" means a written plan that
35 identifies each necessary public service or facility expansion that is
36 proposed to be the subject of a development fee and otherwise complies
37 with the requirements of this section, and may be the municipality's
38 capital improvements plan.

39 6. "Land use assumptions" means projections of changes in land
40 uses, densities, intensities and population for a specified service area
41 over a period of at least ten years and pursuant to the general plan of
42 the municipality.

43 7. "Necessary public service" means any of the following facilities
44 that have a life expectancy of three or more years and that are owned and
45 operated by or on behalf of the municipality:

46 (a) Water facilities, including the supply, transportation,
47 treatment, purification and distribution of water, and any appurtenances
48 for those facilities.

1 (b) Wastewater facilities, including collection, interception,
2 transportation, treatment and disposal of wastewater, and any
3 appurtenances for those facilities.

4 (c) Storm water, drainage and flood control facilities, including
5 any appurtenances for those facilities.

6 (d) Library facilities of up to ten thousand square feet that
7 provide a direct benefit to development, not including equipment, vehicles
8 or appurtenances.

9 (e) Street facilities located in the service area, including
10 arterial or collector streets or roads that have been designated on an
11 officially adopted plan of the municipality, traffic signals and
12 rights-of-way and improvements thereon.

13 (f) Fire and police facilities, including all appurtenances,
14 equipment and vehicles. Fire and police facilities do not include a
15 facility or portion of a facility that is used to replace services that
16 were once provided elsewhere in the municipality, vehicles and equipment
17 used to provide administrative services, helicopters or airplanes or a
18 facility that is used for training firefighters or officers from more than
19 one station or substation.

20 (g) Neighborhood parks and recreational facilities on real property
21 up to thirty acres in area, or parks and recreational facilities larger
22 than thirty acres if the facilities provide a direct benefit to the
23 development. Park and recreational facilities do not include vehicles,
24 equipment or that portion of any facility that is used for amusement
25 parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural
26 facilities, bandstand and orchestra facilities, bathhouses, boathouses,
27 clubhouses, community centers greater than three thousand square feet in
28 floor area, environmental education centers, equestrian facilities, golf
29 course facilities, greenhouses, lakes, museums, theme parks, water
30 reclamation or riparian areas, wetlands, zoo facilities or similar
31 recreational facilities, but may include swimming pools.

32 (h) Any facility that was financed and that meets all of the
33 requirements prescribed in subsection R of this section.

34 8. "Qualified professional" means a professional engineer,
35 surveyor, financial analyst or planner providing services within the scope
36 of the person's license, education or experience.

37 9. "Service area" means any specified area within the boundaries of
38 a municipality in which development will be served by necessary public
39 services or facility expansions and within which a substantial nexus
40 exists between the necessary public services or facility expansions and
41 the development being served as prescribed in the infrastructure
42 improvements plan.

43 10. "Service unit" means a standardized measure of consumption, use,
44 generation or discharge attributable to an individual unit of development
45 calculated pursuant to generally accepted engineering or planning
46 standards for a particular category of necessary public services or
47 facility expansions.

1 Sec. 2. Section 11-1102, Arizona Revised Statutes, is amended to
2 read:

3 11-1102. County development fees; imposition by counties;
4 infrastructure improvements plan; advisory
5 committee; annual report; limitation on actions;
6 definitions

7 A. A county may assess development fees to offset costs to the
8 county associated with providing necessary public services to a
9 development, including the costs of infrastructure, improvements, real
10 property, engineering and architectural services, financing and
11 professional services required for the preparation or revision of
12 ~~a~~ development ~~fee~~ FEES pursuant to this section, including the relevant
13 portion of the infrastructure improvements plan.

14 B. Development fees assessed under this section are subject to the
15 following requirements:

16 1. Development fees shall result in a beneficial use to the
17 development.

18 2. The county shall calculate the development ~~fee~~ FEES based on the
19 infrastructure improvements plan adopted pursuant to this section.

20 3. The development fees may not exceed a proportionate share of the
21 cost of necessary public services, based on service units, needed to
22 provide necessary public services to the development.

23 4. Costs for necessary public services made necessary by new
24 development shall be based on the same level of service provided to
25 existing development in the service area at the time the infrastructure
26 improvements plan is adopted.

27 5. Development fees may not be used for any of the following:

28 (a) Funding a level of service that is higher than the current
29 level of service provided to existing development at the time the
30 infrastructure improvements plan is adopted.

31 (b) Construction, acquisition or expansion of public facilities or
32 assets other than necessary public services or facility expansions
33 identified in the infrastructure improvements plan.

34 (c) Repair, operation or maintenance of existing or new necessary
35 public services or facility expansions.

36 (d) Upgrading, updating, expanding, correcting or replacing
37 existing necessary public services to serve existing development in order
38 to meet stricter safety, efficiency, environmental or regulatory
39 standards.

40 (e) Upgrading, updating, expanding, correcting or replacing
41 existing necessary public services to provide a higher level of service to
42 existing development.

43 (f) Administrative, maintenance or operating costs of the county.

44 6. Any development for which development fees have been paid is
45 entitled to the use and benefit of the services for which the development
46 fees were imposed and is entitled to receive immediate service from any
47 existing facility with available capacity to serve the new service units
48 if the available capacity has not been reserved or pledged in connection
49 with the construction or financing of the facility.

1 7. Development fees may be collected if any of the following
2 occurs:

3 (a) The collection is made to pay for a necessary public service or
4 facility expansion that is identified in the infrastructure improvements
5 plan and the county plans to complete construction and have the service
6 available within the time period established in the infrastructure
7 improvements plan, but not longer than the time period provided in
8 subsection J, paragraph 3 of this section.

9 (b) The county reserves capacity in the infrastructure improvements
10 plan adopted pursuant to this section or otherwise agrees to reserve
11 capacity to serve future development.

12 (c) The county requires or agrees to allow the owner of a
13 development to construct or finance the necessary public service or
14 facility expansion and any of the following applies:

15 (i) The costs incurred or monies advanced are credited against or
16 reimbursed from the development fees otherwise due from a development.
17 The amount of credits issued shall equal the costs identified by the
18 county in the infrastructure improvements plan associated with the
19 construction of the necessary public services or facility expansions. The
20 county shall allow the owner to assign the credits from the development
21 fees otherwise due from a development and any excess credits to other
22 developments for the same category of necessary public services in the
23 same service area.

24 (ii) The county reimburses the owner for those costs from the
25 development fees paid from all developments that will use those necessary
26 public services or facility expansions. The county shall allow the owner
27 to assign the reimbursement rights to other developments for the same
28 category of necessary public services in the same service area.

29 8. Projected interest charges and other finance costs may be
30 included in determining the amount of development fees only if the monies
31 are used for the payment of principal and interest on the portion of the
32 bonds, notes or other obligations issued to finance construction of
33 necessary public services or facility expansions identified in the
34 infrastructure improvements plan.

35 9. Monies received from development fees shall be placed in a
36 separate fund and accounted for separately and may only be used for the
37 purposes authorized by this section. Monies received from development
38 fees identified in an infrastructure improvements plan adopted or updated
39 pursuant to subsection E of this section shall be used to provide the same
40 category of necessary public services or facilities expansions for which
41 the development fee was assessed and for the benefit of the same service
42 area as defined in the infrastructure improvements plan in which the
43 development fees were assessed. Interest earned on monies in the separate
44 fund shall be credited to the fund.

45 10. The county shall prescribe the schedule for paying the
46 development fees. Based on the costs identified in the infrastructure
47 improvements plan, the county shall provide a credit toward the payment of
48 the development fees for the required or agreed to dedication of public
49 sites, improvements and other necessary public services or facility

1 expansions included in the infrastructure improvements plan and for which
2 development fees are assessed, to the extent the public sites,
3 improvements and necessary public services or facility expansions are
4 provided by the developer, A COMMUNITY FACILITIES DISTRICT ESTABLISHED
5 UNDER TITLE 48, CHAPTER 4, ARTICLE 6 OR AN INFRASTRUCTURE FINANCE DISTRICT
6 ESTABLISHED UNDER TITLE 48, CHAPTER 40. On request of the developer,
7 instead of providing a credit toward the payment of development fees, the
8 county shall provide for reimbursement from the development fees paid from
9 all development that will use those public sites, improvements or
10 necessary public services or facility expansions of the actual costs of
11 the required or agreed to dedication of public sites, improvements or
12 other necessary public services or facility expansions included in the
13 infrastructure improvements plan and for which development fees are
14 assessed, to the extent the public sites, improvements and necessary
15 public services or facility expansions are provided by the developer, A
16 COMMUNITY FACILITIES DISTRICT ESTABLISHED UNDER TITLE 48, CHAPTER 4,
17 ARTICLE 6 OR AN INFRASTRUCTURE FINANCE DISTRICT ESTABLISHED UNDER TITLE
18 48, CHAPTER 40. The developer of residential dwelling units shall be
19 required to pay the fees when construction permits for the dwelling units
20 are issued, or at a later time if specified in the development agreement
21 pursuant to section 11-1101. If a development agreement provides for
22 development fees to be paid at a time later than the issuance of
23 construction permits, the deferred development fees shall be paid not
24 later than fifteen days after the issuance of a certificate of occupancy.
25 The development agreement shall provide for the value of any deferred
26 development fees to be supported by an appropriate security, including a
27 surety bond, letter of credit or cash bond.

28 11. If a county requires as a condition of development approval the
29 construction or improvement of, contributions to or dedication of any
30 facilities that were not included in a previously adopted infrastructure
31 improvements plan, the county shall cause the infrastructure improvements
32 plan to be amended to include the facilities and shall provide a credit
33 toward the payment of development fees for the construction, improvement,
34 contribution or dedication of the facilities to the extent that the
35 facilities will substitute for or otherwise reduce the need for other
36 similar facilities in the infrastructure improvements plan for which
37 development fees were assessed. If a county requires as a condition of
38 development approval the set aside of active or passive open space, the
39 county shall issue a credit toward any development fees identified in the
40 infrastructure improvements plan to fund any park facilities or facility
41 expansion. On request of the individual or entity seeking development
42 approval, instead of issuing a credit toward the payment of development
43 fees, the county shall provide for reimbursement from the development fees
44 paid from all development that will use those facilities or facility
45 expansions of the actual costs of the construction or improvement of,
46 contributions to or dedication of the public facilities required as a
47 condition of development approval.

1 12. The county shall forecast the contribution to be made in the
2 future in cash, taxes, fees, assessments and all other sources of revenue
3 derived from the property owner towards the capital costs of the necessary
4 public service covered by the development fees.

5 13. If development fees are assessed against residential
6 development, the county shall also assess development fees against
7 commercial and industrial development. The county may distinguish between
8 different categories of residential, commercial and industrial development
9 in assessing the costs to the county of providing necessary public
10 services to new development and in determining the amount of the
11 development fees applicable to the category, except that the county may
12 not distinguish residential developments on the basis of the size of the
13 dwelling unit or number of bedrooms. If a county agrees to waive any of
14 the development fees assessed on a development, the county shall reimburse
15 the appropriate development fees accounts for the amount that was
16 waived. The county shall provide notice of any such waiver to the
17 advisory committee established pursuant to subsection I of this section.

18 14. In determining and assessing development fees applying to land
19 in a community facilities district established under title 48, chapter 4,
20 article 6, the county shall take into account all public infrastructure
21 provided by the district and capital costs paid by the district for
22 necessary public services and shall not assess a portion of the
23 development fees based on the infrastructure or costs.

24 15. The county shall not assess or collect development fees from a
25 school district or charter school, other than fees assessed or collected
26 for streets and water and wastewater utility functions.

27 C. Before assessing development fees, the county shall:

28 1. Give at least thirty days' advance notice of intention to assess
29 new or increased development fees.

30 2. Release to the public and post on the county's website a written
31 report of the land use assumptions and infrastructure improvements plan
32 adopted pursuant to subsection E of this section.

33 3. Conduct a public hearing on the proposed development fees at any
34 time after the expiration of the thirty-day notice of intention to assess
35 development fees and at least thirty days before the scheduled date of
36 adoption of the development fees. Within sixty days after the date of the
37 public hearing on the proposed development fees, the county shall approve
38 or disapprove the imposition of the development fees. A county may not
39 adopt an ordinance, order or resolution approving development fees as an
40 emergency measure.

41 D. Development fees assessed pursuant to this section are not
42 effective for at least ninety days after formal adoption by the board of
43 supervisors.

44 E. Before the adoption or amendment of development fees or
45 amendment of the boundaries of a service area, the board of supervisors
46 shall adopt or update the land use assumptions and infrastructure
47 improvements plan for the designated service area. The county shall
48 conduct a public hearing on the land use assumptions and infrastructure
49 improvements plan at least thirty days before the adoption or update of

1 the infrastructure improvements plan. The county shall release the
2 infrastructure improvements plan to the public, post the infrastructure
3 improvements plan on the county's website, including in the posting the
4 land use assumptions, the time period of the projections, a description of
5 the necessary public services included in the infrastructure improvements
6 plan and a map of the service area to which the land use assumptions
7 apply, make available to the public the documents used to prepare the land
8 use assumptions and infrastructure improvements plan and provide public
9 notice at least sixty days before the public hearing, subject to the
10 following:

11 1. The land use assumptions and infrastructure improvements plan
12 shall be approved or disapproved within sixty days after the public
13 hearing on the land use assumptions and infrastructure improvements plan
14 and at least thirty days before the public hearing on the report required
15 by subsection C of this section. A county may not adopt an ordinance,
16 order or resolution approving the land use assumptions or infrastructure
17 improvements plan as an emergency measure.

18 2. An infrastructure improvements plan shall be developed by
19 qualified professionals using generally accepted engineering and planning
20 practices pursuant to subsection F of this section.

21 3. A county shall update the land use assumptions and
22 infrastructure improvements plan at least every five years. The initial
23 five-year period begins on the day the infrastructure improvements plan is
24 adopted. The county shall review and evaluate the current land use
25 assumptions and shall cause an update of the infrastructure improvements
26 plan to be prepared pursuant to this section.

27 4. Within sixty days after completion of the updated land use
28 assumptions and infrastructure improvements plan, the county shall
29 schedule and provide notice of a public hearing to discuss and review the
30 update and shall determine whether to amend the land use assumptions and
31 infrastructure improvements plan.

32 5. A county shall hold a public hearing to discuss the proposed
33 amendments to the land use assumptions, the infrastructure improvements
34 plan or the development fees. The land use assumptions and the
35 infrastructure improvements plan, including the amount of any proposed
36 changes to the development fees per service unit, shall be made available
37 to the public on or before the date of the first publication of the notice
38 of the hearing on the amendments.

39 6. The hearing procedures prescribed in paragraph 1 of this
40 subsection apply to a hearing on the amendment of land use assumptions, an
41 infrastructure improvements plan or development fees. Within sixty days
42 after the date of the public hearing on the amendments, a county shall
43 approve or disapprove the amendments to the land use assumptions,
44 infrastructure improvements plan or development fees. A county may not
45 adopt an ordinance, order or resolution approving the amended land use
46 assumptions, infrastructure improvements plan or development fees as an
47 emergency measure.

1 7. The advisory committee established under subsection I of this
2 section shall file its written comments on any proposed or updated land
3 use assumptions, infrastructure improvements plan and development fees
4 before the fifth business day before the date of the public hearing on the
5 proposed or updated land use assumptions, infrastructure improvements plan
6 and development fees.

7 8. If, at the time an update as prescribed in paragraph 3 of this
8 subsection is required, the county determines that no changes to the land
9 use assumptions, infrastructure improvements plan or development fees are
10 needed, the county, as an alternative to the updating requirements of this
11 subsection, may publish notice of the determination on the county's
12 website that includes the following:

13 (a) A statement that the county has determined that no change to
14 the land use assumptions, infrastructure improvements plan or development
15 fees is necessary.

16 (b) A description and map of the service area in which an update
17 has been determined to be unnecessary.

18 (c) A statement that by a specified date, which shall be at least
19 sixty days after the date of publication of the first notice, a person may
20 request to the county in writing that the county update the land use
21 assumptions, infrastructure improvements plan or development fees.

22 (d) A statement identifying the person or entity to whom the
23 written request for an update should be sent.

24 9. If, by the date specified pursuant to paragraph 8 of this
25 subsection, a person requests in writing that the county update the land
26 use assumptions, infrastructure improvements plan or development fees, the
27 county shall cause, accept or reject an update of the land use
28 assumptions, infrastructure improvements plan or development fees to be
29 prepared pursuant to this section.

30 10. Notwithstanding the notice and hearing requirements for
31 adoption of an infrastructure improvements plan, the county may amend an
32 infrastructure improvements plan without a public hearing if the amendment
33 addresses only elements of necessary public services in the existing
34 infrastructure improvements plan and the changes to the plan will not,
35 individually or cumulatively with other amendments adopted pursuant to
36 this subsection, increase the level of service in the service area or
37 cause an increase in development fees that is greater than five percent
38 when new or modified development fees are assessed pursuant to this
39 section. The county shall provide notice of the amendment at least thirty
40 days before adoption, shall post the amendment on the county's website and
41 shall provide notice to the advisory committee established pursuant to
42 subsection I of this section that the amendment complies with this
43 subsection.

44 F. For each necessary public service that is the subject of
45 development fees, the infrastructure improvements plan shall include:

46 1. A description of the existing necessary public services in the
47 service area and the costs to upgrade, update, improve, expand, correct or
48 replace those necessary public services to meet existing needs and usage
49 and stricter safety, efficiency, environmental or regulatory standards.

1 The description shall be prepared by qualified professionals who are
2 licensed in this state, as applicable.

3 2. An analysis of the total capacity, the level of current usage
4 and commitments for usage of capacity of the existing necessary public
5 services. The analysis shall be prepared by qualified professionals who
6 are licensed in this state, as applicable.

7 3. A description of all or the parts of the necessary public
8 services or facility expansions and their costs necessitated by and
9 attributable to new development in the service area based on the approved
10 land use assumptions, including a forecast of the cost of infrastructure,
11 improvements, real property, financing, engineering and architectural
12 services. The description shall be prepared by qualified professionals
13 who are licensed in this state, as applicable.

14 4. A table that establishes the specific level or quantity of use,
15 consumption, generation or discharge of a service unit for each category
16 of necessary public services or facility expansions and an equivalency or
17 conversion table that establishes the ratio of a service unit to various
18 types of land uses, including residential, commercial and industrial.

19 5. A description of all the costs necessitated by ongoing
20 maintenance and operations of the necessary public services once
21 construction is completed and a description of the source of revenue to be
22 used to fund the maintenance and operations.

23 6. The total number of projected service units necessitated by and
24 attributable to new development in the service area based on the approved
25 land use assumptions and calculated pursuant to generally accepted
26 engineering and planning criteria.

27 7. The projected demand for necessary public services or facility
28 expansions required by new service units for a period of not more than ten
29 years.

30 8. A forecast of revenues generated by new service units other than
31 development fees, including estimated state shared revenue, highway user
32 revenue, federal revenue, ad valorem property taxes, construction
33 contracting or similar excise taxes and the capital recovery portion of
34 utility fees attributable to development based on the approved land use
35 assumptions, and a plan to include these contributions in determining the
36 extent of the burden imposed by the development as required in subsection
37 B, paragraph 12 of this section.

38 G. A county's infrastructure improvements plan may identify
39 necessary public services or facility expansions that the county plans to
40 construct beyond the time period provided for in subsection J, paragraph 3
41 of this section but may not include the costs of those necessary public
42 services or facility expansions in the calculation of development fees.

43 H. A county's development fees ordinance shall provide:

44 1. That new development fees or an increased portion of modified
45 development fees may not be assessed against a development for twenty-four
46 months after the date that the county issues the final approval for a
47 commercial, industrial or multifamily development or the date that the
48 first building permit is issued for a residential development pursuant to
49 an approved site plan or subdivision plat, only if subsequent changes are

1 not made to the approved site plan or subdivision plat that would increase
2 the number of service units. If the number of service units increases,
3 the new or increased portion of modified development fees shall be limited
4 to the amount attributable to the additional service units. The period is
5 not extended by a renewal or amendment of the site plan or the final
6 subdivision plat that was the subject of the final approval. The county
7 shall issue, on request, a written statement of the development fees
8 schedule applicable to the development. If, after the date of the
9 county's final approval of a development, the county reduces the
10 development fees assessed on development, the reduced fees shall apply to
11 the development.

12 2. A process for a development to request an alternative
13 development fee calculation or change in category of development that
14 appears on an adopted development fee schedule based on a projection that
15 the actual burdens and costs associated with the county's provision of
16 necessary public services or facility expansions to the development that
17 are to be paid by development fees will differ substantially from those
18 costs projected by the county or will be substantially less than the
19 amount projected to be paid by development fees. The county manager or
20 the county manager's designee shall review the request and make a
21 determination as to the development fee to be assessed. The assessed
22 development fee shall have a substantial nexus to the actual burdens and
23 costs associated with providing the necessary public services or facility
24 expansions to that development that are to be funded by development fees.
25 The determination of the county manager is appealable to the board of
26 supervisors.

27 I. A county shall do one of the following:

28 1. Before the adoption of the proposed or updated land use
29 assumptions, infrastructure improvements plan and development fees as
30 prescribed in subsection E of this section, appoint an infrastructure
31 improvements advisory committee, subject to the following requirements:

32 (a) The advisory committee shall be composed of at least five
33 members who are appointed by the board of supervisors. At least fifty
34 percent of the members of the advisory committee must be representatives
35 of the real estate, development or building industries, of which at least
36 one member of the committee must be from the home building industry.
37 Members may not be employees or officials of the county.

38 (b) The advisory committee shall serve in an advisory capacity and
39 shall:

40 (i) Advise the county in adopting land use assumptions and in
41 determining whether the assumptions are in conformance with the general
42 plan of the county.

43 (ii) Review the infrastructure improvements plan and file written
44 comments.

45 (iii) Monitor and evaluate implementation of the infrastructure
46 improvements plan.

47 (iv) Every year file reports with respect to the progress of the
48 infrastructure improvements plan and the collection and expenditures of
49 development fees and report to the county any perceived inequities in

1 implementing the infrastructure improvements plan or assessing the
2 development fees.

3 (v) Advise the county of the need to update or revise the land use
4 assumptions, infrastructure improvements plan and development fees.

5 (c) The county shall make available to the advisory committee any
6 professional reports with respect to developing and implementing the
7 infrastructure improvements plan.

8 (d) The county shall adopt procedural rules for the advisory
9 committee to follow in carrying out the advisory committee's duties.

10 2. Provide for a biennial certified audit of the county's land use
11 assumptions, infrastructure improvements plan and development fees. An
12 audit pursuant to this paragraph shall be conducted by one or more
13 qualified professionals who are not employees or officials of the county
14 and who did not prepare the infrastructure improvements plan. The audit
15 shall review the progress of the infrastructure improvements plan,
16 including the collection and expenditures of development fees for each
17 project in the infrastructure improvements plan, and evaluate any
18 inequities in implementing the infrastructure improvements plan or
19 imposing the development fees. The county shall post the findings of the
20 audit on the county's website and shall conduct a public hearing on the
21 audit within sixty days after the release of the audit to the public.

22 J. On written request, an owner of real property for which
23 development fees have been paid after December 31, 2020 is entitled to a
24 refund of the development fees or any part of the development fees if:

25 1. Pursuant to subsection B, paragraph 6 of this section, existing
26 facilities are available and service is not provided.

27 2. The county, after collecting the fees to construct a facility
28 when service is not available, has failed to complete construction within
29 the time period identified in the infrastructure improvements plan, but in
30 no event later than the time period specified in paragraph 3 of this
31 subsection.

32 3. For development fees other than development fees for water or
33 wastewater facilities, any part of the development fees is not spent as
34 authorized by this section within ten years after the fees have been paid
35 or, for development fees for water or wastewater facilities, any part of
36 the development fees is not spent as authorized by this section within
37 fifteen years after the development fees have been paid.

38 K. If the development fees were collected for the construction of
39 all or a portion of a specific item of infrastructure, and on completion
40 of the infrastructure the county determines that the actual cost of
41 construction was less than the forecasted cost of construction on which
42 the development fees were based and the difference between the actual and
43 estimated cost is greater than ten percent, the current owner may receive
44 a refund of the portion of the development fees equal to the difference
45 between the development fees paid and the development fees that would have
46 been due if the development fees had been calculated at the actual
47 construction cost.

1 L. A refund shall include any interest earned by the county from
2 the date of collection to the date of refund on the amount of the refunded
3 fees. All refunds shall be paid to the owner of record of the property at
4 the time the refund is paid. If the development fees are paid by a
5 governmental entity, the refund shall be paid to the governmental entity.

6 M. Development fees that were adopted before January 1, 2017 may
7 continue to be assessed only to the extent that the development fees will
8 be used to provide a necessary public service for which development fees
9 can be assessed pursuant to this section and shall be replaced by
10 development fees imposed under this section on or before January 1, 2021.
11 Any county having development fees that have not been replaced under this
12 section on or before January 1, 2021 may not collect development fees
13 until the development fees have been replaced with fees that comply with
14 this section. Development fees adopted or amended by a county after
15 January 1, 2017 shall comply with this section. Any development fees
16 monies collected before January 1, 2017 remaining in a development fees
17 account:

18 1. Shall be used ~~towards~~ TOWARD the same category of necessary
19 public services as authorized by this section.

20 2. ~~And~~ THAT WERE collected for a purpose not authorized by this
21 section shall be used for the purpose for which the development fees were
22 collected on or before January 1, 2024, and after which, if not spent,
23 shall be distributed equally among the categories of necessary public
24 services authorized by this section.

25 N. A moratorium may not be placed on development for the sole
26 purpose of awaiting completion of all or any part of the process necessary
27 to develop, adopt or update development fees.

28 O. In any judicial action interpreting this section all powers
29 conferred on a county by this section shall be narrowly construed to
30 ensure that development fees are not used to impose on new residents a
31 burden all taxpayers of a county should bear equally.

32 P. Each county that assesses development fees shall submit an
33 annual report accounting for the collection and use of the fees for each
34 service area. The annual report shall include the following:

35 1. The amount assessed by the county for each type of development
36 fee.

37 2. The balance of each fund maintained for each type of development
38 fee assessed as of the beginning and end of the fiscal year.

39 3. The amount of interest or other earnings on the monies in each
40 fund as of the end of the fiscal year.

41 4. The amount of development fee monies used to repay:

42 (a) Bonds issued by the county to pay the cost of a necessary
43 public service that is the subject of a development fees assessment,
44 including the amount needed to repay the debt service obligations on each
45 facility for which development fees have been identified as the source of
46 funding and the time frames in which the debt service will be repaid.

47 (b) Monies advanced by the county from funds other than the funds
48 established for development fees in order to pay the cost of a necessary
49 public service that is the subject of a development fees assessment, the

1 total amount advanced by the county for each facility, the source of the
2 monies advanced and the terms under which the monies will be repaid to the
3 county.

4 5. The amount of development fees monies spent on each necessary
5 public service or facility expansion that is the subject of a development
6 fees assessment and the physical location of each capital improvement
7 project.

8 6. The amount of development fees monies spent for each purpose
9 other than a necessary public service or facility expansion that is the
10 subject of a development fees assessment.

11 Q. Within ninety days following the end of each fiscal year, each
12 county shall submit a copy of the annual report to the clerk of the board
13 of supervisors and post the annual report on the county's website. Copies
14 shall be made available to the public on request. The annual report may
15 contain financial information that has not been audited.

16 R. A county that fails to file the report and post the annual
17 report on the county's website as required by this section shall not
18 collect development fees until the report is filed and posted.

19 S. Any action to collect development fees shall be commenced within
20 two years after the obligation to pay the development fees accrues.

21 T. A county may continue to assess development fees adopted before
22 January 1, 2017 for any facility that was financed before June 1, 2016 if:

23 1. Development fees were pledged to repay debt service obligations
24 related to the construction of the facility.

25 2. After January 1, 2018, any development fees collected under this
26 subsection are used solely for the payment of principal and interest on
27 the portion of the bonds, notes or other debt service obligations issued
28 before June 1, 2016 to finance construction of the facility.

29 U. Through January 1, 2018, development fees adopted before January
30 1, 2017 may be used to finance construction of a facility and may be
31 pledged to repay debt service obligations if:

32 1. The facility that is being financed is a facility that is
33 described under subsection V, paragraph 7, subdivision (a), (b), (c), (d)
34 or (e) of this section.

35 2. The facility was included in an infrastructure improvements plan
36 adopted before June 1, 2016.

37 3. The development fees are used for the payment of principal and
38 interest on the portion of the bonds, notes or other debt service
39 obligations issued to finance construction of the necessary public
40 services or facility expansions identified in the infrastructure
41 improvements plan.

42 V. For the purposes of this section:

43 1. "Dedication" means the actual conveyance date or the date an
44 improvement, facility or real or personal property is placed into service,
45 whichever occurs first.

1 2. "Development" means:

2 (a) The subdivision of land.

3 (b) The construction, reconstruction, conversion, structural
4 alteration, relocation or enlargement of any structure that adds or
5 increases the number of service units.

6 (c) Any use or extension of the use of land that increases the
7 number of service units.

8 3. "Facility expansion" means the expansion of the capacity of an
9 existing facility that serves the same function as an otherwise new
10 necessary public service in order that the existing facility may serve new
11 development. Facility expansion does not include the repair, maintenance,
12 modernization or expansion of an existing facility to better serve
13 existing development.

14 4. "Final approval" means, for nonresidential or multifamily
15 development, the approval of a site plan or, if no site plan is submitted
16 for the development, the approval of a final subdivision plat.

17 5. "Infrastructure improvements plan" means a written plan that
18 identifies each necessary public service or facility expansion that is
19 proposed to be the subject of development fees and otherwise complies with
20 the requirements of this section and may be the county's capital
21 improvements plan.

22 6. "Land use assumptions" means projections of changes in land
23 uses, densities, intensities and population for a specified service area
24 over a period of at least ten years and pursuant to the general plan of
25 the county.

26 7. "Necessary public service" means any of the following facilities
27 that have a life expectancy of three or more years and that are owned and
28 operated by or on behalf of the county:

29 (a) Water facilities, including the supply, transportation,
30 treatment, purification and distribution of water, and any appurtenances
31 for those facilities.

32 (b) Wastewater facilities, including collection, interception,
33 transportation, treatment and disposal of wastewater, and any
34 appurtenances for those facilities.

35 (c) Street facilities located in the service area, including
36 arterial or collector streets or roads that have been designated on an
37 officially adopted plan of the county, traffic signals and rights-of-way
38 and improvements thereon. Improvements to rights-of-way do not include
39 streetcars, railways or other forms of transportation and their
40 corresponding tracks.

41 (d) Public safety facilities, including all appurtenances,
42 equipment and vehicles. Public safety facilities do not include a
43 facility or portion of a facility that is used to replace services that
44 were once provided elsewhere in the county, vehicles and equipment used to
45 provide administrative services, helicopters or airplanes, paramilitary
46 vehicles, court and judicial facilities, facilities that are used for
47 training firefighters or officers from more than one station or substation
48 or jail, correctional or detention facilities.

1 (e) Neighborhood parks and recreational facilities on real property
2 up to thirty acres in area, or parks and recreational facilities larger
3 than thirty acres if the facilities provide a direct benefit to the
4 development. Parks and recreational facilities do not include vehicles,
5 equipment of that portion of any facility that is used for amusement
6 parks, aquariums, aquatic centers, auditoriums, arenas, arts and cultural
7 facilities, bandstand and orchestra facilities, bathhouses, boathouses,
8 clubhouses, community centers greater than three thousand square feet in
9 floor area, environmental education centers, equestrian facilities,
10 trails, golf course facilities, greenhouses, lakes, museums, theme parks,
11 water reclamation or riparian areas, wetlands, zoo facilities or similar
12 recreational facilities, but may include swimming pools and equipment or
13 improvements constituting accessory or incidental amenities to a park or
14 recreational facility allowed under this section.

15 (f) Any facility that was financed and that meets all of the
16 requirements prescribed in subsection T of this section.

17 8. "Qualified professional" means a professional engineer,
18 surveyor, financial analyst or planner providing services within the scope
19 of the person's license, education or experience.

20 9. "Service area" means any specified area within the boundaries of
21 a county in which development will be served by necessary public services
22 or facility expansions and within which a substantial nexus exists between
23 the necessary public services or facility expansions and the development
24 being served as prescribed in the infrastructure improvements plan.

25 10. "Service unit" means a standardized measure of consumption,
26 use, generation or discharge attributable to an individual unit of
27 development calculated using data specific to the service area in which
28 the facility will be located and pursuant to generally accepted
29 engineering or planning standards for a particular category of necessary
30 public services or facility expansions.

31 Sec. 3. Title 48, Arizona Revised Statutes, is amended by adding
32 chapter 40, to read:

33 CHAPTER 40

34 INFRASTRUCTURE FINANCE DISTRICTS

35 ARTICLE 1. GENERAL PROVISIONS

36 48-7001. Definitions

37 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

38 1. "AD VALOREM TAX" MEANS THE LIMITED PROPERTY TAXES LEVIED BY A
39 DISTRICT AGAINST THE NET ASSESSED LIMITED PROPERTY VALUATION OF REAL AND
40 PERSONAL PROPERTY IN THE DISTRICT.

41 2. "ASSESSMENT" MEANS A CHARGE FOR THE COSTS OF ANY PUBLIC
42 INFRASTRUCTURE PURPOSE LEVIED BY THE DISTRICT AGAINST SPECIFIC REAL
43 PROPERTY WITHIN THE DISTRICT FOR THE COSTS OF ANY PUBLIC INFRASTRUCTURE
44 PURPOSE BASED ON THE BENEFIT DETERMINED BY THE BOARD TO BE RECEIVED BY THE
45 SPECIFIC REAL PROPERTY AGAINST WHICH THE ASSESSMENT IS LEVIED.

46 3. "AUTHORITY" MEANS THE ARIZONA FINANCE AUTHORITY ESTABLISHED BY
47 SECTION 41-5352.

48 4. "BOARD" MEANS THE BOARD OF DIRECTORS OF A DISTRICT CREATED
49 PURSUANT TO THIS CHAPTER.

- 1 5. "BONDS":
2 (a) MEANS ANY BOND PRESCRIBED BY THIS CHAPTER AND ISSUED BY A
3 DISTRICT.
4 (b) INCLUDES GENERAL OBLIGATION BONDS, ASSESSMENT BONDS, REVENUE
5 BONDS AND REFUNDING BONDS.
6 6. "CLERK" MEANS THE PERSON APPOINTED BY THE BOARD TO BE THE
7 DISTRICT CLERK.
8 7. "COUNTY" MEANS THE COUNTY IN WHICH A DISTRICT IS FORMED PURSUANT
9 TO THIS CHAPTER.
10 8. "DEBT SERVICE" MEANS THE PRINCIPAL OF, INTEREST ON AND PREMIUM,
11 IF ANY, ON THE BONDS, WHEN DUE, WHETHER AT MATURITY OR PRIOR REDEMPTION
12 AND FEES AND COSTS OF REGISTRARS, TRUSTEES, PAYING AGENTS OR OTHER AGENTS
13 NECESSARY TO HANDLE THE BONDS AND THE COSTS OF CREDIT ENHANCEMENT OR
14 LIQUIDITY SUPPORT.
15 9. "DISTRICT" MEANS AN INFRASTRUCTURE FINANCE DISTRICT FORMED
16 PURSUANT TO THIS CHAPTER.
17 10. "FINANCING PLAN" MEANS THE DISTRICT'S CAPITAL PLAN CONTAINING
18 FINANCIAL PROJECTIONS, ENGINEERING STUDIES, COST ALLOCATION, SEQUENCING
19 AND MARKET-VALUE ANALYSES.
20 11. "FORMATION ORDER" MEANS THE WRITTEN ORDER ISSUED BY THE
21 AUTHORITY EVIDENCING ITS FINAL APPROVAL OF THE FORMATION OF A DISTRICT
22 PURSUANT TO THIS CHAPTER.
23 12. "GENERAL PLAN" MEANS THE GENERAL PLAN DESCRIBED IN SECTION
24 48-7002, SUBSECTION B, AS THE PLAN MAY BE AMENDED.
25 13. "MARKET VALUE" HAS THE SAME MEANING AS PRESCRIBED IN SECTION
26 28-7091, AS INDICATED BY AN APPRAISAL OF THE REAL PROPERTY BY AN APPRAISER
27 WHO IS LICENSED OR CERTIFIED PURSUANT TO TITLE 32, CHAPTER 36.
28 14. "MUNICIPALITY" MEANS A CITY OR TOWN.
29 15. "O/M TAX" MEANS A SECONDARY PROPERTY TAX LEVIED TO PAY THE
30 EXPENSES OF OPERATING, MAINTAINING AND ADMINISTERING THE DISTRICT AND THE
31 PUBLIC INFRASTRUCTURE FINANCED BY THE DISTRICT, INCLUDING LEGAL EXPENSES
32 AND EXPENSES ASSOCIATED WITH INSURANCE COVERAGE, AS APPROVED BY THE
33 DISTRICT IN ITS BUDGET.
34 16. "PETITION" MEANS A PETITION SUBMITTED TO THE AUTHORITY TO
35 INITIATE FORMATION OF A DISTRICT PURSUANT TO THIS CHAPTER.
36 17. "PETITIONER" MEANS THE PERSON OR ENTITY THAT INITIATES THE
37 FORMATION OF A DISTRICT BY SUBMITTING A PETITION TO THE AUTHORITY PURSUANT
38 TO THIS CHAPTER AND INCLUDES ANY SUCCESSOR OR ASSIGNEE OF THAT PERSON OR
39 ENTITY THAT THE AUTHORITY RECOGNIZES AS THE PETITIONER FOR THE PURPOSES OF
40 THE PETITION AND FORMATION ORDER.
41 18. "PUBLIC INFRASTRUCTURE" MEANS:
42 (a) WATER, WASTEWATER, SEWER, STORMWATER AND FLOOD CONTROL
43 FACILITIES AND APPURTENANCES USED FOR THE DEVELOPMENT, TREATMENT, STORAGE,
44 CONVEYANCE, CONTROL, REUSE, DISTRIBUTION, CONNECTION AND LAWFUL
45 DISPOSITION OF POTABLE AND NONPOTABLE WATER, WASTEWATER, STORMWATER AND
46 FLOODWATERS FOR RESIDENTIAL, COMMERCIAL, GOVERNMENTAL, IRRIGATION AND
47 FIRE-SUPPRESSION USES, EXCLUDING INFRASTRUCTURE DEDICATED PRIMARILY TO
48 AGRICULTURAL IRRIGATION FACILITIES IMPACTED BY OTHER IMPROVEMENTS
49 AUTHORIZED BY THIS CHAPTER AND ENERGY AND UTILITY FACILITIES AND

1 APPURTENANCES USED FOR THE GENERATION, INTERCONNECTION, TRANSMISSION,
2 DISTRIBUTION, STORAGE AND CONTROL OF ELECTRIC POWER AND OTHER ENERGY
3 RESOURCES AND NATURAL GAS AND ALTERNATIVE FUEL PIPELINE AND DISTRIBUTION
4 FACILITIES, ALL TO THE EXTENT LOCATED WITHIN OR NECESSARY TO SERVE THE
5 DISTRICT.

6 (b) TRANSPORTATION AND MOBILITY FACILITIES, IMPROVEMENTS AND
7 APPURTENANCES USED TO PROVIDE VEHICULAR AND NON-VEHICULAR CIRCULATION,
8 ACCESS, EGRESS AND PARKING, INCLUDING STREETS, ROADS, HIGHWAYS, BRIDGES,
9 ALLEYS, PARKING FACILITIES, SIDEWALKS, TRAILS, PATHWAYS, BICYCLE
10 FACILITIES, EQUESTRIAN ROUTES AND OTHER AREAS AND IMPROVEMENTS INTENDED
11 FOR MOTORIZED AND NONMOTORIZED TRAVEL AND PARKING, AND, IF LOCATED WITHIN
12 OR NECESSARY TO SERVE THE DISTRICT, RAILWAY CORRIDORS, RAIL CROSSINGS,
13 GRADE SEPARATIONS, SIDINGS, SIGNALIZATION AND RELATED RAIL TRANSPORTATION
14 FACILITIES AND TRAFFIC MANAGEMENT AND CONTROL FACILITIES AND DEVICES,
15 INCLUDING SIGNALS, INTELLIGENT TRANSPORTATION SYSTEMS, CONTROLS, PAVEMENT
16 MARKINGS, WAYFINDING, SIGNAGE AND LIGHTING AND ILLUMINATIONS SYSTEMS,
17 INCLUDING STREET LIGHTING, PATHWAY LIGHTING, AREA LIGHTING AND RELATED
18 ELECTRICAL AND CONTROL FACILITIES.

19 (c) PUBLIC REALM AND OPEN SPACE AMENITIES, INCLUDING PEDESTRIAN
20 MALLS, PARKS, PLAZAS, RECREATIONAL FACILITIES OTHER THAN STADIUMS, AND
21 OTHER AREAS AND IMPROVEMENTS INTENDED FOR PUBLIC ENTERTAINMENT, ASSEMBLY,
22 AND RECREATION, TOGETHER WITH LANDSCAPING, GRADING, EARTHWORKS,
23 STRUCTURES, LAKES AND WATER FEATURES, PLANTINGS, TREES, IRRIGATION AND
24 WATER DELIVERY SYSTEMS AND RELATED SITE IMPROVEMENTS.

25 (d) PUBLIC BUILDINGS AND PUBLIC SAFETY FACILITIES, INCLUDING
26 POLICE, FIRE AND EMERGENCY SERVICES FACILITIES AND RELATED IMPROVEMENTS.

27 (e) COMMUNICATIONS AND DIGITAL INFRASTRUCTURE, INCLUDING
28 FIBEROPTIC, WIRELESS AND BROADBAND FACILITIES, CONDUITS, TOWERS, ANTENNAS,
29 DATA TRANSMISSION SYSTEMS, NETWORK EQUIPMENT, PUBLIC SAFETY COMMUNICATIONS
30 FACILITIES, AND RELATED APPURTENANCES AND RIGHTS-OF-WAY.

31 (f) EQUIPMENT, VEHICLES, FURNISHINGS, TECHNOLOGY AND OTHER PERSONAL
32 PROPERTY AND APPURTENANCES RELATED TO OR NECESSARY FOR THE OPERATION OF
33 ANY PUBLIC INFRASTRUCTURE AUTHORIZED BY THIS CHAPTER.

34 (g) REFINANCING ANY MATURED OR UNMATURED BONDS WITH NEW BONDS.

35 19. "PUBLIC INFRASTRUCTURE PURPOSE" MEANS:

36 (a) PLANNING, DESIGNING, ENGINEERING, CONSTRUCTING, ACQUIRING OR
37 INSTALLING OF PUBLIC INFRASTRUCTURE.

38 (b) ACQUIRING, CONVERTING, RENOVATING OR IMPROVING EXISTING
39 FACILITIES FOR PUBLIC INFRASTRUCTURE.

40 (c) ACQUIRING INTERESTS IN REAL PROPERTY FOR PUBLIC INFRASTRUCTURE.

41 (d) ESTABLISHING, MAINTAINING AND REPLENISHING RESERVES IN ORDER TO
42 SECURE PAYMENT OF DEBT SERVICE ON BONDS.

43 (e) FUNDING AND PAYING FROM BOND PROCEEDS INTEREST ACCRUING ON
44 BONDS FOR A PERIOD OF NOT TO EXCEED THREE YEARS AFTER THEIR DATE OF
45 ISSUANCE.

46 (f) PROVIDING FOR THE TIMELY PAYMENT OF DEBT SERVICE ON
47 INDEBTEDNESS OF THE DISTRICT OR OF DEVELOPMENT FEES OR SIMILAR EXACTIONS
48 IMPOSED BY A MUNICIPALITY OR OTHER PUBLIC ENTITY, TO THE EXTENT THOSE

1 CHARGES ARE IMPOSED TO FUND PUBLIC INFRASTRUCTURE THAT IS LOCATED WITHIN,
2 PRIMARILY SERVES OR IS NECESSITATED BY DEVELOPMENT WITHIN THE DISTRICT.

3 (g) REFINANCING ANY MATURED OR UNMATURED BONDS WITH NEW BONDS.

4 (h) INCURRING EXPENSES OF THE DISTRICT THAT ARE INCIDENTAL TO AND
5 REASONABLY NECESSARY TO CARRY OUT THE PURPOSES SPECIFIED IN THIS
6 PARAGRAPH.

7 20. "QUALIFIED ELECTOR" MEANS A PERSON WHO IS A QUALIFIED ELECTOR
8 PURSUANT TO TITLE 16 AND WHO RESIDES WITHIN THE BOUNDARIES OF A DISTRICT.

9 21. "TREASURER" MEANS THE PERSON APPOINTED BY THE BOARD TO BE THE
10 DISTRICT TREASURER.

11 48-7002. Petition to form district; contents of petition;
12 filings; fees; limitation of liability

13 A. AN INFRASTRUCTURE FINANCE DISTRICT MAY BE FORMED PURSUANT TO
14 THIS CHAPTER BY PETITION OF ALL INDIVIDUALS AND ENTITIES HAVING FEE-TITLE
15 OWNERSHIP OF ALL REAL PROPERTY IN THE PROPOSED DISTRICT. THE PETITION
16 SHALL BE SUBMITTED TO THE AUTHORITY. THE DISTRICT MAY INCLUDE CONTIGUOUS
17 OR NONCONTIGUOUS PROPERTY.

18 B. THE PETITION SHALL CONTAIN ALL OF THE FOLLOWING:

19 1. A METES AND BOUNDS DESCRIPTION AND A MAP OF THE DISTRICT
20 BOUNDARIES.

21 2. THE PROPOSED NAME OF THE DISTRICT.

22 3. A PRELIMINARY FINANCING PLAN THAT INCLUDES THE SOURCES AND USES
23 OF MONIES FOR THE PUBLIC INFRASTRUCTURE AND ECONOMIC FEASIBILITY
24 INFORMATION INDICATING THAT THE LAND VALUES, EXISTING IMPROVEMENTS AND
25 PUBLIC INFRASTRUCTURE TO BE FINANCED WITHIN THE DISTRICT WILL BE
26 SUFFICIENT TO SUPPORT A TAX RATE THAT DOES NOT EXCEED THE MAXIMUM
27 AUTHORIZED TAX RATE FOR PROPOSED INDEBTEDNESS OF THE DISTRICT.

28 4. A GENERAL PLAN SETTING OUT A GENERAL DESCRIPTION OF THE PUBLIC
29 INFRASTRUCTURE FOR WHICH THE DISTRICT IS PROPOSED TO BE FORMED AND FOR
30 WHICH BONDS MAY BE ISSUED, THE GENERAL AREAS TO BE IMPROVED AND THE
31 ESTIMATED COSTS OF CONSTRUCTING OR ACQUIRING THE PUBLIC INFRASTRUCTURE TO
32 BE FINANCED, CONSTRUCTED OR ACQUIRED BY THE DISTRICT.

33 5. A GENERAL DESCRIPTION OF THE ESTIMATED COST OF ENGINEERING
34 SERVICES, LEGAL SERVICES, ADMINISTRATIVE SERVICES AND OTHER MAJOR EXPENSES
35 THAT ARE RELATED TO ORGANIZING AND INITIALLY OPERATING THE DISTRICT.

36 6. AN ENGINEER'S ESTIMATE OF THE COSTS OF THE PUBLIC INFRASTRUCTURE
37 FOR WHICH THE DISTRICT IS PROPOSED TO BE FORMED AND FOR WHICH BONDS MAY BE
38 ISSUED.

39 7. THE MAXIMUM AUTHORIZED TAX RATE, THE MAXIMUM AGGREGATE PRINCIPAL
40 AMOUNT OF GENERAL OBLIGATION BONDS AND THE MAXIMUM AGGREGATE ASSESSMENT
41 AMOUNT, IF ANY.

42 8. THE MAXIMUM O/M TAX RATE, IF ANY.

43 9. AN APPRAISAL INDICATING THE AGGREGATE AS-IS MARKET VALUE OF REAL
44 PROPERTY IN THE DISTRICT AND PROJECTIONS AS TO THE LIMITED PROPERTY VALUE
45 AND MARKET VALUE OF REAL PROPERTY IN THE DISTRICT FOR EACH YEAR IN WHICH
46 GENERAL OBLIGATION BONDS AND ASSESSMENT BONDS ARE PROPOSED TO BE
47 OUTSTANDING.

1 10. A STATEMENT OF ALL HOLDERS OF FEE TITLE TO ALL REAL PROPERTY IN
2 THE DISTRICT, THE INITIAL BOARD MEMBERS, THE INITIAL TERMS OF OFFICE OF
3 THE INITIAL BOARD MEMBERS AND THE DISTRICT CLERK AND THE DISTRICT
4 TREASURER.

5 11. A STATEMENT OF BOND COUNSEL INDICATING THAT THE PETITION
6 COMPLIES WITH THE PROCEDURAL REQUIREMENTS OF THIS SECTION.

7 12. A COPY OF ANY DEVELOPMENT AGREEMENT OR OTHER AGREEMENT WITH THE
8 MUNICIPALITY OR THE COUNTY, IF ANY, THAT RELATES TO THE LAND INCLUDED
9 WITHIN THE BOUNDARIES OF THE PROPOSED DISTRICT OR TO THE PUBLIC
10 INFRASTRUCTURE TO BE FINANCED BY THE PROPOSED DISTRICT.

11 13. A WRITTEN STATEMENT, SIGNED BY AN ENGINEER, CERTIFYING THAT THE
12 ESTIMATED COST OF THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED IN THE
13 PROPOSED DISTRICT EXCEEDS \$5,000,000.

14 14. A FORMATION ORDER IN SUBSTANTIALLY FINAL AND RECORDABLE FORM.

15 15. A DESCRIPTION OF THE PETITIONER, INCLUDING:

16 (a) THE ORGANIZATIONAL STRUCTURE OF EACH ENTITY OR INDIVIDUAL THAT
17 HOLD FEE TITLE TO THE LAND AREA IN THE PROPOSED DISTRICT, INCLUDING THE
18 NAMES OF ALL OFFICERS AND DIRECTORS OF EACH ENTITY THAT HOLD FEE TITLE TO
19 THE LAND AREA IN THE PROPOSED DISTRICT.

20 (b) THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PRIMARY CONTACT
21 FOR THE PETITIONER.

22 (c) THE NAMES OF ANY LEGAL REPRESENTATIVES, ENGINEERS, ARCHITECTS,
23 FINANCIAL CONSULTANTS OR OTHER CONSULTANTS THAT ARE SIGNIFICANTLY INVOLVED
24 IN THE PETITION.

25 (d) A GENERAL DESCRIPTION OF THE PETITIONER'S EXPERIENCE WITH
26 SIMILAR TYPES OF DEVELOPMENTS THAT THE DISTRICT WILL SUPPORT.

27 C. ANY FINANCIAL BURDEN OF A DISTRICT IS BORNE SOLELY BY THE
28 DISTRICT AND IS NOT BORNE BY THE AUTHORITY, THIS STATE OR ANY
29 MUNICIPALITY, COUNTY OR OTHER POLITICAL SUBDIVISION OF THIS STATE. ANY
30 LIABILITY, JUDGMENT OR CLAIM AGAINST A DISTRICT IS THE SOLE RESPONSIBILITY
31 OF THE DISTRICT AND DOES NOT CONSTITUTE A LIABILITY, JUDGMENT OR CLAIM
32 AGAINST THE AUTHORITY, THIS STATE OR ANY MUNICIPALITY, COUNTY OR OTHER
33 POLITICAL SUBDIVISION OF THIS STATE.

34 D. THE PETITION SHALL BE FILED WITH THE AUTHORITY. THE PETITIONER
35 SHALL PROVIDE WRITTEN NOTICE OF THE FILING OF THE PETITION TO EACH
36 AFFECTED MUNICIPALITY AND, IF THE DISTRICT IS LOCATED IN AN UNINCORPORATED
37 AREA, TO THE COUNTY. THE NOTICE SHALL STATE THAT THE DISTRICT WILL BE
38 FORMED NOT LESS THAN THIRTY DAYS AND NOT MORE THAN SIXTY DAYS AFTER
39 SUBMITTING THE PETITION, SUBJECT TO APPROVAL BY THE AUTHORITY.

40 E. IF THE AUTHORITY DETERMINES THAT THE PETITION IS INCOMPLETE OR
41 DEFICIENT, THE AUTHORITY SHALL NOTIFY THE PETITIONER AND THE PETITIONER
42 SHALL HAVE A PERIOD OF SIXTY DAYS AFTER NOTICE OF THE DEFICIENCIES TO
43 CORRECT THE DEFICIENCIES. IF THE DEFICIENCIES ARE NOT CORRECTED WITHIN
44 SIXTY DAYS AFTER NOTICE, THE AUTHORITY MAY REJECT THE PETITION.

45 48-7003. Authority; formation order; limitations on
46 rejection; fees

47 A. A DISTRICT SHALL BE FORMED ONLY ON THE ISSUANCE OF A FORMATION
48 ORDER BY THE AUTHORITY. THE AUTHORITY SHALL REVIEW THE PETITION SUBMITTED

1 PURSUANT TO SECTION 48-7002 AND ACCOMPANYING MATERIALS TO EVALUATE, SOLELY
2 ON THE BASIS OF THE INFORMATION INCLUDED WITH THE PETITION, THE FOLLOWING:
3 1. FINANCIAL FEASIBILITY OF THE DISTRICT.
4 2. ENGINEERING SUFFICIENCY OF THE PROPOSED PUBLIC INFRASTRUCTURE.
5 3. FINANCIAL STRUCTURE OF THE PROPOSED DISTRICT AND FINANCINGS.
6 4. DEBT CAPACITY AND MARKET-VALUE COMPLIANCE UNDER THIS CHAPTER.
7 5. WHETHER THE PROPOSED DISTRICT IS DETERMINED TO BE IN THE BEST
8 INTEREST OF THIS STATE.
9 6. WHETHER FORMATION OF THE DISTRICT WILL VIOLATE ANY APPLICABLE
10 GENERAL PLAN OR COMPREHENSIVE PLAN OR ANY EXISTING DEVELOPMENT AGREEMENT
11 RELATING TO LAND WITHIN THE DISTRICT.
12 B. THE AUTHORITY SHALL APPROVE FORMATION OF THE DISTRICT AND ISSUE
13 THE FORMATION ORDER FOR THE DISTRICT IF THE AUTHORITY FINDS THAT ALL OF
14 THE FOLLOWING OCCURRED:
15 1. ALL REQUIRED DOCUMENTS HAVE BEEN SUBMITTED IN THE FORM
16 PRESCRIBED BY THIS CHAPTER.
17 2. THE PROPOSED DISTRICT MEETS ALL STATUTORY ELIGIBILITY AND
18 BOUNDARY REQUIREMENTS THAT ARE ESTABLISHED UNDER THIS CHAPTER.
19 3. THE NOTICE TO EACH AFFECTED MUNICIPALITY AND, IF THE DISTRICT IS
20 LOCATED IN AN UNINCORPORATED AREA, TO THE COUNTY HAS BEEN PROVIDED AS
21 PRESCRIBED BY SECTION 48-7002, SUBSECTION D.
22 4. THE AUTHORITY HAS RECEIVED ALL REQUIRED ENGINEERING AND ECONOMIC
23 FEASIBILITY FINDINGS THAT ARE REQUIRED BY THE PETITION AND, SOLELY ON THE
24 BASIS OF THOSE FINDINGS, THE AUTHORITY DETERMINED THAT THE DISTRICT HAS,
25 OR WILL HAVE, THE FINANCIAL ABILITY TO DISCHARGE THE PROPOSED INDEBTEDNESS
26 ON A REASONABLE BASIS.
27 C. IF THE REQUIREMENTS OF SUBSECTION B OF THIS SECTION ARE
28 SATISFIED, THE AUTHORITY SHALL ISSUE A FORMATION ORDER WITHIN SIXTY DAYS
29 AFTER THE SUBMISSION OF A COMPLETE PETITION. THE FORMATION ORDER SHALL
30 INCLUDE ALL OF THE FOLLOWING:
31 1. THE NAME OF THE DISTRICT.
32 2. A METES AND BOUNDS DESCRIPTION AND A MAP OF THE DISTRICT'S
33 BOUNDARIES.
34 3. A GENERAL DESCRIPTION OF THE PUBLIC INFRASTRUCTURE THAT THE
35 DISTRICT MAY FINANCE.
36 4. A STATEMENT THAT A GENERAL PLAN AND A PRELIMINARY FINANCING PLAN
37 FOR THE DISTRICT ARE ON FILE WITH THE CLERK.
38 5. THE TYPES OF BONDS THAT THE DISTRICT IS AUTHORIZED TO ISSUE.
39 6. THE MAXIMUM AUTHORIZED TAX RATE, THE MAXIMUM AUTHORIZED
40 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, THE MAXIMUM
41 AGGREGATE ASSESSMENT AMOUNT AND THE MAXIMUM O/M TAX RATE.
42 7. THE NAMES AND INITIAL TERMS OF THE INITIAL BOARD OF DIRECTORS
43 AND THAT THE DISTRICT WILL BE GOVERNED BY DIRECTORS WHO ARE CHOSEN
44 PURSUANT TO THIS CHAPTER.
45 8. A STATEMENT THAT:
46 (a) THE FORMATION OF THE DISTRICT MAY RESULT IN THE LEVY OF AD
47 VALOREM TAXES OR ASSESSMENTS TO PAY THE COSTS OF AUTHORIZED PUBLIC
48 INFRASTRUCTURE THAT IS CONSTRUCTED BY THE DISTRICT AND FOR OPERATING AND
49 MAINTAINING THE AUTHORIZED PUBLIC INFRASTRUCTURE.

1 (b) ANY AD VALOREM TAX THAT IS LEVIED FOR THE PAYMENT OF GENERAL
2 OBLIGATION BONDS MAY NOT BE LEVIED AT A RATE THAT EXCEEDS THE MAXIMUM
3 AUTHORIZED TAX RATE THAT IS APPROVED AT THE ELECTION THAT AUTHORIZED THE
4 LEVY AND THE ISSUANCE OF THE BONDS.

5 (c) ANY BONDS OR OTHER OBLIGATIONS OF THE DISTRICT WILL NOT BE A
6 DEBT, LEGAL OR MORAL, OF THIS STATE OR ANY MUNICIPALITY OR ANY COUNTY OF
7 THIS STATE, ARE NOT OBLIGATIONS OF THIS STATE OR ANY MUNICIPALITY OR ANY
8 COUNTY OF THIS STATE AND ARE OBLIGATIONS OF THE DISTRICT AND ARE PAYABLE
9 ONLY FROM THE SOURCES PLEDGED FOR THEIR PAYMENT.

10 D. THE AUTHORITY SHALL APPROVE FORMATION OF THE DISTRICT AND ISSUE
11 THE FORMATION ORDER IF THE AUTHORITY DETERMINES THAT THE PETITION AND
12 ACCOMPANYING MATERIALS MEET THE STATUTORY REQUIREMENTS OF THIS CHAPTER.
13 THE AUTHORITY'S REVIEW IS LIMITED TO CONFIRMING THAT THE STATUTORY
14 REQUIREMENTS OF THIS CHAPTER HAVE BEEN SATISFIED AND THE AUTHORITY MAY
15 REJECT A PETITION ONLY IF:

16 1. THE PETITION IS INCOMPLETE.

17 2. THE FEASIBILITY INFORMATION IS INCOMPLETE OR INSUFFICIENT TO
18 SUPPORT A FINDING THAT THE DISTRICT HAS OR WILL HAVE THE FINANCIAL ABILITY
19 TO DISCHARGE THE PROPOSED INDEBTEDNESS ON A REASONABLE BASIS.

20 3. THE PROPOSED DISTRICT VIOLATES A STATUTORY PROHIBITION OR
21 BOUNDARY RULE UNDER THIS CHAPTER, AND IN EACH CASE THE PETITIONER FAILED
22 TO CORRECT THE DEFICIENCIES WITHIN SIXTY DAYS AFTER NOTICE.

23 E. IF THE AUTHORITY DOES NOT ISSUE THE FORMATION ORDER WITHIN SIXTY
24 DAYS AFTER SUBMISSION OF A COMPLETE PETITION, THE AUTHORITY SHALL PROVIDE
25 A WRITTEN BASIS FOR NOT ADOPTING THE FORMATION ORDER AND SHALL IDENTIFY
26 THE SPECIFIC CHANGES THAT ARE NEEDED FOR THE PETITION TO BE APPROVED AND
27 FOR THE DISTRICT TO BE FORMED. THE PETITION MAY BE REVISED AND RESUBMITTED
28 AT ANY TIME.

29 F. ON ISSUANCE OF THE FORMATION ORDER BY THE AUTHORITY, THE
30 DISTRICT SHALL CAUSE THE FORMATION ORDER TO BE RECORDED IN THE REAL
31 PROPERTY RECORDS OF THE COUNTY IN WHICH THE DISTRICT IS LOCATED AND SHALL
32 CAUSE A COPY OF THE FORMATION ORDER TO BE DELIVERED TO THE COUNTY ASSESSOR
33 AND THE BOARD OF SUPERVISORS OF THE COUNTY IN WHICH THE DISTRICT IS
34 LOCATED, TO ANY MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED AND TO THE
35 DEPARTMENT OF REVENUE. ON RECORDING THE FORMATION ORDER, THE DISTRICT IS
36 ESTABLISHED AS A POLITICAL SUBDIVISION OF THIS STATE.

37 G. BEFORE RECORDING A FORMATION ORDER UNDER THIS SECTION, A GENERAL
38 PLAN FOR THE DISTRICT SHALL BE FILED WITH THE CLERK THAT SETS OUT A
39 GENERAL DESCRIPTION OF THE IMPROVEMENTS FOR WHICH THE DISTRICT IS PROPOSED
40 TO BE FORMED AND THE AREAS TO BE IMPROVED.

41 H. ON FORMATION, THE DISTRICT IS A SPECIAL PURPOSE DISTRICT FOR THE
42 PURPOSES OF ARTICLE IX, SECTION 19, CONSTITUTION OF ARIZONA, A TAX LEVYING
43 PUBLIC IMPROVEMENT DISTRICT FOR THE PURPOSES OF ARTICLE XIII, SECTION 7,
44 CONSTITUTION OF ARIZONA, AND A MUNICIPAL CORPORATION FOR ALL PURPOSES OF
45 TITLE 35, CHAPTER 3, ARTICLES 3, 3.1, 3.2, 4 AND 5. A DISTRICT THAT
46 DISTRIBUTES OR SELLS GROUNDWATER IS A PRIVATE WATER COMPANY ONLY FOR THE
47 PURPOSES OF TITLE 45, CHAPTERS 2 AND 3.1. EXCEPT AS OTHERWISE PROVIDED IN
48 THIS SECTION, A DISTRICT IS CONSIDERED TO BE A MUNICIPAL CORPORATION AND
49 POLITICAL SUBDIVISION OF THIS STATE, SEPARATE AND APART FROM ANY

1 MUNICIPALITY OR COUNTY IN WHICH THE DISTRICT IS LOCATED. NOTWITHSTANDING
2 ANY OTHER LAW, A DISTRICT FORMED PURSUANT TO THIS CHAPTER DOES NOT HAVE
3 THE POWER OF EMINENT DOMAIN AND DOES NOT HAVE THE POWER TO ENACT ZONING
4 ORDINANCES.

5 I. ON FORMATION OF THE DISTRICT, THE BOARD SHALL MAKE A GOOD FAITH
6 EFFORT TO IMPLEMENT THE GENERAL PLAN FOR THE PUBLIC INFRASTRUCTURE OF THE
7 DISTRICT.

8 J. FEES AND OTHER CHARGES ASSESSED BY THE AUTHORITY IN CONNECTION
9 WITH THE SUBMISSION AND CONSIDERATION OF A PETITION TO FORM A DISTRICT MAY
10 NOT EXCEED \$15,000. IF A PETITION IS DENIED BY THE AUTHORITY, IT MAY NOT
11 ASSESS A FEE OR OTHER CHARGE IN CONNECTION WITH SUBMITTING AND CONSIDERING
12 A SUBSTANTIALLY SIMILAR PETITION THAT IS SUBMITTED WITHIN ONE YEAR AFTER
13 THE DENIAL. FEES AND OTHER CHARGES ASSESSED BY A DISTRICT IN CONNECTION
14 WITH ADMINISTERING THE DISTRICT, INCLUDING THE ISSUANCE AND SALE OF BONDS,
15 MAY NOT EXCEED THE ACTUAL EXPENSE INCURRED BY THE DISTRICT FOR STAFF AND
16 CONSULTANT SERVICES AND SUPPORT FACILITIES SUPPLIED BY THE DISTRICT OR THE
17 FINANCIAL, LEGAL AND ADMINISTRATIVE COSTS OF THE DISTRICT THAT ARE NOT
18 REIMBURSED FROM PROCEEDS OF THE BONDS OR OTHER DISTRICT REVENUE.

19 48-7004. District governance; board of directors; elections;
20 powers and duties

21 A. ON ISSUANCE OF THE FORMATION ORDER, A DISTRICT SHALL BE GOVERNED
22 BY A BOARD OF DIRECTORS THAT CONSISTS OF THREE DIRECTORS. THE INITIAL
23 DIRECTORS SHALL BE APPOINTED AS SET FORTH IN THE PETITION AND FORMATION
24 ORDER.

25 B. EACH DIRECTOR SHALL EITHER HOLD A FEE TITLE TO REAL PROPERTY
26 WITHIN THE DISTRICT OR BE AN INDIVIDUAL WHO IS DESIGNATED OR APPOINTED BY
27 A HOLDER OF A FEE TITLE TO REAL PROPERTY WITHIN THE DISTRICT.

28 C. THE TERM OF THE INITIAL DIRECTORS BEGINS ON THE DATE OF THE
29 FORMATION ORDER. OF THE INITIAL DIRECTORS, ONE DIRECTOR SHALL SERVE A
30 TERM OF THREE YEARS, ONE DIRECTOR SHALL SERVE A TERM OF FOUR YEARS AND ONE
31 DIRECTOR SHALL SERVE A TERM OF FIVE YEARS, AS SPECIFIED IN THE PETITION.
32 THEREAFTER, EACH SUBSEQUENTLY ELECTED DIRECTOR SHALL SERVE A TERM OF THREE
33 YEARS. THESE SUBSEQUENTLY ELECTED DIRECTORS SHALL BE AN OWNER OF REAL
34 PROPERTY IN THE DISTRICT WHO SHALL BE ELECTED AT LARGE BY THE OWNERS OF
35 REAL PROPERTY IN THE DISTRICT, AS SHOWN ON THE PROPERTY TAX ASSESSMENT
36 ROLL, WHO ARE QUALIFIED TO VOTE PURSUANT TO SECTION 48-7041. THE BOARD
37 SHALL DEVELOP BYLAWS FOR THE OPERATION OF THE DISTRICT.

38 D. ONLY THE OWNERS THAT HOLD FEE TITLE TO REAL PROPERTY IN THE
39 DISTRICT AND THEIR RESPECTIVE DESIGNEES AND APPOINTEES ARE ELIGIBLE TO
40 VOTE IN:

41 1. AN ELECTION REGARDING AN AD VALOREM TAX OR AN ASSESSMENT TO BE
42 LEVIED AGAINST THE REAL PROPERTY IN THE DISTRICT.

43 2. AN ELECTION FOR THE BOARD OF THE DISTRICT.

44 3. AN ELECTION FOR DISSOLUTION OF THE DISTRICT.

45 E. CORPORATIONS, PARTNERSHIPS AND OTHER BUSINESS ENTITIES ARE
46 ELIGIBLE TO VOTE AS PROPERTY OWNERS, BUT ONLY ONE VOTE MAY BE CAST FOR
47 EACH ONE-SEVENTH OF AN ACRE OF REAL PROPERTY IN THE DISTRICT, EXCEPT THAT
48 ANY FRACTION OF OWNERSHIP OF REAL PROPERTY THAT IS LESS THAN ONE-SEVENTH
49 OF AN ACRE ENTITLES THE OWNER TO CAST ONE VOTE. A MAJORITY OF THE ACREAGE,

1 AS REPRESENTED BY THE VOTES CAST AT AN ELECTION THAT IS CONDUCTED SOLELY
2 UNDER THIS ACREAGE SYSTEM, DETERMINES THE RESULT OF THE ELECTION.

3 F. AN ELECTION CONDUCTED UNDER THIS SECTION SHALL BE HELD AS A
4 SPECIAL ELECTION OF THE DISTRICT AND SHALL BE NOTICED, CALLED, CONDUCTED
5 AND CANVASSED BY THE BOARD IN THE MANNER PRESCRIBED BY THIS CHAPTER. THE
6 BOARD MAY ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE COUNTY, A
7 MUNICIPALITY OR ANOTHER PUBLIC ENTITY FOR ELECTION ADMINISTRATION,
8 INCLUDING REIMBURSEMENT OF REASONABLE COSTS OF DISTRICT ELECTIONS.

9 G. THE BOARD SHALL:

10 1. ADOPT AND AMEND THE FINANCING PLAN FOR THE DISTRICT.

11 2. AUTHORIZE AND APPROVE THE ISSUANCE OF BONDS OF THE DISTRICT AS
12 PROVIDED BY THIS CHAPTER.

13 3. LEVY AD VALOREM TAXES AND ASSESSMENTS, SUBJECT TO THE
14 LIMITATIONS AND ELECTION REQUIREMENTS OF THIS CHAPTER, INCLUDING THE
15 MAXIMUM AUTHORIZED TAX RATE.

16 4. MANAGE AND ADMINISTER THE AFFAIRS OF THE DISTRICT, INCLUDING
17 OPERATING, MAINTAINING AND REPAIRING PUBLIC INFRASTRUCTURE THAT IS OWNED
18 OR OPERATED BY THE DISTRICT.

19 5. ADOPT ANNUAL BUDGETS, STATEMENTS AND ESTIMATES FOR THE DISTRICT.

20 6. ADMINISTER DISTRICT ELECTIONS OR ENTER INTO INTERGOVERNMENTAL
21 AGREEMENTS WITH THE COUNTY AND OTHER QUALIFIED PUBLIC ENTITIES TO
22 ADMINISTER DISTRICT ELECTIONS.

23 7. PERFORM ALL OTHER ACTS THAT ARE NECESSARY OR CONVENIENT TO CARRY
24 OUT THE PURPOSES OF THIS CHAPTER.

25 H. IF A VACANCY OCCURS ON THE BOARD BECAUSE OF A DEATH, A
26 RESIGNATION OR AN INABILITY OF THE DIRECTOR TO DISCHARGE THE DUTIES OF
27 DIRECTOR, THE VACANCY SHALL BE FILLED BY APPOINTMENT MADE BY THE
28 AUTHORITY. A DIRECTOR APPOINTED BY THE AUTHORITY SHALL HOLD OFFICE FOR
29 THE REMAINDER OF THE UNEXPIRED TERM UNTIL THE DIRECTOR'S SUCCESSOR IS
30 ELECTED AS PROVIDED BY THIS ARTICLE. A DIRECTOR SHALL NOT BE AN ELECTED
31 OFFICIAL OF A MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED OR AN INDIAN
32 TRIBE OR COMMUNITY OR AN EMPLOYEE OR AGENT OF A MUNICIPALITY OR INDIAN
33 TRIBE OR COMMUNITY BUT MAY BE A DIRECTOR OF MORE THAN ONE DISTRICT.

34 I. THE MEMBERS OF THE BOARD ARE NOT ELIGIBLE TO RECEIVE
35 COMPENSATION FOR THEIR SERVICES AS MEMBERS OF THE BOARD.

36 48-7005. Records; open meetings

37 A. A DISTRICT SHALL KEEP THE FOLLOWING RECORDS, WHICH SHALL BE OPEN
38 TO PUBLIC INSPECTION:

39 1. MINUTES OF ALL BOARD MEETINGS.

40 2. ALL RESOLUTIONS.

41 3. ACCOUNTS SHOWING ALL MONIES RECEIVED AND DISBURSED.

42 4. THE ANNUAL BUDGET.

43 5. ALL OTHER RECORDS REQUIRED TO BE MAINTAINED BY LAW.

44 B. THE BOARD SHALL COMPLY WITH THE REQUIREMENTS OF TITLE 38,
45 CHAPTER 3, ARTICLE 3.1 AS A SEPARATE POLITICAL SUBDIVISION.

46 48-7006. District powers

47 A. IN ADDITION TO THE POWERS OTHERWISE GRANTED TO A DISTRICT
48 PURSUANT TO THIS CHAPTER, A DISTRICT, TO FURTHER IMPLEMENT THE GENERAL
49 PLAN, MAY:

- 1 1. ENTER INTO CONTRACTS AND EXPEND MONIES FOR ANY PUBLIC
2 INFRASTRUCTURE PURPOSE WITH RESPECT TO THE DISTRICT, INCLUDING IN
3 CONNECTION WITH THE ACQUISITION, CONSTRUCTION OR INSTALLATION OF PUBLIC
4 INFRASTRUCTURE.
- 5 2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THIS STATE, A
6 COUNTY, A MUNICIPALITY OR ANY OTHER PUBLIC AGENCY THAT IS AUTHORIZED BY
7 LAW TO ENTER INTO INTERGOVERNMENTAL AGREEMENTS FOR THE PLANNING, DESIGN,
8 INSPECTION, OWNERSHIP, CONTROL, MAINTENANCE, OPERATION OR REPAIR OF PUBLIC
9 INFRASTRUCTURE.
- 10 3. ENTER INTO INTERGOVERNMENTAL AGREEMENTS WITH THE COUNTY, A
11 MUNICIPALITY OR ANOTHER QUALIFIED PUBLIC ENTITY FOR THE ADMINISTRATION OF
12 DISTRICT ELECTIONS, INCLUDING AGREEMENTS TO REIMBURSE THE PUBLIC ENTITY
13 FOR THE REASONABLE COSTS OF DISTRICT ELECTIONS.
- 14 4. SELL, LEASE OR OTHERWISE DISPOSE OF DISTRICT PROPERTY IF THE
15 SALE, LEASE OR CONVEYANCE IS NOT A VIOLATION OF THE TERMS OF ANY CONTRACT,
16 BOND RESOLUTION OR TRUST INDENTURE OF THE DISTRICT.
- 17 5. OPERATE, MAINTAIN AND REPAIR PUBLIC INFRASTRUCTURE THAT IS OWNED
18 OR OPERATED BY THE DISTRICT.
- 19 6. ESTABLISH, CHARGE AND COLLECT USER FEES, RATES OR OTHER CHARGES
20 FOR THE USE OF ANY PUBLIC INFRASTRUCTURE OR SERVICE OF THE DISTRICT.
- 21 7. EMPLOY OR CONTRACT FOR STAFF, COUNSEL AND CONSULTANTS, INCLUDING
22 ENGINEERS, ATTORNEYS, ACCOUNTANTS, FINANCIAL ADVISORS, UNDERWRITERS,
23 ADMINISTRATORS AND ELECTION OFFICIALS, TO ASSIST WITH DISTRICT AND BOARD
24 ADMINISTRATION, FINANCING AND ELECTION MATTERS.
- 25 8. INCUR AND REPAY LOANS FOR ANY PUBLIC INFRASTRUCTURE PURPOSE.
- 26 9. ENTER INTO AGREEMENTS WITH LANDOWNERS AND WITH A MUNICIPALITY OR
27 COUNTY FOR THE COLLECTION OF FEES AND CHARGES FROM LANDOWNERS FOR PUBLIC
28 INFRASTRUCTURE PURPOSES, FOR THE ADVANCE OF MONIES BY LANDOWNERS FOR
29 PUBLIC INFRASTRUCTURE PURPOSES OR FOR THE GRANTING OF REAL PROPERTY OR
30 INTERESTS IN REAL PROPERTY BY A LANDOWNER FOR PUBLIC INFRASTRUCTURE
31 PURPOSES.
- 32 10. BY RESOLUTION, LEVY AND ASSESS THE COSTS OF ANY PUBLIC
33 INFRASTRUCTURE PURPOSE ON ANY LAND THAT IS BENEFITED IN THE DISTRICT,
34 SUBJECT TO THE LIMITATIONS AND ELECTION REQUIREMENTS OF THIS CHAPTER,
35 INCLUDING THE MAXIMUM AUTHORIZED TAX RATE.
- 36 11. PAY THE FINANCIAL, LEGAL AND ADMINISTRATIVE COSTS OF THE
37 DISTRICT.
- 38 12. ENTER INTO CONTRACTS, AGREEMENTS AND TRUST INDENTURES TO OBTAIN
39 CREDIT ENHANCEMENT OR LIQUIDITY SUPPORT FOR ITS BONDS AND TO PROVIDE FOR
40 THE ISSUANCE, REGISTRATION, TRANSFER AND PAYMENT OF ITS BONDS AND FOR THE
41 DISBURSEMENT AND INVESTMENT OF BOND PROCEEDS.
- 42 13. ENTER INTO AGREEMENTS WITH PERSONS OUTSIDE OF THE DISTRICT TO
43 PROVIDE SERVICES TO PERSONS AND PROPERTY OUTSIDE OF THE DISTRICT AND TO
44 RECEIVE COMPENSATION FOR THOSE SERVICES.
- 45 14. USE PUBLIC EASEMENTS AND RIGHTS-OF-WAY IN OR ACROSS PUBLIC
46 PROPERTY, ROADWAYS, HIGHWAYS, STREETS OR OTHER THOROUGHFARES AND OTHER
47 PUBLIC EASEMENTS AND RIGHTS-OF-WAY, WHETHER IN OR OUT OF THE GEOGRAPHICAL
48 LIMITS OF THE DISTRICT, A MUNICIPALITY OR A COUNTY, SUBJECT TO APPLICABLE
49 LAW AND THE RIGHTS OF THE PUBLIC.

1 B. IN CONNECTION WITH ANY POWER AUTHORIZED BY STATUTE, THE DISTRICT
2 MAY:

3 1. CONTRACT.

4 2. ENTER INTO INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11,
5 CHAPTER 7, ARTICLE 3.

6 3. ADOPT AND CHANGE A SEAL.

7 4. SUE AND BE SUED.

8 5. ENTER INTO DEVELOPMENT AGREEMENTS AS DEFINED IN SECTION
9 9-500.05.

10 C. A DISTRICT IS NOT EMPOWERED TO EXERCISE LAND USE OR ZONING
11 AUTHORITY AND MAY NOT ADOPT, AMEND OR ENFORCE ZONING ORDINANCES OR SIMILAR
12 LAND USE REGULATIONS.

13 D. PUBLIC INFRASTRUCTURE OTHER THAN PERSONALTY MAY BE LOCATED ONLY
14 IN OR ON LANDS OWNED BY THIS STATE, A COUNTY, A MUNICIPALITY OR THE
15 DISTRICT OR DEDICATED OR OTHERWISE DESIGNATED AS PUBLIC ROADWAYS,
16 HIGHWAYS, STREETS, THOROUGHFARES, EASEMENTS OR RIGHTS-OF-WAY, WHETHER IN
17 OR OUT OF THE DISTRICT OR A MUNICIPALITY. PERSONALTY MAY BE USED ONLY FOR
18 PURPOSES AUTHORIZED BY THE BOARD.

19 E. AN AGREEMENT PURSUANT TO SUBSECTION A, PARAGRAPH 9 OF THIS
20 SECTION MAY INCLUDE AGREEMENTS TO REPAY ALL OR PART OF SUCH ADVANCES, FEES
21 AND CHARGES FROM THE PROCEEDS OF BONDS IF ISSUED OR FROM ADVANCES, FEES
22 AND CHARGES COLLECTED FROM OTHER LANDOWNERS OR USERS OR THOSE HAVING A
23 RIGHT TO USE ANY INFRASTRUCTURE. A PERSON DOES NOT HAVE AUTHORITY TO
24 COMPEL THE ISSUANCE OR SALE OF THE BONDS OF THE DISTRICT OR THE EXERCISE
25 OF ANY TAXING POWER OF THE DISTRICT TO MAKE REPAYMENT UNDER ANY AGREEMENT.

26 48-7007. District finances; revenue

27 THE PROJECTS TO BE CONSTRUCTED OR ACQUIRED AS SHOWN IN THE GENERAL
28 PLAN MAY BE FINANCED FROM THE FOLLOWING SOURCES OF REVENUE:

29 1. PROCEEDS RECEIVED FROM THE SALE OF BONDS OF THE DISTRICT.

30 2. MONIES OF A MUNICIPALITY OR INDIAN TRIBE OR COMMUNITY THAT ARE
31 CONTRIBUTED TO THE DISTRICT.

32 3. ASSESSMENTS.

33 4. AD VALOREM TAXES.

34 5. PRIVATE CONTRIBUTIONS.

35 6. USER, LANDOWNER AND OTHER FEES AND CHARGES.

36 7. PROCEEDS OF LOANS OR ADVANCES.

37 8. ANY OTHER MONIES AVAILABLE TO THE DISTRICT BY LAW.

38 48-7008. Project approval; hearing; notice; fees

39 A. BEFORE CONSTRUCTING OR ACQUIRING ANY PUBLIC INFRASTRUCTURE, THE
40 BOARD SHALL CAUSE A STUDY OF THE FEASIBILITY AND BENEFITS OF THE PROJECT
41 THAT SHALL BE PREPARED BY ENGINEERS AND OTHER QUALIFIED PERSONS AND THAT
42 SHALL INCLUDE A DESCRIPTION OF THE PUBLIC INFRASTRUCTURE TO BE CONSTRUCTED
43 OR ACQUIRED AND ALL OTHER INFORMATION USEFUL TO UNDERSTAND THE PROJECT, A
44 MAP SHOWING, IN GENERAL, THE LOCATION OF THE PROJECT, AN ESTIMATE OF THE
45 COST TO CONSTRUCT, ACQUIRE, OPERATE AND MAINTAIN THE PROJECT, AN ESTIMATED
46 SCHEDULE FOR COMPLETION OF THE PROJECT, A MAP OR DESCRIPTION OF THE AREA
47 TO BE BENEFITED BY THE PROJECT AND THE FINANCING PLAN FOR THE PROJECT.
48 WITHIN SIXTY DAYS AFTER RECEIVING THE REPORT, THE BOARD SHALL HOLD A
49 PUBLIC HEARING ON THE REPORT AND PROVIDE NOTICE OF THE HEARING BY

1 PUBLICATION NOT LESS THAN TEN DAYS IN ADVANCE IN THE OFFICIAL NEWSPAPER OF
2 THE MUNICIPALITY IN WHICH THE DISTRICT IS LOCATED OR, IF NONE IN THE
3 MUNICIPALITY, A NEWSPAPER OF GENERAL CIRCULATION IN THE COUNTY AND BY MAIL
4 TO THE GOVERNING BODY OF THE MUNICIPALITY. WITHIN SIXTY DAYS AFTER THE
5 HEARING, THE BOARD MAY REJECT, AMEND OR APPROVE THE REPORT. IF THE REPORT
6 IS AMENDED SUBSTANTIALLY, A NEW HEARING SHALL BE HELD WITHIN SIXTY DAYS
7 AFTER THE DATE THE AMENDED REPORT IS RECEIVED AND BEFORE APPROVAL. IF THE
8 REPORT IS APPROVED, THE BOARD SHALL ADOPT A RESOLUTION THAT IDENTIFIES THE
9 PUBLIC INFRASTRUCTURE OF THE PROJECT, THE AREAS BENEFITED, THE EXPECTED
10 METHOD OF FINANCING, INCLUDING THE NATURE AND TIMING OF THE ISSUANCE OF
11 BONDS, IF ANY, AND AN APPROPRIATE SYSTEM OF PROVIDING REVENUES TO OPERATE
12 AND MAINTAIN THE PROJECT. THE BOARD SHALL EXECUTE THE PROVISIONS OF THE
13 REPORT WITHIN THE TIME FRAMES IDENTIFIED IN THE APPROVED REPORT.

14 B. BEFORE CONSTRUCTING OR ACQUIRING ANY PUBLIC INFRASTRUCTURE AND
15 BEFORE THE BOARD HAS HELD THE PUBLIC HEARING PRESCRIBED IN SUBSECTION A OF
16 THIS SECTION, THE BOARD SHALL CAUSE THE STUDY OF THE FEASIBILITY AND
17 BENEFITS OF THE PROJECT PRESCRIBED IN SUBSECTION A OF THIS SECTION TO BE
18 PROVIDED TO THE AUTHORITY. IN ADDITION TO THE STUDY OF THE FEASIBILITY
19 AND BENEFITS OF THE PROJECT PRESCRIBED IN SUBSECTION A OF THIS SECTION,
20 THE BOARD SHALL CAUSE THE FOLLOWING INFORMATION TO BE PROVIDED TO THE
21 AUTHORITY:

22 1. THE CURRENT MARKET VALUE AND PROJECTED MARKET VALUE ON
23 COMPLETION OF THE PUBLIC INFRASTRUCTURE TO BE FINANCED.

24 2. THE PROPOSED MAXIMUM PRINCIPAL AMOUNT OF BONDS TO BE ISSUED, THE
25 MAXIMUM INTEREST RATE AND A PRELIMINARY DEBT SERVICE SCHEDULE FOR THE
26 BONDS.

27 3. IF THE BONDS ARE GENERAL OBLIGATION BONDS, A PROJECTION OF THE
28 AD VALOREM TAX RATE THAT IS REQUIRED TO SUPPORT DEBT SERVICE ON THE BONDS,
29 WHICH PROJECTED RATE DOES NOT EXCEED THE MAXIMUM AUTHORIZED TAX RATE.

30 4. IF THE BONDS ARE ASSESSMENT BONDS, THE MAXIMUM AGGREGATE
31 ASSESSMENT AND THE MAXIMUM PER-LOT ASSESSMENT TO BE LEVIED IN CONNECTION
32 WITH THE BONDS.

33 5. THE ANTICIPATED BUILD-OUT SCHEDULE AND ASSOCIATED VALUATION
34 INCREASES.

35 6. THE CURRENTLY OUTSTANDING PRINCIPAL AMOUNT OF DISTRICT BONDS AND
36 THE CURRENT AD VALOREM TAX RATE OF THE DISTRICT, IF ANY.

37 7. THE PROPOSED FINANCING TEAM, INCLUDING THE UNDERWRITER OR
38 PLACEMENT AGENT, THE DISTRICT'S FINANCIAL ADVISOR AND THE DISTRICT'S BOND
39 COUNSEL.

40 8. A CERTIFICATION AS TO THE REASONABLENESS OF ASSUMPTIONS THAT ARE
41 USED IN THE VALUATION AND GROWTH PROJECTIONS.

42 9. A CERTIFICATION THAT THE PROPOSED DEBT CAN BE REPAYED WITHOUT
43 IMPOSING EXCESSIVE OR UNREASONABLE AD VALOREM TAXES OR ASSESSMENTS ON
44 RESIDENTS OF THE DISTRICT.

45 10. A CERTIFICATION THAT THE CONSTRUCTION OR ACQUISITION OF THE
46 PUBLIC INFRASTRUCTURE, OR BOTH, AS APPLICABLE, WILL NOT CONFLICT WITH THE
47 MUNICIPALITY'S ADOPTED GENERAL PLAN OR THE COUNTY'S COMPREHENSIVE PLAN, IF
48 ANY, AND ANY EXISTING AND APPLICABLE DEVELOPMENT AGREEMENTS RELATING TO
49 THE SUBJECT LAND.

1 C. THE AUTHORITY SHALL REVIEW THE INFORMATION SUBMITTED PURSUANT TO
2 SUBSECTION B OF THIS SECTION TO CONFIRM, SOLELY ON THE BASIS OF THE
3 INFORMATION SUBMITTED AND WITHOUT ANY INDEPENDENT DETERMINATION OF
4 FEASIBILITY OR VALUE, THAT ALL INFORMATION REQUIRED PURSUANT TO SUBSECTION
5 B OF THIS SECTION HAS BEEN SUBMITTED AND THAT THE CONSTRUCTION OR
6 ACQUISITION OF THE PUBLIC INFRASTRUCTURE, OR BOTH, AS APPLICABLE, COMPLIES
7 WITH THE FORMATION ORDER AND THE GENERAL PLAN AND DOES NOT OTHERWISE
8 VIOLATE THE PROVISIONS OF THIS CHAPTER.

9 D. THE AUTHORITY SHALL NOTIFY THE DISTRICT WITHIN THIRTY DAYS AFTER
10 RECEIVING THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION B OF THIS
11 SECTION IF THE SUBMITTED INFORMATION IS INCOMPLETE OR HAS NOT BEEN
12 SUBMITTED OR IF THE SUBMITTED INFORMATION INDICATES THAT THE CONSTRUCTION
13 OR ACQUISITION OF THE PUBLIC INFRASTRUCTURE DOES NOT COMPLY WITH THE
14 FORMATION ORDER OR THE GENERAL PLAN OR DOES NOT OTHERWISE COMPLY WITH THE
15 PROVISIONS OF THIS CHAPTER. THE BOARD MAY NOT HOLD THE PUBLIC HEARING
16 DESCRIBED IN SUBSECTION A OF THIS SECTION UNTIL THIRTY DAYS HAS ELAPSED
17 SINCE THE SUBMISSION OF THE INFORMATION SUBMITTED PURSUANT TO SUBSECTION B
18 OF THIS SECTION AND THE DISTRICT HAS NOT RECEIVED FROM THE AUTHORITY THE
19 NOTICE PRESCRIBED IN THIS SUBSECTION.

20 E. FEES AND OTHER CHARGES THAT ARE ASSESSED BY THE AUTHORITY IN
21 CONNECTION WITH THE REVIEW OF THE INFORMATION SUBMITTED PURSUANT TO
22 SUBSECTION B OF THIS SECTION SHALL NOT EXCEED \$15,000 FOR EACH SUBMISSION.

23 ARTICLE 2. FINANCIAL PROVISIONS

24 48-7021. Debt limitations; maximum authorized tax rate

25 A. THE TOTAL AGGREGATE OUTSTANDING AMOUNT OF BONDS AND ANY OTHER
26 INDEBTEDNESS FOR WHICH THE FULL FAITH AND CREDIT OF A DISTRICT ARE PLEDGED
27 SHALL NOT EXCEED SIXTY PERCENT OF THE AGGREGATE OF THE ESTIMATED MARKET
28 VALUE OF THE REAL PROPERTY AND IMPROVEMENTS IN THE DISTRICT AFTER THE
29 PUBLIC INFRASTRUCTURE OF THE DISTRICT IS COMPLETED PLUS THE VALUE OF THE
30 PUBLIC INFRASTRUCTURE OWNED OR TO BE ACQUIRED BY THE DISTRICT WITH THE
31 PROCEEDS OF THE BONDS.

32 B. ANY AD VALOREM TAX LEVIED TO PAY THE DEBT SERVICE ON ALL GENERAL
33 OBLIGATION BONDS OF THE DISTRICT SHALL NOT BE LEVIED AT A RATE THAT
34 EXCEEDS THE MAXIMUM AUTHORIZED TAX RATE. THE MAXIMUM AUTHORIZED TAX RATE
35 SHALL BE INDICATED IN THE PETITION AND THE FORMATION ORDER AND SHALL BE
36 APPROVED AT AN ELECTION HELD PURSUANT TO SECTION 48-7041 EXCEPT THAT THE
37 MAXIMUM AUTHORIZED TAX RATE SHALL NOT EXCEED \$10 PER \$100 OF NET LIMITED
38 ASSESSED PROPERTY VALUATION OF PROPERTY WITHIN THE BOUNDARIES OF THE
39 DISTRICT. THE AUTHORITY SHALL NOT OTHERWISE RESTRICT THE MAXIMUM
40 AUTHORIZED TAX RATE, THE MAXIMUM ASSESSMENT ASSESSED BY A DISTRICT OR THE
41 MAXIMUM AGGREGATE AMOUNT OF BONDS ISSUED BY A DISTRICT EXCEPT AS EXPRESSLY
42 PROVIDED IN THIS CHAPTER.

43 48-7022. General obligation bonds; tax levy; security

44 A. AT ANY TIME AFTER THE FORMATION OF A DISTRICT, THE BOARD MAY
45 FROM TIME TO TIME ORDER AND CALL A GENERAL OBLIGATION BOND ELECTION TO
46 SUBMIT TO THE QUALIFIED ELECTORS OF THE DISTRICT OR TO THOSE PERSONS WHO
47 ARE QUALIFIED TO VOTE PURSUANT TO SECTION 48-7041 THE QUESTION OF
48 AUTHORIZING THE BOARD TO ISSUE GENERAL OBLIGATION BONDS OF THE DISTRICT TO
49 PROVIDE MONIES FOR ANY PUBLIC INFRASTRUCTURE PURPOSES CONSISTENT WITH THE

1 GENERAL PLAN AND THE QUESTION OF AUTHORIZING AN AD VALOREM TAX TO BE
2 LEVIED.

3 B. IF GENERAL OBLIGATION BONDS ARE APPROVED AT AN ELECTION, THE
4 BOARD MAY ISSUE AND SELL GENERAL OBLIGATION BONDS OF THE DISTRICT, THE
5 TERM OF WHICH MAY NOT EXCEED TWENTY-FIVE YEARS, SUBJECT TO THE LIMITATION
6 THAT ANY AD VALOREM TAX LEVIED TO PAY THE DEBT SERVICE ON THE GENERAL
7 OBLIGATION BONDS SHALL NOT BE LEVIED AT A RATE THAT EXCEEDS THE MAXIMUM
8 AUTHORIZED TAX RATE.

9 C. THE DISTRICT MAY ISSUE AND SELL REFUNDING BONDS TO REFUND ANY
10 GENERAL OBLIGATION BONDS OF THE DISTRICT. IF GENERAL OBLIGATION BONDS ARE
11 ISSUED TO REFUND ANY GENERAL OBLIGATION BONDS OF THE DISTRICT, AN ELECTION
12 ON THE ISSUANCE OF SUCH REFUNDING BONDS IS NOT REQUIRED, BUT ANY AD
13 VALOREM TAX LEVIED TO PAY THE DEBT SERVICE ON SUCH REFUNDING BONDS SHALL
14 NOT BE LEVIED AT A RATE THAT EXCEEDS THE MAXIMUM AUTHORIZED TAX RATE.

15 D. AFTER THE BONDS ARE ISSUED, THE BOARD SHALL ENTER IN ITS MINUTES
16 A RECORD OF THE BONDS SOLD AND THEIR NUMBERS AND DATES AND SHALL ANNUALLY
17 LEVY AND CAUSE AN AD VALOREM TAX TO BE COLLECTED, AT THE SAME TIME AND IN
18 THE SAME MANNER AS OTHER TAXES ARE LEVIED AND COLLECTED ON ALL TAXABLE
19 PROPERTY IN THE DISTRICT, SUFFICIENT, TOGETHER WITH ANY MONIES FROM THE
20 SOURCES DESCRIBED IN SECTION 48-7007, TO PAY DEBT SERVICE ON THE BONDS
21 WHEN DUE. THE ANNUAL LEVY SHALL NOT EXCEED THE NET AMOUNT NECESSARY TO
22 MEET ANNUAL PAYMENTS OF PRINCIPAL AND INTEREST, PROJECTED PAYMENTS OF
23 PRINCIPAL AND INTEREST ON NEW DEBT PLANNED FOR THE ENSUING YEAR, A
24 REASONABLE DELINQUENCY FACTOR, INCLUDING AN AMOUNT NECESSARY TO CORRECT
25 PRIOR YEAR ERRORS OR SHORTAGES IN THE LEVY, IF APPLICABLE, AND ANY
26 EXPENSES AND FEES REQUIRED IN CONJUNCTION WITH THE AUTHORIZATION PURSUANT
27 TO SECTION 35-512. THE ANNUAL AD VALOREM TAX RATE LEVIED PURSUANT TO THIS
28 SUBSECTION SHALL NOT EXCEED THE MAXIMUM AUTHORIZED TAX RATE. THE LEVY
29 SHALL BE THE NET OF ALL CASH IN EXCESS OF TEN PERCENT OF THE ANNUAL
30 PAYMENTS OF PRINCIPAL AND INTEREST IN THE CURRENT FISCAL YEAR FROM THE
31 PREVIOUS YEAR THAT REMAIN IN THE FUND OR FUNDS PRESCRIBED BY SUBSECTION E
32 OF THIS SECTION.

33 E. MONIES DERIVED FROM THE LEVY OF THE TAX PROVIDED IN THIS SECTION
34 WHEN COLLECTED CONSTITUTE FUNDS TO PAY THE DEBT SERVICE ON THE BONDS AND
35 SHALL BE KEPT SEPARATELY FROM OTHER FUNDS OF THE DISTRICT. AMOUNTS LEVIED
36 FOR DEBT SERVICE ON BONDS PAYABLE FROM THE SECONDARY TAX ARE AND SHALL BE
37 CONSIDERED SPECIAL REVENUES OF THE DISTRICT, SHALL BE KEPT IN A SPECIAL,
38 SEGREGATED FUND, ARE NOT AND SHALL NOT BE GENERAL PROPERTY TAXES AND MAY
39 NOT BE USED FOR ANY OTHER PURPOSE OF THE DISTRICT.

40 F. ALL BONDS, HERETOFORE AND HEREAFTER ISSUED, ARE SECURED BY A
41 LIEN ON ALL REVENUES RECEIVED PURSUANT TO THE AD VALOREM TAX LEVY. THE
42 LIEN ARISES AUTOMATICALLY WITHOUT THE NEED FOR ANY ACTION OR AUTHORIZATION
43 BY THE DISTRICT OR THE BOARD. THE LIEN IS VALID AND BINDING FROM THE TIME
44 OF THE ISSUANCE OF THE BONDS. THE REVENUES RECEIVED PURSUANT TO THE LEVY
45 OF THE AD VALOREM TAX ARE IMMEDIATELY SUBJECT TO THE LIEN. THE LIEN
46 ATTACHES IMMEDIATELY TO THE REVENUES AND IS EFFECTIVE, BINDING AND
47 ENFORCEABLE AGAINST THE DISTRICT, THE DISTRICT'S SUCCESSORS, TRANSFEREES
48 AND CREDITORS AND ALL OTHER PARTIES ASSERTING RIGHTS IN THE REVENUES,

1 IRRESPECTIVE OF WHETHER THE PARTIES HAVE NOTICE OF THE LIEN, WITHOUT THE
2 NEED FOR ANY PHYSICAL DELIVERY, RECORDATION, FILING OR FURTHER ACT.

3 48-7023. Assessments: assessment lien bonds: judicial review

4 A. AFTER APPROVAL OF THE ASSESSMENT AT AN ELECTION HELD AS
5 PRESCRIBED BY SECTION 48-7041, AND PURSUANT TO THE PROCEDURES PRESCRIBED
6 BY SECTIONS 48-576 THROUGH 48-589, AS NEARLY AS PRACTICABLE, OR SUCH OTHER
7 PROCEDURES AS THE BOARD PROVIDES, THE BOARD, MAY LEVY BY RESOLUTION AN
8 ASSESSMENT OF THE COSTS OF ANY PUBLIC INFRASTRUCTURE PURPOSE OR ANY
9 OPERATION AND MAINTENANCE OF PUBLIC INFRASTRUCTURE ON ANY LAND IN THE
10 DISTRICT THAT IS BASED ON THE BENEFIT DETERMINED BY THE BOARD TO BE
11 RECEIVED BY THE LAND. BEFORE THE ISSUANCE OF ASSESSMENT BONDS, THE
12 DISTRICT MAY ENTER INTO A WRITTEN AGREEMENT WITH A LANDOWNER AS TO THE
13 MANNER IN WHICH THE ASSESSMENT IS TO BE ALLOCATED IF THE LAND IS TO BE
14 DIVIDED INTO MORE THAN ONE PARCEL. IF AN ISSUE OF ASSESSMENT BONDS
15 FINANCES MORE THAN ONE PURPOSE OR SERVICE, THE BENEFIT RECEIVED BY THE
16 LAND, IN THE DISCRETION OF THE DISTRICT, MAY BE DETERMINED BY REFERENCE TO
17 THE PURPOSES AND SERVICES AS A WHOLE OR INDIVIDUALLY. THE ASSESSMENT MAY
18 BE BASED ON ESTIMATED COSTS AND AMENDED TO REFLECT ACTUAL COSTS, AND THE
19 PREPARATION OF PLANS AND SPECIFICATIONS AND THE AWARDED OF THE CONTRACT
20 ARE NOT A PREREQUISITE TO THE LEVYING OF THE ASSESSMENT. AN OWNER OF LAND
21 ON WHICH AN ASSESSMENT HAS BEEN LEVIED MAY SEEK JUDICIAL REVIEW OF WHETHER
22 THE LAND IS BENEFITED BY THE PROPOSED PUBLIC INFRASTRUCTURE, ON THE
23 MERITS, BY SPECIAL ACTION FILED WITH THE COURT OF APPEALS, WITHIN THIRTY
24 DAYS AFTER THE EFFECTIVE DATE OF THE RESOLUTION.

25 B. AFTER ADOPTION BY THE BOARD OF A RESOLUTION LEVYING AN
26 ASSESSMENT ON PROPERTY IN THE DISTRICT, THE BOARD MAY ISSUE AND SELL
27 ASSESSMENT BONDS, THE TERM OF WHICH MAY NOT EXCEED TWENTY-FIVE YEARS,
28 PAYABLE FROM AMOUNTS COLLECTED FROM THE ASSESSMENTS, FROM AMOUNTS
29 AVAILABLE FROM TIME TO TIME IN ANY RESERVE FUND ESTABLISHED FOR THOSE
30 BONDS AND FROM ANY OTHER AMOUNTS AVAILABLE FOR THOSE PURPOSES AS
31 PRESCRIBED BY SECTION 48-7007. THE DISTRICT AND THE COUNTY TREASURER FOR
32 THE COUNTY IN WHICH THE DISTRICT IS LOCATED MAY ENTER INTO AN AGREEMENT
33 FOR THE COUNTY TREASURER TO COLLECT THE DISTRICT'S ASSESSMENTS IN THE
34 MANNER AND BY THE OFFICERS PROVIDED BY LAW FOR THE COLLECTION AND
35 ENFORCEMENT OF GENERAL TAXES. THE DISTRICT AND THE COUNTY TREASURER MAY
36 PROVIDE BY AGREEMENT FOR THE PAYMENT OF THE COUNTY TREASURER'S COLLECTION
37 EXPENSES DIRECTLY RELATED TO THE LEVY OF THE ASSESSMENT AND, IF SO
38 PROVIDED, THE LEVY OF THE ASSESSMENT MAY INCLUDE AN AMOUNT FOR
39 COMPENSATION OF THE COUNTY TREASURER DIRECTLY RELATED TO THE COLLECTION OF
40 THE ASSESSMENT. THE COMPENSATION RECEIVED BY THE COUNTY TREASURER
41 PURSUANT TO THE AGREEMENT SHALL BE GOVERNED BY SECTION 11-496. THE BOARD
42 MAY ALSO ISSUE AND SELL BOND ANTICIPATION NOTES PURSUANT TO THE PROCEDURES
43 PRESCRIBED IN SECTION 48-2081 OR WITH PROCEDURES AS SIMILAR TO THOSE AS IS
44 PRACTICABLE. THE ASSESSMENT SHALL BE A FIRST LIEN ON THE PROPERTY ASSESSED
45 SUBJECT ONLY TO GENERAL PROPERTY TAXES AND PRIOR ASSESSMENTS. IN THE EVENT
46 OF NONPAYMENT OF AN ASSESSMENT AND EXCEPT AS OTHERWISE PROVIDED IN AN
47 AGREEMENT BETWEEN THE DISTRICT AND THE COUNTY TREASURER PURSUANT TO THIS
48 SECTION, THE PROCEDURES FOR COLLECTION OF DELINQUENT ASSESSMENTS, SALE OF
49 DELINQUENT PROPERTY AND ISSUANCE AND EFFECT OF THE DEED PRESCRIBED BY

1 SECTIONS 48-601 THROUGH 48-607 APPLY, AS NEARLY AS PRACTICABLE, EXCEPT
2 THAT THE DISTRICT, A MUNICIPALITY OR THE STATE IS NOT REQUIRED TO PURCHASE
3 THE DELINQUENT LAND AT THE SALE IF THERE IS NO OTHER PURCHASER. IF THE
4 LANDOWNER OWNS MORE THAN ONE PARCEL IN THE DISTRICT, THE BOARD MAY PROVIDE
5 PROCEDURES FOR THE COLLECTION AND ENFORCEMENT OF ASSESSMENTS AS THE BOARD
6 DEEMS APPROPRIATE BY CONTRACT WITH A LANDOWNER TO ALLOW THE SALE OF ANY OR
7 ALL OF THE LANDOWNER'S PARCELS IN THE DISTRICT IF THE LANDOWNER BECOMES
8 DELINQUENT AS TO ANY PARCEL THAT THE LANDOWNER OWNS IN THE DISTRICT.

9 C. ON ADOPTION OF THE RESOLUTION, BUT BEFORE ISSUANCE OF THE
10 ASSESSMENT BONDS, THE DISTRICT MAY DIRECT THE TREASURER TO MAKE DEMAND ON
11 THE OWNERS OF THE PROPERTY SO ASSESSED, AS SHOWN ON THE PROPERTY TAX ROLL,
12 FOR ADVANCE PAYMENT OF THE AMOUNT ASSESSED. THE DEMAND SHALL STATE A DATE
13 NOT LESS THAN TWENTY DAYS AFTER THE DATE OF ADOPTION OF THE RESOLUTION
14 AFTER WHICH THE TREASURER MAY REFUSE TO ACCEPT ADVANCE PAYMENTS OF THE
15 ASSESSMENT. THE TREASURER SHALL CERTIFY TO THE CLERK ON OR AFTER THE DATE
16 SPECIFIED IN THE DEMAND THE AMOUNT COLLECTED AND THE ASSESSMENTS REMAINING
17 UNPAID AGAINST EACH PARCEL OF LAND ASSESSED. ASSESSMENT BONDS MAY NOT BE
18 ISSUED IN AN AMOUNT IN EXCESS OF THE AMOUNT ASSESSED IN THE RESOLUTION OR,
19 IF ADVANCE PAYMENTS ARE DEMANDED, THE AMOUNT CERTIFIED TO THE CLERK. THE
20 DISTRICT MAY ADOPT PROCEDURES FOR PREPAYMENT AND PROVISIONS FOR PAYMENT
21 AND REALLOCATION OF ASSESSMENTS.

22 D. THE DISTRICT MAY ISSUE AND SELL REFUNDING BONDS TO REFUND ANY
23 ASSESSMENT BONDS OF THE DISTRICT.

24 48-7024. Revenue bonds

25 A. AT ANY TIME AFTER THE HEARING ON FORMATION OF THE DISTRICT, THE
26 BOARD MAY HOLD A HEARING ON THE QUESTION OF AUTHORIZING THE BOARD TO ISSUE
27 REVENUE BONDS OF THE DISTRICT TO PROVIDE MONIES FOR ANY INFRASTRUCTURE
28 PURPOSES CONSISTENT WITH THE GENERAL PLAN.

29 B. IF REVENUE BONDS ARE APPROVED BY RESOLUTION, THE BOARD MAY ISSUE
30 AND SELL REVENUE BONDS OF THE DISTRICT, THE TERM OF WHICH MAY NOT EXCEED
31 TWENTY-FIVE YEARS.

32 C. IF THE BONDS ARE TO BE SOLD IN A PUBLIC OFFERING, NO BONDS MAY
33 BE ISSUED BY THE DISTRICT UNLESS THE BONDS RECEIVE ONE OF THE FOUR HIGHEST
34 INVESTMENT GRADE RATINGS BY A NATIONALLY RECOGNIZED BOND RATING AGENCY.

35 D. THE BOARD MAY PLEDGE TO THE PAYMENT OF ITS REVENUE BONDS ANY
36 REVENUES OF THE DISTRICT OR REVENUES TO BE COLLECTED BY A MUNICIPALITY OR
37 A COUNTY IN TRUST FOR THE DISTRICT AND RETURNED TO THE DISTRICT.

38 E. THE DISTRICT SHALL PRESCRIBE FEES AND CHARGES, AND SHALL REVISE
39 THEM WHEN NECESSARY, TO GENERATE REVENUE SUFFICIENT, TOGETHER WITH ANY
40 MONIES FROM THE SOURCES DESCRIBED IN SECTION 48-7007, TO PAY WHEN DUE THE
41 PRINCIPAL AND INTEREST OF ALL REVENUE BONDS FOR THE PAYMENT OF WHICH
42 REVENUE HAS BEEN PLEDGED. THE ESTABLISHMENT OR REVISION OF ANY RATES, FEES
43 AND CHARGES SHALL BE IDENTIFIED AND NOTICED CONCURRENTLY WITH THE ANNUAL
44 BUDGET PROCESS OF THE DISTRICT PURSUANT TO SECTION 48-7027.

45 F. IF, IN THE RESOLUTION OF THE BOARD, THE REVENUES TO BE PLEDGED
46 ARE LIMITED TO CERTAIN TYPES OF REVENUES, ONLY THOSE TYPES OF REVENUES MAY
47 BE PLEDGED AND ONLY THOSE REVENUES MUST BE MAINTAINED.

48 G. A HOLDER OF REVENUE BONDS ISSUED UNDER THIS CHAPTER MAY NOT
49 COMPEL ANY EXERCISE OF THE TAXING POWER OF THE DISTRICT, A MUNICIPALITY OR

1 THIS STATE TO PAY THE BONDS OR THE INTEREST ON THE BONDS. REVENUE BONDS
2 ISSUED UNDER THIS CHAPTER ARE NOT A DEBT OF THE DISTRICT, A MUNICIPALITY
3 OR THIS STATE, NOR IS THE PAYMENT OF REVENUE BONDS ENFORCEABLE OUT OF ANY
4 MONIES OTHER THAN THE REVENUE PLEDGED TO THE PAYMENT OF THE BONDS.

5 H. THE DISTRICT MAY ISSUE AND SELL REFUNDING BONDS TO REFUND ANY
6 REVENUE BONDS OF THE DISTRICT.

7 48-7025. Terms of bonds

8 A. WITH RESPECT TO ANY BONDS, THE BOARD SHALL PRESCRIBE THE
9 DENOMINATIONS OF THE BONDS, THE SIZE OF EACH ISSUE AND THE FORM OF THE
10 BONDS AND SHALL ESTABLISH THE MATURITIES, INTEREST PAYMENT DATES AND
11 INTEREST RATES, WHETHER FIXED OR VARIABLE, NOT EXCEEDING THE MAXIMUM RATE
12 STATED IN THE NOTICE OF THE ELECTION OR THE RESOLUTION OF THE BOARD. THE
13 BONDS MAY BE SOLD BY COMPETITIVE BID OR NEGOTIATED SALE FOR PUBLIC OR
14 PRIVATE OFFERING AT, BELOW OR ABOVE PAR. IF THE BONDS ARE SOLD BELOW PAR,
15 THE AGGREGATE AMOUNT OF DISCOUNT AND INTEREST TO BE PAID ON THE BONDS
16 SHALL NOT EXCEED THE AMOUNT OF INTEREST THAT WOULD HAVE BEEN PAYABLE ON
17 THOSE BONDS PURSUANT TO THE MATURITY SCHEDULE PRESCRIBED BY THE BOARD AT
18 THE MAXIMUM RATE SET OUT IN THE BOND RESOLUTION.

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

22 1. TO PAY ANY OR ALL COSTS INCURRED IN ISSUING THE GENERAL
23 OBLIGATION BONDS.

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

26 C. IF USED FOR ANY PURPOSE OTHER THAN AS PRESCRIBED IN SUBSECTION B
27 OF THIS SECTION, AND IF THE DISTRICT HAS GENERAL OBLIGATION BOND VOTER
28 AUTHORIZATION AND AVAILABLE CAPACITY UNDER ITS DEBT LIMITATIONS PRESCRIBED
29 BY SECTION 48-7021, SUBSECTION A, THE AMOUNT OF NET PREMIUM USED FOR THAT
30 PURPOSE SHALL REDUCE IN AN EQUAL AMOUNT BOTH THE AVAILABLE AGGREGATE
31 INDEBTEDNESS CAPACITY OF THE DISTRICT PRESCRIBED IN SECTION 48-7021,
32 SUBSECTION A AND THE PRINCIPAL AMOUNT AUTHORIZED AT THE GENERAL OBLIGATION
33 BOND ELECTION FOR THE DISTRICT FROM WHICH THE ISSUE OF GENERAL OBLIGATION
34 BONDS IS BEING SOLD. ANY NET PREMIUM THAT IS USED AS PRESCRIBED IN THIS
35 SUBSECTION SHALL BE AMORTIZED FOR ALL DEBT LIMITATION PURPOSES ON A PRO
36 RATA BASIS EACH YEAR BY MULTIPLYING THE NET PREMIUM USED BY A PERCENTAGE
37 EQUAL TO THE PERCENTAGE OF THE TOTAL PRINCIPAL AMOUNT OF THE GENERAL
38 OBLIGATION BOND ISSUE THAT MATURES IN THAT YEAR.

39 D. THE PROCEEDS OF THE SALES SHALL BE DEPOSITED WITH THE TREASURER,
40 OR WITH A TRUSTEE OR AGENT DESIGNATED BY THE BOARD, TO THE CREDIT OF THE
41 DISTRICT TO BE WITHDRAWN FOR THE PURPOSES PROVIDED BY THIS CHAPTER.
42 PENDING THAT USE, THE PROCEEDS MAY BE INVESTED AS DETERMINED BY THE
43 DISTRICT. THE BONDS MAY CONTAIN TERMS, CONDITIONS, COVENANTS AND
44 AGREEMENTS AS THE BOARD DEEMS PROPER. THE BONDS MAY BE PAYABLE FROM ANY
45 COMBINATION OF AD VALOREM TAXES, REVENUES OR ASSESSMENTS OF THE TYPES
46 DESCRIBED IN THIS CHAPTER AND AS SPECIFIED IN THE BONDS IF ALL APPLICABLE
47 REQUIREMENTS ARE MET.

1 48-7026. O/M taxes; election; annual financial estimate and
2 budget; hearing

3 A. AT ANY TIME AFTER THE RECORDING OF A FORMATION ORDER, THE BOARD
4 MAY CALL AN ELECTION TO SUBMIT TO THE PERSONS WHO ARE ELIGIBLE TO VOTE IN
5 THE DISTRICT AS PRESCRIBED IN SECTION 48-7041 THE QUESTION OF AUTHORIZING
6 THE BOARD TO LEVY AN O/M TAX ON THE NET LIMITED ASSESSED PROPERTY
7 VALUATION OF PROPERTY IN THE DISTRICT AT A RATE OR RATES THAT DO NOT
8 EXCEED THE MAXIMUM RATE OR RATES SPECIFIED IN THE BALLOT. THE CONTINUED
9 IMPOSITION OF THE TAX MUST BE APPROVED BY A MAJORITY OF THE PERSONS WHO
10 ARE ELIGIBLE TO VOTE IN THE DISTRICT AS PRESCRIBED IN SECTION 48-7041,
11 VOTING IN A REGULAR OR SPECIAL ELECTION AT LEAST EVERY SEVEN YEARS AFTER
12 THE DATE OF THE INITIAL IMPOSITION. ALL O/M TAXES SHALL BE USED FOR THE
13 OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT, INCLUDING LEGAL
14 EXPENSES AND EXPENSES THAT ARE ASSOCIATED WITH INSURANCE COVERAGE, AND
15 SHALL NOT EXCEED AN AMOUNT EQUAL TO \$.30 PER \$100 OF ASSESSED VALUATION
16 FOR ALL REAL AND PERSONAL PROPERTY IN THE DISTRICT. THE BOARD BY SIMPLE
17 MAJORITY VOTE MAY REDUCE OR ELIMINATE ANY PORTION OF THE O/M TAX IMPOSED
18 BY THE DISTRICT.

19 B. THE DISTRICT MAY NOT LEVY AN O/M TAX AT A RATE OR RATES IN
20 EXCESS OF THE MAXIMUM RATE THEN IN EFFECT.

21 C. WHEN LEVYING AN O/M TAX, THE BOARD SHALL MAKE ANNUAL STATEMENTS
22 AND ESTIMATES OF THE OPERATION AND MAINTENANCE EXPENSES OF THE DISTRICT
23 AND THE AMOUNT OF ALL OTHER EXPENDITURES FOR PUBLIC INFRASTRUCTURE
24 PROPOSED TO BE PAID FROM THE O/M TAX LEVY OR LEVIES, ALL OF WHICH SHALL BE
25 PROVIDED FOR BY THE LEVY AND COLLECTION OF AD VALOREM TAXES ON THE
26 ASSESSED VALUE OF ALL THE REAL AND PERSONAL PROPERTY IN THE DISTRICT. THE
27 BOARD SHALL FILE THE ANNUAL STATEMENTS AND ESTIMATES WITH THE CLERK. THE
28 BOARD SHALL PUBLISH A NOTICE OF THE FILING OF THE ESTIMATE, SHALL HOLD
29 HEARINGS ON THE PORTIONS OF THE ESTIMATE NOT RELATING TO DEBT SERVICE ON
30 BONDS AND SHALL ADOPT A BUDGET. THE BOARD, ON OR BEFORE THE DATE SET BY
31 LAW FOR CERTIFYING THE ANNUAL BUDGET OF THE COUNTY OR MUNICIPALITY, SHALL
32 FIX, LEVY AND ASSESS THE AMOUNTS TO BE RAISED BY O/M TAXES OF THE DISTRICT
33 AND SHALL CAUSE CERTIFIED COPIES OF THE ORDER TO BE DELIVERED TO THE BOARD
34 OF SUPERVISORS AND TO THE DEPARTMENT OF REVENUE. ALL STATUTES RELATING TO
35 THE LEVY AND COLLECTION OF GENERAL COUNTY TAXES, INCLUDING THE COLLECTION
36 OF DELINQUENT TAXES AND SALE OF PROPERTY FOR NONPAYMENT OF TAXES, APPLY TO
37 THE DISTRICT TAXES PROVIDED FOR BY THIS SECTION.

38 48-7027. Budget; hearing

39 ON OR BEFORE JULY 15 EACH YEAR, THE TREASURER SHALL PREPARE A
40 PROPOSED BUDGET FOR THE ENSUING FISCAL YEAR TO BE SUBMITTED TO THE BOARD
41 FOR APPROVAL. THE BOARD SHALL INDICATE ITS APPROVAL OF THE BUDGET BY
42 RESOLUTION, WHICH SHALL PROVIDE FOR A HEARING ON THE BUDGET AS APPROVED.
43 THE PARTICIPATING ENTITIES MAY REVIEW THE PROPOSED ANNUAL BUDGET AND MAY
44 SUBMIT WRITTEN COMMENTS TO THE BOARD FOR ITS ASSISTANCE AND INFORMATION IN
45 ADOPTING ITS ANNUAL BUDGET. AT THE CONCLUSION OF THE BUDGET HEARING, THE
46 BOARD, BY RESOLUTION, SHALL ADOPT THE BUDGET AS FINALLY APPROVED BY THE
47 BOARD. THE BUDGET SHALL BE ADOPTED BEFORE OCTOBER 1 EACH YEAR.

1 48-7028. Display of district taxes and assessments on
2 property tax bills

3 A. ANY AD VALOREM TAX THAT IS LEVIED BY A DISTRICT PURSUANT TO THIS
4 CHAPTER SHALL BE SHOWN ON EACH PROPERTY TAX BILL AS A SEPARATE LINE ITEM
5 THAT:

6 1. IDENTIFIES THE NAME OF THE DISTRICT.

7 2. STATES THAT THE TAX IS LEVIED BY AN INFRASTRUCTURE FINANCE
8 DISTRICT AND IS NOT A TAX OF THE MUNICIPALITY OR THE COUNTY.

9 3. STATES THAT THE FORMATION OF THE DISTRICT WAS APPROVED BY THE
10 AUTHORITY.

11 B. ANY ASSESSMENT THAT IS LEVIED BY A DISTRICT PURSUANT TO THIS
12 CHAPTER AND THAT IS COLLECTED BY THE COUNTY TREASURER SHALL BE SHOWN ON
13 EACH PROPERTY TAX BILL AS A SEPARATE LINE ITEM THAT:

14 1. IDENTIFIES THE NAME OF THE DISTRICT.

15 2. STATES THAT THE CHARGE IS AN ASSESSMENT LEVIED BY AN
16 INFRASTRUCTURE FINANCE DISTRICT AND IS NOT AN ASSESSMENT OF THE
17 MUNICIPALITY OR THE COUNTY.

18 3. STATES THAT THE FORMATION OF THE DISTRICT WAS APPROVED BY THE
19 AUTHORITY.

20 ARTICLE 3. OPERATIONS

21 48-7041. Notice and conduct of elections; eligible voters

22 A. ANY ELECTION UNDER THIS ARTICLE SHALL BE A NONPARTISAN ELECTION
23 CALLED BY POSTING NOTICES IN THREE PUBLIC PLACES WITHIN THE BOUNDARIES OF
24 THE DISTRICT NOT LESS THAN TWENTY DAYS BEFORE THE ELECTION. ANY ELECTION
25 MAY BE CONDUCTED AS A MAIL BALLOT ELECTION IN THE MANNER PRESCRIBED IN
26 TITLE 16, CHAPTER 4, ARTICLE 8.1 AS NEARLY AS PRACTICABLE. IF THE
27 ELECTION NOTICE IS NOT MAILED TO THE PROPERTY OWNERS AND, IF APPLICABLE,
28 TO THE QUALIFIED ELECTORS, THE NOTICE SHALL ALSO BE PUBLISHED IN A
29 NEWSPAPER OF GENERAL CIRCULATION IN THE MUNICIPALITY, OR IF THERE IS NO
30 NEWSPAPER SO CIRCULATED IN THE MUNICIPALITY, IN A NEWSPAPER OF GENERAL
31 CIRCULATION IN THE COUNTY IN WHICH THE DISTRICT IS LOCATED ONCE A WEEK FOR
32 TWO CONSECUTIVE WEEKS BEFORE THE ELECTION. THE NOTICE SHALL STATE:

33 1. THE PLACE OF HOLDING THE ELECTION.

34 2. THE HOURS DURING THE DAY, NOT LESS THAN SIX, IN WHICH THE POLLS
35 WILL BE OPEN.

36 3. IF IT IS A BOND ELECTION, THE AMOUNT OF BONDS TO BE AUTHORIZED
37 FOR THE DISTRICT, THE MAXIMUM RATE OF INTEREST TO BE BORNE ON THE BONDS,
38 THE MAXIMUM TERM OF THE BONDS, NOT EXCEEDING TWENTY-FIVE YEARS, AND THE
39 PURPOSES FOR WHICH THE MONIES RAISED WILL BE USED.

40 4. IF IT IS AN AD VALOREM TAX LEVY ELECTION PURSUANT TO SECTION
41 48-7022 OR 48-7023, THE MAXIMUM TAX RATE PER \$100 OF NET ASSESSED LIMITED
42 PROPERTY VALUATION TO BE IMPOSED, THE PURPOSES FOR WHICH THE MONIES RAISED
43 WILL BE USED AND THE EXISTING MAXIMUM AUTHORIZED TAX RATE.

44 5. IF IT IS AN ASSESSMENT LEVY ELECTION PURSUANT TO SECTION
45 48-7023, THE MAXIMUM ASSESSMENT RATE TO BE IMPOSED, THE PURPOSES FOR WHICH
46 THE MONIES RAISED WILL BE USED AND THE EXISTING MAXIMUM ASSESSMENT RATE,
47 IF ANY.

48 6. THAT A GENERAL PLAN IS ON FILE WITH THE CLERK.

1 B. THE BOARD SHALL DETERMINE THE DATE OF THE ELECTION AND, IF
2 APPLICABLE, THE POLLING PLACES FOR THE ELECTION AND MAY CONSOLIDATE
3 PRECINCTS. THE CLERK OF THE BOARD SHALL PREPARE A LIST OF ELIGIBLE VOTERS
4 IN THE ELECTION. A PROSPECTIVE LANDOWNER VOTER SHALL EXECUTE AN AFFIDAVIT
5 STATING THAT THE VOTER IS THE OWNER OF LAND IN THE DISTRICT AND IS
6 QUALIFIED TO VOTE PURSUANT TO THIS SECTION AND STATING THE PARCEL NUMBER
7 OWNED BY THE VOTER. ELECTION BOARD MEMBERS MAY ADMINISTER OATHS OR TAKE
8 ALL AFFIRMATIONS FOR THESE PURPOSES. AN ELECTION HELD PURSUANT TO THIS
9 ARTICLE IS NOT SUBJECT TO TITLE 16, CHAPTER 2, ARTICLE 3.

10 C. ONLY THE OWNERS OF REAL PROPERTY IN THE DISTRICT ARE ELIGIBLE TO
11 VOTE IN AN ELECTION REGARDING AN AD VALOREM TAX LEVY ELECTION, AN
12 ASSESSMENT ELECTION, AN O/M TAX ELECTION, AN ELECTION FOR THE BOARD OF
13 DIRECTORS OF THE DISTRICT AND IN AN ELECTION FOR DISSOLUTION.
14 CORPORATIONS, PARTNERSHIPS AND OTHER BUSINESS ENTITIES ARE ELIGIBLE TO
15 VOTE AS PROPERTY OWNERS, BUT ONLY ONE VOTE MAY BE CAST FOR EACH
16 ONE-SEVENTH OF AN ACRE OF REAL PROPERTY IN THE DISTRICT, EXCEPT THAT ANY
17 FRACTION OF OWNERSHIP OF REAL PROPERTY THAT IS LESS THAN ONE-SEVENTH OF AN
18 ACRE ENTITLES THE OWNER TO CAST ONE VOTE. A MAJORITY OF THE ACREAGE AS
19 REPRESENTED BY THE VOTES CAST AT AN ELECTION CONDUCTED SOLELY UNDER THE
20 ACREAGE SYSTEM SHALL DETERMINE THE RESULT. AN ACREAGE SYSTEM ELECTION
21 SHALL BE CONDUCTED PURSUANT TO THE PROCEDURES PRESCRIBED IN SECTIONS
22 48-3042 THROUGH 48-3051 AS NEARLY AS PRACTICABLE. QUALIFIED ELECTORS ARE
23 ELIGIBLE TO VOTE IN AN ELECTION REGARDING GENERAL OBLIGATION BONDS.

24 D. EXCEPT AS OTHERWISE PROVIDED BY THIS ARTICLE, THE ELECTION SHALL
25 COMPLY WITH THE GENERAL ELECTION LAWS OF THIS STATE, EXCEPT THAT THE WORDS
26 TO APPEAR ON THE BALLOTS SHALL BE FOR A BOND ELECTION "BONDS, YES" AND
27 "BONDS, NO", FOR A TAX ELECTION IF NO TAX IS IN PLACE "TAX, YES" AND "TAX,
28 NO" AND FOR A TAX ELECTION TO CHANGE AN EXISTING MAXIMUM OR ELIMINATE AN
29 EXISTING TAX "TAX CHANGE, YES" AND "TAX CHANGE, NO". THE RETURNS OF
30 ELECTION SHALL BE MADE TO THE BOARD.

31 E. WITHIN FOURTEEN DAYS AFTER AN ELECTION, THE BOARD SHALL MEET AND
32 CANVASS THE RETURNS. IF THE MAJORITY OF ACREAGE AS REPRESENTED BY THE
33 VOTES CAST AT THE ELECTION IS IN FAVOR OF IMPOSING THE TAX, THE BOARD
34 SHALL ENTER THAT FACT ON ITS MINUTES. THE CANVASS MAY BE CONTINUED FROM
35 TIME TO TIME. FAILURE OF A MAJORITY TO VOTE IN FAVOR OF THE MATTER
36 SUBMITTED DOES NOT PREJUDICE THE SUBMISSION OF THE SAME OR SIMILAR MATTERS
37 AT A LATER ELECTION.

38 F. IF A PERSON LISTED ON THE ASSESSMENT ROLL IS NO LONGER THE OWNER
39 OF LAND IN THE DISTRICT AND THE NAME OF THE SUCCESSOR OWNER BECOMES KNOWN
40 AND IS VERIFIED BY RECORDED DEED OR OTHER SIMILAR EVIDENCE OF TRANSFER OF
41 OWNERSHIP, THE SUCCESSOR OWNER IS DEEMED TO BE THE OWNER FOR THE PURPOSES
42 OF THIS ARTICLE.

43 G. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE, IF NO
44 PERSON HAS REGISTERED TO VOTE WITHIN THE DISTRICT WITHIN FIFTY DAYS
45 IMMEDIATELY PRECEDING ANY SCHEDULED ELECTION DATE, ANY ELECTION REQUIRED
46 TO BE HELD PURSUANT TO THIS ARTICLE SHALL BE HELD WITH THE VOTE BY THE
47 OWNERS OF LAND WITHIN THE DISTRICT WHO ARE QUALIFIED ELECTORS OF THIS
48 STATE AND OTHER LANDOWNERS ACCORDING TO SECTION 48-3043. EACH OWNER HAS
49 THE NUMBER OF VOTES OR PORTION OF VOTES EQUAL TO THE NUMBER OF ACRES OR

1 PORTION OF ACRES ROUNDED UPWARD TO THE NEAREST ONE-FIFTH OF AN ACRE OWNED
2 IN THE DISTRICT BY THAT PERSON.

3 48-7042. Recording documents

4 THE DISTRICT SHALL FILE AND RECORD WITH THE COUNTY RECORDER THE
5 FORMATION ORDER, THE GENERAL PLAN OF THE DISTRICT, THE CANVASS OF ANY
6 GENERAL OBLIGATION BOND ELECTION AND ANY ASSESSMENTS LEVIED BY THE
7 DISTRICT. COPIES OF ALL SUCH INFORMATION SHALL BE PROVIDED TO THE STATE
8 REAL ESTATE DEPARTMENT.

9 48-7043. District website; required content; coordination
10 with seller disclosures

11 A. THE BOARD SHALL ESTABLISH AND MAINTAIN AN OFFICIAL WEBSITE THAT
12 IS ELECTRONICALLY SEARCHABLE BY THE PUBLIC AND THAT CONTAINS A
13 COMPREHENSIVE DATABASE OF DISTRICT CONTRACTS, PUBLIC NOTICES, MEETING
14 MINUTES, RESOLUTIONS AND ACCOUNTS SHOWING ALL MONIES RECEIVED AND
15 DISBURSED, THE ANNUAL BUDGET AND OTHER RECORDS REQUIRED TO BE MAINTAINED
16 BY LAW. THE BOARD SHALL PROVIDE A LINK TO THE DATABASE ON THE DISTRICT'S
17 MAIN WEBSITE MAINTAINED BY THE BOARD AND SHALL PROVIDE A LINK TO THAT
18 DATABASE TO THE DEPARTMENT OF ADMINISTRATION. THE DATABASE MAY NOT
19 INCLUDE:

20 1. TAX PAYMENT OR REFUND DATA THAT INCLUDES CONFIDENTIAL TAXPAYER
21 INFORMATION.

22 2. WORK PRODUCT IN ANTICIPATION OF LITIGATION OR OTHER INFORMATION
23 THAT IS SUBJECT TO ATTORNEY-CLIENT PRIVILEGE.

24 3. ANY OTHER INFORMATION THAT IS DESIGNATED BY LAW AS CONFIDENTIAL.

25 B. THE DISTRICT SHALL KEEP THE WEBSITE CURRENT AND SHALL POST, IN
26 ADDITION TO THE INFORMATION DESCRIBED IN SUBSECTION A OF THIS SECTION, ALL
27 OF THE FOLLOWING INFORMATION:

28 1. THE DISTRICT'S LEGAL NAME, COMMON NAME, IF ANY, STATUTORY
29 AUTHORITY, FORMATION DATE AND THE BOUNDARIES OF THE DISTRICT, INCLUDING AT
30 LEAST ONE MAP IN A DOWNLOADABLE FORMAT.

31 2. A COPY OF THE FORMATION ORDER AND THE GENERAL PLAN.

32 3. A STATEMENT THAT THE FORMATION OF THE DISTRICT WAS REVIEWED AND
33 APPROVED BY THE AUTHORITY DESIGNATED PURSUANT TO THIS CHAPTER, AND THAT
34 THE DISTRICT IS A SEPARATE POLITICAL SUBDIVISION FROM THE MUNICIPALITY AND
35 THE COUNTY IN WHICH IT IS LOCATED AND THAT ANY AD VALOREM TAXES,
36 ASSESSMENTS, FEES OR CHARGES IMPOSED BY THE DISTRICT ARE LEVIED BY THE
37 DISTRICT AND ARE NOT TAXES, ASSESSMENTS, FEES OR CHARGES OF THE
38 MUNICIPALITY OR THE COUNTY.

39 4. A PLAIN-LANGUAGE DESCRIPTION OF THE PURPOSE FOR WHICH THE
40 DISTRICT WAS FORMED AND THE PUBLIC IMPROVEMENTS OR SERVICES THE DISTRICT
41 IS AUTHORIZED TO FINANCE OR PROVIDE.

42 5. THE CURRENT YEAR'S ADOPTED BUDGET FOR THE DISTRICT AND THE TWO
43 MOST RECENT PRIOR YEARS' ADOPTED BUDGETS.

44 6. A SCHEDULE OF ALL AD VALOREM TAXES, ASSESSMENTS, FEES AND
45 CHARGES IMPOSED BY THE DISTRICT FOR THE CURRENT FISCAL YEAR.

46 7. A DESCRIPTION OF ALL OUTSTANDING BONDS AND OTHER LONG-TERM
47 OBLIGATIONS OF THE DISTRICT, INCLUDING THE ORIGINAL PRINCIPAL AMOUNT,
48 CURRENT PRINCIPAL BALANCE, IF REASONABLY AVAILABLE, MAXIMUM AUTHORIZED

1 PRINCIPAL, FINAL MATURITY DATE AND A GENERAL DESCRIPTION OF THE REVENUE
2 SOURCES PLEDGED FOR REPAYMENT.

3 8. THE MAXIMUM AUTHORIZED TAX RATE, THE MAXIMUM AUTHORIZED
4 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, THE MAXIMUM
5 AGGREGATE ASSESSMENT AMOUNT AND THE MAXIMUM O/M TAX RATE.

6 9. THE NAMES, OFFICIAL TITLES AND CONTACT INFORMATION FOR THE
7 BOARD, THE CLERK AND THE TREASURER.

8 10. NOTICES OF ALL REGULAR AND SPECIAL MEETINGS OF THE BOARD,
9 AGENDAS AND MINUTES, POSTED IN A TIMELY MANNER.

10 11. ANY ANNUAL REPORTS, AUDITS OR FINANCIAL REVIEWS REQUIRED TO BE
11 FILED WITH A COUNTY, THIS STATE OR ANY OTHER PUBLIC BODY AND ANY
12 ADDITIONAL REPORTS THE DISTRICT ELECTS TO PROVIDE FOR PUBLIC TRANSPARENCY.

13 C. THE DISTRICT SHALL ALSO MAKE AVAILABLE ON THE WEBSITE, IN A FORM
14 THAT CAN BE DOWNLOADED AND PROVIDED TO A PURCHASER, A STANDARDIZED
15 "DISTRICT DISCLOSURE NOTICE" THAT INCLUDES:

16 1. A BRIEF DESCRIPTION OF THE DISTRICT AND ITS POWERS TO LEVY AD
17 VALOREM TAXES, ASSESSMENTS, FEES AND CHARGES.

18 2. THE MOST RECENT AD VALOREM TAX RATE OR ASSESSMENT RATE IMPOSED
19 BY THE DISTRICT AND A SAMPLE CALCULATION OF THE ESTIMATED ANNUAL AD
20 VALOREM TAX OR ASSESSMENT ON A HYPOTHETICAL RESIDENTIAL PROPERTY VALUE
21 SELECTED BY THE BOARD.

22 3. A STATEMENT THAT ACTUAL AD VALOREM TAXES, ASSESSMENTS, FEES AND
23 CHARGES ON A PARTICULAR PROPERTY MAY DIFFER BASED ON CHANGES IN TAX RATES,
24 ASSESSED VALUE AND DISTRICT FINANCING DECISIONS.

25 4. A STATEMENT DIRECTING PROSPECTIVE PURCHASERS TO THE DISTRICT
26 WEBSITE FOR ADDITIONAL AND UPDATED INFORMATION.

27 D. A SELLER OF PROPERTY LOCATED IN THE DISTRICT WHO IS REQUIRED BY
28 LAW TO PROVIDE A DISTRICT DISCLOSURE TO A PURCHASER MAY SATISFY ANY
29 REQUIREMENT TO DESCRIBE THE DISTRICT'S PURPOSES, POWERS, TAX RATES OR
30 INDEBTEDNESS BY:

31 1. PROVIDING THE PURCHASER WITH A CURRENT COPY OF THE STANDARDIZED
32 DISTRICT DISCLOSURE NOTICE DESCRIBED IN SUBSECTION C OF THIS SECTION.

33 2. IDENTIFYING IN WRITING THE DISTRICT'S WEBSITE ADDRESS ON OR
34 BEFORE THE DATE THE PURCHASER SIGNS A BINDING CONTRACT TO ACQUIRE THE
35 PROPERTY.

36 E. THE FAILURE OF THE DISTRICT TO TIMELY UPDATE ALL INFORMATION ON
37 THE WEBSITE DOES NOT RELIEVE A SELLER FROM ANY DUTY UNDER OTHER APPLICABLE
38 DISCLOSURE LAWS, BUT A SELLER WHO, IN GOOD FAITH, RELIES ON INFORMATION
39 POSTED BY THE DISTRICT ON ITS WEBSITE AT THE TIME OF DISCLOSURE IS NOT
40 LIABLE FOR AN INACCURACY IN THAT INFORMATION UNLESS THE SELLER HAD ACTUAL
41 KNOWLEDGE OF THE INACCURACY.

42 48-7044. Annual report; bond report

43 A. NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE END OF EACH
44 FISCAL YEAR, THE DISTRICT SHALL SUBMIT TO THE AUTHORITY AN ANNUAL REPORT
45 CONTAINING:

46 1. THE CURRENT YEAR'S ADOPTED BUDGET FOR THE DISTRICT AND THE TWO
47 MOST RECENT PRIOR YEARS' ADOPTED BUDGETS.

48 2. A SCHEDULE OF ALL AD VALOREM TAXES, ASSESSMENTS, FEES AND
49 CHARGES IMPOSED BY THE DISTRICT FOR THE CURRENT FISCAL YEAR.

1 3. A DESCRIPTION OF ALL OUTSTANDING BONDS AND OTHER LONG-TERM
2 OBLIGATIONS OF THE DISTRICT, INCLUDING THE ORIGINAL PRINCIPAL AMOUNT,
3 CURRENT PRINCIPAL BALANCE, IF REASONABLY AVAILABLE, MAXIMUM AUTHORIZED
4 PRINCIPAL, FINAL MATURITY DATE AND A GENERAL DESCRIPTION OF THE REVENUE
5 SOURCES PLEDGED FOR REPAYMENT.

6 4. THE MAXIMUM AUTHORIZED TAX RATE, THE MAXIMUM AUTHORIZED
7 AGGREGATE PRINCIPAL AMOUNT OF GENERAL OBLIGATION BONDS, THE MAXIMUM
8 AGGREGATE ASSESSMENT AMOUNT AND THE MAXIMUM O/M TAX RATE.

9 5. THE NAMES, OFFICIAL TITLES AND CONTACT INFORMATION FOR THE
10 BOARD, THE CLERK AND THE TREASURER.

11 6. A BRIEF DESCRIPTION OF THE PUBLIC INFRASTRUCTURE THE DISTRICT
12 HAS ACQUIRED OR CONSTRUCTED.

13 7. THE NUMBER OF RESIDENTIAL HOUSING UNITS CONSTRUCTED WITHIN THE
14 DISTRICT.

15 B. NOT LATER THAN THIRTY DAYS AFTER THE ISSUANCE OF ANY BONDS, THE
16 DISTRICT SHALL SUBMIT TO THE AUTHORITY A BOND ISSUANCE REPORT CONTAINING:

17 1. THE FINAL OFFERING DOCUMENT, IF ANY, PURSUANT TO WHICH THE BONDS
18 WERE SOLD.

19 2. A DEBT SERVICE SCHEDULE FOR THE BONDS.

20 3. A DESCRIPTION OF THE PUBLIC INFRASTRUCTURE FINANCED WITH THE
21 PROCEEDS OF THE BONDS.

22 4. IF THE BONDS ARE GENERAL OBLIGATION BONDS, A PROJECTION OF THE
23 AD VALOREM TAX RATE THAT IS REQUIRED TO SUPPORT DEBT SERVICE ON THE BONDS,
24 WHICH PROJECTED RATE DOES NOT EXCEED THE MAXIMUM AUTHORIZED TAX RATE.

25 5. IF THE BONDS ARE ASSESSMENT BONDS, THE MAXIMUM AGGREGATE
26 ASSESSMENT AND THE MAXIMUM PER-LOT ASSESSMENT LEVIED IN CONNECTION WITH
27 THE BONDS.

28 6. A DESCRIPTION OF ALL OUTSTANDING BONDS AND OTHER LONG-TERM
29 OBLIGATIONS OF THE DISTRICT, INCLUDING THE ORIGINAL PRINCIPAL AMOUNT,
30 CURRENT PRINCIPAL BALANCE, IF REASONABLY AVAILABLE, MAXIMUM AUTHORIZED
31 PRINCIPAL, FINAL MATURITY DATE AND A GENERAL DESCRIPTION OF THE REVENUE
32 SOURCES PLEDGED FOR REPAYMENT.

33 48-7045. Seller disclosure: form of notice

34 A. THIS SECTION APPLIES TO THE SALE OR OTHER CONVEYANCE OF ANY
35 RESIDENTIAL REAL PROPERTY THAT IS LOCATED WITHIN THE BOUNDARIES OF A
36 DISTRICT FORMED UNDER THIS CHAPTER AND THAT IS AUTHORIZED TO LEVY AN AD
37 VALOREM TAX, ASSESSMENT, FEE OR CHARGE THAT APPEARS AS A SEPARATE LINE
38 ITEM ON THE PROPERTY TAX BILL FOR THAT PROPERTY.

39 B. A SELLER OF RESIDENTIAL REAL PROPERTY TO WHICH THIS SECTION
40 APPLIES SHALL PROVIDE TO EACH PROSPECTIVE PURCHASER A WRITTEN "DISTRICT
41 DISCLOSURE NOTICE" THAT CONTAINS, AT A MINIMUM, THE INFORMATION DESCRIBED
42 IN SECTION 48-7043, SUBSECTION C AND THAT SUBSTANTIALLY COMPLIES WITH THE
43 FORM PRESCRIBED BY THE DISTRICT.

44 C. THE SELLER SHALL DELIVER THE DISTRICT DISCLOSURE NOTICE AS
45 FOLLOWS:

46 1. FOR A TRANSACTION IN WHICH THE PURCHASER SIGNS A WRITTEN OFFER,
47 THE SELLER SHALL DELIVER THE NOTICE TO THE PURCHASER ON OR BEFORE THE DATE
48 ON WHICH THE PURCHASER SIGNS A BINDING PURCHASE CONTRACT FOR THE PROPERTY.

1 2. FOR ANY OTHER TRANSACTION, THE SELLER SHALL DELIVER THE NOTICE
2 TO THE PURCHASER BEFORE THE PURCHASER BECOMES OBLIGATED UNDER ANY BINDING
3 AGREEMENT TO ACQUIRE THE PROPERTY.

4 D. A DISTRICT DISCLOSURE NOTICE SATISFIES THE SELLER'S OBLIGATION
5 UNDER THIS SECTION IF THE NOTICE:

6 1. IDENTIFIES THE DISTRICT BY LEGAL NAME AND COMMON NAME, IF ANY.
7 2. STATES THAT THE PROPERTY IS LOCATED WITHIN THE DISTRICT AND IS
8 SUBJECT TO THE DISTRICT'S TAXING AND ASSESSMENT AUTHORITY.

9 3. INCLUDES A BRIEF DESCRIPTION OF THE DISTRICT'S PURPOSES AND
10 POWERS, INCLUDING ITS AUTHORITY TO LEVY AD VALOREM TAXES, ASSESSMENTS,
11 FEES OR CHARGES.

12 4. STATES THE CURRENT AD VALOREM TAX RATE OR ASSESSMENT RATE
13 IMPOSED BY THE DISTRICT AND PROVIDES AN EXAMPLE OF THE ESTIMATED ANNUAL
14 TAX OR ASSESSMENT ON A HYPOTHETICAL RESIDENTIAL PROPERTY VALUE.

15 5. STATES THAT ACTUAL TAXES, ASSESSMENTS, FEES AND CHARGES ON THE
16 PROPERTY MAY CHANGE OVER TIME AND MAY DIFFER FROM THE EXAMPLE PROVIDED.

17 6. STATES THAT THE FORMATION OF THE DISTRICT WAS REVIEWED AND
18 APPROVED BY THE AUTHORITY DESIGNATED PURSUANT TO THIS CHAPTER AND THAT THE
19 DISTRICT IS A SEPARATE POLITICAL SUBDIVISION FROM THE MUNICIPALITY AND THE
20 COUNTY IN WHICH IT IS LOCATED AND THAT ANY AD VALOREM TAXES, ASSESSMENTS,
21 FEES OR CHARGES IMPOSED BY THE DISTRICT ARE LEVIED BY THE DISTRICT AND ARE
22 NOT TAXES, ASSESSMENTS, FEES OR CHARGES OF THE MUNICIPALITY OR THE COUNTY.

23 7. PROVIDES THE INTERNET WEBSITE ADDRESS FOR THE DISTRICT AND
24 ADVISES THE PURCHASER THAT ADDITIONAL AND UPDATED INFORMATION REGARDING
25 THE DISTRICT'S FINANCES, MEETINGS AND OPERATIONS IS AVAILABLE ON THAT
26 WEBSITE.

27 E. A SELLER MAY SATISFY THE DISCLOSURE REQUIREMENTS OF THIS SECTION
28 BY:

29 1. PROVIDING THE PURCHASER WITH A CURRENT COPY OF THE STANDARDIZED
30 DISTRICT DISCLOSURE NOTICE MADE AVAILABLE BY THE DISTRICT PURSUANT TO
31 SECTION 48-7043, SUBSECTION C.

32 2. IDENTIFYING THE DISTRICT'S WEBSITE ADDRESS IN THE PURCHASE
33 CONTRACT OR IN A SEPARATE WRITTEN DISCLOSURE DELIVERED WITH THE NOTICE.

34 F. A SELLER WHO, IN GOOD FAITH, RELIES ON INFORMATION CONTAINED IN
35 THE STANDARDIZED DISTRICT DISCLOSURE NOTICE PROVIDED BY THE DISTRICT OR
36 POSTED ON THE DISTRICT'S WEBSITE AT THE TIME OF DISCLOSURE IS NOT LIABLE
37 FOR AN INACCURACY IN THAT INFORMATION UNLESS THE SELLER HAD ACTUAL
38 KNOWLEDGE OF THE INACCURACY.

39 G. A SELLER'S COMPLIANCE WITH THIS SECTION DOES NOT SATISFY OR
40 LIMIT ANY OBLIGATION OF A SUBDIVIDER OR OTHER SELLER TO OBTAIN AND DELIVER
41 A SUBDIVISION PUBLIC REPORT UNDER TITLE 32, CHAPTER 20, ARTICLE 4, AND
42 DOES NOT LIMIT ANY DISCLOSURE OBLIGATIONS IMPOSED BY SECTION 33-423 OR ANY
43 OTHER PROVISION OF LAW.

44 48-7046. Change in district boundaries or general plan

45 A. AFTER FORMATION OF A DISTRICT, AN AREA MAY BE DELETED FROM THE
46 DISTRICT ONLY FOLLOWING A HEARING AFTER NOTICE TO THE OWNERS OF LAND IN
47 THE DISTRICT, ADOPTION OF A RESOLUTION OF INTENTION TO DO SO BY THE BOARD
48 AND APPROVAL BY THE OWNERS OF LAND IN THE DISTRICT PURSUANT TO SECTION

1 48-7041, SUBSECTION C. DELETED AREAS REMAIN SUBJECT TO THE LEVY FOR DEBT
2 SERVICE ON ANY BONDS ISSUED BEFORE THE DATE OF DELETION.

3 B. AFTER FORMATION OF A DISTRICT, AN AREA MAY BE ADDED TO THE
4 DISTRICT ON APPROVAL BY THE BOARD FOLLOWING RECEIPT OF A PETITION FOR
5 ADDITION SIGNED BY THE FEE-TITLE OWNERS OF ALL OF THE REAL PROPERTY IN THE
6 PROPOSED ADDITION AREA. THE PETITION MUST INCLUDE A WAIVER OF ANY
7 REQUIREMENT FOR A SEPARATE RESOLUTION OF INTENTION BY THE BOARD AND A
8 WAIVER OF ANY REQUIREMENT OF POSTING, PUBLICATION, MAILING, NOTICE,
9 HEARING AND ELECTION AS TO THAT ADDITION TO THE DISTRICT.

10 C. FOLLOWING A HEARING ON NOTICE TO OWNERS OF LAND IN THE DISTRICT
11 GIVEN IN THE MANNER PRESCRIBED FOR THE DELETION OF AN AREA FROM THE
12 DISTRICT, THE BOARD MAY AMEND THE GENERAL PLAN IN ANY MANNER THAT IT
13 DETERMINES WILL NOT SUBSTANTIALLY REDUCE THE BENEFITS TO BE RECEIVED BY
14 ANY LAND IN THE DISTRICT FROM THE PUBLIC INFRASTRUCTURE ON COMPLETION OF
15 THE WORK TO BE PERFORMED UNDER THE GENERAL PLAN.

16 48-7047. Other districts or improvements

17 A. THE FORMATION OF A DISTRICT UNDER THIS CHAPTER DOES NOT PREVENT
18 THE SUBSEQUENT ESTABLISHMENT OF SIMILAR DISTRICTS OR THE IMPROVEMENT OR
19 ASSESSMENT OF LAND IN THE DISTRICT BY THE MUNICIPALITY OR COUNTY PURSUANT
20 TO, CHAPTER 4, ARTICLE 2 OF THIS STATE OR THE EXERCISE BY THE MUNICIPALITY
21 OR COUNTY OF ANY OF ITS POWERS ON THE SAME BASIS AS ON ALL OTHER LAND IN
22 ITS CORPORATE BOUNDARIES.

23 B. NOTWITHSTANDING SUBSECTION A OF THIS SECTION, A DISTRICT MAY NOT
24 BE FORMED IF ANY PORTION OF THE LAND TO BE INCLUDED WITHIN THE DISTRICT IS
25 ALREADY INCLUDED WITHIN THE BOUNDARIES OF A COMMUNITY FACILITIES DISTRICT
26 OR REVITALIZATION DISTRICT IF THE COMMUNITY FACILITIES DISTRICT OR
27 REVITALIZATION DISTRICT HAS DEBT OUTSTANDING THAT IS SECURED BY AD VALOREM
28 TAXES OR ASSESSMENTS.

29 48-7048. Perpetual succession; dissolution of district

30 A. THE DISTRICT HAS PERPETUAL SUCCESSION, EXCEPT THAT THE DISTRICT
31 MAY BE DISSOLVED AS PROVIDED IN THIS SECTION AND, IF THE DISTRICT DOES NOT
32 HAVE ANY BONDS OR OTHER OBLIGATIONS OUTSTANDING, SHALL BE DISSOLVED TEN
33 YEARS AFTER THE DATE OF FORMATION UNLESS THE AUTHORITY BY RESOLUTION
34 EXTENDS THE DISTRICT BY AN ADDITIONAL PERIOD OF TEN YEARS.

35 B. THE BOARD SHALL ADOPT A RESOLUTION DISSOLVING THE DISTRICT IF
36 THE FOLLOWING CONDITIONS EXIST:

37 1. ALL OF THE REAL AND PERSONAL PROPERTY OWNED BY THE DISTRICT HAS
38 BEEN OR WILL BE CONVEYED TO A MUNICIPALITY OR A COUNTY.

39 2. EITHER THE DISTRICT HAS NO BONDS OR OBLIGATIONS OR A
40 MUNICIPALITY HAS ASSUMED ALL OF THE OBLIGATIONS OF THE DISTRICT.

41 3. THE AUTHORITY APPROVES THE DISSOLUTION ORDER ON RECEIPT OF A
42 DISSOLUTION PETITION EXECUTED BY THE FEE-TITLE OWNERS OF A MAJORITY OF THE
43 REAL PROPERTY IN THE DISTRICT.

44 C. ON SATISFACTION OF THE CONDITIONS PRESCRIBED BY SUBSECTION B OF
45 THIS SECTION, THE AUTHORITY SHALL APPROVE THE DISSOLUTION AND ISSUE A
46 DISSOLUTION ORDER. THE BOARD SHALL CAUSE THE DISSOLUTION ORDER TO BE
47 RECORDED IN THE OFFICE OF THE COUNTY RECORDER.

48 D. ALL PROPERTY IN THE DISTRICT, EXCEPT FEDERAL, STATE, COUNTY AND
49 MUNICIPAL PROPERTY, REMAINS SUBJECT TO THE LIEN FOR THE PAYMENT OF AD

1 VALOREM TAXES LEVIED, AND ANY PROPERTY SUBJECT TO AN ASSESSMENT LIEN
2 REMAINS SUBJECT TO THE LIEN NOTWITHSTANDING DISSOLUTION OF THE DISTRICT.
3 THE DISTRICT MAY NOT BE DISSOLVED IF ANY GENERAL OBLIGATION BONDS, REVENUE
4 BONDS OR ASSESSMENT BONDS OF THE DISTRICT REMAIN OUTSTANDING UNLESS AN
5 AMOUNT OF MONEY SUFFICIENT, TOGETHER WITH INVESTMENT INCOME THEREON, TO
6 MAKE ALL PAYMENTS DUE ON THE BONDS EITHER AT MATURITY OR PRIOR REDEMPTION
7 HAS BEEN DEPOSITED WITH A TRUSTEE OR ESCROW AGENT AND PLEDGED TO THE
8 PAYMENT AND REDEMPTION OF THE BONDS. THE DISTRICT MAY CONTINUE TO OPERATE
9 AFTER DISSOLUTION ONLY AS NEEDED TO COLLECT MONIES AND MAKE PAYMENTS ON
10 ANY OUTSTANDING BONDS.

11 Sec. 4. Short title

12 This act may be cited as the "State Housing Affordability District
13 Act".

14 Amend title to conform

JEFF WENINGER

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