Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-sixth Legislature
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CHAPTER 197

HOUSE BILL 2062

AN ACT

AMENDING SECTION 48-3603, ARIZONA REVISED STATUTES; RELATING TO FLOOD CONTROL DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 48-3603, Arizona Revised Statutes, is amended to read:

48-3603. Powers, duties and immunities of district and board; exemption

A. A county flood control district organized under this article is a political taxing subdivision of this state and has all the powers, privileges and immunities granted generally to municipal corporations by the constitution and laws of this state including immunity of its property and bonds from taxation.

B. The board of directors shall exercise all powers and duties in the acquisition and operation of the properties of the district and in carrying out its regulatory functions under this article as are ordinarily exercised by the governing body of a municipal corporation.

C. A district organized under this article, acting through its board of directors, may:

1. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means rights-of-way for and construct, operate and maintain flood control works and storm drainage facilities within or without the district for the benefit of the district.

2. Acquire by eminent domain, purchase, donation, dedication, exchange or other lawful means and dispose of by sale, exchange or other lawful means real and personal property within the boundaries of the district.

3. Contract and join with this state, the United States or any other flood control district or floodplain board, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual in acquiring, constructing, maintaining and operating flood control works, and regulating floodplains.

4. Enter into contracts of indemnity to indemnify this state, the United States or any other flood control district, municipality, political subdivision, governmental agency, irrigation or agricultural improvement district, association, corporation or individual against liability by virtue of injuries, losses or damages occurring through the use of their facilities, structures, streets, rights-of-way or properties in connection with the operation of a flood control district and the regulation of floodplains.

5. Acquire and maintain existing flood control and drainage facilities within the district for the benefit of the district if mutually agreeable to the owners of such facilities.

6. Acquire, convert and maintain surplus irrigation facilities as storm drainage facilities if mutually agreeable to owners of such facilities.

7. Construct, maintain and operate flood control and storm drainage facilities and regulate floodplains in the district by agreement with this state, counties, other municipal corporations, political subdivisions and other persons and reimburse such agencies or persons for the cost of the work.

8. On the dissolution of any other flood control district, assume the assets and obligations of the other district.

9. Enter into intergovernmental agreements with other public agencies pursuant to title 11, chapter 7, article 3 to carry out the objects and purposes of the district.

10. Apply for, obtain, expend and repay flood control loans pursuant to title 45, chapter 8, article 5.

11. Apply to the director of water resources for alternative flood control assistance for flood control projects pursuant to section 45-1471, except that the director shall not grant any such assistance for any project unless he has approved the project in advance of planning.

12. Sue and be sued, enter into contracts and generally do all things which may be necessary to construct, acquire and maintain facilities, operate the district and perform its regulatory functions and which are in the interests of the district.

13. Adopt such rules and bylaws for its orderly operation as it sees fit.

14. Appoint a chief engineer and general manager, who may be the county engineer.

15. Appoint a treasurer, who may be the county treasurer, an attorney, who may be the county attorney, and other employees it considers desirable and necessary to carry out the purposes of the district. Any other work required by the district may be performed by regular employees of the county on assignment by the board of supervisors, except that regular county employees shall not undertake construction projects with an estimated cost of five thousand dollars or more.

16. Allow variances from the terms or regulations adopted pursuant to this article to the extent permitted by section 48-3609, subsection B, paragraph 7 and if, owing to peculiar conditions, a strict interpretation would work an unnecessary hardship, if in granting the variance the general intent and purposes of this article and the regulations will be preserved.

17. Construct, operate and maintain artificial groundwater recharge facilities, and, if organized in a county having a population of more than five hundred thousand persons according to the most recent United States decennial census, underground storage and recovery facilities, if they have flood control benefits, and contract and join with the United States, this state and other governmental units for the purpose of constructing, operating and maintaining multipurpose groundwater recharge, underground storage and recovery and flood control facilities, except that a district shall not expend district funds for any underground storage and recovery facility that does not have flood control benefits.

18. Acquire real property by purchase, donation, dedication, exchange or other lawful means, except by eminent domain, in areas suitable for groundwater recharge projects.

19. Cooperate and join with other entities that engage in underground water storage and recovery projects under title 45, chapter 3, including multi-county water conservation districts and other political subdivisions.

D. The board shall adopt and enforce floodplain regulations as provided in section 48-3609.

E. The board may adopt a fee schedule for review of applications for permits and variances from or interpretations of the floodplain regulations.

F. The affirmative vote of a majority of the board of directors is necessary to approve any measure. One member may adjourn any meeting at which a quorum is not present.

G. The board shall keep a proper written record of all of its proceedings, which shall be open to public inspection.

H. The accounts of the district are subject to annual and other audits as provided by law.

I. The provisions of section 9-403 do not apply to a flood control district organized under this article AND THE PROVISIONS OF SECTION 9-402 DO NOT APPLY WHEN THE DISTRICT IS SELLING PROPERTY TO A POLITICAL SUBDIVISION. IF ANY PROPERTY SOLD BY THE DISTRICT TO A POLITICAL SUBDIVISION WITHOUT COMPLYING WITH SECTION 9-402 IS SUBSEQUENTLY SOLD BY THE POLITICAL SUBDIVISION AS UNDEVELOPED PROPERTY FOR A PRICE EXCEEDING THE ORIGINAL SALE PRICE, THE DISTRICT SHALL BE PAID THE DIFFERENCE BETWEEN THE ORIGINAL PRICE AND THE SUBSEQUENT SALE PRICE. FOR THE PURPOSES OF THIS SUBSECTION, "POLITICAL SUBDIVISION" MEANS ANY INCORPORATED CITY OR TOWN, SCHOOL DISTRICT, CHARTER SCHOOL, COMMUNITY COLLEGE OR UNIVERSITY.

APPROVED BY THE GOVERNOR MAY 6, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2004.