Senate Engrossed House Bill

FILED

JANICE K. BREWER
SECRETARY OF STATE

State of Arizona
House of Representatives
Forty-eighth Legislature
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CHAPTER 252

HOUSE BILL 2300

AN ACT

AMENDING TITLE 45, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 45-108.01; AMENDING SECTION 45-544, ARIZONA REVISED STATUTES; AMENDING TITLE 48, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 37; RELATING TO THE UPPER SAN PEDRO WATER DISTRICT; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Title 45, chapter 1, article 1, Arizona Revised Statutes, is amended by adding section 45-108.01, to read:

45-108.01. Definition of adequate water supply; upper San Pedro water district

FOR THE PURPOSES OF SECTION 45-108, IF THE UPPER SAN PEDRO WATER DISTRICT IS ESTABLISHED UNDER TITLE 48, CHAPTER 37 FOR PROPOSED USES IN THE DISTRICT, "ADEQUATE WATER SUPPLY" MEANS A WATER SUPPLY THAT COMPLIES WITH ALL OF THE FOLLOWING:

1. SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE QUALITY WILL BE CONTINUOUSLY, LEGALLY AND PHYSICALLY AVAILABLE TO SATISFY THE WATER NEEDS OF THE PROPOSED USE FOR AT LEAST ONE HUNDRED YEARS.

2. THE PROJECTED WATER USE IS CONSISTENT WITH THE GOAL OF THE DISTRICT AS SET FORTH IN SECTION 48-6403, SUBSECTION B AND THE DISTRICT'S ABILITY TO MEET THE MEASURABLE OBJECTIVES FOR ACHIEVING THE GOAL AS INCLUDED IN THE DISTRICT'S MOST RECENT COMPREHENSIVE PLAN, AS DETERMINED BY THE DIRECTOR. IF THE DISTRICT IS ESTABLISHED, THE DIRECTOR SHALL ADOPT RULES CONTAINING CRITERIA FOR MAKING DETERMINATIONS UNDER THIS PARAGRAPH AND SHALL CONSULT WITH THE DISTRICT BOARD IN DEVELOPING THE RULES.

3. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE WATER FACILITIES NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE PROPOSED USE, INCLUDING A DELIVERY SYSTEM AND ANY STORAGE FACILITIES OR TREATMENT WORKS. THE DIRECTOR MAY ACCEPT EVIDENCE OF THE CONSTRUCTION ASSURANCES REQUIRED BY SECTION 9-463.01, 11-806.01 OR 32-2181 TO SATISFY THIS REQUIREMENT.

Sec. 2. Section 45-544, Arizona Revised Statutes, is amended to read:

45-544. Transportation in areas not subject to active management; damages; upper San Pedro water district; Little Colorado river plateau and Parker groundwater basins; definitions

A. Except as otherwise provided in this section, section 45-547 and article 8.1 of this chapter, in areas outside of active management areas:

1. Groundwater may be transported:

(a) Within a subbasin of a groundwater basin or within a groundwater basin, if there are no subbasins, without payment of damages.

(b) Between subbasins of a groundwater basin, subject to payment of damages.

2. Groundwater ~~may~~ SHALL not be transported away from a groundwater basin.

3. GROUNDWATER SHALL NOT BE TRANSPORTED AWAY FROM THE UPPER SAN PEDRO WATER DISTRICT IF ESTABLISHED UNDER TITLE 48, CHAPTER 37.

B. Notwithstanding subsection A, paragraph 2 OR 3 of this section, subject to payment of damages:

1. A person who at any time during the twelve months before January 1, 1991 was transporting away from the Little Colorado river plateau groundwater basin or the Parker groundwater basin groundwater that was legally withdrawn from a well in either groundwater basin has the right, subject to subsection C of this section, to transport groundwater that is legally withdrawn from the well or a replacement well in approximately the same location to another groundwater basin in an annual amount equal to the greater of the maximum amount of groundwater either:

(a) That was withdrawn from the well and transported by the person away from the groundwater basin in any one of the five calendar years immediately preceding January 1, 1991.

(b) That could have been withdrawn from the well during the twelve month period, taking into account the pump capacity and specific capacity of the well during that period, or twenty-five acre-feet, whichever is less.

2. A person may transport groundwater by motor vehicle from the Little Colorado river plateau groundwater basin or the Parker groundwater basin to an adjacent groundwater basin for domestic purposes or stock watering.

3. A city or town whose service area is located either in the Little Colorado river plateau groundwater basin and an adjacent groundwater basin or in the Parker groundwater basin and an adjacent groundwater basin may transport groundwater that is withdrawn within that portion of its service area located in the Little Colorado river plateau groundwater basin or the Parker groundwater basin to the adjacent groundwater basin for the benefit of landowners and residents within its service area.

4. A city, town or private water company whose service area is located in two adjacent groundwater basins and provides water utility service to landowners or residents in both basins as of July 1, 1993 may transport groundwater between those adjacent groundwater basins.

5. The transportation of groundwater in which groundwater is transported away from the groundwater basin and expansions of that transfer by the same person or its successor for the same purpose are valid if that transfer was occurring before September 1, 1993.

6. Groundwater may be transported away from a groundwater basin for mineral extraction and processing, except that no groundwater may be transported away from the Parker groundwater basin or the Little Colorado river plateau groundwater basin for that purpose AND, IF THE DISTRICT IS ESTABLISHED, GROUNDWATER SHALL NOT BE TRANSPORTED AWAY FROM THE UPPER SAN PEDRO WATER DISTRICT FOR THAT PURPOSE EXCEPT AS PROVIDED IN PARAGRAPH 7 OF THIS SUBSECTION.

7. IF THE UPPER SAN PEDRO WATER DISTRICT IS ESTABLISHED UNDER TITLE 48, CHAPTER 37:

(a) A CITY, TOWN OR PRIVATE WATER COMPANY WHOSE SERVICE AREA IS LOCATED IN THE DISTRICT AND A GROUNDWATER BASIN ADJACENT TO THE DISTRICT, OTHER THAN THE UPPER SAN PEDRO GROUNDWATER BASIN, AND THAT PROVIDES WATER UTILITY SERVICE TO LANDOWNERS OR RESIDENTS IN THE DISTRICT AND THAT ADJACENT

GROUNDWATER BASIN AS OF JULY 1, 1993 MAY TRANSPORT GROUNDWATER BETWEEN THE DISTRICT AND THAT ADJACENT GROUNDWATER BASIN.

(b) THE TRANSPORTATION OF GROUNDWATER IN WHICH GROUNDWATER IS TRANSPORTED AWAY FROM THE DISTRICT AND AWAY FROM THE UPPER SAN PEDRO GROUNDWATER BASIN AND EXPANSIONS OF THAT TRANSFER BY THE SAME PERSON OR ITS SUCCESSOR FOR THE SAME PURPOSE ARE VALID IF THAT TRANSFER WAS OCCURRING BEFORE SEPTEMBER 1, 1993.

(c) THE TRANSPORTATION OF GROUNDWATER IN WHICH GROUNDWATER IS TRANSPORTED AWAY FROM THE DISTRICT BUT NOT AWAY FROM THE UPPER SAN PEDRO GROUNDWATER BASIN AND EXPANSIONS OF THAT TRANSFER BY THE SAME PERSON OR ITS SUCCESSOR FOR THE SAME PURPOSE ARE VALID IF THAT TRANSFER WAS OCCURRING BEFORE THE DATE THE DISTRICT IS ESTABLISHED.

C. The director may limit by order the amount of groundwater withdrawn from a well in the Little Colorado river plateau groundwater basin for transportation away from the basin pursuant to subsection B, paragraph 1 of this section in any year in which the director determines that the projected withdrawals from the well for that purpose will unreasonably increase damage to surrounding land or other water users and if the well:

1. Was drilled on or before January 1, 1991.

2. Was not completed on January 1, 1991, but a notice of intention to drill the well was on file on that date.

3. Is a replacement well, in approximately the same location, for a well described in paragraph 1 or 2 of this subsection.

D. Groundwater may be withdrawn from a well drilled in the Little Colorado river plateau groundwater basin after January 1, 1991, except a replacement well in approximately the same location or a well drilled after that date pursuant to a notice of intention to drill that was on file with the department on that date, for transportation away from the basin pursuant to subsection B, paragraph 1 of this section only if the location of the well complies with the rules adopted pursuant to section 45-598, subsection A to prevent unreasonably increasing damage to surrounding land or other water users from the concentration of wells.

E. For the purposes of this section:

1. "Domestic purposes" means uses related to the supply, service and activities of households and private residences and includes the application of water to less than two acres of land to produce plants or parts of plants for sale or human consumption, or for use as feed for livestock, range livestock or poultry, as such terms are defined in section 3-1201.

2. "Stock watering" means the watering of livestock, range livestock or poultry, as such terms are defined in section 3-1201.

Sec. 3. Title 48, Arizona Revised Statutes, is amended by adding chapter 37, to read:

CHAPTER 37

UPPER SAN PEDRO WATER DISTRICT

ARTICLE 1. GENERAL PROVISIONS

48-6401. Findings; purpose

A. THE LEGISLATURE FINDS THAT THE UPPER SAN PEDRO GROUNDWATER BASIN IS A MAJOR SOURCE OF WATER FOR THE RESIDENTS OF COCHISE COUNTY AND FOR THE PERSONNEL AND OPERATIONS OF FORT HUACHUCA, AND THAT FORT HUACHUCA AND THE RESIDENTS OF THE BASIN ARE DEPENDENT ON THE WITHDRAWAL OF WATER FROM WELLS FOR THEIR WATER SUPPLY FOR DRINKING AND OTHER PURPOSES. THE LEGISLATURE FINDS THAT CONSERVING AND MAINTAINING THE GROUNDWATER SUPPLY BY ADOPTION OF THIS ACT WILL PROTECT AND PROMOTE THE PUBLIC'S HEALTH AND SAFETY BY HELPING TO ENSURE A MORE RELIABLE WATER SUPPLY.

B. THE LEGISLATURE FURTHER FINDS THAT MAINTAINING THE MISSION OF FORT HUACHUCA WILL STRENGTHEN OUR NATIONAL DEFENSE AND ENSURE AND IMPROVE THE PUBLIC SAFETY OF THE RESIDENTS OF THIS STATE, AND THAT THE CLOSURE OR SIGNIFICANT REDUCTION IN THE FORT'S MISSION WOULD ADVERSELY IMPACT THE SAFETY AND SECURITY OF THE RESIDENTS OF THIS STATE AND THIS NATION. BECAUSE FEDERAL LAW REQUIRES CONSIDERATION OF CERTAIN WATER ISSUES IN EVALUATING THE FUTURE OF FORT HUACHUCA, ENSURING THE WATER SUPPLY TO FORT HUACHUCA AND ITS SURROUNDING COMMUNITIES WILL FURTHER PROTECT THE PUBLIC'S SAFETY.

C. THE PURPOSE OF THIS CHAPTER IS TO ALLOW FOR THE FORMATION OF THE UPPER SAN PEDRO WATER DISTRICT CONSISTING OF A PORTION OF THE UPPER SAN PEDRO GROUNDWATER BASIN THAT INCLUDES FORT HUACHUCA, THE LANDS IN THE CORPORATE LIMITS OF THE CITIES OF SIERRA VISTA AND TOMBSTONE AND THE TOWN OF HUACHUCA CITY AND THE PORTION OF THE CITY OF BISBEE LOCATED IN THE UPPER SAN PEDRO GROUNDWATER BASIN, BUT NOT ANY LANDS IN SANTA CRUZ COUNTY OR PIMA COUNTY AND NOT INCLUDING THAT PORTION OF THE CITY OF BISBEE LOCATED IN THE DOUGLAS GROUNDWATER BASIN, AND TO PROVIDE THE DISTRICT WITH SUFFICIENT RESOURCES AND AUTHORITY TO ALLOW THE DISTRICT TO ACHIEVE THE GOAL PRESCRIBED IN SECTION 48-6403.

D. THE UPPER SAN PEDRO WATER DISTRICT FORMED PURSUANT TO THIS CHAPTER IS INTENDED AS A LONG-TERM, LEGALLY BINDING BODY WITH PERPETUAL AUTHORITY THAT IS SPECIFICALLY ADAPTED TO THE GEOGRAPHICAL AND HYDROLOGICAL REQUIREMENTS AND NEEDS OF THE AREA IN THE DISTRICT. THE DISTRICT SHALL BE ESTABLISHED WITH A SPECIFIC WATER RESOURCE GOAL APPROPRIATE TO THAT AREA.

E. THE LEGISLATURE FINDS THAT THE ADEQUATE WATER SUPPLY REQUIREMENTS IN SECTION 48-6411 ARE NECESSARY TO ASSIST THE DISTRICT IN ACHIEVING ITS MANAGEMENT GOAL AND TO PROTECT THE PUBLIC HEALTH AND SAFETY IN THE DISTRICT.

48-6402. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "BOARD" MEANS THE ELECTED BOARD OF DIRECTORS OF THE UPPER SAN PEDRO WATER DISTRICT FORMED PURSUANT TO THIS CHAPTER.

2. "COUNTY" MEANS THE COUNTY IN WHICH THE DISTRICT IS LOCATED.

3. "DEPARTMENT" MEANS THE DEPARTMENT OF WATER RESOURCES.

4. "DIRECTOR" MEANS THE DIRECTOR OF WATER RESOURCES.

5. "DISTRICT" MEANS THE UPPER SAN PEDRO WATER DISTRICT FORMED PURSUANT TO THIS CHAPTER.

6. "MUNICIPAL WATER DELIVERY SYSTEM" MEANS AN ENTITY THAT DISTRIBUTES OR SELLS POTABLE WATER PRIMARILY THROUGH A PIPELINE DELIVERY SYSTEM THAT IS OWNED BY EITHER:

(a) A CITY OR TOWN INCORPORATED OR CHARTERED UNDER THE CONSTITUTION AND LAWS OF THIS STATE.

(b) A PRIVATE ENTITY THAT IS REGULATED AS A PUBLIC SERVICE CORPORATION BY THE CORPORATION COMMISSION UNDER A CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY.

(c) A SPECIAL TAXING DISTRICT ESTABLISHED UNDER CHAPTER 4 OR 6 OF THIS TITLE.

(d) AN ENTITY THAT IS REGULATED AS A WATER SUPPLY SYSTEM BY THE DEPARTMENT OF ENVIRONMENTAL QUALITY.

48-6403. Establishment of upper San Pedro water district; map; goal; decreed and appropriative water rights

A. THE UPPER SAN PEDRO WATER DISTRICT MAY BE ESTABLISHED BY AN ELECTION HELD PURSUANT TO THIS ARTICLE. IF THE DISTRICT IS ESTABLISHED, THE LANDS IN THE DISTRICT SHALL CONSIST OF THE PORTION OF THE UPPER SAN PEDRO GROUNDWATER BASIN DELINEATED ON THE MAP THAT IS DATED APRIL, 2007 AND THAT IS ON FILE IN THE DEPARTMENT. THE DISTRICT INCLUDES FORT HUACHUCA, THE LANDS IN THE CORPORATE LIMITS OF THE CITIES OF SIERRA VISTA AND TOMBSTONE AND THE TOWN OF HUACHUCA CITY AND THE PORTION OF THE CITY OF BISBEE LOCATED IN THE UPPER SAN PEDRO GROUNDWATER BASIN, BUT NOT ANY LANDS IN SANTA CRUZ COUNTY OR PIMA COUNTY AND NOT INCLUDING THAT PORTION OF THE CITY OF BISBEE LOCATED IN THE DOUGLAS GROUNDWATER BASIN. IF THE DISTRICT IS ESTABLISHED, A TRUE COPY OF THE MAP SHALL BE RECORDED IN THE OFFICE OF THE COUNTY RECORDER IN THE COUNTY. THE MAP PRESCRIBED BY THIS SECTION SHALL NOT BE MODIFIED WITHOUT THE APPROVAL OF THE LEGISLATURE.

B. THE PURPOSE AND GOAL OF THE DISTRICT ARE TO MAINTAIN THE AQUIFER AND BASE FLOW CONDITIONS NEEDED TO SUSTAIN THE UPPER SAN PEDRO RIVER AND TO ASSIST IN MEETING THE WATER SUPPLY NEEDS AND WATER CONSERVATION REQUIREMENTS FOR FORT HUACHUCA AND THE COMMUNITIES WITHIN THE DISTRICT.

C. THIS CHAPTER SHALL NOT BE CONSTRUED TO AFFECT DECREED AND APPROPRIATIVE WATER RIGHTS. THIS CHAPTER SHALL NOT BE CONSTRUED TO AFFECT ANY OF THE FOLLOWING:

1. THE DEFINITION OF SURFACE WATER IN SECTION 45-101.

2. WATER SUBJECT TO APPROPRIATION IN SECTION 45-141.

3. ANY PROVISION OF TITLE 45, CHAPTER 1, ARTICLE 9.

48-6403.01. Organizing board; upper San Pedro water district; membership; authority; formation election

A. THE ORGANIZING BOARD FOR THE UPPER SAN PEDRO WATER DISTRICT IS ESTABLISHED CONSISTING OF THE FOLLOWING PERSONS:

1. FIVE MEMBERS WHO ARE APPOINTED BY THE GOVERNOR AND WHO ARE QUALIFIED ELECTORS OF THE PROPOSED DISTRICT, ONE OF WHOM MAY REPRESENT A CITY THAT IS LOCATED IN THE PROPOSED DISTRICT AND THAT HAS A POPULATION OF THIRTY-FIVE THOUSAND PERSONS OR MORE, ONE OF WHOM MAY REPRESENT A CITY THAT IS LOCATED IN THE PROPOSED DISTRICT AND THAT HAS A POPULATION OF LESS THAN THIRTY-FIVE THOUSAND PERSONS, ONE OF WHOM MAY REPRESENT A CONSERVATION ORGANIZATION THAT HAS BEEN INVOLVED IN THE UPPER SAN PEDRO PARTNERSHIP OF AGENCIES AND ENTITIES THAT IS RECOGNIZED UNDER FEDERAL LAW, ONE OF WHOM MAY REPRESENT AN INVESTOR-OWNED UTILITY AND ONE OF WHOM MAY REPRESENT RETIRED MILITARY PERSONNEL OR A MILITARY SUPPORT ORGANIZATION.

2. TWO MEMBERS APPOINTED BY THE PRESIDENT OF THE SENATE AND TWO MEMBERS APPOINTED BY THE SPEAKER OF THE HOUSE OF REPRESENTATIVES. THESE MEMBERS SHALL BE QUALIFIED ELECTORS OF THE PROPOSED DISTRICT AND SHALL HAVE AN INTEREST IN ONE OR MORE OF THE COMMUNITIES IN THE PROPOSED DISTRICT AND MAY INCLUDE PERSONS REPRESENTING A CITY, TOWN OR COUNTY, A RESOURCE BASED BUSINESS OR A NATURAL RESOURCE CONSERVATION DISTRICT OR OTHER PERSONS WHO HAVE PERSONAL, BUSINESS OR PROFESSIONAL INTERESTS IN THE DISTRICT.

B. THE ORGANIZING BOARD OF THE DISTRICT SHALL PREPARE AND PROVIDE TO THE PUBLIC THE FOLLOWING:

1. A DETAILED PLAN OF ORGANIZATION FOR THE UPPER SAN PEDRO WATER DISTRICT.

2. A FINANCIAL PLAN BY WHICH ADEQUATE REVENUES WILL BE GENERATED TO SUPPORT THE DISTRICT'S ACTIVITIES. THE ORGANIZING BOARD OF THE DISTRICT MAY RECOMMEND A RATE OF TAXATION TO THE ELECTED BOARD BUT THE ORGANIZING BOARD SHALL NOT SET THE RATE OF ANY TAX.

3. A COMPREHENSIVE PLAN FOR THE CONSERVATION, REUSE, RECHARGE AND AUGMENTATION OF WATER IN THE DISTRICT DESIGNED TO ACHIEVE THE GOAL OF THE DISTRICT. THE PLAN SHALL INCLUDE MEASURABLE OBJECTIVES TO BE MET BY THE DISTRICT NOT LATER THAN TEN YEARS AFTER THE DISTRICT IS ESTABLISHED. THE ORGANIZING BOARD SHALL CONSULT WITH THE DIRECTOR OF WATER RESOURCES WHEN DEVELOPING THE PLAN.

4. AN ELECTION PLAN FOR THE DISTRICT THAT INCLUDES AN ELECTION FOR THE FORMATION OF THE DISTRICT, AN ELECTION FOR MEMBERS OF THE BOARD OF DIRECTORS OF THE DISTRICT, IF FORMATION IS APPROVED, AND APPROVAL OF AND AUTHORITY FOR THE DISTRICT TO GENERATE REVENUE PURSUANT TO SECTION 48-6406. THE ELECTION MAY BE CALLED BY THE COUNTY BOARD OF SUPERVISORS AT THE NEXT REGULAR GENERAL ELECTION OR ON A DATE PRESCRIBED IN SECTION 16-204 BEFORE OR AFTER THE NEXT GENERAL ELECTION DATE. THE ELECTION PLAN SHALL INCLUDE PROPOSED BALLOT LANGUAGE THAT IS SUFFICIENTLY DETAILED TO INFORM THE VOTERS OF THE POWERS AND DUTIES OF THE PROPOSED DISTRICT BOARD OF DIRECTORS, INCLUDING THE ORGANIZATION OF THE DISTRICT, THE WATER MANAGEMENT GOAL AND THE REVENUE GENERATING AUTHORITY OF THE PROPOSED DISTRICT.

C. THE ORGANIZING BOARD OF THE DISTRICT SHALL COOPERATE WITH OTHER GOVERNMENT ENTITIES AND AGENCIES IN THE AREA OF THE PROPOSED DISTRICT, INCLUDING THE DEPARTMENT, AND MAY ENTER INTO INTERGOVERNMENTAL AGREEMENTS

WITH THOSE ENTITIES BEFORE AND WITHOUT REGARD TO FORMATION OF ANY DISTRICT, BUT THE ORGANIZING BOARD MAY NOT LEGALLY OR FINANCIALLY BIND THE DISTRICT.

D. THE ORGANIZING BOARD OF THE DISTRICT IS A PUBLIC BODY THAT IS SUBJECT TO TITLE 38, CHAPTER 3, ARTICLE 3.1 RELATING TO OPEN MEETINGS.

E. IF THE DISTRICT IS ESTABLISHED, THE ORGANIZING BOARD OF THE DISTRICT SHALL SERVE UNTIL AN ELECTED BOARD OF DIRECTORS IS QUALIFIED AND BEGINS SERVING, BUT THE ORGANIZING BOARD MAY NOT ASSESS, LEVY OR COLLECT A TAX.

F. THE COUNTY ATTORNEY FOR THE COUNTY MAY ADVISE OR REPRESENT THE ORGANIZING BOARD ON MATTERS WITHIN THE BOARD'S AUTHORITY UNDER THIS CHAPTER IF THE COUNTY ATTORNEY DETERMINES THAT THE ADVICE OR REPRESENTATION IS APPROPRIATE AND NOT IN CONFLICT WITH THE COUNTY ATTORNEY'S DUTIES UNDER SECTION 11-532.

G. IF THE DISTRICT IS NOT ESTABLISHED WITHIN FIVE YEARS AFTER THE EFFECTIVE DATE OF THIS SECTION, THE AUTHORITY OF THE ORGANIZING BOARD IS TERMINATED AND ANY INTERGOVERNMENTAL AGREEMENTS EXECUTED BY THE ORGANIZING BOARD ARE TERMINATED.

48-6404. District as municipal corporation; exemption from taxation; judicial review

A. THE DISTRICT IS A PUBLIC IMPROVEMENT DISTRICT OF THIS STATE AND A MUNICIPAL CORPORATION TO THE EXTENT OF THE POWERS, PRIVILEGES AND IMMUNITIES CONFERRED BY THIS CHAPTER OR GRANTED GENERALLY TO MUNICIPAL CORPORATIONS BY THE CONSTITUTION AND STATUTES OF THIS STATE, INCLUDING THE IMMUNITIES AND EXEMPTIONS PROVIDED BY ARTICLE XIII, SECTION 7, CONSTITUTION OF ARIZONA, EXCEPT AS SPECIFICALLY LIMITED BY THIS CHAPTER.

B. THE DISTRICT IS REGARDED AS PERFORMING A GOVERNMENTAL FUNCTION IN CARRYING OUT THE PURPOSES OF THIS CHAPTER AND IS NOT REQUIRED TO PAY TAXES OR ASSESSMENTS ON ANY OF THE PROPERTY ACQUIRED OR CONSTRUCTED, ON THE ACTIVITIES OF THE DISTRICT IN MAINTAINING AND CARING FOR THE REAL PROPERTY OR ON THE MONIES DERIVED FROM THE PROPERTY.

C. DECISIONS OF THE BOARD OF DIRECTORS UNDER THIS CHAPTER ARE SUBJECT TO JUDICIAL REVIEW ONLY TO THE SAME EXTENT AND IN THE SAME MANNER AS DECISIONS OF OTHER SPECIAL TAXING DISTRICTS UNDER THIS TITLE.

48-6405. Board; members; terms; compensation

A. BEGINNING THIRTY DAYS AFTER THE DATE ON WHICH THE BOARD OF DIRECTORS IS ELECTED, THE DISTRICT SHALL BE ADMINISTERED BY A BOARD OF DIRECTORS OF SEVEN PERSONS WHO SHALL BE QUALIFIED ELECTORS OF THE DISTRICT.

B. A BOARD OF DIRECTORS SHALL BE ELECTED AS PRESCRIBED IN THIS SECTION. AFTER THE ELECTION AND QUALIFICATION OF THE FIRST DIRECTORS, THE DIRECTORS SHALL MEET AND DIVIDE THEMSELVES BY LOT INTO TWO CLASSES AS NEARLY EQUAL IN NUMBER AS POSSIBLE. DIRECTORS OF THE FIRST CLASS SHALL SERVE FOR A TERM OF FOUR YEARS AND DIRECTORS OF THE SECOND CLASS SHALL SERVE FOR A TERM OF TWO YEARS. AT EACH STATEWIDE GENERAL ELECTION THEREAFTER, ONE DIRECTOR FOR EACH EXPIRED TERM SHALL BE ELECTED AND SHALL HOLD OFFICE FOR A TERM OF

FOUR YEARS AND UNTIL THE DIRECTOR'S SUCCESSOR IS ELECTED AND QUALIFIED. BOARD MEMBERS MAY BE REELECTED.

C. A CANDIDATE FOR ELECTION TO THE BOARD SHALL BE NOMINATED BY A PETITION THAT IS SIGNED BY AT LEAST TWO HUNDRED QUALIFIED ELECTORS OF THE DISTRICT AND FILED WITH THE CLERK OF THE BOARD OF SUPERVISORS OR THE ELECTIONS OFFICER OF THAT COUNTY AS PRESCRIBED BY TITLE 16, CHAPTER 3.

D. ONLY QUALIFIED ELECTORS OF THE DISTRICT SHALL VOTE AT AN ELECTION FOR DIRECTORS.

E. A VACANCY ON THE BOARD SHALL BE FILLED BY APPOINTMENT BY THE COUNTY BOARD OF SUPERVISORS TO FILL THE UNEXPIRED PORTION OF THE TERM OF OFFICE.

F. A PERSON WHO IS APPOINTED AS A DIRECTOR PURSUANT TO THIS SECTION IS FULLY VESTED WITH THE POWERS AND DUTIES OF THE OFFICE AS IF ELECTED TO THAT OFFICE, UNLESS OTHERWISE PROVIDED IN THIS CHAPTER.

G. BOARD MEMBERS ARE NOT ELIGIBLE TO RECEIVE COMPENSATION BUT ARE ELIGIBLE FOR REIMBURSEMENT OF ACTUAL AND NECESSARY EXPENSES WHILE ENGAGED IN OFFICIAL BUSINESS UNDER ORDER OF THE BOARD.

H. THE BOARD SHALL SELECT A CHAIRPERSON, VICE-CHAIRPERSON AND SECRETARY-TREASURER.

I. EACH BOARD MEMBER SHALL QUALIFY BY TAKING AND SUBSCRIBING AN OFFICIAL OATH OF OFFICE AS PRESCRIBED BY TITLE 38.

J. MEMBERS OF THE BOARD ARE PUBLIC OFFICERS AND ARE SUBJECT TO ALL LAWS APPLICABLE TO PUBLIC OFFICERS. THE PROVISIONS OF TITLE 38, CHAPTER 3, ARTICLE 8, RELATING TO CONFLICT OF INTEREST, APPLY TO ALL BOARD MEMBERS, OFFICERS AND EMPLOYEES OF THE DISTRICT.

48-6406. Formation election; tax authorization; election of board members

A. THE COUNTY BOARD OF SUPERVISORS OF A COUNTY IN WHICH THE UPPER SAN PEDRO WATER DISTRICT IS AUTHORIZED PURSUANT TO SECTION 48-6403, ON REQUEST OF THE ORGANIZING BOARD OF THE DISTRICT APPOINTED PURSUANT TO SECTION 48-6403.01, MAY SUBMIT TO A VOTE OF THE QUALIFIED ELECTORS OF THE PROPOSED DISTRICT THE ISSUE OF FORMATION OF THE DISTRICT AND ELECTION OF MEMBERS OF THE BOARD OF DIRECTORS. ON REQUEST OF THE ORGANIZING BOARD OF THE DISTRICT, THE BOARD OF SUPERVISORS MAY SUBMIT TO A VOTE OF THE QUALIFIED ELECTORS AS A SEPARATE QUESTION OR AT A SEPARATE ELECTION THE ISSUE OF AUTHORITY FOR THE DISTRICT TO LEVY A TRANSACTION PRIVILEGE TAX. ON REQUEST OF THE ORGANIZING BOARD, THE BOARD OF SUPERVISORS MAY EITHER ORDER AND CALL A SPECIAL DISTRICT-WIDE ELECTION FOR THOSE PURPOSES OR PLACE THE ISSUES ON THE BALLOT AT A GENERAL ELECTION.

B. IF A MAJORITY OF THOSE VOTING ON THE QUESTION OF FORMATION APPROVE THE FORMATION OF THE DISTRICT, THE DISTRICT SHALL BE FORMED. IF THE MAJORITY OF THOSE VOTING ON THE QUESTION OF THE TAX LEVY APPROVE THE AUTHORITY FOR THE DISTRICT TO LEVY A TRANSACTION PRIVILEGE TAX, THE DISTRICT MAY LEVY A TRANSACTION PRIVILEGE TAX AS PRESCRIBED IN SECTION 48-6432. IF THE DISTRICT'S FORMATION IS APPROVED AND THE QUESTION OF THE AUTHORITY TO LEVY THE TAX IS NOT SUBMITTED TO OR NOT APPROVED BY A VOTE OF THE QUALIFIED

ELECTORS, THE DISTRICT SHALL NOT LEVY A TRANSACTION PRIVILEGE TAX UNLESS AUTHORITY FOR THE LEVY IS SUBSEQUENTLY APPROVED BY A VOTE OF THE QUALIFIED ELECTORS OF THE DISTRICT AS A SEPARATE AND SUBSEQUENT BALLOT QUESTION.

C. AT THE SAME ELECTION HELD PURSUANT TO SUBSECTION A OF THIS SECTION, THE QUALIFIED ELECTORS OF THE DISTRICT SHALL ADDITIONALLY ELECT A BOARD OF DIRECTORS FOR THE DISTRICT AS PRESCRIBED IN SECTION 48-6405, WHOSE MEMBERS SHALL SERVE ONLY IF THE DISTRICT'S FORMATION IS APPROVED AT THAT ELECTION.

D. IF A TRANSACTION PRIVILEGE TAX IS APPROVED, THE BOARD OF DIRECTORS SHALL SET THE TRANSACTION PRIVILEGE TAX RATE IN AN AMOUNT DETERMINED PROPER BY THE BOARD, BASED ON THE ACTIVITIES AND PROJECTS OF THE DISTRICT AND WITHIN THE LIMITS PRESCRIBED IN SECTION 48-6432.

48-6407. Board meetings; notice

A. THE BOARD SHALL HOLD REGULAR MEETINGS EVERY CALENDAR QUARTER AND ADDITIONAL MEETINGS ON THE CALL OF THE CHAIRPERSON OR A MAJORITY OF THE MEMBERS OF THE BOARD. THE SECRETARY-TREASURER SHALL GIVE AT LEAST THREE DAYS' NOTICE OF EACH MEETING TO EACH MEMBER OF THE BOARD IN ADDITION TO THE PUBLIC NOTICES REQUIRED BY LAW.

B. THE DISTRICT IS A PUBLIC BODY FOR THE PURPOSES OF TITLE 38, CHAPTER 3, ARTICLE 3.1 RELATING TO OPEN MEETINIGS.

48-6408. Powers and duties of the board

A. THE BOARD SHALL DETERMINE ITS ORGANIZATIONAL AND PROCEDURAL STRUCTURE, ADOPT, AMEND OR REPEAL BYLAWS, RULES AND FORMS CONSISTENT WITH THE REQUIREMENTS OF THIS CHAPTER AND PRESCRIBE A SYSTEM OF ACCOUNTS.

B. THE BOARD MAY:

1. MANAGE AND CONDUCT THE BUSINESS AND AFFAIRS OF THE DISTRICT.

2. MAKE AND EXECUTE ALL NECESSARY CONTRACTS, INCLUDING INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.

3. SUE AND BE SUED.

4. ADOPT A SEAL FOR THE DISTRICT TO BE USED TO ATTEST TO DOCUMENTS.

5. PROVIDE FOR PAYMENT OF ALL DEBTS AND APPROPRIATE CLAIMS AGAINST THE DISTRICT FROM THE APPROPRIATE FUNDS.

6. EMPLOY SUCH ADMINISTRATIVE, LEGAL, ENGINEERING, ACCOUNTING, CLERICAL AND OTHER STAFF AS MAY BE NECESSARY AND PRESCRIBE THE DUTIES, TERMS AND CONDITIONS OF EMPLOYMENT.

7. RETAIN OUTSIDE PROFESSIONAL SERVICES, INCLUDING LEGAL COUNSEL.

8. PERFORM ALL OTHER ACTS NECESSARY TO CARRY OUT THE PURPOSES OF THIS CHAPTER.

C. IN ADDITION TO THE ADMINISTRATIVE POWERS AND DUTIES OF THE BOARD PRESCRIBED IN SUBSECTIONS A AND B OF THIS SECTION, THE BOARD, FOR AND IN THE NAME OF THE DISTRICT, MAY:

1. ACQUIRE IN ANY LAWFUL MANNER, EXCEPT AS LIMITED BY THIS CHAPTER, AND SELL, LEASE, EXCHANGE OR OTHERWISE DISPOSE OF REAL AND PERSONAL PROPERTY, EASEMENTS AND RIGHTS-OF-WAY THAT ARE NECESSARY OR REQUIRED FOR THE USES AND PURPOSES OF THE DISTRICT.

2. PURCHASE, CONSTRUCT, OWN, LEASE, MAINTAIN AND OPERATE ALL WORKS, FACILITIES AND OTHER PROPERTY NECESSARY FOR THE USES AND PURPOSES OF THE DISTRICT.

3. ACQUIRE, TRANSPORT, DELIVER, TREAT OR RECHARGE WATER PURSUANT TO THIS CHAPTER, INCLUDING RECHARGING STORMWATER AND PROVIDING OR SELLING WATER TO A PERSON OR ENTITY THAT MAKES DIRECT DELIVERIES OF WATER.

4. ISSUE BONDS AND PLEDGE ALL OR PART OF ITS REVENUE FROM ANY SOURCE FOR SECURITY AND PAYMENT OF ITS BONDS PURSUANT TO SECTION 48-6433.

5. NEGOTIATE, MAKE, EXECUTE, ACKNOWLEDGE AND PERFORM ANY CONTRACT, AGREEMENT OR OBLIGATION IT DEEMS ADVISABLE FOR THE INTEREST OF THE DISTRICT TO CARRY OUT OR ACCOMPLISH THE PURPOSES OF THIS CHAPTER, INCLUDING AGREEMENTS TO ACQUIRE WATER SUPPLIES AND WATER RIGHTS FOR WATER EXCHANGES, RECHARGE, UNDERGROUND STORAGE AND WATER DELIVERIES.

6. PLAN, COORDINATE, CONSTRUCT, OPERATE, MAINTAIN AND DISMANTLE WATER AUGMENTATION PROJECTS THAT ARE OPERATED BY THE DISTRICT, INCLUDING TREATMENT, RECHARGE, UNDERGROUND STORAGE AND RECOVERY AND RETENTION PROJECTS, WATER TREATMENT, AND WASTEWATER TREATMENT AND REUSE PROJECTS.

7. ENTER INTO INTERGOVERNMENTAL AGREEMENTS, MEMORANDA OF UNDERSTANDING OR OTHER CONTRACTS WITH SINGLE OR MULTIPLE PARTIES, INCLUDING FEDERAL AGENCIES THAT PROVIDE FUNDING TO MEET THE GOAL OF THE DISTRICT, TO FURTHER THE DISTRICT'S PURPOSES.

8. ACQUIRE ENERGY RESOURCES TO OPERATE DISTRICT FACILITIES.

9. IMPOSE AND COLLECT FEES AS PROVIDED IN SECTION 48-6431, BORROW MONIES OR RECEIVE GIFTS, GRANTS AND DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCE.

10. ENTER INTO CONTRACTS, INTERGOVERNMENTAL AGREEMENTS OR MEMORANDA OF UNDERSTANDING FOR PUBLIC EDUCATION PROGRAMS IN THE DISTRICT RELATING TO WATER CONSERVATION.

11. APPLY FOR AND HOLD STORAGE FACILITY PERMITS, WATER STORAGE PERMITS AND RECOVERY WELL PERMITS UNDER TITLE 45, CHAPTER 3.1.

12. ACQUIRE, HOLD, ASSIGN OR OTHERWISE DISPOSE OF CREDITS REGISTERED TO STORAGE ACCOUNTS UNDER ANY PROVISION OF TITLE 45, CHAPTER 3.1.

13. APPLY FOR AND RECEIVE LOANS OR GRANTS UNDER TITLE 49, CHAPTER 8.

14. CONSULT AND CONFER WITH ANY GOVERNMENTAL AGENCY WITH RESPECT TO MATTERS WITHIN THE DISTRICT'S POWERS AND DUTIES UNDER THIS CHAPTER.

15. CONDUCT ANY OTHER ACTIVITIES THAT ARE REASONABLY NECESSARY AND RELATED TO THE POWERS AND DUTIES DESCRIBED BY THIS CHAPTER.

D. THE COUNTY ATTORNEY FOR THE COUNTY MAY ADVISE OR REPRESENT THE DISTRICT ON MATTERS WITHIN THE DISTRICT'S AUTHORITY UNDER THIS CHAPTER IF THE COUNTY ATTORNEY DETERMINES THAT THE ADVICE OR REPRESENTATION IS APPROPRIATE AND NOT IN CONFLICT WITH THE COUNTY ATTORNEY'S DUTIES UNDER SECTION 11-532.

E. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY BOARD OF SUPERVISORS MAY REQUIRE THE DISTRICT TO REIMBURSE THE COUNTY FOR THE COST OF SERVICES PROVIDED TO THE DISTRICT, INCLUDING THE USE OF THE COUNTY ATTORNEY. THE BOARD OF SUPERVISORS SHALL ESTABLISH A SCHEDULE FOR REIMBURSEMENT OF COUNTY

SERVICES AND SHALL DISTRIBUTE THIS SCHEDULE TO THE DISTRICT BEFORE PROVIDING ANY SERVICE NAMED IN THE SCHEDULE. THE REIMBURSEMENT SCHEDULE SHALL NOT EXCEED THE ACTUAL COSTS FOR THE SERVICES PROVIDED BY THE COUNTY. THE DISTRICT MAY ELECT TO PERFORM FOR ITSELF ANY OF THE SERVICES PROVIDED BY THE COUNTY IN LIEU OF REIMBURSEMENT, EXCEPT ELECTION SERVICES PROVIDED BY THE COUNTY.

48-6409. Water development and management; technical assistance and review by director of water resources

A. FOR PURPOSES OF ACHIEVING THE GOAL OF THE DISTRICT AS DESCRIBED IN SECTION 48-6403, THE DISTRICT THROUGH ITS BOARD SHALL DO THE FOLLOWING CONSISTENT WITH SECTION 48-6410:

1. MODIFY THE DISTRICT'S COMPREHENSIVE PLAN AT LEAST EVERY TEN YEARS TO INCLUDE MEASURABLE OBJECTIVES TO BE MET WITHIN TEN YEARS AFTER THE MODIFICATION AND TO MAKE ANY ADDITIONAL CHANGES THE BOARD DETERMINES ARE NECESSARY TO ACHIEVE THE GOAL OF THE DISTRICT. THE DISTRICT SHALL CONSULT WITH THE DIRECTOR OF WATER RESOURCES WHEN DEVELOPING THE MODIFICATIONS TO THE PLAN.

2. DEVELOP AND IMPLEMENT, OR ENTER INTO CONTRACTS, INTERGOVERNMENTAL AGREEMENTS OR MEMORANDA OF UNDERSTANDING FOR, WATER CONSERVATION, REUSE, RECHARGE AND AUGMENTATION PROGRAMS TO MEET THE GOAL OF THE DISTRICT AND THE MEASURABLE OBJECTIVES IN THE DISTRICT'S COMPREHENSIVE PLAN.

3. CONSULT WITH, ADVISE AND COOPERATE WITH THE DIRECTOR OF WATER RESOURCES WITH RESPECT TO ACTIONS TAKEN BY THE DIRECTOR THAT AFFECT THE WATER SUPPLY IN THE DISTRICT, INCLUDING THE ADOPTION OF RULES APPLICABLE TO WATER USE IN THE DISTRICT.

B. THE DIRECTOR MAY PROVIDE TECHNICAL ASSISTANCE TO THE BOARD IN CARRYING OUT ITS DUTIES UNDER THIS SECTION AND SHALL REVIEW AND COMMENT ON ANY PROPOSED MODIFICATIONS TO THE DISTRICT'S COMPREHENSIVE PLAN.

48-6410. Limitation on powers

THE BOARD AND THE DISTRICT SHALL NOT DO ANY OF THE FOLLOWING:

1. ENGAGE IN THE RETAIL SALE OF POTABLE WATER TO CUSTOMERS IN THE DISTRICT.

2. REQUIRE THE USE OF A WATER MEASURING DEVICE FOR ANY WELL IN THE DISTRICT, EXCEPT AS A CONDITION IN A CONTRACT WITH THE DISTRICT.

3. IMPOSE MANDATORY CONSERVATION REQUIREMENTS ON PERSONS IN THE DISTRICT.

4. REGULATE THE ACQUISITION, USE OR DISPOSAL OF WATER OR RIGHTS TO WATER IN THE DISTRICT.

5. REGULATE THE DIVISION OF LANDS INTO UNSUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101 OR INTO FIVE OR FEWER PARCELS OF LAND THAT DO NOT QUALIFY AS SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101.

6. EXERCISE ANY RIGHT OF EMINENT DOMAIN.

7. ENGAGE IN THE REGULATION OR ZONING OF SUBDIVIDED LANDS AS DEFINED IN SECTION 32-2101.

48-6411. Adequate water supply requirements; notice; objections

A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION AND SECTIONS 48-6412 AND 48-6413, A PERSON WHO PROPOSES TO OFFER SUBDIVIDED LANDS, AS DEFINED IN SECTION 32-2101, FOR SALE OR LEASE IN THE DISTRICT SHALL APPLY FOR AND OBTAIN A DETERMINATION OF ADEQUATE WATER SUPPLY FROM THE DIRECTOR PURSUANT TO SECTIONS 45-108 AND 45-108.01 BEFORE PRESENTING THE PLAT FOR APPROVAL TO THE CITY, TOWN OR COUNTY IN WHICH THE LAND IS LOCATED, IF IT IS REQUIRED, AND BEFORE FILING WITH THE STATE REAL ESTATE COMMISSIONER A NOTICE OF INTENTION TO OFFER THE LANDS FOR SALE OR LEASE PURSUANT TO SECTION 32-2181, UNLESS THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTIONS 45-108 AND 45-108.01.

B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION AND SECTIONS 48-6412 AND 48-6413, THE COUNTY AND A CITY OR TOWN IN THE DISTRICT SHALL NOT APPROVE A SUBDIVISION PLAT FOR A PROPOSED SUBDIVISION IN THE DISTRICT UNLESS ONE OF THE FOLLOWING APPLIES:

1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTIONS 45-108 AND 45-108.01 AND THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTIONS 45-108 AND 45-108.01.

C. SUBSECTIONS A AND B OF THIS SECTION DO NOT APPLY TO:

1. A PROPOSED SUBDIVISION THAT THE DIRECTOR HAS DETERMINED WILL HAVE AN INADEQUATE WATER SUPPLY PURSUANT TO SECTIONS 45-108 AND 45-108.01 IF THE DIRECTOR GRANTS AN EXEMPTION FOR THE SUBDIVISION PURSUANT TO SECTION 48-6412 AND THE EXEMPTION HAS NOT EXPIRED OR THE DIRECTOR GRANTS AN EXEMPTION PURSUANT TO SECTION 48-6413.

2. A PROPOSED SUBDIVISION THAT RECEIVED FINAL PLAT APPROVAL FROM A CITY, TOWN OR COUNTY BEFORE THE DISTRICT IS ESTABLISHED IF THE PLAT HAS NOT BEEN MATERIALLY CHANGED SINCE IT RECEIVED THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE PLAT RECEIVED THE FINAL PLAT APPROVAL, THE DIRECTOR SHALL DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF A CITY, TOWN OR COUNTY APPROVES A PLAT PURSUANT TO THIS SUBSECTION AND THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN INADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTIONS 45-108 AND 45-108.01, THE CITY, TOWN OR COUNTY SHALL NOTE THIS ON THE FACE OF THE PLAT.

D. IF THE COUNTY OR A CITY OR TOWN IN THE DISTRICT APPROVES A SUBDIVISION PLAT PURSUANT TO SUBSECTION B OF THIS SECTION, THE PLATTING ENTITY SHALL NOTE ON THE FACE OF THE PLAT THAT THE DIRECTOR OF WATER RESOURCES HAS REPORTED THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY OR THAT THE SUBDIVIDER HAS OBTAINED A COMMITMENT OF WATER SERVICE FOR THE

PROPOSED SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTIONS 45-108 AND 45-108.01.

E. IF THE COUNTY OR A CITY OR TOWN IN THE DISTRICT APPROVES A SUBDIVISION PLAT PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 48-6412 OR 48-6413 THE COUNTY, CITY OR TOWN SHALL BOTH:

1. GIVE WRITTEN NOTICE OF THE APPROVAL TO THE DIRECTOR OF WATER RESOURCES AND THE DIRECTOR OF ENVIRONMENTAL QUALITY.

2. INCLUDE ON THE FACE OF THE PLAT A STATEMENT THAT THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THE WATER SUPPLY FOR THE SUBDIVISION IS INADEQUATE AND A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE PLAT WAS APPROVED, INCLUDING A STATEMENT THAT THE DIRECTOR HAS DETERMINED THAT THE SPECIFIC CONDITIONS OF THE EXEMPTION WERE MET. IF THE DIRECTOR SUBSEQUENTLY INFORMS THE COUNTY, CITY OR TOWN THAT THE SUBDIVISION IS BEING SERVED BY A WATER PROVIDER THAT HAS BEEN DESIGNATED BY THE DIRECTOR AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTIONS 45-108 AND 45-108.01, THE COUNTY, CITY OR TOWN SHALL RECORD IN THE COUNTY RECORDER'S OFFICE A STATEMENT DISCLOSING THAT FACT.

F. A PERSON WHO IS REQUIRED TO FILE A NOTICE OF INTENTION TO SUBDIVIDE LANDS WITH THE STATE REAL ESTATE COMMISSIONER UNDER SECTION 32-2181 FOR SUBDIVIDED LANDS IN THE DISTRICT SHALL INCLUDE WITH THE NOTICE A REPORT ISSUED BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTION 45-108 STATING THAT THE SUBDIVISION HAS AN ADEQUATE WATER SUPPLY, UNLESS ONE OF THE FOLLOWING APPLIES:

1. THE SUBDIVIDER SUBMITTED THE REPORT TO A CITY, TOWN OR COUNTY BEFORE APPROVAL OF THE PLAT BY THE CITY, TOWN OR COUNTY AND THIS HAS BEEN NOTED ON THE FACE OF THE PLAT.

2. THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTIONS 45-108 AND 45-108.01.

3. THE PLAT WAS APPROVED BY THE COUNTY OR A CITY OR TOWN IN THE DISTRICT PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR UNDER SECTION 48-6412 AND THE EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR UNDER SECTION 48-6413. IF THE PLAT WAS APPROVED PURSUANT TO AN AUTHORIZED EXEMPTION, THE STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIAL AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE DIRECTOR'S REPORT OR THE DEVELOPER'S BRIEF SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER SUPPLY FOR THE SUBDIVISION AND A STATEMENT DESCRIBING THE EXEMPTION UNDER WHICH THE SUBDIVISION WAS APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE EXEMPTION THAT WERE MET.

4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR COUNTY BEFORE THE DISTRICT IS ESTABLISHED, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO

THE PLAT AFTER THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE DIRECTOR TO IMPLEMENT SECTION 45-108. IF THIS PARAGRAPH APPLIES, THE STATE REAL ESTATE COMMISSIONER SHALL REQUIRE THAT ALL PROMOTIONAL MATERIALS AND CONTRACTS FOR THE SALE OF LOTS IN THE SUBDIVISION ADEQUATELY DISPLAY THE DIRECTOR OF WATER RESOURCES' REPORT OR THE DEVELOPER'S BRIEF SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER SUPPLY FOR THE SUBDIVISION.

G. THE STATE REAL ESTATE COMMISSIONER SHALL DENY ISSUANCE OF A PUBLIC REPORT PURSUANT TO SECTION 32-2183 OR 32-2197.08, WHICHEVER APPLIES, OR THE USE OF ANY EXEMPTION PURSUANT TO SECTION 32-2181.02, SUBSECTION B FOR SUBDIVIDED LANDS OR TIMESHARE PROPERTY IN THE DISTRICT UNLESS ONE OF THE FOLLOWING APPLIES:

1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION 45-108 THAT THE SUBDIVISION OR TIMESHARE PROPERTY HAS AN ADEQUATE WATER SUPPLY.

2. THE SUBDIVIDER OR TIMESHARE PROPERTY HAS OBTAINED A WRITTEN COMMITMENT OF WATER SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY BY THE DIRECTOR OF WATER RESOURCES PURSUANT TO SECTIONS 45-108 AND 45-108.01.

3. THE PLAT WAS APPROVED PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR UNDER SECTION 48-6412 AND THE EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR UNDER SECTION 48-6413.

4. THE SUBDIVISION RECEIVED FINAL PLAT APPROVAL FROM THE CITY, TOWN OR COUNTY BEFORE THE DISTRICT IS ESTABLISHED, AND THERE HAVE BEEN NO MATERIAL CHANGES TO THE PLAT SINCE THE FINAL PLAT APPROVAL. IF CHANGES WERE MADE TO THE PLAT AFTER THE FINAL PLAT APPROVAL, THE DIRECTOR OF WATER RESOURCES SHALL DETERMINE WHETHER THE CHANGES ARE MATERIAL PURSUANT TO THE RULES ADOPTED BY THE DIRECTOR TO IMPLEMENT SECTION 45-108.

H. ON RECEIPT OF AN APPLICATION FOR A WATER REPORT FOR A SUBDIVISION IN THE DISTRICT OR AN APPLICATION BY A CITY, TOWN OR PRIVATE WATER COMPANY IN THE DISTRICT TO BE DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY UNDER SECTIONS 45-108 AND 45-108.01, THE DIRECTOR SHALL PUBLISH NOTICE OF THE APPLICATION ONCE EACH WEEK FOR TWO CONSECUTIVE WEEKS IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DISTRICT. THE FIRST PUBLICATION SHALL OCCUR WITHIN FIFTEEN DAYS AFTER THE APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE. IF THE APPLICATION IS SUBSTANTIALLY MODIFIED AFTER NOTICE OF THE APPLICATION IS GIVEN PURSUANT TO THIS SUBSECTION, THE DIRECTOR SHALL GIVE NOTICE OF THE APPLICATION AS MODIFIED IN THE MANNER PRESCRIBED BY THIS SUBSECTION. THE FIRST PUBLICATION OF ANY SUBSEQUENT NOTICE SHALL OCCUR WITHIN FIFTEEN DAYS AFTER THE MODIFIED APPLICATION IS DETERMINED OR DEEMED TO BE ADMINISTRATIVELY COMPLETE.

I. NOTICE PURSUANT TO SUBSECTION H OF THIS SECTION SHALL STATE THAT WRITTEN OBJECTIONS TO THE APPLICATION MAY BE FILED WITH THE DIRECTOR BY RESIDENTS AND LANDOWNERS IN THE DISTRICT WITHIN FIFTEEN DAYS AFTER THE LAST

PUBLICATION OF NOTICE. AN OBJECTION SHALL STATE THE NAME AND MAILING ADDRESS OF THE OBJECTOR AND BE SIGNED BY THE OBJECTOR, THE OBJECTOR'S AGENT OR THE OBJECTOR'S ATTORNEY. THE GROUNDS FOR OBJECTION ARE LIMITED TO WHETHER THE APPLICATION MEETS THE CRITERIA FOR DETERMINING AN ADEQUATE WATER SUPPLY SET FORTH IN SECTIONS 45-108 AND 45-108.01. THE OBJECTION SHALL CLEARLY SET FORTH REASONS WHY THE APPLICATION DOES NOT MEET THE CRITERIA.

J. IN APPROPRIATE CASES, INCLUDING CASES IN WHICH A PROPER WRITTEN OBJECTION TO THE APPLICATION HAS BEEN FILED, AN ADMINISTRATIVE HEARING MAY BE HELD BEFORE THE DIRECTOR'S DECISION ON THE APPLICATION IF THE DIRECTOR DEEMS A HEARING NECESSARY. THIRTY DAYS BEFORE THE DATE OF THE HEARING, THE DIRECTOR SHALL GIVE NOTICE OF THE HEARING TO THE APPLICANT AND TO ANY PERSON WHO FILED A PROPER WRITTEN OBJECTION TO THE APPLICATION. THE HEARING SHALL BE SCHEDULED FOR AT LEAST SIXTY DAYS BUT NOT MORE THAN NINETY DAYS AFTER THE EXPIRATION OF THE TIME IN WHICH TO FILE OBJECTIONS.

K. IF THE APPLICATION IS FOR A WATER REPORT:

1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR THE PROPOSED USE, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY FOR THE SUBDIVISION IS ADEQUATE.

2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT EXIST, THE DIRECTOR SHALL ISSUE A WATER REPORT STATING THAT THE WATER SUPPLY FOR THE SUBDIVISION IS INADEQUATE.

L. IF THE APPLICATION IS FOR A DESIGNATION OF ADEQUATE WATER SUPPLY:

1. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY EXISTS FOR THE PROPOSED USE, THE DIRECTOR SHALL APPROVE THE APPLICATION.

2. IF THE DIRECTOR DETERMINES THAT AN ADEQUATE WATER SUPPLY DOES NOT EXIST, THE DIRECTOR SHALL DENY THE APPLICATION.

M. THE APPLICANT OR A PERSON WHO CONTESTED THE APPLICATION BY FILING A PROPER OBJECTION PURSUANT TO SUBSECTION I OF THIS SECTION MAY SEEK JUDICIAL REVIEW OF THE FINAL DECISION OF THE DIRECTOR AS PROVIDED IN SECTION 45-114, SUBSECTION B IN THE SUPERIOR COURT.

N. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE PROCEEDINGS, REHEARINGS OR REVIEWS AND JUDICIAL REVIEWS OF FINAL DECISIONS OF THE DIRECTOR UNDER THIS SECTION. IF AN ADMINISTRATIVE HEARING IS HELD, IT SHALL BE CONDUCTED IN THE DISTRICT.

O. THE DISTRICT MAY BRING AN ENFORCEMENT ACTION IN SUPERIOR COURT TO ENFORCE THIS SECTION.

48-6412. <u>Exemption from adequate water supply requirements based on substantial capital investment; application; criteria; expiration</u>

A. IF THE DIRECTOR DETERMINES PURSUANT TO SECTIONS 45-108 AND 45-108.01 THAT AN ADEQUATE WATER SUPPLY DOES NOT EXIST FOR A PROPOSED SUBDIVISION IN THE DISTRICT, THE SUBDIVIDER MAY APPLY TO THE DIRECTOR FOR AN EXEMPTION FROM THE WATER ADEQUACY REQUIREMENTS IN SECTION 48-6411, SUBSECTIONS A AND B ON A FORM PRESCRIBED BY THE DIRECTOR WITHIN ONE YEAR AFTER THE DATE THE DISTRICT IS ESTABLISHED. THE DIRECTOR SHALL GRANT THE

EXEMPTION IF THE SUBDIVIDER DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT ALL OF THE FOLLOWING APPLY:

1. THE SUBDIVIDER HAS MADE SUBSTANTIAL CAPITAL INVESTMENT TOWARD THE CONSTRUCTION OF THE PROPOSED SUBDIVISION BEFORE THE DATE THE DISTRICT WAS ESTABLISHED. FOR THE PURPOSES OF THIS PARAGRAPH, SUBSTANTIAL CAPITAL INVESTMENT MAY INCLUDE CONSTRUCTION COSTS, SITE PREPARATION COSTS, CONSTRUCTION OF OFF-SITE IMPROVEMENTS AND CONVERSION OR REMODELING COSTS FOR EXISTING STRUCTURES, AS WELL AS PLANNING AND DESIGN COSTS ASSOCIATED WITH THOSE ITEMS, BUT DOES NOT INCLUDE THE ORIGINAL COST OF ACQUIRING THE PROPERTY.

2. THE SUBDIVIDER WAS NOT AWARE OF THE PROPOSED REQUIREMENT FOR AN ADEQUATE WATER SUPPLY AT THE TIME THE INVESTMENT WAS MADE.

3. THE PROPOSED SUBDIVISION COMPLIED IN ALL OTHER RESPECTS WITH EXISTING STATE LAWS AS OF THE DATE THE DISTRICT WAS ESTABLISHED.

B. IF THE DIRECTOR GRANTS AN EXEMPTION PURSUANT TO THIS SECTION:

1. THE EXEMPTION EXPIRES FIVE YEARS AFTER THE DATE THE EXEMPTION IS GRANTED UNLESS, BEFORE THAT DATE, AT LEAST ONE LOT IN THE SUBDIVISION IS SOLD TO A BONA FIDE PURCHASER OR THE DIRECTOR EXTENDS THE EXEMPTION PURSUANT TO PARAGRAPH 2 OF THIS SUBSECTION.

2. THE DIRECTOR MAY EXTEND THE PERIOD OF THE EXEMPTION FOR NOT MORE THAN TWO SUCCESSIVE FIVE-YEAR PERIODS IF THE SUBDIVIDER APPLIES FOR AN EXTENSION BEFORE THE EXEMPTION EXPIRES AND DEMONSTRATES TO THE SATISFACTION OF THE DIRECTOR THAT THE SUBDIVIDER HAS MADE MATERIAL PROGRESS IN DEVELOPING THE SUBDIVISION, BUT THAT SALES OF PARCELS IN THE SUBDIVISION HAVE BEEN DELAYED FOR REASONS OUTSIDE THE CONTROL OF THE SUBDIVIDER.

C. IF AN EXEMPTION GRANTED UNDER THIS SECTION EXPIRES, ANY PUBLIC REPORT ISSUED FOR THE SUBDIVISION BY THE STATE REAL ESTATE COMMISSIONER PURSUANT TO SECTION 32-2183 EXPIRES AND THE SUBDIVIDER SHALL NOT SELL ANY LOTS IN THE SUBDIVISION UNLESS BOTH OF THE FOLLOWING APPLY:

1. THE SUBDIVIDER FILES WITH THE STATE REAL ESTATE COMMISSIONER A NEW NOTICE OF INTENTION TO SUBDIVIDE LANDS PURSUANT TO SECTION 32-2181 AND COMPLIES WITH SECTION 48-6411.

2. THE STATE REAL ESTATE COMMISSIONER ISSUES A NEW PUBLIC REPORT FOR THE SUBDIVISION PURSUANT TO SECTION 32-2183.

D. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF THE DIRECTOR UNDER THIS SECTION.

48-6413. <u>Exemption from adequate water supply requirements based on an adequate water supply within twenty years; criteria; application</u>

A. A SUBDIVIDER MAY APPLY TO THE DIRECTOR FOR AN EXEMPTION FROM THE WATER ADEQUACY REQUIREMENTS IN SECTION 48-6411, SUBSECTIONS A AND B PURSUANT TO THIS SECTION ON A FORM PRESCRIBED BY THE DIRECTOR. THE DIRECTOR SHALL GRANT THE EXEMPTION IF THE SUBDIVIDER DEMONSTRATES TO THE SATISFACTION OF THE

DIRECTOR THAT THE SUBDIVISION WILL BE SERVED BY A WATER SUPPLY PROJECT TO WHICH BOTH OF THE FOLLOWING APPLY:

1. THE SUBDIVIDER HAS DEMONSTRATED FINANCIAL CAPABILITY PURSUANT TO SECTION 45-108.01, BUT THE WATER SUPPLY PROJECT WILL NOT BE CAPABLE OF SERVING THE SUBDIVISION WITH SUFFICIENT WATER TO MEET ITS DEMANDS IN A TIMELY MANNER BECAUSE OF ONE OF THE FOLLOWING:

(a) THE PHYSICAL WORKS FOR DELIVERING WATER TO THE SUBDIVISION ARE NOT COMPLETE BUT ARE UNDER CONSTRUCTION AND WILL BE COMPLETED WITHIN TWENTY YEARS.

(b) THE SUBDIVISION WILL BE SERVED COLORADO RIVER WATER BY A WATER PROVIDER THAT DOES NOT CURRENTLY HAVE THE LEGAL RIGHT TO SERVE THE WATER TO THE SUBDIVISION, BUT THE WATER PROVIDER HAS AN EXISTING PERMANENT CONTRACT FOR THE COLORADO RIVER WATER AND WILL HAVE THE LEGAL RIGHT TO SERVE THE WATER TO THE SUBDIVISION WITHIN TWENTY YEARS.

2. THE SUBDIVISION WILL HAVE AN ADEQUATE WATER SUPPLY WHEN THE CONSTRUCTION OF THE PHYSICAL WORKS IS COMPLETED OR THE WATER SUPPLY IS LEGALLY AVAILABLE TO SERVE THE SUBDIVISION, WHICHEVER APPLIES, AND THE INTERIM WATER SUPPLY THAT WILL SERVE THE SUBDIVISION MEETS ALL OF THE CRITERIA FOR AN ADEQUATE WATER SUPPLY UNDER SECTION 45-108.01 EXCEPT THAT THE INTERIM WATER SUPPLY WILL NOT BE AVAILABLE FOR ONE HUNDRED YEARS.

B. SECTION 45-114, SUBSECTIONS A AND B GOVERN ADMINISTRATIVE PROCEEDINGS, REHEARING OR REVIEW AND JUDICIAL REVIEW OF FINAL DECISIONS OF THE DIRECTOR UNDER THIS SECTION.

48-6414. <u>Inapplicability of other adequate water supply provisions to proposed subdivisions in the district</u>

SECTION 9-463.01, SUBSECTIONS J THROUGH Q, SECTION 11-806.01, SUBSECTIONS F THROUGH I, SECTION 32-2181, SUBSECTION F, SECTION 32-2183, SUBSECTION F, SECTION 32-2197.08, SUBSECTION D, SECTION 45-108, SUBSECTION H, SECTION 45-108.01, SECTION 45-108.02 AND SECTION 45-108.03 DO NOT APPLY TO PROPOSED SUBDIVISIONS IN THE DISTRICT.

48-6415. <u>District and municipal water delivery systems in district eligible to receive financial assistance from water supply development revolving fund</u>

THE DISTRICT IS DEEMED TO BE A WATER PROVIDER FOR THE PURPOSES OF TITLE 49, CHAPTER 8. THE DISTRICT AND MUNICIPAL WATER DELIVERY SYSTEMS SERVING WATER IN THE DISTRICT ARE ELIGIBLE TO APPLY FOR AND RECEIVE FINANCIAL ASSISTANCE FROM MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND ESTABLISHED UNDER SECTION 49-1271 NOTWITHSTANDING SECTION 49-1273, SUBSECTION C.

ARTICLE 2. FINANCIAL PROVISIONS

48-6431. <u>Financial authority of district</u>

THE DISTRICT MAY GENERATE MONIES FOR THE BENEFIT OF THE DISTRICT BY ANY OF THE FOLLOWING:

1. THE TRANSACTION PRIVILEGE TAX LEVIED PURSUANT TO SECTION 48-6432.

2. THE SALE OF WATER OR WATER RIGHTS THAT ARE OWNED BY THE DISTRICT.

3. USER FEES FOR SERVICES PROVIDED BY THE DISTRICT AND THAT ARE AGREED TO BY THOSE USERS.

4. REVENUE BONDS SOLD BY AND DEBT REPAID TO THE DISTRICT.

5. THE RECEIPT OF GIFTS, GRANTS AND DONATIONS RECEIVED FROM ANY PUBLIC OR PRIVATE SOURCE.

48-6432. Transaction privilege tax; administration; hearing; notice

A. IF APPROVED BY THE VOTERS PURSUANT TO SECTION 48-6406, THE BOARD MAY LEVY A TRANSACTION PRIVILEGE TAX ON THE BUSINESS OF OPERATING A MUNICIPAL WATER DELIVERY SYSTEM IN THE DISTRICT PURSUANT TO THIS SECTION. THE TAX SHALL NOT BE LEVIED AT A RATE OF MORE THAN FIFTY CENTS PER THOUSAND GALLONS OF WATER DELIVERED TO CUSTOMERS IN THE DISTRICT, EXCEPT THAT WATER DELIVERED TO A CUSTOMER FOR RESALE IS EXEMPT FROM THE TAX. THE DISTRICT SHALL NOTIFY THE DEPARTMENT OF REVENUE OF THE AMOUNT OF THE TAX LEVIED PURSUANT TO THIS SUBSECTION.

B. THE OWNER OR OPERATOR OF A MUNICIPAL WATER DELIVERY SYSTEM SHALL PAY THE TAX LEVIED PURSUANT TO THIS SECTION TO THE DEPARTMENT OF REVENUE AT THE SAME TIME AS PAYING THE TAX ON POTABLE WATER PURSUANT TO SECTION 42-5302. IF THE SYSTEM FOR ANY REASON DOES NOT PAY THE TRANSACTION PRIVILEGE TAX, THE TAX IS DUE AND PAYABLE TO THE DEPARTMENT OF REVENUE AND IS DELINQUENT IF NOT PAID AS PROVIDED IN SECTION 42-5014, SUBSECTION A.

C. A TAX IMPOSED PURSUANT TO THIS SECTION IS IN ADDITION TO THE TAX ON POTABLE WATER IMPOSED BY SECTION 42-5302 AND ANY COUNTY, CITY, TOWN OR OTHER LOCAL TRANSACTION PRIVILEGE TAX.

D. UNLESS THE CONTEXT OTHERWISE REQUIRES, SECTION 42-5303 GOVERNS THE ADMINISTRATION, COLLECTION AND ENFORCEMENT OF A TAX IMPOSED UNDER THIS SECTION.

E. EACH MONTH THE STATE TREASURER SHALL REMIT TO THE DISTRICT THE NET REVENUES COLLECTED UNDER THIS SECTION DURING THE PRECEDING MONTH. THE DISTRICT SHALL DEPOSIT THE MONIES IN THE DISTRICT'S GENERAL FUND.

F. THE BOARD SHALL HOLD A PUBLIC HEARING BEFORE LEVYING OR INCREASING A TAX PURSUANT TO THIS SECTION. ANY RESIDENT OR MUNICIPAL WATER DELIVERY SYSTEM IN THE DISTRICT MAY APPEAR AND BE HEARD IN FAVOR OF OR AGAINST ANY PROPOSED TAX LEVY OR TAX INCREASE.

G. EXCEPT AS PROVIDED IN SUBSECTION H OF THIS SECTION, THE BOARD SHALL PUBLISH A NOTICE OF A PUBLIC HEARING HELD PURSUANT TO SUBSECTION F OF THIS SECTION THAT MEETS THE FOLLOWING REQUIREMENTS:

1. THE NOTICE SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DISTRICT. THE FIRST PUBLICATION SHALL BE AT LEAST FOURTEEN BUT NOT MORE THAN TWENTY DAYS BEFORE THE DATE OF THE HEARING. THE SECOND PUBLICATION SHALL BE AT LEAST SEVEN BUT NOT MORE THAN TEN DAYS BEFORE THE DATE OF THE HEARING.

2. THE NOTICE SHALL BE PUBLISHED IN A LOCATION OTHER THAN THE CLASSIFIED OR LEGAL ADVERTISING SECTION OF THE NEWSPAPER IN WHICH IT IS PUBLISHED.

3. THE NOTICE SHALL BE AT LEAST ONE-FOURTH PAGE IN SIZE AND SHALL BE SURROUNDED BY A SOLID BLACK BORDER AT LEAST ONE-EIGHTH INCH IN WIDTH.

4. THE NOTICE SHALL BE IN THE FOLLOWING FORM, WITH THE "PUBLIC HEARING NOTICE OF TAX INCREASE ON MUNICIPAL WATER DELIVERY SYSTEMS" HEADLINE IN AT LEAST EIGHTEEN POINT TYPE:

PUBLIC HEARING NOTICE OF TAX INCREASE
ON MUNICIPAL WATER DELIVERY SYSTEMS

IN COMPLIANCE WITH SECTION 48-6432, ARIZONA REVISED STATUTES, THE UPPER SAN PEDRO WATER DISTRICT ("DISTRICT") IS NOTIFYING RESIDENTS AND MUNICIPAL WATER DELIVERY SYSTEMS IN THE DISTRICT OF ITS INTENTION TO (LEVY A) (INCREASE THE) TRANSACTION PRIVILEGE TAX IMPOSED ON THE BUSINESS OF OPERATING A MUNICIPAL WATER DELIVERY SYSTEM IN THE DISTRICT. THE DISTRICT IS PROPOSING TO (LEVY A TAX OF _____ CENTS PER THOUSAND GALLONS OF WATER DELIVERED TO CUSTOMERS IN THE DISTRICT) (RAISE THE TAX BY ____ CENTS PER THOUSAND GALLONS OF WATER DELIVERED TO CUSTOMERS IN THE DISTRICT OR _____ %).

ALL INTERESTED PERSONS ARE INVITED TO ATTEND THE PUBLIC HEARING ON THE TAX (LEVY) (INCREASE) THAT IS SCHEDULED TO BE HELD _____ (DATE AND TIME) AT _____ (LOCATION).

H. INSTEAD OF PUBLISHING THE NOTICE PRESCRIBED BY SUBSECTION G OF THIS SECTION, THE BOARD MAY MAIL THE NOTICE DESCRIBED IN SUBSECTION G, PARAGRAPH 4 OF THIS SECTION TO ALL REGISTERED VOTERS IN THE DISTRICT AT LEAST TEN BUT NOT MORE THAN TWENTY DAYS BEFORE THE DATE OF THE HEARING PURSUANT TO SUBSECTION F OF THIS SECTION.

I. IN ADDITION TO PUBLISHING THE PUBLIC HEARING ON TAXATION NOTICE UNDER SUBSECTION G OF THIS SECTION OR MAILING THE NOTICE UNDER SUBSECTION H OF THIS SECTION, THE BOARD SHALL ISSUE A PRESS RELEASE CONTAINING THE PUBLIC HEARING ON TAXATION NOTICE.

J. THE BOARD SHALL CONSIDER A MOTION TO LEVY OR INCREASE A TRANSACTION PRIVILEGE TAX BY ROLL CALL VOTE.

48-6433. Revenue bonds; issuance; hearing; notice

A. THE BOARD MAY AUTHORIZE, ISSUE AND SELL NEGOTIABLE REVENUE BONDS FOR ANY LAWFUL DISTRICT PURPOSE. THE BONDS MAY BE IN ONE OR MORE SERIES AND MAY BE SECURED BY REVENUES RECEIVED PURSUANT TO THIS ARTICLE. THE BONDS MAY HAVE DIFFERENT DATES, BE PAYABLE IN A MEDIUM AND AT DIFFERENT PLACES, HAVE RESERVE OR SINKING FUNDS, CARRY REGISTRATION PRIVILEGES, BEAR A RATE OR RATES OF INTEREST THAT MAY VARY FROM TIME TO TIME BUT SHALL NOT EXCEED TWELVE PER CENT PER YEAR, AND CONTAIN TERMS, COVENANTS AND CONDITIONS, BE IN A FORM, BE EXECUTED IN A MANNER AND BE SOLD AT PRICES AS THE BOARD MAY PRESCRIBE. THE ISSUER MAY ASSIGN ITS INTEREST IN ANY OR ALL REVENUES, CONTRACTS AND RESERVE OR SINKING FUNDS SECURING ANY BONDS TO A BANK OR TRUST COMPANY DOING BUSINESS IN THIS STATE THAT ACTS AS INDENTURE TRUSTEE. THE RESOLUTION OF THE BOARD OR THE TRUST INDENTURE AUTHORIZING THE ISSUANCE OF THE BONDS MAY CONTAIN SUCH COVENANTS, CONDITIONS AND PROVISIONS AS THE BOARD DEEMS NECESSARY TO SECURE

THE BONDS. THE BOARD IS ALSO AUTHORIZED TO PURCHASE CREDIT OR LIQUIDITY ENHANCEMENT AND TO SPEND BOND PROCEEDS OR CONTRACT REVENUES TO AID SUCH PURCHASE. THE BOARD IS AUTHORIZED, IN ITS DISCRETION, TO EMPLOY SUCH CONSULTANTS, EXPERTS OR AGENTS AND TO SPEND BOND PROCEEDS OR CONTRACT REVENUES TO PAY ANY AND ALL FEES AND EXPENSES OF BOND ISSUANCE AND ADMINISTRATION.

B. BONDS ISSUED UNDER THIS SECTION SHALL BE LEGAL INVESTMENTS FOR ALL BANKS, TRUST COMPANIES AND INSURANCE COMPANIES ORGANIZED AND OPERATING UNDER THE LAWS OF THIS STATE. THE BONDS AND INTEREST ON THE BONDS SHALL BE PAID SOLELY IN ACCORDANCE WITH THEIR TERMS AND SHALL NOT BE OBLIGATIONS GENERAL, SPECIAL OR OTHERWISE OF THIS STATE OR ANY POLITICAL SUBDIVISION OF THIS STATE OTHER THAN THE ISSUER. THE ISSUER SHALL NOT BE LIABLE IN ANY EVENT FOR THE PAYMENT OF THE PRINCIPAL OF OR INTEREST ON THE BONDS FROM ANY SOURCE OF REVENUES OTHER THAN THOSE PLEDGED FOR THE PAYMENT OF THE BONDS. THE HOLDER OF THE BONDS SHALL NEVER HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THIS STATE, ANY POLITICAL SUBDIVISION OF THIS STATE OR THE ISSUER TO PROVIDE FOR PAYMENT OF THE BONDS OR TO PAY ANY CLAIM ARISING OF ANY NATURE WITH RESPECT TO THE ISSUANCE OR SALE OF THE BONDS. THE BONDS SHALL NEVER BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE ISSUER WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY DEBT OR SPENDING LIMITATIONS.

C. THE BOARD SHALL HOLD A PUBLIC HEARING BEFORE ISSUING BONDS PURSUANT TO THIS SECTION. ANY RESIDENT IN THE DISTRICT MAY APPEAR AND BE HEARD IN FAVOR OF OR AGAINST ANY PROPOSED BONDS.

D. EXCEPT AS PROVIDED IN SUBSECTION E OF THIS SECTION, THE BOARD SHALL PUBLISH A NOTICE OF A PUBLIC HEARING HELD PURSUANT TO SUBSECTION C OF THIS SECTION THAT MEETS THE FOLLOWING REQUIREMENTS:

1. THE NOTICE SHALL BE PUBLISHED TWICE IN A NEWSPAPER OF GENERAL CIRCULATION IN THE DISTRICT. THE FIRST PUBLICATION SHALL BE AT LEAST FOURTEEN BUT NOT MORE THAN TWENTY DAYS BEFORE THE DATE OF THE HEARING. THE SECOND PUBLICATION SHALL BE AT LEAST SEVEN BUT NOT MORE THAN TEN DAYS BEFORE THE DATE OF THE HEARING.

2. THE NOTICE SHALL BE PUBLISHED IN A LOCATION OTHER THAN THE CLASSIFIED OR LEGAL ADVERTISING SECTION OF THE NEWSPAPER IN WHICH IT IS PUBLISHED.

3. THE NOTICE SHALL BE AT LEAST ONE-FOURTH PAGE IN SIZE AND SHALL BE SURROUNDED BY A SOLID BLACK BORDER AT LEAST ONE-EIGHTH INCH IN WIDTH.

4. THE NOTICE SHALL BE IN THE FOLLOWING FORM, WITH THE "PUBLIC HEARING NOTICE OF BOND ISSUANCE" HEADLINE IN AT LEAST EIGHTEEN POINT TYPE:

PUBLIC HEARING NOTICE OF BOND ISSUANCE

IN COMPLIANCE WITH SECTION 48-6433, ARIZONA REVISED STATUTES, THE UPPER SAN PEDRO WATER DISTRICT ("DISTRICT") IS NOTIFYING RESIDENTS IN THE DISTRICT OF ITS INTENTION TO ISSUE BONDS. THE DISTRICT IS PROPOSING TO ISSUE UP TO $ _____ IN BONDS TO BE SECURED BY REVENUE FROM _____ (SOURCE OF REVENUE).

ALL INTERESTED PERSONS ARE INVITED TO ATTEND THE PUBLIC HEARING ON THE ISSUANCE OF BONDS THAT IS SCHEDULED TO BE HELD _____ (DATE AND TIME) AT _____ (LOCATION).

E. INSTEAD OF PUBLISHING THE NOTICE PRESCRIBED BY SUBSECTION D OF THIS SECTION, THE BOARD MAY MAIL THE NOTICE DESCRIBED IN SUBSECTION D, PARAGRAPH 4 OF THIS SECTION TO ALL REGISTERED VOTERS IN THE DISTRICT AT LEAST TEN BUT NOT MORE THAN TWENTY DAYS BEFORE THE DATE OF THE HEARING PURSUANT TO SUBSECTION C OF THIS SECTION.

F. IN ADDITION TO PUBLISHING THE PUBLIC HEARING NOTICE UNDER SUBSECTION D OF THIS SECTION OR MAILING THE NOTICE UNDER SUBSECTION E OF THIS SECTION, THE BOARD SHALL ISSUE A PRESS RELEASE CONTAINING THE PUBLIC HEARING ON BOND ISSUANCE NOTICE.

48-6434. Administrative and operations budgets; annual statement and audit

A. ON OR BEFORE JULY 1 OF EACH YEAR, THE DISTRICT SHALL ADOPT AN ADMINISTRATIVE BUDGET FOR THE NEXT FISCAL YEAR. THE BUDGET SHALL CONSIST OF A COMPLETE STATEMENT OF ADMINISTRATIVE EXPENDITURES FROM ALL MONIES DURING THE PAST FISCAL YEAR AND AN ESTIMATE OF THE DIFFERENT AMOUNTS THAT MAY BE DEEMED NECESSARY TO MEET ADMINISTRATIVE REQUIREMENTS OF THE DISTRICT FOR THE NEXT FISCAL YEAR, FIXING THE AMOUNTS PROPOSED FOR ALL RECURRING ITEMS OF EXPENSE AND AN AMOUNT FOR CONTINGENCIES OR EMERGENCIES. NO ADMINISTRATIVE EXPENDITURES MAY BE MADE IN EXCESS OF THE TOTAL AMOUNT OF THE BUDGET. ECONOMIES RESULTING IN REMAINING BALANCES FOR ANY FISCAL YEAR SHALL BE AVAILABLE FOR SUBSEQUENT ADMINISTRATIVE OR OPERATING PURPOSES.

B. THE DISTRICT SHALL ALSO PREPARE AN OPERATION BUDGET FOR EACH FISCAL YEAR COVERING OPERATIONS AND INCLUDING CAPITAL ITEMS. THE BUDGET SHALL CONSIST OF A FULL AND COMPLETE STATEMENT OF ALL INCOMING RECEIPTS AND EXPENDITURES FOR THE PAST FISCAL YEAR AND AN ESTIMATE OF ANTICIPATED INCOME AND EXPENDITURES FOR THE NEXT FISCAL YEAR. THE BUDGET SHALL ALSO GIVE A COMPLETE ASSET AND LIABILITY STATEMENT AND STATEMENT OF ALL BOND OBLIGATIONS, TOGETHER WITH AN ITEMIZED STATEMENT OF CASH ON HAND, COMMITMENTS, RESERVES AND OBLIGATIONS ANTICIPATED FOR THE NEXT FISCAL YEAR, TOGETHER WITH SUCH OTHER INFORMATION TO PROVIDE A FULL AND COMPLETE DISCLOSURE OF THE CURRENT FINANCIAL CONDITION OF THE DISTRICT.

C. ON OR BEFORE DECEMBER 1 OF EACH YEAR, THE BOARD SHALL MAKE A VERIFIED STATEMENT OF THE FINANCIAL CONDITION OF THE DISTRICT AS OF JUNE 30 OF THE PRECEDING FISCAL YEAR, SHOWING PARTICULARLY THE RECEIPTS AND DISBURSEMENTS DURING THE FISCAL YEAR AND THE SOURCE OF THE RECEIPTS AND THE PURPOSE OF THE DISBURSEMENTS.

D. WITHIN NINETY DAYS AFTER THE CLOSE OF EACH FISCAL YEAR, THE DISTRICT SHALL CAUSE AN AUDIT TO BE MADE OF THE MONIES OF THE DISTRICT BY A CERTIFIED PUBLIC ACCOUNTANT. THE BOARD SHALL FILE A COPY OF THE AUDIT WITH THE AUDITOR GENERAL. THE AUDITOR GENERAL MAY MAKE SUCH FURTHER AUDITS AND EXAMINATIONS AS THE AUDITOR GENERAL DEEMS NECESSARY AND MAY TAKE APPROPRIATE ACTION RELATING TO THE AUDIT PURSUANT TO TITLE 41, CHAPTER 7, ARTICLE 10.1.

IF THE AUDITOR GENERAL TAKES NO OFFICIAL ACTION WITHIN THIRTY DAYS AFTER THE AUDIT IS FILED, THE AUDIT IS DEEMED SUFFICIENT. THE BOARD SHALL PAY ANY FEES AND COSTS OF THE CERTIFIED PUBLIC ACCOUNTANT AND AUDITOR GENERAL UNDER THIS SECTION FROM THE GENERAL FUND OF THE DISTRICT.

48-6435. Annual report

A. THE DISTRICT SHALL MAKE AND SUBMIT TO THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR BEFORE DECEMBER 1 OF EACH YEAR A REPORT CONTAINING A FULL AND COMPLETE DESCRIPTION OF ALL ACTIONS TAKEN BY THE DISTRICT DURING THE PRECEDING FISCAL YEAR TO MEET THE MEASURABLE OBJECTIVES INCLUDED IN THE DISTRICT'S COMPREHENSIVE PLAN, INCLUDING ALL OF THE FOLLOWING:

1. THE AMOUNT AND TYPE OF WATER USED BY THE DISTRICT DURING THE YEAR FOR EACH RECHARGE, AUGMENTATION OR OTHER PROJECT IMPLEMENTED BY THE DISTRICT DURING THE YEAR.

2. A DESCRIPTION OF ALL PROJECTS IMPLEMENTED OR PARTIALLY IMPLEMENTED DURING THE YEAR.

3. A DESCRIPTION OF ALL PERMITS APPLIED FOR OR RECEIVED BY THE DISTRICT DURING THE YEAR.

4. A DESCRIPTION OF ALL PROGRAMS ADOPTED BY THE DISTRICT DURING THE YEAR.

5. A DESCRIPTION OF THE DISTRICT'S FINANCES.

6. PROGRESS MADE BY THE DISTRICT DURING THE YEAR TOWARD ACHIEVING THE DISTRICT'S GOAL AS DESCRIBED IN SECTION 48-6403, SUBSECTION B AND THE MEASURABLE OBJECTIVES FOR ACHIEVING THE GOAL AS ADOPTED IN THE DISTRICT'S MOST RECENT COMPREHENSIVE PLAN.

B. THE DISTRICT SHALL PROVIDE A COPY OF THE REPORT TO THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

48-6436. Special audit; report

A. THE AUDITOR GENERAL SHALL PERFORM A SPECIAL AUDIT OF THE UPPER SAN PEDRO WATER DISTRICT THAT COVERS THE FIRST FIVE YEARS OF THE DISTRICT'S OPERATION AND THE OPERATION OF THE DISTRICT'S ORGANIZING BOARD. THE AUDIT IS DUE AND SHALL BE COMPLETED WITHIN SIX MONTHS AFTER THE CLOSE OF THE DISTRICT'S FIFTH FISCAL YEAR.

B. THE SPECIAL AUDIT SHALL EXAMINE THE FINANCING OF THE DISTRICT, ITS REVENUES AND EXPENDITURES AND ITS LEVEL OF PERFORMANCE IN REACHING ITS WATER MANAGEMENT GOAL.

C. THE AUDITOR GENERAL SHALL SUBMIT ITS REPORT OF THE SPECIAL AUDIT TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE SENATE AND THE GOVERNOR AND SHALL PROVIDE A COPY TO THE DIRECTOR OF THE ARIZONA STATE LIBRARY, ARCHIVES AND PUBLIC RECORDS.

Sec. 4. Conditional enactment

A. Section 48-6414, Arizona Revised Statutes, as added by this act, does not become effective unless Senate Bill 1575, forty-eighth legislature, first regular session, relating to water adequacy program provisions, becomes law.

1 B. Section 48-6415, Arizona Revised Statutes, as added by this act,
2 does not become effective unless House Bill 2692, forty-eighth legislature,
3 first regular session, relating to the water supply development revolving
4 fund, becomes law.

APPROVED BY THE GOVERNOR JUNE 20, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 20, 2007.