Senate Engrossed House Bill

FILED

KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 140

HOUSE BILL 2676

AN ACT

AMENDING SECTIONS 48-4201, 48-4202, 48-4203 AND 48-4204, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 26, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-4235; RELATING TO UNIVERSITY ATHLETIC FACILITIES DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 48-4201, Arizona Revised Statutes, is amended to read:

48-4201. Definitions

In this chapter, unless the context otherwise requires:

1. "Board" means the board of directors of any district established under section 48-4202, subsection A, ~~or~~ B OR C.

2. "Bond" means any obligation authorized and issued pursuant to this chapter, including bonds, lease-purchase and installment purchase agreements, certificates of participation in a lease-purchase or installment purchase agreement and obligations that are authorized and issued to refund or refinance obligations that are authorized and issued pursuant to this chapter.

3. "District" means any county stadium district established pursuant to section 48-4202, subsection A, ~~or~~ B OR C.

4. "Multipurpose facility" means any facility or facilities that include:

(a) A primary component that is located in the district on the multipurpose facility site and on lands that are adjacent to each other or separated by public rights-of-way, that the district owns or leases and that is used to accommodate sporting, entertainment, cultural, civic, meeting, trade show or convention events or activities, fire, police or other public safety facilities and tourism offices. The primary component may not include any structure or part of a structure that is used or designed for use as a county, city or town hall, as meeting space for the county, city or town governing body or for general municipal administrative office space other than for the administration, maintenance and operation of the multipurpose facility.

(b) Secondary components that are located in the district and that the board determines are necessary or beneficial to the primary component, limited to on-site infrastructure, artistic components, parking garages and lots, and public parks and plazas. In addition, secondary components may include related commercial facilities that are located within the multipurpose facility site.

5. "Multipurpose facility site" means the geographic area within the district which is depicted in the publicity pamphlet for an election held pursuant to section 48-4237.

6. "Municipality" means a city or town that is incorporated or chartered under the constitution and laws of this state.

7. "Stadium" means a sports facility or facilities located in the district and designed to accommodate, but not be limited to, major league baseball events OR INTERCOLLEGIATE ATHLETIC EVENTS.

Sec. 2. Section 48-4202, Arizona Revised Statutes, is amended to read:

48-4202. Formation of district

A. The board of supervisors of each county having a population of more than one million five hundred thousand persons according to the most recent United States decennial census or any county in which a major league baseball organization has established or seeks to establish a spring training operation may organize a countywide district to include both the incorporated and unincorporated areas of the county, if the board determines that the public convenience, necessity or welfare will be promoted by establishing the district.

B. Two or more municipalities in the same county may organize a district for multipurpose facilities if the governing bodies of the municipalities determine that the public convenience, necessity or welfare will be promoted by establishing the district. The district shall be comprised of the areas within the corporate boundaries of the municipalities. After formation, the boundaries of the district shall not be altered. A district may be established under this subsection in the same county in which a district is established under subsection A of this section. A district formed pursuant to this subsection shall be deemed a county stadium district for purposes of this chapter. Notwithstanding any other law, a district may not be organized under this subsection from and after October 31, 1999, except that a district may be organized under this subsection after October 31, 1999 if before that date the governing body of two or more of the municipalities identified the location of a multipurpose facility site and has voted with the purpose of forming a district for multipurpose facilities under this subsection.

C. THE BOARD OF SUPERVISORS OF ANY COUNTY IN WHICH A STATE SUPPORTED UNIVERSITY IS ESTABLISHED MAY ORGANIZE A SINGLE UNIVERSITY ATHLETIC FACILITIES DISTRICT IF THE BOARD DETERMINES THAT THE PUBLIC CONVENIENCE, NECESSITY OR WELFARE WILL BE PROMOTED BY ESTABLISHING THE DISTRICT. THE DISTRICT SHALL INCLUDE ONLY THE AREA IN THE COUNTY WITHIN THE CONTIGUOUS EXTERIOR BOUNDARIES OF REAL PROPERTY OWNED BY THE ARIZONA BOARD OF REGENTS AND SHALL EXCLUDE ANY SUCH REAL PROPERTY SUBJECT TO AN EXISTING GROUND LEASE OR SUBJECT TO AN EXISTING AGREEMENT GRANTING A THIRD PARTY THE RIGHT OR OPTION TO A GROUND LEASE. AFTER FORMATION, THE BOUNDARIES OF THE DISTRICT SHALL BE ALTERED ONLY AS THE ARIZONA BOARD OF REGENTS ACQUIRES AND DISPOSES OF REAL PROPERTY. A DISTRICT MAY BE ESTABLISHED UNDER THIS SUBSECTION IN THE SAME COUNTY IN WHICH A DISTRICT IS ESTABLISHED UNDER SUBSECTION A OF THIS SECTION. A DISTRICT FORMED PURSUANT TO THIS SUBSECTION IS DEEMED A COUNTY STADIUM DISTRICT FOR THE PURPOSES OF THIS CHAPTER.

~~C.~~ D. The county board of supervisors shall be the board of directors of a countywide district established under subsection A of this section.

~~D.~~ E. The board of directors of a district established under subsection B of this section shall consist of:

1. Five members who are appointed by the governor, at least three of whom must reside in the municipality in which the district is located and each of whom must have experience in commercial real estate, construction, redevelopment, real estate law, architecture, economic development or commercial or public finance. The governor may receive nominations for appointment from any interested organization or person. Members appointed by the governor serve at the pleasure of the governor.

2. Two members who are appointed by the president of the senate, at least one of whom must reside in the municipality in which the district is located. The members appointed by the president serve at the pleasure of the president.

3. Two members who are appointed by the speaker of the house of representatives, at least one of whom must reside in the municipality in which the district is located. The members appointed by the speaker serve at the pleasure of the speaker.

F. THE BOARD OF DIRECTORS OF A DISTRICT ESTABLISHED UNDER SUBSECTION C OF THIS SECTION SHALL BE ESTABLISHED PURSUANT TO AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE COUNTY AND THE ARIZONA BOARD OF REGENTS.

~~E.~~ G. The directors of any district are not eligible for compensation for their services but are eligible for reimbursement for their necessary expenses in attending to and traveling on district business.

~~F.~~ H. The board of supervisors may pay the necessary costs incurred in connection with establishing a countywide district from any county monies available for that purpose. The municipalities may pay their proportionate share of the necessary costs incurred in establishing a district formed by two or more municipalities under subsection B of this section from any monies available for that purpose. THE ARIZONA BOARD OF REGENTS MAY PAY THE NECESSARY COSTS INCURRED IN CONNECTION WITH ESTABLISHING A DISTRICT UNDER SUBSECTION C OF THIS SECTION FROM ANY MONIES AVAILABLE FOR THAT PURPOSE.

~~G.~~ I. Subject to limitations imposed BY THIS CHAPTER, by intergovernmental agreement and BY the ordinance or resolution authorizing the formation of the district, the district is a tax levying public improvement district and a political taxing subdivision of this state and has all the powers, privileges and immunities granted generally to municipal corporations for the purposes of implementing this chapter, including eminent domain, as provided by section 48-4203, subsection A, paragraph 7, and immunity of its property, bonds and interest on and transfer of its bonds from taxation.

Sec. 3. Section 48-4203, Arizona Revised Statutes, is amended to read:

48-4203. <u>Powers and duties of board of directors; conflict of interest</u>

A. The board of directors, on behalf of the district, may:

1. Adopt and use a corporate seal.

2. Sue and be sued.

3. Enter into contracts, including intergovernmental agreements under title 11, chapter 7, article 3, as necessary to carry out the purposes and requirements of this chapter. The district may contract with a county sports authority established under title 11, chapter 5 to carry out any power of the district.

4. Adopt administrative rules as necessary to administer and operate the district and any property under its jurisdiction.

5. Adopt rules that allow weighted voting by board members and establish conditions for terminating the district.

6. Employ an executive director and administrative and clerical employees, or contract for other management personnel, and prescribe the terms and conditions of their employment as necessary to carry out the purposes of the district.

7. Acquire by any lawful means and operate, maintain, encumber and dispose of real and personal property and interests in property. A district established under section 48-4202, subsection A may acquire real property by eminent domain. A district established under section 48-4202, subsection B shall not acquire real property by eminent domain. A DISTRICT ESTABLISHED UNDER SECTION 48-4202, SUBSECTION C SHALL NOT ACQUIRE OR OWN REAL PROPERTY OR INTERESTS IN REAL PROPERTY.

8. Administer trusts declared or established for the district, receive and hold in trust or otherwise property located in or out of this state and, if not otherwise provided, dispose of the property for the benefit of the district.

9. Retain legal counsel and other consultants as necessary to carry out the purposes of the district.

B. The board of directors, on behalf of a district established pursuant to section 48-4202, subsection B, may:

1. Use revenues paid to the district pursuant to section 42-5031 and other revenues the district may receive from other sources, for the purposes set forth in section 48-4204, subsection B.

2. Enter into agreements with developers, contractors, tenants and other users of all or part of a multipurpose facility as determined appropriate.

3. Pledge all or part of the revenues described in section 42-5031, subsection B to secure the district's bonds or other financial obligations issued or incurred under this chapter for the construction of all or part of a multipurpose facility.

C. The board of directors of a district established pursuant to section 48-4202, subsection B shall provide public outreach and education on the purpose and activities of the district, including:

1. Presentations to the governing bodies of the municipalities in the county in which the district is located.

2. Presentations to community, civic and business organizations.

3. Printed or electronic materials that support the purposes of this subsection.

D. The board of directors shall:

1. Appoint from among its members a chairman, a secretary and such other officers as may be necessary to conduct its business. The board of directors may appoint the chief financial officer of the county as the district treasurer of a countywide district established under section 48-4202, subsection A. If the board does not appoint the chief financial officer, the county treasurer is designated ex officio as the treasurer. The board of directors of a district that is established pursuant to section 48-4202, subsection B shall designate a member of the board with financial management or accounting experience or a person with whom the board has contracted for financial management as treasurer of the district. THE COUNTY TREASURER IS DESIGNATED EX OFFICIO AS THE TREASURER OF A DISTRICT THAT IS ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION C.

2. Keep and maintain a complete and accurate record of all its proceedings. All proceedings and records of the board shall be open to the public as required by title 38, chapter 3, article 3.1 and title 39, chapter 1.

3. Provide for the use, maintenance and operation of the properties and interests controlled by the district.

E. The board of directors of a district that is established pursuant to section 48-4202, subsection B shall determine by agreement the distribution of revenues from operating and using the multipurpose facilities among the municipalities and any participating Indian tribe or community.

F. The directors, officers and employees of the district are subject to title 38, chapter 3, article 8 relating to conflicts of interest.

G. This state and political subdivisions of this state other than the district are not liable for any financial or other obligations of the district and the financial or other obligations do not constitute a debt or liability of this state or any political subdivision of this state, other than the district.

Sec. 4. Section 48-4204, Arizona Revised Statutes, is amended to read:

48-4204. <u>Constructing and operating a stadium and other structures; regulating alcoholic beverages</u>

A. From the taxes and surcharges levied pursuant to article 2 of this chapter for use with respect to major league baseball spring training, the district may acquire land and construct, finance, furnish, maintain, improve, operate, market and promote the use of existing or proposed major league baseball spring training facilities or stadiums and other structures, utilities, roads, parking areas or buildings necessary for full use of the training facilities or stadiums for sports and other purposes and do all things necessary or convenient to accomplish those purposes. The board shall require that any project undertaken by the district include financial participation from the county or municipality in which the project is

located, from a private party or from any combination of these entities which equals or exceeds one-half of the amount to be expended or distributed by the district. Capital improvement funds expended at any time after June 1, 1991 by a county, municipality or private party for a purpose authorized by this section may be deemed financial participation with respect to any project the district may undertake.

B. From the taxes and charges levied or identified pursuant to section 48-4237 for use with respect to multipurpose facilities and from other monies lawfully available to the district, the district may acquire land and construct, finance, furnish, maintain, improve, operate, market and promote the use of multipurpose facilities and other structures, utilities, roads, parking areas or buildings necessary for full use of the multipurpose facilities and do all things necessary or convenient to accomplish those purposes. Public funds identified in section 48-4237, including funds distributed pursuant to section 42-5031, may only be used for the components for a multipurpose facility which are owned by the district or which are publicly owned, except that monies paid to the district pursuant to section 42-5031 may only be used for the following purposes until a notice to proceed is issued for a hotel and convention center located on the multipurpose facility site:

1. Debt service for bonds issued by the district before January 1, 2009.

2. Contractual obligations incurred by the district before June 1, 2009.

3. Fiduciary, reasonable legal and administrative expenses of the district.

4. The design and construction of the hotel and convention center located on the multipurpose facility site.

C. A district established pursuant to section 48-4202, subsection B may not use monies distributed pursuant to section 42-5031 for the salaries or compensation of any employee of the municipality in which the district is located.

D. PURSUANT TO INTERGOVERNMENTAL AGREEMENT WITH THE ARIZONA BOARD OF REGENTS, FROM THE REVENUES COLLECTED FROM ASSESSMENTS PURSUANT TO SECTION 48-4235 FOR USE WITH RESPECT TO ARIZONA BOARD OF REGENTS OWNED INTERCOLLEGIATE ATHLETIC FACILITIES, THE DISTRICT MAY CONSTRUCT, RECONSTRUCT, FINANCE, FURNISH, MAINTAIN AND IMPROVE EXISTING INTERCOLLEGIATE ATHLETIC FACILITIES LOCATED ON ARIZONA BOARD OF REGENTS' PROPERTY, INCLUDING UTILITIES, ROADS, PARKING AREAS OR BUILDINGS NECESSARY FOR FULL USE OF THE ATHLETIC FACILITIES.

~~D.~~ E. Title 34 applies to the district, except that regardless of the funding source for design and construction of facilities and structures the district may establish alternative systems and procedures, including the use of the design-build method of construction or the use of qualifications-based selection of contractors with experience in stadium design or construction,

to expedite the design and construction OR RECONSTRUCTION of any of its facilities or structures or any facilities or structures leased to it or used by it pursuant to an intergovernmental agreement. For the purposes of this subsection:

1. "Design-build" means a process of entering into and managing a contract between the district and another party in which the other party agrees to both design and build a structure, a facility or other items specified in the contract.

2. "Qualifications-based selection" means a process of entering into and managing a contract between the district and another party in which the other party is selected by the district on the basis of the party's qualifications and experience in designing or constructing facilities, structures or other items similar to those the district is authorized to construct or lease. The other party may be selected by direct selection or by public competition.

~~E.~~ F. For THE purposes of financing, designing, constructing, RECONSTRUCTING or operating facilities or structures, the district is not the agent of any municipality, THIS STATE OR ANY AGENCY OR INSTRUMENTALITY OF THIS STATE participating in the funding of such facilities or structures.

~~F.~~ G. Subject to the requirements of title 4, the board of directors may permit and regulate the sale, use and consumption of alcoholic beverages at events held on property acquired, leased or subleased under this article.

Sec. 5. Title 48, chapter 26, article 2, Arizona Revised Statutes, is amended by adding section 48-4235, to read:

48-4235. <u>Assessment in lieu of property tax; rate; administration</u>

A. THE BOARD OF DIRECTORS OF A DISTRICT ESTABLISHED PURSUANT TO SECTION 48-4202, SUBSECTION C SHALL PROVIDE BY INTERGOVERNMENTAL AGREEMENT FOR THE IMPOSITION AND COLLECTION OF AN ASSESSMENT FROM PRIME COMMERCIAL LESSEES OF ARIZONA BOARD OF REGENTS' PROPERTY IN THE DISTRICT.

B. THE BOARD OF DIRECTORS SHALL DETERMINE THE AMOUNT OF THE ASSESSMENT EACH YEAR AS FOLLOWS:

1. DETERMINE THE VALUATION OF EACH PARCEL OF ARIZONA BOARD OF REGENTS' PROPERTY IN THE SAME MANNER AS IS USED BY THE COUNTY ASSESSOR TO DETERMINE THE VALUATION OF SIMILAR PROPERTY IN THE COUNTY. THE BOARD OF DIRECTORS SHALL MAKE AVAILABLE THE METHOD AND CALCULATION OF THE VALUATION OF ANY PROPERTY ON REQUEST. ON THE PETITION OF A PRIME LESSEE, THE BOARD OF DIRECTORS SHALL MEET WITH THE PETITIONER TO RESOLVE ANY DISAGREEMENT ON THE AMOUNT OF THE VALUATION.

2. COMPUTE A COMPARABLE ASSESSED VALUATION BY APPLYING THE APPROPRIATE ASSESSMENT PERCENTAGE PRESCRIBED BY TITLE 42, CHAPTER 15, ARTICLE 1 TO THE VALUATION DETERMINED UNDER PARAGRAPH 1.

3. MULTIPLY THE COMPARABLE ASSESSED VALUATION DETERMINED UNDER PARAGRAPH 2 BY A RATE PER ONE HUNDRED DOLLARS ESTABLISHED BY THE BOARD OF

1 DIRECTORS, BUT NOT TO EXCEED THE COMPOSITE TAX RATES OF ALL TAXING
2 JURISDICTIONS IN WHICH THE PARCEL OF PROPERTY IS LOCATED.
3 C. THE DISTRICT TREASURER SHALL COLLECT THE ASSESSMENT FROM THE PRIME
4 LESSEE. THE DISTRICT TREASURER SHALL DEPOSIT THE NET REVENUES FROM THE
5 ASSESSMENT IN THE DISTRICT FUND TO BE USED FOR THE PURPOSES ALLOWED BY THIS
6 CHAPTER.
7 D. THE BOARD OF DIRECTORS MAY PLEDGE ALL OR PART OF THE ASSESSMENT
8 REVENUES TO SECURE DISTRICT BONDS OR FINANCIAL OBLIGATIONS UNDER THIS
9 CHAPTER. THE BOARD OF DIRECTORS MUST CONTINUE TO IMPOSE AND COLLECT THE
10 ASSESSMENT IN AN AMOUNT THAT IS AT LEAST ADEQUATE FOR ALL DEBT SERVICE
11 REQUIREMENTS OF THE DISTRICT UNDER THIS CHAPTER.

APPROVED BY THE GOVERNOR APRIL 23, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 26, 2010.