

REFERENCE TITLE: County Improvement Districts -
Tax Levy

State of Arizona
Senate
Thirtieth Legislature
Second Regular Session

S. B. 1181

Introduced by *J. Mark*
Sen. J. Thomas
Sen. B. Hunt *Tom Enos*

AN ACT

RELATING TO COUNTIES; PROVIDING THAT COUNTY IMPROVEMENT DISTRICTS ARE TAX LEVYING DISTRICTS; PROVIDING FOR BOND ELECTIONS FOR BONDS TO BE PAID FROM ASSESSMENTS AND TAXES; PROVIDING FOR PREPAYMENT OF ASSESSMENT; PRESCRIBING PROCEDURES; PROVIDING FOR LIMITATION ON ISSUANCE OF IMPROVEMENT DISTRICT BONDS UNDER ALTERNATE PROCEDURE; AMENDING TITLE 11, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-701.01 AND 11-711.01; AMENDING SECTION 11-713, ARIZONA REVISED STATUTES; AMENDING TITLE 11, CHAPTER 5, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 11-713.01, 11-713.02, 11-726.01, 11-745.01 AND 11-759.01; AMENDING TITLE 11, CHAPTER 5, ARTICLE 1.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-761.08, AND AMENDING SECTION 35-451, ARIZONA REVISED STATUTES.

- 1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 11, chapter 5, article 1, Arizona Revised
3 Statutes, is amended by adding sections 11-701.01 and 11-711.01, to
4 read:
5 11-701.01. Status of improvement districts as a tax
6 levying public improvement district
7 ALL IMPROVEMENT DISTRICTS FORMED PURSUANT TO THIS ARTICLE SHALL
8 BE TAX LEVYING IMPROVEMENT DISTRICTS WITHIN THE MEANING OF ARTICLE 13,
9 SECTION 7, CONSTITUTION OF ARIZONA.
10 11-711.01. Bond election; qualifications of voters;
11 affidavit; challenges; inapplicability
12 of certain provisions
13 A. AT THE TIME OF THE ADOPTION OF THE RESOLUTION OF INTENTION,

1 THE BOARD OF DIRECTORS MAY ORDER A SPECIAL ELECTION TO BE HELD TO DETER-
2 MINE WHETHER GENERAL OBLIGATION BONDS OF THE DISTRICT MAY BE ISSUED TO
3 PAY THE COSTS AND EXPENSES OF ANY PROJECT TO BE CONSTRUCTED BY THE
4 DISTRICT. EXCEPT AS PROVIDED IN THIS ARTICLE, THE PROCEDURE FOR CALLING,
5 HOLDING AND CANVASSING THE ELECTION AND FOR THE SALE AND ISSUANCE OF
6 BONDS SHALL BE HELD AND CONDUCTED IN THE MANNER SET FORTH IN TITLE 35,
7 CHAPTER 3, ARTICLE 3, THE DISTRICT RESERVING THE RIGHT TO ASSESS THE
8 COSTS AND EXPENSES AGAINST THE PROPERTY BENEFITTED AS PROVIDED BY THIS
9 ARTICLE.

10 B. ALL QUALIFIED ELECTORS OF THE STATE WHO RESIDE WITHIN THE
11 IMPROVEMENT DISTRICT AT THE TIME OF THE ELECTION SHALL BE QUALIFIED TO
12 VOTE AT SUCH ELECTION. A PERSON OFFERING TO VOTE AT SUCH ELECTION SHALL
13 SIGN AN AFFIDAVIT STATING HIS ADDRESS AND SWEARING HE IS QUALIFIED TO
14 VOTE IN THE ELECTION AND HAS NOT VOTED PREVIOUSLY AT THE ELECTION.

15 C. A PERSON OFFERING TO VOTE MAY BE CHALLENGED AND THE ELECTION
16 OFFICERS SHALL THEN HAVE THE POWERS AND DUTIES OF GENERAL ELECTION OFFICERS.

17 D. WHEN THE BOND ELECTION IS TO BE HELD THE DATE OF THE ELECTION
18 AND THE DATE FOR THE HEARING ON THE ASSESSMENT, PROVIDED IN SECTION
19 11-713.01, SHALL BE STATED IN THE RESOLUTION OF INTENTION, AND THE NOTICE
20 OF "PROPOSED IMPROVEMENT" REQUIRED BY SECTION 11-715.

21 E. WHEN BONDS ARE AUTHORIZED PURSUANT TO AN ELECTION, SECTIONS
22 11-726, 11-727, 11-730, 11-732, 11-734, 11-735 AND 11-756 SHALL NOT
23 APPLY.

24 Sec. 2. Section 11-713, Arizona Revised Statutes, is amended to
25 read:

26 11-713. Plans; specifications; estimate of cost;
27 limitation on assessment; filing of
28 assessment diagram and assessment where
29 election is to be held

30 A. Before passing the resolution of intention, plans and specifi-
31 cations and estimates of the cost and expenses thereof shall be prepared
32 by the engineer and filed with the clerk. The assessment for any lot
33 shall not exceed its proportion of the estimate.

1 B. WHEN A BOND ELECTION IS TO BE HELD, THE SUPERINTENDENT SHALL
2 FILE WITH THE CLERK DUPLICATE DIAGRAMS OF THE PROPERTY FRONTING UPON
3 THE PROPOSED WORK OR IMPROVEMENT OR CONTAINED WITHIN THE ASSESSMENT
4 DISTRICT WHEN EXPENSES OF THE PROPOSED IMPROVEMENT ARE TO BE ASSESSED
5 UPON A DISTRICT. THE DIAGRAM SHALL SHOW EACH SEPARATE LOT OR PARCEL
6 OF LAND NUMBERED CONSECUTIVELY, THE AREA IN SQUARE FEET OF EACH LOT
7 OR PARCEL OF LAND AND THE LOCATION OF THE LOT OR PARCEL OF LAND IN
8 RELATION TO THE WORK PROPOSED TO BE DONE. FURTHER, THE SUPERINTENDENT
9 OF STREETS SHALL FILE WITH THE CLERK AN ASSESSMENT COVERING THE SUMS
10 ESTIMATED TO BE DUE FOR THE WORK PERFORMED AND SPECIFIED IN THE RESO-
11 LUTION OF INTENTION BASED UPON THE AGGREGATE OF COSTS AND INCIDENTALS
12 SHOWN IN THE ESTIMATE. IN PREPARING THE ASSESSMENT THE SUPERINTENDENT
13 OF STREETS SHALL ASSESS THE TOTAL SUM UPON THE LOTS SHOWN IN THE
14 ASSESSMENT DIAGRAM, EACH RESPECTIVELY IN PROPORTION TO THE BENEFIT TO
15 BE RECEIVED BY EACH LOT OR PARCEL OF LAND.

16 C. THE TOTAL AMOUNT OF BONDS TO BE AUTHORIZED AT THE ELECTION
17 SHALL NOT EXCEED THE AGGREGATE OF ALL COSTS AND INCIDENTAL EXPENSES
18 SHOWN ON THE ESTIMATE. THE ESTIMATE OF INCIDENTAL EXPENSES SHALL
19 INCLUDE:

- 20 1. THE COSTS FOR ENGINEERING, LEGAL, FINANCIAL AND OTHER SERVICES.
- 21 2. THE DIRECT OR INCIDENTAL COSTS TO BE INCURRED IN THE ISSUANCE
22 AND SALE OF THE BONDS.
- 23 3. THE COSTS OF PRINTING, PUBLICATION AND POSTING.
- 24 4. THE COST OF DRAWING THE ASSESSMENT AND SUPERVISING THE WORK.

25 D. IF THE BOND ELECTION FAILS OR IF THE WORK IS ABANDONED VOLUN-
26 TARILY OR INVOLUNTARILY, THEN A NOTICE OF RECISION OF THE ASSESSMENT
27 SHALL BE EXECUTED BY THE BOARD OF DIRECTORS AND THE NOTICE OF RECISION
28 OF THE ASSESSMENT SHALL BE FORTHWITH RECORDED IN THE OFFICE OF THE
29 COUNTY RECORDER.

30 Sec. 3. Title 11, chapter 5, article 1, Arizona Revised Statutes,
31 is amended by adding sections 11-713.01, 11-713.02, 11-726.01, 11-745.01
32 and 11-759.01, to read:

1 11-713.01. Approval of assessment; notice; prepay-
2 ment; hearing on assessment

3 A. WHEN A BOND ELECTION IS ORDERED, THE RECORDING OF THE ASSESS-
4 MENT, THE CASH COLLECTIONS AND THE HEARING ON THE ASSESSMENT SHALL BE
5 CONDUCTED IN THE MANNER PROVIDED IN THIS SECTION.

6 B. IF THE BOARD FINDS THAT THE ASSESSMENT FILED PURSUANT TO
7 SECTION 11-713 APPEARS TO CORRECTLY ASSESS THE ESTIMATED COSTS OF THE
8 PROPOSED IMPROVEMENT, INCLUDING INCIDENTAL EXPENSES, UPON THE LOTS OR
9 PARCELS BENEFITTED, THE BOARD SHALL APPROVE THE ASSESSMENT DIAGRAM AND
10 THE ASSESSMENT AND DIRECT THE SUPERINTENDENT OF STREETS TO RECORD THE
11 ASSESSMENT DIAGRAM AND ASSESSMENT IN THE OFFICE OF THE COUNTY RECORDER
12 AND ALSO RECORD A DUPLICATE ASSESSMENT DIAGRAM AND ASSESSMENT IN THE
13 OFFICE OF THE SUPERINTENDENT OF STREETS.

14 C. WITHIN FIVE DAYS AFTER THE RECORDING OF THE ASSESSMENT DIAGRAM
15 AND ASSESSMENT THE CLERK SHALL CAUSE THE FOLLOWING NOTICE TO BE MAILED
16 TO EACH OF THE OWNERS OF REAL PROPERTY WITHIN THE PROPOSED ASSESSMENT
17 DISTRICT, AS THEIR NAMES AND ADDRESSES APPEAR ON THE LAST EQUALIZED
18 COUNTY ROLL OR AS KNOWN TO THE CLERK:

19 AMOUNT OF ASSESSMENT \$ _____
20 TO: ASSESSMENT NO. _____

21 PLEASE BE ADVISED THAT THE BOARD OF DIRECTORS OF THE _____
22 IMPROVEMENT DISTRICT HAS RECORDED AN ASSESSMENT DIAGRAM AND ASSESSMENT
23 IN THE OFFICE OF THE COUNTY RECORDER OF _____ COUNTY. THE
24 ASSESSMENT SECURES THE PAYMENT OF THE COSTS AND EXPENSES OF AN IMPROVE-
25 MENT TO BE MADE WITHIN SUCH DISTRICT. YOU ARE LISTED ON THE COUNTY TAX
26 ROLLS AS THE OWNER OF LAND SUBJECT TO ASSESSMENT.

27 YOU MAY PAY SUCH ASSESSMENT IN WHOLE OR IN PART PRIOR TO (DATE OF
28 CANVASS OF ELECTION). IF YOU MAKE A PARTIAL PAYMENT YOU MAY NOT LEAVE
29 UNPAID AN AMOUNT LESS THAN THIRTY DOLLARS. ALL ASSESSMENTS REMAINING
30 UNPAID ON (DATE OF CANVASS OF ELECTION) SHALL BE COLLECTED IN ANNUAL
31 INSTALLMENTS AND SHALL BEAR INTEREST AT A RATE NOT TO EXCEED _____
32 PER CENT PER ANNUM.

33 IN THE EVENT THE IMPROVEMENT IS ABANDONED, ALL PREPAYMENTS WILL
34 BE RETURNED.

1 YOU ARE FURTHER ADVISED THAT A PUBLIC HEARING UPON THE ASSESSMENT
2 WILL BE HELD ON (DATE OF CANVASS OF ELECTION) AT THE HOUR OF _____
3 AT THE OFFICE OF THE BOARD OF SUPERVISORS OF _____ COUNTY AT
4 _____, ARIZONA, AND ANY PERSON OWNING OR HAVING AN INTEREST IN PROP-
5 ERTY SUBJECT TO ASSESSMENT WHO HAS ANY OBJECTION TO THE ASSESSMENT OR
6 ANY PROCEEDINGS CONNECTED THEREWITH MAY, PRIOR TO THE TIME FIXED FOR THE
7 HEARING, FILE A WRITTEN NOTICE BRIEFLY SPECIFYING THEIR OBJECTIONS.

8 DATED THIS _____ DAY OF _____,
9 _____
10 CLERK, BOARD OF DIRECTORS OF _____
11 _____ IMPROVEMENT DISTRICT OF _____
12 COUNTY

13 D. THE TREASURER SHALL GIVE A RECEIPT FOR ALL CASH PAYMENTS RECEIVED
14 AND SHALL HOLD SUCH PAYMENTS IN TRUST FOR THE PROPERTY OWNER UNTIL A CON-
15 STRUCTION CONTRACT HAS BEEN EXECUTED AND THEN IN TRUST, FIRST FOR THE CON-
16 STRUCTION CONTRACTOR TO BE PAID IN ACCORDANCE WITH THE CONSTRUCTION CON-
17 TRACT AND SECONDLY, ANY REMAINDER FOR THE PROPERTY OWNER MAKING THE PAYMENT.
18 IN THE EVENT THE ELECTION FAILS OR THE PROJECT IS ABANDONED ALL MONIES
19 COLLECTED BY THE TREASURER SHALL BE RETURNED TO THE RESPECTIVE PROPERTY
20 OWNER MAKING THE PAYMENT.

21 E. AT THE DATE FIXED FOR HEARING ON THE ASSESSMENT THE BOARD SHALL
22 MEET AND PASS UPON ANY OBJECTIONS TO THE ASSESSMENT. THE MEETING MAY BE
23 ADJOURNED FROM TIME TO TIME BUT THE BOARD OF DIRECTORS SHALL PASS ON ALL
24 MATTERS REQUIRED TO BE HEARD WITHIN TEN DAYS FROM THE DATE SET FOR
25 HEARING. ALL DETERMINATIONS BY THE BOARD OF DIRECTORS SHALL BE FINAL
26 AND CONCLUSIVE. THE BOARD OF DIRECTORS MAY MODIFY THE AMOUNTS OF THE
27 SEVERAL ASSESSMENTS OR MAY CHANGE THE BOUNDARIES OF THE ASSESSMENT DISTRICT
28 AFTER THE HEARING OR MAY ORDER A NEW ASSESSMENT TO BE MADE. IF A NEW
29 ASSESSMENT IS ORDERED TO BE MADE, NOTICE SHALL BE GIVEN BY AN ANNOUNCEMENT
30 TO THAT EFFECT AT THE END OF THE HEARING STATING THE TIME FOR HEARING
31 OBJECTIONS TO THE NEW ASSESSMENT. NOTICE OF THE DATE FOR THE HEARING
32 SHALL BE PUBLISHED ONCE IN A WEEKLY OR DAILY NEWSPAPER PRIOR TO SUCH
33 HEARING.

1 11-713.02. Certified list of unpaid assessments; bond
2 authorization; sale of bonds; construction
3 bids

4 A. IF THE BOND ELECTION IS SUCCESSFUL AND THE ASSESSMENT IS
5 CONFIRMED, THE TREASURER SHALL REPORT ALL PAYMENTS TO THE COUNTY SUPER-
6 INTENDENT OF STREETS. THE COUNTY SUPERINTENDENT OF STREETS SHALL DRAW
7 A LIST OF ALL ASSESSMENTS REMAINING UNPAID AT THE DATE OF THE CANVASS
8 AND SHALL CERTIFY SUCH LIST TO THE BOARD OF DIRECTORS. AFTER THE ADOPT-
9 TION OF THE RESOLUTION ORDERING THE WORK THE BOARD OF DIRECTORS SHALL
10 BE AUTHORIZED TO SELL AND ISSUE BONDS IN THE PRINCIPAL AMOUNT REMAINING
11 UNPAID AS SHOWN ON THE CERTIFIED LIST.

12 B. THE BOARD, BY RESOLUTION, SHALL PROVIDE FOR THE ISSUANCE OF
13 BONDS FOR THE AMOUNT OF SUCH UNPAID ASSESSMENTS, DATE THE BONDS AS OF
14 THE DATE OF THE CANVASS, PRESCRIBE THEIR FORM AND DENOMINATION, THE
15 AMOUNT THEREOF TO MATURE EACH YEAR, THEIR PAYMENT ON JANUARY 1 AT THE
16 OFFICE OF THE COUNTY TREASURER OR AT THE OFFICE OF A PAYING AGENT WITHIN
17 OR WITHOUT THE STATE AS DESIGNATED BY THE BOARD, FOR A TERM NOT TO EXCEED
18 TWENTY YEARS AND THREE MONTHS AND THAT THE BONDS SHALL BEAR INTEREST AT
19 A RATE OF NOT TO EXCEED THE RATE SPECIFIED IN THE RESOLUTION OF INTEN-
20 TION, REPRESENTED BY SEMIANNUAL INTEREST COUPONS ATTACHED.

21 C. THE BOARD SHALL SET THE DATE FOR RECEIPT OF BOND BIDS SUBSE-
22 QUENT TO THE DATE SET TO RECEIVE BIDS FOR THE CONSTRUCTION OF THE WORK
23 DESCRIBED IN THE RESOLUTION OF INTENTION.

24 D. ALL BONDS SHALL BE SOLD AT ONE TIME IN THE MANNER PRESCRIBED
25 IN SECTION 35-457.

26 E. NOTWITHSTANDING ANYTHING CONTAINED IN EITHER SECTION 11-713
27 OR 11-721, ALL CONSTRUCTION BIDS SHALL STATE ONE LUMP-SUM AS THE CON-
28 TRACTORS PRICE FOR CONSTRUCTING THE WORK MENTIONED IN THE RESOLUTION OF
29 INTENTION, WHICH PRICE SHALL NOT EXCEED THE AMOUNT OF CONSTRUCTION
30 COSTS MENTIONED IN THE ESTIMATE.

31 11-726.01. Correction of assessment

32 WHEN THE WORK IS COMPLETED AND ALL COSTS AND EXPENSES ARE KNOWN,
33 THE SUPERINTENDENT OF STREETS SHALL REPORT THE TOTAL COSTS AND EXPENSES

1 TO THE BOARD OF DIRECTORS. WHEN THE ASSESSMENT HAS BEEN RECORDED IN
2 THE MANNER SET FORTH IN SECITON 11-713.01, THE BOARD SHALL ORDER A
3 CORRECTION OF THE ASSESSMENT TO REFLECT THE DIFFERENCE BETWEEN THE
4 ESTIMATE AND THE ACTUAL COST OF CONSTRUCTION. BOND PROCEEDS REMAINING
5 ON HAND AFTER PAYMENT OF ALL COSTS AND EXPENSES HAVE BEEN PAID SHALL
6 BE CREDITED TO THE PRINCIPAL AND INTEREST REDEMPTION FUND.

7 11-745.01. Special provision pertaining to assessment
8 when bonds are authorized by an election;
9 levy of tax to pay bond debt service;
10 continuation of interest

11 A. ANY OTHER SECTION OF THIS ARTICLE TO THE CONTRARY NOTWITH-
12 STANDING, WHEN THE BONDS HAVE BEEN AUTHORIZED BY AN ELECTION THE ASSES-
13 SMENTS SHALL CONSTITUTE A FIRST LIEN ON THE RESPECTIVE LOTS OR PARCELS
14 ASSESSED, COEQUAL WITH THE LIEN OF GENERAL TAXES, NOT SUBJECT TO
15 EXTINGUISHMENT BY A SALE FOR NONPAYMENT OF GENERAL TAXES, PRIOR AND
16 SUPERIOR TO ALL DEMANDS, EXECUTIONS, INCUMBRANCES, TITLES OR LIENS
17 WHENSOEVER CREATED, INCLUDING THE LIEN OF ALL SPECIAL ASSESSMENTS THERE-
18 AFTER LEVIED, AND SHALL CONTINUE UNTIL SUCH ASSESSMENT INSTALLMENTS, WITH
19 PENALTIES, INTEREST AND CHARGES THAT MAY ACCRUE THEREON SHALL HAVE BEEN
20 PAID.

21 B. ALL INSTALLMENTS PAID ON SUCH ASSESSMENTS SHALL BE DEPOSITED BY
22 THE TREASURER INTO THE PRINCIPAL AND INTEREST REDEMPTION FUNDS OF THE
23 DISTRICT AS PROVIDED IN SECTION 35-458, SUBSECTION B, AND SO LONG AS THE
24 INSTALLMENTS ARE SUFFICIENT TO PAY THE PRINCIPAL AND INTEREST COMING DUE
25 ON THE BONDS NO TAX LEVY NEED BE MADE PURSUANT TO SECTION 35-458.

26 C. IF SUCH ANNUAL INSTALLMENTS OF PRINCIPAL AND INTEREST DO NOT
27 PROVIDE FUNDS SUFFICIENT FOR THE PAYMENT OF THE BONDS AND THE INTEREST
28 THEREON AS THEY SHALL ACCRUE, THE BOARD OF DIRECTORS SHALL CAUSE LEVIES
29 TO BE MADE AS PROVIDED IN SECTION 35-458 ON THE PROPERTIES WITHIN THE
30 IMPROVEMENT DISTRICT UNTIL THE BONDS AND INTEREST ARE PAID.

31 D. IF, UPON PRESENTATION AT MATURITY, PAYMENT OF ANY BOND OR
32 COUPON IS NOT PAID FOR WANT OF FUNDS, THE BOND OR COUPON SHALL CONTINUE
33 TO BEAR INTEREST AT THE RATE STATED IN THE BOND UNTIL PAID IN FULL.

1 11-759.01. Saving clauses
2 A. NEITHER AN ELECTION NOR THE VALIDITY OF ANY BONDS AUTHORIZED
3 AT SUCH ELECTION MAY BE CHALLENGED BY ANY ACTION IN ANY COURT FOR ANY
4 REASON IF SUCH ACTION IS NOT BROUGHT WITHIN THIRTY DAYS AFTER THE
5 CANVASS OF THE RESULT OF THE ELECTION.
6 B. THE INVALIDITY OF ANY ASSESSMENT SHALL NOT AFFECT THE VALIDITY
7 OF ANY BONDS AUTHORIZED BY AN ELECTION.
8 C. NO INVALIDITY IN THE CALLING OR HOLDING OF ANY ELECTION SHALL
9 AFFECT THE VALIDITY OF ANY ASSESSMENT.
10 Sec. 4. Title 11, chapter 5, article 1.1, Arizona Revised Statutes,
11 is amended by adding section 11-761.08, to read:
12 11-761.08. Limitation
13 NO BONDS MAY BE ISSUED UNDER THE PROVISIONS OF THIS ARTICLE UNLESS
14 THE RESOLUTION AUTHORIZING THE WORK SHALL HAVE BEEN ADOPTED BY THE BOARD
15 OF DIRECTORS OF THE IMPROVEMENT DISTRICT BEFORE THE EFFECTIVE DATE OF
16 THIS SECTION.
17 Sec. 5. Section 35-451, Arizona Revised Statutes, is amended to
18 read:
19 35-451. Increase of aggregate indebtedness above
20 four per cent of valuation; authority to
21 issue bonds
22 A. The aggregate indebtedness of a county, school district, city,
23 town or similar municipal corporation may be increased above four per
24 cent of the value of the taxable property in such political subdivision
25 only as provided in this article. The value of such taxable property
26 shall be ascertained as provided by section 8 of article 9 of the consti-
27 tution.
28 B. Bonds may be issued under the provisions of this article for
29 any lawful or necessary purpose.
30 C. IN ADDITION TO THE PROVISIONS OF SUBSECTIONS A AND B, BONDS
31 MAY BE AUTHORIZED AND ISSUED PURSUANT TO THIS ARTICLE BY AN IMPROVEMENT
32 DISTRICT ACTING PURSUANT TO TITLE 11, CHAPTER 5, ARTICLE 1.

1 **Sec. 6. Emergency**
2 **To preserve the public peace, health and safety it is necessary**
3 **that this act become immediately operative. It is therefore declared to**
4 **be an emergency measure, to take effect as provided by law.**