

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

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)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Title 45, chapter 1, article 1, Arizona Revised Statutes,
3 is amended by adding section 45-108.01, to read:
4 45-108.01. Definition of adequate water supply; upper San Pedro
5 water district
6 FOR THE PURPOSES OF SECTION 45-108, IF THE UPPER SAN PEDRO WATER
7 DISTRICT IS ESTABLISHED UNDER TITLE 48, CHAPTER 37 FOR PROPOSED USES IN THE
8 DISTRICT, "ADEQUATE WATER SUPPLY" MEANS A WATER SUPPLY THAT COMPLIES WITH ALL
9 OF THE FOLLOWING:
10 1. SUFFICIENT GROUNDWATER, SURFACE WATER OR EFFLUENT OF ADEQUATE
11 QUALITY WILL BE CONTINUOUSLY, LEGALLY AND PHYSICALLY AVAILABLE TO SATISFY THE
12 WATER NEEDS OF THE PROPOSED USE FOR AT LEAST ONE HUNDRED YEARS.
13 2. THE PROJECTED WATER USE IS CONSISTENT WITH THE GOAL OF THE DISTRICT
14 AS SET FORTH IN SECTION 48-6403, SUBSECTION B AND THE DISTRICT'S ABILITY TO
15 MEET THE MEASURABLE OBJECTIVES FOR ACHIEVING THE GOAL AS INCLUDED IN THE
16 DISTRICT'S MOST RECENT COMPREHENSIVE PLAN, AS DETERMINED BY THE DIRECTOR. IF
17 THE DISTRICT IS ESTABLISHED, THE DIRECTOR SHALL ADOPT RULES CONTAINING
18 CRITERIA FOR MAKING DETERMINATIONS UNDER THIS PARAGRAPH AND SHALL CONSULT
19 WITH THE DISTRICT BOARD IN DEVELOPING THE RULES.
20 3. THE FINANCIAL CAPABILITY HAS BEEN DEMONSTRATED TO CONSTRUCT THE
21 WATER FACILITIES NECESSARY TO MAKE THE SUPPLY OF WATER AVAILABLE FOR THE
22 PROPOSED USE, INCLUDING A DELIVERY SYSTEM AND ANY STORAGE FACILITIES OR
23 TREATMENT WORKS. THE DIRECTOR MAY ACCEPT EVIDENCE OF THE CONSTRUCTION
24 ASSURANCES REQUIRED BY SECTION 9-463.01, 11-806.01 OR 32-2181 TO SATISFY THIS
25 REQUIREMENT.
26 Sec. 2. Section 45-544, Arizona Revised Statutes, is amended to read:
27 45-544. Transportation in areas not subject to active
28 management; damages; upper San Pedro water district;
29 Little Colorado river plateau and Parker groundwater
30 basins; definitions
31 A. Except as otherwise provided in this section, section 45-547 and
32 article 8.1 of this chapter, in areas outside of active management areas:
33 1. Groundwater may be transported:
34 (a) Within a subbasin of a groundwater basin or within a groundwater
35 basin, if there are no subbasins, without payment of damages.
36 (b) Between subbasins of a groundwater basin, subject to payment of
37 damages.
38 2. Groundwater ~~may~~ SHALL not be transported away from a groundwater
39 basin.
40 3. GROUNDWATER SHALL NOT BE TRANSPORTED AWAY FROM THE UPPER SAN PEDRO
41 WATER DISTRICT IF ESTABLISHED UNDER TITLE 48, CHAPTER 37.
42 B. Notwithstanding subsection A, paragraph 2 OR 3 of this section,
43 subject to payment of damages:

1 1. A person who at any time during the twelve months before January 1,
2 1991 was transporting away from the Little Colorado river plateau groundwater
3 basin or the Parker groundwater basin groundwater that was legally withdrawn
4 from a well in either groundwater basin has the right, subject to subsection
5 C of this section, to transport groundwater that is legally withdrawn from
6 the well or a replacement well in approximately the same location to another
7 groundwater basin in an annual amount equal to the greater of the maximum
8 amount of groundwater either:

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

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

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

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

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

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

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

40 7. IF THE UPPER SAN PEDRO WATER DISTRICT IS ESTABLISHED UNDER TITLE
41 48, CHAPTER 37:

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

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

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

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

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

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

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

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

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

33 E. For the purposes of this section:

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

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

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

3 CHAPTER 37

4 UPPER SAN PEDRO WATER DISTRICT

5 ARTICLE 1. GENERAL PROVISIONS

6 48-6401. Findings; purpose

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

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

23 C. THE PURPOSE OF THIS CHAPTER IS TO ALLOW FOR THE FORMATION OF THE
24 UPPER SAN PEDRO WATER DISTRICT CONSISTING OF A PORTION OF THE UPPER SAN PEDRO
25 GROUNDWATER BASIN THAT INCLUDES FORT HUACHUCA, THE LANDS IN THE CORPORATE
26 LIMITS OF THE CITIES OF SIERRA VISTA AND TOMBSTONE AND THE TOWN OF HUACHUCA
27 CITY AND THE PORTION OF THE CITY OF BISBEE LOCATED IN THE UPPER SAN PEDRO
28 GROUNDWATER BASIN, BUT NOT ANY LANDS IN SANTA CRUZ COUNTY OR PIMA COUNTY AND
29 NOT INCLUDING THAT PORTION OF THE CITY OF BISBEE LOCATED IN THE DOUGLAS
30 GROUNDWATER BASIN, AND TO PROVIDE THE DISTRICT WITH SUFFICIENT RESOURCES AND
31 AUTHORITY TO ALLOW THE DISTRICT TO ACHIEVE THE GOAL PRESCRIBED IN SECTION
32 48-6403.

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

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

41 48-6402. Definitions

42 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

18 48-6404. District as municipal corporation; exemption from
19 taxation; judicial review

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

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

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

34 48-6405. Board; members; terms; compensation

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

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

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

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

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

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

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

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

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

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

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

25 48-6406. Formation election; tax authorization; election of
26 board members

27 A. THE COUNTY BOARD OF SUPERVISORS OF A COUNTY IN WHICH THE UPPER SAN
28 PEDRO WATER DISTRICT IS AUTHORIZED PURSUANT TO SECTION 48-6403, ON REQUEST OF
29 THE ORGANIZING BOARD OF THE DISTRICT APPOINTED PURSUANT TO SECTION
30 48-6403.01, MAY SUBMIT TO A VOTE OF THE QUALIFIED ELECTORS OF THE PROPOSED
31 DISTRICT THE ISSUE OF FORMATION OF THE DISTRICT AND ELECTION OF MEMBERS OF
32 THE BOARD OF DIRECTORS. ON REQUEST OF THE ORGANIZING BOARD OF THE DISTRICT,
33 THE BOARD OF SUPERVISORS MAY SUBMIT TO A VOTE OF THE QUALIFIED ELECTORS AS A
34 SEPARATE QUESTION OR AT A SEPARATE ELECTION THE ISSUE OF AUTHORITY FOR THE
35 DISTRICT TO LEVY A TRANSACTION PRIVILEGE TAX. ON REQUEST OF THE ORGANIZING
36 BOARD, THE BOARD OF SUPERVISORS MAY EITHER ORDER AND CALL A SPECIAL
37 DISTRICT-WIDE ELECTION FOR THOSE PURPOSES OR PLACE THE ISSUES ON THE BALLOT
38 AT A GENERAL ELECTION.

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

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

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

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

12 48-6407. Board meetings; notice

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

18 B. THE DISTRICT IS A PUBLIC BODY FOR THE PURPOSES OF TITLE 38, CHAPTER
19 3, ARTICLE 3.1 RELATING TO OPEN MEETINGS.

20 48-6408. Powers and duties of the board

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

24 B. THE BOARD MAY:

- 25 1. MANAGE AND CONDUCT THE BUSINESS AND AFFAIRS OF THE DISTRICT.
- 26 2. MAKE AND EXECUTE ALL NECESSARY CONTRACTS, INCLUDING
27 INTERGOVERNMENTAL AGREEMENTS PURSUANT TO TITLE 11, CHAPTER 7, ARTICLE 3.
- 28 3. SUE AND BE SUED.
- 29 4. ADOPT A SEAL FOR THE DISTRICT TO BE USED TO ATTEST TO DOCUMENTS.
- 30 5. PROVIDE FOR PAYMENT OF ALL DEBTS AND APPROPRIATE CLAIMS AGAINST THE
31 DISTRICT FROM THE APPROPRIATE FUNDS.
- 32 6. EMPLOY SUCH ADMINISTRATIVE, LEGAL, ENGINEERING, ACCOUNTING,
33 CLERICAL AND OTHER STAFF AS MAY BE NECESSARY AND PRESCRIBE THE DUTIES, TERMS
34 AND CONDITIONS OF EMPLOYMENT.
- 35 7. RETAIN OUTSIDE PROFESSIONAL SERVICES, INCLUDING LEGAL COUNSEL.
- 36 8. PERFORM ALL OTHER ACTS NECESSARY TO CARRY OUT THE PURPOSES OF THIS
37 CHAPTER.

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

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

- 1 2. PURCHASE, CONSTRUCT, OWN, LEASE, MAINTAIN AND OPERATE ALL WORKS,
2 FACILITIES AND OTHER PROPERTY NECESSARY FOR THE USES AND PURPOSES OF THE
3 DISTRICT.
- 4 3. ACQUIRE, TRANSPORT, DELIVER, TREAT OR RECHARGE WATER PURSUANT TO
5 THIS CHAPTER, INCLUDING RECHARGING STORMWATER AND PROVIDING OR SELLING WATER
6 TO A PERSON OR ENTITY THAT MAKES DIRECT DELIVERIES OF WATER.
- 7 4. ISSUE BONDS AND PLEDGE ALL OR PART OF ITS REVENUE FROM ANY SOURCE
8 FOR SECURITY AND PAYMENT OF ITS BONDS PURSUANT TO SECTION 48-6433.
- 9 5. NEGOTIATE, MAKE, EXECUTE, ACKNOWLEDGE AND PERFORM ANY CONTRACT,
10 AGREEMENT OR OBLIGATION IT DEEMS ADVISABLE FOR THE INTEREST OF THE DISTRICT
11 TO CARRY OUT OR ACCOMPLISH THE PURPOSES OF THIS CHAPTER, INCLUDING AGREEMENTS
12 TO ACQUIRE WATER SUPPLIES AND WATER RIGHTS FOR WATER EXCHANGES, RECHARGE,
13 UNDERGROUND STORAGE AND WATER DELIVERIES.
- 14 6. PLAN, COORDINATE, CONSTRUCT, OPERATE, MAINTAIN AND DISMANTLE WATER
15 AUGMENTATION PROJECTS THAT ARE OPERATED BY THE DISTRICT, INCLUDING TREATMENT,
16 RECHARGE, UNDERGROUND STORAGE AND RECOVERY AND RETENTION PROJECTS, WATER
17 TREATMENT, AND WASTEWATER TREATMENT AND REUSE PROJECTS.
- 18 7. ENTER INTO INTERGOVERNMENTAL AGREEMENTS, MEMORANDA OF UNDERSTANDING
19 OR OTHER CONTRACTS WITH SINGLE OR MULTIPLE PARTIES, INCLUDING FEDERAL
20 AGENCIES THAT PROVIDE FUNDING TO MEET THE GOAL OF THE DISTRICT, TO FURTHER
21 THE DISTRICT'S PURPOSES.
- 22 8. ACQUIRE ENERGY RESOURCES TO OPERATE DISTRICT FACILITIES.
- 23 9. IMPOSE AND COLLECT FEES AS PROVIDED IN SECTION 48-6431, BORROW
24 MONIES OR RECEIVE GIFTS, GRANTS AND DONATIONS FROM ANY PUBLIC OR PRIVATE
25 SOURCE.
- 26 10. ENTER INTO CONTRACTS, INTERGOVERNMENTAL AGREEMENTS OR MEMORANDA OF
27 UNDERSTANDING FOR PUBLIC EDUCATION PROGRAMS IN THE DISTRICT RELATING TO WATER
28 CONSERVATION.
- 29 11. APPLY FOR AND HOLD STORAGE FACILITY PERMITS, WATER STORAGE PERMITS
30 AND RECOVERY WELL PERMITS UNDER TITLE 45, CHAPTER 3.1.
- 31 12. ACQUIRE, HOLD, ASSIGN OR OTHERWISE DISPOSE OF CREDITS REGISTERED TO
32 STORAGE ACCOUNTS UNDER ANY PROVISION OF TITLE 45, CHAPTER 3.1.
- 33 13. APPLY FOR AND RECEIVE LOANS OR GRANTS UNDER TITLE 49, CHAPTER 8.
- 34 14. CONSULT AND CONFER WITH ANY GOVERNMENTAL AGENCY WITH RESPECT TO
35 MATTERS WITHIN THE DISTRICT'S POWERS AND DUTIES UNDER THIS CHAPTER.
- 36 15. CONDUCT ANY OTHER ACTIVITIES THAT ARE REASONABLY NECESSARY AND
37 RELATED TO THE POWERS AND DUTIES DESCRIBED BY THIS CHAPTER.
- 38 D. THE COUNTY ATTORNEY FOR THE COUNTY MAY ADVISE OR REPRESENT THE
39 DISTRICT ON MATTERS WITHIN THE DISTRICT'S AUTHORITY UNDER THIS CHAPTER IF THE
40 COUNTY ATTORNEY DETERMINES THAT THE ADVICE OR REPRESENTATION IS APPROPRIATE
41 AND NOT IN CONFLICT WITH THE COUNTY ATTORNEY'S DUTIES UNDER SECTION 11-532.
- 42 E. NOTWITHSTANDING ANY OTHER LAW, THE COUNTY BOARD OF SUPERVISORS MAY
43 REQUIRE THE DISTRICT TO REIMBURSE THE COUNTY FOR THE COST OF SERVICES
44 PROVIDED TO THE DISTRICT, INCLUDING THE USE OF THE COUNTY ATTORNEY. THE
45 BOARD OF SUPERVISORS SHALL ESTABLISH A SCHEDULE FOR REIMBURSEMENT OF COUNTY

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

7 48-6409. Water development and management; technical assistance
8 and review by director of water resources

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

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

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

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

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

29 48-6410. Limitation on powers

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

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

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

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

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

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

42 6. EXERCISE ANY RIGHT OF EMINENT DOMAIN.

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

1 48-6411. Adequate water supply requirements: notice: objections

2 A. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION AND SECTIONS
3 48-6412 AND 48-6413, A PERSON WHO PROPOSES TO OFFER SUBDIVIDED LANDS, AS
4 DEFINED IN SECTION 32-2101, FOR SALE OR LEASE IN THE DISTRICT SHALL APPLY FOR
5 AND OBTAIN A DETERMINATION OF ADEQUATE WATER SUPPLY FROM THE DIRECTOR
6 PURSUANT TO SECTIONS 45-108 AND 45-108.01 BEFORE PRESENTING THE PLAT FOR
7 APPROVAL TO THE CITY, TOWN OR COUNTY IN WHICH THE LAND IS LOCATED, IF IT IS
8 REQUIRED, AND BEFORE FILING WITH THE STATE REAL ESTATE COMMISSIONER A NOTICE
9 OF INTENTION TO OFFER THE LANDS FOR SALE OR LEASE PURSUANT TO SECTION
10 32-2181, UNLESS THE SUBDIVIDER HAS OBTAINED A WRITTEN COMMITMENT OF WATER
11 SERVICE FOR THE SUBDIVISION FROM A CITY, TOWN OR PRIVATE WATER COMPANY
12 DESIGNATED AS HAVING AN ADEQUATE WATER SUPPLY PURSUANT TO SECTIONS 45-108 AND
13 45-108.01.

14 B. EXCEPT AS PROVIDED IN SUBSECTION C OF THIS SECTION AND SECTIONS
15 48-6412 AND 48-6413, THE COUNTY AND A CITY OR TOWN IN THE DISTRICT SHALL NOT
16 APPROVE A SUBDIVISION PLAT FOR A PROPOSED SUBDIVISION IN THE DISTRICT UNLESS
17 ONE OF THE FOLLOWING APPLIES:

18 1. THE DIRECTOR OF WATER RESOURCES HAS DETERMINED THAT THERE IS AN
19 ADEQUATE WATER SUPPLY FOR THE SUBDIVISION PURSUANT TO SECTIONS 45-108 AND
20 45-108.01 AND THE SUBDIVIDER HAS INCLUDED THE REPORT WITH THE PLAT.

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

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

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

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

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

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

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

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

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

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

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

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

32 3. THE PLAT WAS APPROVED BY THE COUNTY OR A CITY OR TOWN IN THE
33 DISTRICT PURSUANT TO AN EXEMPTION GRANTED BY THE DIRECTOR UNDER SECTION
34 48-6412 AND THE EXEMPTION HAS NOT EXPIRED OR PURSUANT TO AN EXEMPTION GRANTED
35 BY THE DIRECTOR UNDER SECTION 48-6413. IF THE PLAT WAS APPROVED PURSUANT TO
36 AN AUTHORIZED EXEMPTION, THE STATE REAL ESTATE COMMISSIONER SHALL REQUIRE
37 THAT ALL PROMOTIONAL MATERIAL AND CONTRACTS FOR THE SALE OF LOTS IN THE
38 SUBDIVISION ADEQUATELY DISPLAY THE DIRECTOR'S REPORT OR THE DEVELOPER'S BRIEF
39 SUMMARY OF THE REPORT AS APPROVED BY THE COMMISSIONER ON THE PROPOSED WATER
40 SUPPLY FOR THE SUBDIVISION AND A STATEMENT DESCRIBING THE EXEMPTION UNDER
41 WHICH THE SUBDIVISION WAS APPROVED, INCLUDING THE SPECIFIC CONDITIONS OF THE
42 EXEMPTION THAT WERE MET.

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

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

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

14 1. THE DIRECTOR OF WATER RESOURCES HAS REPORTED PURSUANT TO SECTION
15 45-108 THAT THE SUBDIVISION OR TIMESHARE PROPERTY HAS AN ADEQUATE WATER
16 SUPPLY.

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

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

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

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

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

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

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

15 K. IF THE APPLICATION IS FOR A WATER REPORT:

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

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

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

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

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

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

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

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

37 48-6412. Exemption from adequate water supply requirements
38 based on substantial capital investment;
39 application; criteria; expiration

40 A. IF THE DIRECTOR DETERMINES PURSUANT TO SECTIONS 45-108 AND
41 45-108.01 THAT AN ADEQUATE WATER SUPPLY DOES NOT EXIST FOR A PROPOSED
42 SUBDIVISION IN THE DISTRICT, THE SUBDIVIDER MAY APPLY TO THE DIRECTOR FOR AN
43 EXEMPTION FROM THE WATER ADEQUACY REQUIREMENTS IN SECTION 48-6411,
44 SUBSECTIONS A AND B ON A FORM PRESCRIBED BY THE DIRECTOR WITHIN ONE YEAR
45 AFTER THE DATE THE DISTRICT IS ESTABLISHED. THE DIRECTOR SHALL GRANT THE

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

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

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

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

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

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

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

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

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

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

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

38 48-6413. Exemption from adequate water supply requirements
39 based on an adequate water supply within twenty
40 years; criteria; application

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

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

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

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

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

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

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

24 48-6414. Inapplicability of other adequate water supply
25 provisions to proposed subdivisions in the district

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

31 48-6415. District and municipal water delivery systems in
32 district eligible to receive financial assistance
33 from water supply development revolving fund

34 THE DISTRICT IS DEEMED TO BE A WATER PROVIDER FOR THE PURPOSES OF TITLE
35 49, CHAPTER 8. THE DISTRICT AND MUNICIPAL WATER DELIVERY SYSTEMS SERVING
36 WATER IN THE DISTRICT ARE ELIGIBLE TO APPLY FOR AND RECEIVE FINANCIAL
37 ASSISTANCE FROM MONIES IN THE WATER SUPPLY DEVELOPMENT REVOLVING FUND
38 ESTABLISHED UNDER SECTION 49-1271 NOTWITHSTANDING SECTION 49-1273,
39 SUBSECTION C.

40 ARTICLE 2. FINANCIAL PROVISIONS

41 48-6431. Financial authority of district

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

- 44 1. THE TRANSACTION PRIVILEGE TAX LEVIED PURSUANT TO SECTION 48-6432.
45 2. THE SALE OF WATER OR WATER RIGHTS THAT ARE OWNED BY THE DISTRICT.

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

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

6 PUBLIC HEARING NOTICE OF TAX INCREASE
7 ON MUNICIPAL WATER DELIVERY SYSTEMS

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

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

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

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

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

32 48-6433. Revenue bonds; issuance; hearing; notice

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

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

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

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

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

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

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

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

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

39 PUBLIC HEARING NOTICE OF BOND ISSUANCE
40 IN COMPLIANCE WITH SECTION 48-6433, ARIZONA REVISED
41 STATUTES, THE UPPER SAN PEDRO WATER DISTRICT ("DISTRICT") IS
42 NOTIFYING RESIDENTS IN THE DISTRICT OF ITS INTENTION TO ISSUE
43 BONDS. THE DISTRICT IS PROPOSING TO ISSUE UP TO \$ _____
44 IN BONDS TO BE SECURED BY REVENUE FROM _____ (SOURCE OF
45 REVENUE).

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

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

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

13 48-6434. Administrative and operations budgets; annual
14 statement and audit

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

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

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

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

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

5 48-6435. Annual report

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

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

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

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

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

21 5. A DESCRIPTION OF THE DISTRICT'S FINANCES.

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

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

28 48-6436. Special audit; report

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

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

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

41 Sec. 4. Conditional enactment

42 A. Section 48-6414, Arizona Revised Statutes, as added by this act,
43 does not become effective unless Senate Bill 1575, forty-eighth legislature,
44 first regular session, relating to water adequacy program provisions, becomes
45 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.