

REFERENCE TITLE: toll roads; public highway authorities

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1420

Introduced by
Senator Tibshraeny

AN ACT

AMENDING SECTION 28-5611, ARIZONA REVISED STATUTES; REPEALING TITLE 28, CHAPTER 22, ARIZONA REVISED STATUTES; AMENDING TITLE 28, ARIZONA REVISED STATUTES, BY ADDING A NEW CHAPTER 22; AMENDING SECTIONS 35-701, 42-5069 AND 42-6208, ARIZONA REVISED STATUTES; RELATING TO PUBLIC HIGHWAY AUTHORITIES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 28-5611, Arizona Revised Statutes, is amended to read:

28-5611. Refunds: motor vehicle fuel

A. Except as provided in subsection B of this section, on application to the director pursuant to this article and if section 28-5612 is complied with, a person who buys and uses motor vehicle fuel shall receive a refund in the amount of the tax if the person pays the tax on the fuel and either:

1. Uses the fuel other than in ~~any~~ EITHER of the following:

(a) A motor vehicle on a highway in this state.

(b) Watercraft on the waterways of this state.

~~(c) A motor vehicle operating on a transportation facility or toll road pursuant to chapter 22 of this title.~~

2. Buys aviation fuel for use in aircraft applying seeds, fertilizer or pesticides.

3. Loses the fuel by fire, theft or other accident.

B. If a claim for refund is based on the use of motor vehicle fuel in aircraft, five cents of the tax collected on each gallon of motor vehicle fuel claimed shall remain in the state aviation fund, and the department shall refund the remainder of the tax pursuant to section 28-5612.

Sec. 2. Repeal

Title 28, chapter 22, Arizona Revised Statutes, is repealed.

Sec. 3. Title 28, Arizona Revised Statutes, is amended by adding a new chapter 22, to read:

CHAPTER 22

PUBLIC HIGHWAY AUTHORITIES

ARTICLE 1. GENERAL PROVISIONS

28-7701. Definitions

IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

1. "AUTHORITY" MEANS A BODY CORPORATE AND POLITICAL SUBDIVISION OF THIS STATE ESTABLISHED PURSUANT TO THIS CHAPTER.

2. "BOARD" MEANS THE BOARD OF DIRECTORS OF AN AUTHORITY.

3. "BOND" MEANS ANY BOND, NOTE, INTERIM CERTIFICATE, CONTRACT OR OTHER EVIDENCE OF INDEBTEDNESS OF AN AUTHORITY AUTHORIZED BY THIS CHAPTER.

4. "COMBINATION":

(a) MEANS ANY TWO OR MORE MUNICIPALITIES, TWO OR MORE COUNTIES OR ONE OR MORE MUNICIPALITIES AND ONE OR MORE COUNTIES.

(b) INCLUDES THIS STATE TO THE EXTENT AUTHORIZED BY SECTION 28-7702.

5. "CONSTRUCT" OR "CONSTRUCTION" MEANS THE PLANNING, DESIGNING, ENGINEERING, ACQUISITION, INSTALLATION, CONSTRUCTION AND RECONSTRUCTION OF PUBLIC HIGHWAYS.

6. "GOVERNMENTAL UNIT" MEANS THIS STATE OR ANY COUNTY OR MUNICIPALITY OF THIS STATE THAT IS LOCATED IN A METROPOLITAN REGION.

7. "METROPOLITAN REGION" MEANS AN AREA THAT IS DESIGNATED A CONSOLIDATED METROPOLITAN STATISTICAL AREA BY THE FEDERAL OFFICE OF

MANAGEMENT AND BUDGET AND THAT HAS A POPULATION OF MORE THAN ONE MILLION PERSONS.

8. "PUBLIC HIGHWAY" MEANS A BELTWAY OR OTHER TRANSPORTATION IMPROVEMENT THAT IS LOCATED IN A METROPOLITAN REGION, THAT IS AN EXPRESSWAY THAT GENERALLY CIRCUMSCRIBES A METROPOLITAN REGION AND THAT WILL BE PRIMARILY USED FOR MAJOR TRAFFIC MOVEMENT AT HIGHER TRAFFIC SPEEDS. AS THE BOARD DETERMINES, A PUBLIC HIGHWAY MAY CONSIST OF IMPROVEMENTS, INCLUDING PAVING, GRADING, LANDSCAPING, CURBS, GUTTERS, CULVERTS, SIDEWALKS, BIKEWAYS, LIGHTING, BRIDGES, OVERPASSES, UNDERPASSES, RAIL CROSSINGS, FRONTAGE ROADS, ACCESS ROADS, INTERCHANGES, DRAINAGE FACILITIES, HIGH OCCUPANCY VEHICLE LANES, PARK-AND-RIDE FACILITIES, TOLL COLLECTION FACILITIES, SERVICE AREAS, ADMINISTRATIVE OR MAINTENANCE FACILITIES, GAS, ELECTRIC, WATER, SEWER AND OTHER UTILITIES LOCATED OR TO BE LOCATED IN THE RIGHT-OF-WAY FOR A PUBLIC HIGHWAY AND OTHER REAL OR PERSONAL PROPERTY, INCLUDING EASEMENTS, RIGHTS-OF-WAY AND OTHER INTERESTS RELATING TO THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE OF A PUBLIC HIGHWAY.

9. "REVENUES" MEANS ANY TOLLS, FEES, RATES, CHARGES, ASSESSMENTS, GRANTS, CONTRIBUTIONS OR OTHER INCOME AND REVENUES RECEIVED BY THE AUTHORITY.

28-7702. Establishment of authorities

A. ANY COMBINATION MAY ESTABLISH BY CONTRACT AN AUTHORITY THAT IS AUTHORIZED TO EXERCISE THE FUNCTIONS CONFERRED BY THIS CHAPTER ON THE ISSUANCE BY THE DIRECTOR OF A CERTIFICATE STATING THAT THE AUTHORITY HAS BEEN DULY ESTABLISHED ACCORDING TO THE LAWS OF THIS STATE. THE CERTIFICATE SHALL BE ISSUED BY THE DIRECTOR WITHIN NINETY DAYS AFTER THE FILING OF A COPY OF THE CONTRACT BY THE COMBINATION JOINING IN THE ESTABLISHMENT OF THE AUTHORITY AND ON A DETERMINATION BY THE DIRECTOR THAT EACH MEMBER OF THE COMBINATION IS LOCATED IN THE SAME METROPOLITAN REGION. THE DIRECTOR SHALL CAUSE THE CERTIFICATE TO BE RECORDED IN THE REAL ESTATE RECORDS IN EACH COUNTY THAT HAS TERRITORY INCLUDED IN THE BOUNDARIES OF THE AUTHORITY. ON ISSUANCE OF THE CERTIFICATE BY THE DIRECTOR, THE AUTHORITY CONSTITUTES A SEPARATE POLITICAL SUBDIVISION AND BODY CORPORATE OF THIS STATE AND HAS ALL OF THE DUTIES, PRIVILEGES, IMMUNITIES, RIGHTS, LIABILITIES AND DISABILITIES OF A PUBLIC BODY POLITIC AND CORPORATE.

B. ANY CONTRACT ESTABLISHING AN AUTHORITY SHALL SPECIFY ALL OF THE FOLLOWING:

1. THE NAME AND PURPOSE OF THE AUTHORITY AND THE PUBLIC HIGHWAYS TO BE PROVIDED.

2. THE ESTABLISHMENT AND ORGANIZATION OF THE BOARD OF DIRECTORS IN WHICH ALL LEGISLATIVE POWER OF THE AUTHORITY IS VESTED, INCLUDING:

(a) THE NUMBER OF DIRECTORS. EXCEPT AS PROVIDED IN SUBSECTION D, THE BOARD OF DIRECTORS SHALL INCLUDE AT LEAST ONE ELECTED OFFICIAL FROM EACH MEMBER OF THE COMBINATION. ADDITIONAL DIRECTORS REPRESENTING BUSINESS INTERESTS SHALL BE APPOINTED BY A MAJORITY VOTE OF THE MEMBERS OF THE COMBINATION IN A NUMBER EQUAL TO THE NUMBER OF ELECTED OFFICIALS REPRESENTING THE COMBINATION, EXCEPT THE TOTAL NUMBER OF DIRECTORS SHALL BE AN ODD NUMBER.

1 (b) THE MANNER OF THEIR APPOINTMENT, THEIR QUALIFICATIONS AND THE
2 PROCEDURE FOR FILLING VACANCIES.

3 (c) THE OFFICERS OF THE AUTHORITY, THE MANNER OF THEIR APPOINTMENT AND
4 THEIR DUTIES.

5 (d) THE VOTING REQUIREMENTS FOR ACTION BY THE BOARD. UNLESS
6 SPECIFICALLY PROVIDED OTHERWISE, A MAJORITY OF THE VOTING MEMBERS OF THE
7 BOARD CONSTITUTES A QUORUM AND A MAJORITY OF THE QUORUM IS NECESSARY FOR
8 ACTION BY THE BOARD OF DIRECTORS.

9 3. PROVISIONS FOR THE DISTRIBUTION, DISPOSITION OR DIVISION OF ASSETS
10 OF THE AUTHORITY.

11 4. THE BOUNDARIES OF THE AUTHORITY, WHICH MAY INCLUDE TERRITORY THAT,
12 AT THE TIME OF DESIGNATION, IS NOT MORE THAN ONE AND ONE-HALF MILES FROM THE
13 PROPOSED CENTERLINE OF THE PUBLIC HIGHWAY TO BE CONSTRUCTED BUT THAT MAY NOT
14 INCLUDE TERRITORY OUTSIDE OF THE BOUNDARIES OF THE MEMBERS OF THE
15 COMBINATION. THE BOUNDARIES OF THE AUTHORITY MAY NOT INCLUDE TERRITORY THAT,
16 AT THE TIME THE TERRITORY IS INCLUDED WITHIN THE BOUNDARIES OF THE AUTHORITY,
17 IS LOCATED WITHIN THE BOUNDARIES OF A MUNICIPALITY, UNLESS THE MUNICIPALITY
18 IS EITHER A MEMBER OF THE COMBINATION OR CONSENTS TO THE INCLUSION OF THE
19 TERRITORY WITHIN THE BOUNDARIES OF THE AUTHORITY.

20 5. THE TERM OF THE CONTRACT, WHICH MAY BE FOR A DEFINITE TERM OR UNTIL
21 RESCINDED OR TERMINATED, AND THE METHOD, IF ANY, BY WHICH IT MAY BE
22 TERMINATED OR RESCINDED. THE CONTRACT MAY NOT BE RESCINDED IF THE AUTHORITY
23 HAS BONDS OUTSTANDING.

24 6. PROVISIONS FOR AMENDMENT OF THE CONTRACT.

25 7. LIMITATIONS, IF ANY, ON THE POWERS THAT ARE GRANTED BY THIS CHAPTER
26 AND THAT MAY BE EXERCISED BY THE AUTHORITY PURSUANT TO THIS CHAPTER.

27 8. THE CONDITIONS TO BE SATISFIED TO ADD OR DELETE PARTIES TO THE
28 CONTRACT.

29 C. A MUNICIPALITY OR COUNTY SHALL NOT ENTER INTO A CONTRACT
30 ESTABLISHING AN AUTHORITY WITHOUT HOLDING A HEARING. NOTICE OF THE TIME,
31 PLACE AND PURPOSE OF THE HEARING SHALL BE GIVEN BY PUBLICATION IN A NEWSPAPER
32 OF GENERAL CIRCULATION IN THE MUNICIPALITY OR COUNTY, AS APPLICABLE, AT LEAST
33 TEN DAYS BEFORE THE DATE OF THE HEARING.

34 D. THIS STATE, ACTING BY AND THROUGH THE DEPARTMENT AND ON THE
35 APPROVAL OF THE GOVERNOR, SHALL JOIN IN THE CONTRACT ESTABLISHING THE
36 AUTHORITY. THE NUMBER OF MEMBERS ON THE BOARD TO WHICH THIS STATE IS
37 ENTITLED SHALL BE ESTABLISHED IN THE CONTRACT, BUT IN NO CASE IS THIS STATE
38 ENTITLED TO LESS THAN ONE MEMBER ON THE BOARD. THE STATE MEMBERS OF THE
39 BOARD SHALL BE APPOINTED BY THE GOVERNOR FOR A TWO YEAR TERM.

40 28-7703. Board of directors

41 A. ALL POWERS, PRIVILEGES AND DUTIES VESTED IN OR IMPOSED ON THE
42 AUTHORITY SHALL BE EXERCISED AND PERFORMED BY AND THROUGH THE BOARD. THE
43 BOARD, BY RESOLUTION, MAY DELEGATE ANY OF THE POWERS OF THE BOARD TO ANY OF
44 THE OFFICERS OR AGENTS OF THE BOARD. TO ENSURE PUBLIC PARTICIPATION IN
45 POLICY DECISIONS, THE BOARD SHALL NOT DELEGATE THE FOLLOWING:

1 1. ADOPTION OF BOARD POLICIES AND PROCEDURES.
2 2. APPROVAL OF FINAL ROADWAY ALIGNMENTS.
3 3. RATIFICATION OF ACQUISITION OF LAND BY NEGOTIATED SALE.
4 4. THE INITIATION OR CONTINUATION OF LEGAL ACTION, NOT INCLUDING
5 TRAFFIC OR TOLL VIOLATIONS.
6 5. ESTABLISHMENT OF FEE AND TOLL POLICIES.
7 B. THE BOARD SHALL ADOPT AND ADHERE TO POLICIES AND PROCEDURES THAT
8 GOVERN ITS CONDUCT AND PROVIDE MEANINGFUL OPPORTUNITIES FOR PUBLIC INPUT.
9 THE POLICIES SHALL INCLUDE STANDARDS AND PROCEDURES FOR CALLING AN EMERGENCY
10 MEETING.
11 C. ANY MEMBER OF THE BOARD SHALL BE DISQUALIFIED FROM VOTING ON ANY
12 ISSUE WITH RESPECT TO WHICH THE MEMBER HAS A CONFLICT OF INTEREST.
13 D. THE BOARD, IN ADDITION TO ALL OTHER POWERS AUTHORIZED BY THIS
14 CHAPTER, MAY DO ALL OF THE FOLLOWING:
15 1. ADOPT BYLAWS.
16 2. FIX THE TIME AND PLACE OF MEETINGS, WHETHER INSIDE OR OUTSIDE THE
17 BOUNDARIES OF THE AUTHORITY, AND THE METHOD OF PROVIDING NOTICE OF THE
18 MEETINGS.
19 3. MAKE AND PASS ORDERS AND RESOLUTIONS NECESSARY FOR THE GOVERNMENT
20 AND MANAGEMENT OF THE AFFAIRS OF THE AUTHORITY AND THE EXECUTION OF THE
21 POWERS VESTED IN THE AUTHORITY.
22 4. ADOPT AND USE A SEAL.
23 5. APPOINT, HIRE AND RETAIN EMPLOYEES AND OTHER CONSULTANTS.
24 6. PRESCRIBE METHODS FOR AUDITING AND ALLOWING OR REJECTING CLAIMS AND
25 DEMANDS AND METHODS FOR THE LETTING OF CONTRACTS FOR THE CONSTRUCTION OF
26 IMPROVEMENTS, WORKS OR STRUCTURES OR FOR THE PERFORMANCE OR FURNISHING OF
27 LABOR, MATERIALS OR SUPPLIES AS MAY BE REQUIRED FOR CARRYING OUT THE PURPOSES
28 OF THIS CHAPTER.
29 7. APPOINT ADVISORY COMMITTEES AND PRESCRIBE THE DUTIES OF THE
30 COMMITTEES.
31 28-7704. Powers of the authority; inclusion or exclusion of
32 property; determination of public highway alignment
33 A. IN ADDITION TO ANY OTHER POWERS GRANTED TO THE AUTHORITY PURSUANT
34 TO THIS CHAPTER, THE AUTHORITY MAY DO ALL OF THE FOLLOWING:
35 1. HAVE PERPETUAL EXISTENCE, EXCEPT AS OTHERWISE PROVIDED IN THE
36 CONTRACT.
37 2. SUE AND BE SUED.
38 3. ENTER INTO CONTRACTS AND AGREEMENTS AFFECTING THE AFFAIRS OF THE
39 AUTHORITY.
40 4. ESTABLISH, COLLECT AND INCREASE OR DECREASE FEES, TOLLS, RATES AND
41 CHARGES FOR TRAVELING ON ANY PUBLIC HIGHWAY FINANCED, CONSTRUCTED, OPERATED
42 OR MAINTAINED BY THE AUTHORITY, WITHOUT ANY SUPERVISION OR REGULATION OF THE
43 FEES, TOLLS, RATES AND CHARGES BY ANY BOARD, AGENCY, DEPARTMENT OR OFFICIAL.
44 5. PLEDGE ALL OR ANY PORTION OF THE REVENUES TO THE PAYMENT OF BONDS
45 OF THE AUTHORITY.

6. CONSTRUCT, FINANCE, OPERATE OR MAINTAIN PUBLIC HIGHWAYS WITHIN THE BOUNDARIES OF THE AUTHORITY, EXCEPT THAT THE AUTHORITY SHALL NOT CONSTRUCT PUBLIC HIGHWAYS IN ANY TERRITORY LOCATED OUTSIDE THE BOUNDARIES OF THE AUTHORITY AND WITHIN THE BOUNDARIES OF A MUNICIPALITY WITHOUT THE CONSENT OF THE GOVERNING BODY OF THE MUNICIPALITY OR WITHIN THE UNINCORPORATED BOUNDARIES OF A COUNTY WITHOUT THE CONSENT OF THE COUNTY BOARD OF SUPERVISORS.

7. PURCHASE, TRADE, EXCHANGE, ACQUIRE, BUY, SELL, LEASE, LEASE WITH AN OPTION TO PURCHASE, DISPOSE OF AND ENCUMBER REAL OR PERSONAL PROPERTY AND ANY INTEREST IN THE REAL OR PERSONAL PROPERTY, INCLUDING EASEMENTS AND RIGHTS-OF-WAY, WITHOUT RESTRICTION OR LIMITATION BY OTHER STATUTORY OR CHARTER PROVISIONS.

8. ACCEPT REAL OR PERSONAL PROPERTY FOR THE USE OF THE AUTHORITY AND ACCEPT GIFTS AND CONVEYANCES ON TERMS AND CONDITIONS AS THE BOARD MAY APPROVE.

9. HAVE AND EXERCISE ALL RIGHTS AND POWERS NECESSARY OR INCIDENTAL TO OR IMPLIED FROM THE SPECIFIC POWERS GRANTED BY THIS CHAPTER. SPECIFIC POWERS DO NOT LIMIT ANY POWER NECESSARY OR APPROPRIATE TO CARRY OUT THE PURPOSES AND INTENT OF THIS CHAPTER.

B. AN AUTHORITY SHALL NOT ACCEPT OR SPEND FEDERAL MONIES UNLESS THE FEDERAL MONIES ARE IN EXCESS OF FEDERAL MONIES ALLOCATED TO THE REGIONAL TRANSPORTATION PLAN AS DEFINED IN SECTION 28-6351 OR UNLESS THE FEDERAL MONIES ARE SPECIFICALLY AUTHORIZED, ALLOCATED OR MADE AVAILABLE BY THE FEDERAL GOVERNMENT.

C. THE BOARD MAY INCLUDE PROPERTY WITHIN OR EXCLUDE PROPERTY FROM THE BOUNDARIES OF THE AUTHORITY IN THE MANNER PROVIDED IN THIS SUBSECTION. PROPERTY MAY NOT BE INCLUDED WITHIN THE BOUNDARIES OF THE AUTHORITY UNLESS IT IS WITHIN THE BOUNDARIES OF THE MEMBERS OF THE COMBINATION AND IT IS CONTIGUOUS TO PROPERTY WITHIN THE BOUNDARIES OF THE AUTHORITY AT THE TIME OF THE INCLUSION.

D. BEFORE ANY INCLUSION OR EXCLUSION OF PROPERTY, THE BOARD SHALL CAUSE NOTICE OF THE PROPOSED INCLUSION OR EXCLUSION TO BE PUBLISHED IN A NEWSPAPER OF GENERAL CIRCULATION WITHIN THE BOUNDARIES OF THE AUTHORITY AND CAUSE THE NOTICE TO BE MAILED TO THE DEPARTMENT AND TO THE OWNERS OF PROPERTY TO BE INCLUDED OR EXCLUDED AT THE LAST KNOWN ADDRESS DESCRIBED FOR THE OWNERS IN THE REAL ESTATE RECORDS OF THE COUNTY IN WHICH THE PROPERTY IS LOCATED. THE NOTICE SHALL DESCRIBE THE PROPERTY TO BE INCLUDED WITHIN OR EXCLUDED FROM THE BOUNDARIES OF THE AUTHORITY, SHALL SPECIFY THE DATE, TIME AND PLACE AT WHICH THE BOARD SHALL HOLD A PUBLIC HEARING ON THE PROPOSED INCLUSION OR EXCLUSION AND SHALL STATE THAT PERSONS HAVING OBJECTIONS TO THE INCLUSION OR EXCLUSION MAY APPEAR AT THE HEARING TO OBJECT TO THE PROPOSED INCLUSION OR EXCLUSION. THE DATE OF THE PUBLIC HEARING CONTAINED IN THE NOTICE SHALL BE NOT LESS THAN TWENTY DAYS AFTER THE MAILING AND PUBLICATION OF THE NOTICE. THE BOARD AT THE TIME AND PLACE DESIGNATED IN THE NOTICE OR AT TIMES AND PLACES TO WHICH THE HEARING MAY BE ADJOURNED SHALL HEAR ALL OBJECTIONS TO THE

1 PROPOSED INCLUSION OR EXCLUSION. ON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF
2 THE MEMBERS OF THE BOARD, THE BOARD MAY ADOPT A RESOLUTION INCLUDING OR
3 EXCLUDING ALL OR ANY PORTION OF THE PROPERTY DESCRIBED IN THE NOTICE. ON THE
4 ADOPTION OF THE RESOLUTION, THE PROPERTY SHALL BE INCLUDED WITHIN OR EXCLUDED
5 FROM THE BOUNDARIES OF THE AUTHORITY AS SET FORTH IN THE RESOLUTION. THE
6 RESOLUTION MAY BE ADOPTED BY THE BOARD WITHOUT AMENDING THE CONTRACT REQUIRED
7 BY SECTION 28-7702. THE RESOLUTION SHALL BE FILED WITH THE DIRECTOR WHO
8 SHALL CAUSE THE RESOLUTION TO BE RECORDED IN THE REAL ESTATE RECORDS OF EACH
9 COUNTY THAT HAS TERRITORY INCLUDED IN THE BOUNDARIES OF THE AUTHORITY.

10 E. ALL PROPERTY EXCLUDED FROM THE AUTHORITY SHALL BE SUBJECT TO THE
11 REVENUE RAISING POWERS OF THE AUTHORITY ONLY TO THE EXTENT THAT THE POWERS
12 HAVE BEEN EXERCISED BY THE AUTHORITY AGAINST THE PROPERTY BEFORE THE
13 EXCLUSION AND TO THE EXTENT REQUIRED TO COMPLY WITH AGREEMENTS WITH THE
14 HOLDERS OF BONDS OUTSTANDING AT THE TIME OF THE EXCLUSION. ALL PROPERTY
15 INCLUDED WITHIN THE AUTHORITY SHALL BE SUBJECT TO THE REVENUE RAISING POWERS
16 OF THE AUTHORITY. THIS SECTION DOES NOT AFFECT OR INCREASE PROPERTY TAXES IN
17 THE AFFECTED TERRITORY OR JURISDICTION.

18 F. ON THE AFFIRMATIVE VOTE OF TWO-THIRDS OF THE MEMBERS OF THE BOARD,
19 THE BOARD MAY DETERMINE THE LOCATION OF THE ALIGNMENT OF THE PUBLIC HIGHWAY,
20 SUBJECT ONLY TO ANY LIMITATION EXISTING PURSUANT TO SUBSECTION A, PARAGRAPH 6
21 OF THIS SECTION.

22 28-7705. Traffic laws; toll collection; civil penalty

23 A. THE TRAFFIC LAWS OF THIS STATE AND THOSE OF ANY MUNICIPALITY
24 THROUGH WHICH A PUBLIC HIGHWAY CONSTRUCTED, OPERATED OR MAINTAINED BY AN
25 AUTHORITY PASSES AND THE AUTHORITY'S RULES REGARDING TOLL COLLECTION AND
26 ENFORCEMENT PERTAIN TO AND GOVERN THE USE OF THE PUBLIC HIGHWAY. STATE AND
27 LOCAL LAW ENFORCEMENT AUTHORITIES MAY ENTER INTO TRAFFIC AND TOLL ENFORCEMENT
28 AGREEMENTS WITH AUTHORITIES.

29 B. ANY AUTHORITY MAY ADOPT, BY RESOLUTION OF ITS BOARD, RULES
30 PERTAINING TO THE ENFORCEMENT OF TOLL COLLECTION AND EVASION AND PROVIDING
31 FOR A CIVIL PENALTY FOR TOLL EVASION. THE CIVIL PENALTY ESTABLISHED BY AN
32 AUTHORITY FOR ANY TOLL EVASION SHALL BE AT LEAST TEN DOLLARS AND NOT MORE
33 THAN ONE HUNDRED FIFTY DOLLARS IN ADDITION TO ANY COSTS IMPOSED BY A COURT.
34 AN AUTHORITY MAY USE STATE OF THE ART TECHNOLOGY TO AID IN THE COLLECTION OF
35 TOLLS AND ENFORCEMENT OF TOLL VIOLATIONS. THE USE OF STATE OF THE ART
36 TECHNOLOGY TO AID IN ENFORCEMENT OF TOLL VIOLATIONS IS GOVERNED SOLELY BY
37 THIS SECTION.

38 C. ANY PERSON WHO EVADES A TOLL ESTABLISHED BY AN AUTHORITY IS SUBJECT
39 TO THE CIVIL PENALTY ESTABLISHED BY THAT AUTHORITY FOR TOLL EVASION. ANY
40 PEACE OFFICER MAY ISSUE COMPLAINTS FOR TOLL EVASION IF AUTHORIZED PURSUANT TO
41 A MUNICIPAL ORDINANCE.

42 D. AT ANY TIME THAT A PERSON IS CITED FOR TOLL EVASION, THE PERSON
43 OPERATING THE MOTOR VEHICLE INVOLVED SHALL BE GIVEN A NOTICE IN THE FORM OF A
44 MUNICIPAL SUMMONS AND COMPLAINT.

1 E. IF A MUNICIPAL SUMMONS AND COMPLAINT IS ISSUED, THE ADJUDICATION OF
2 THE VIOLATION SHALL BE CONDUCTED AND THE FORMAT OF THE SUMMONS AND COMPLAINT
3 SHALL BE DETERMINED PURSUANT TO THE TERMS OF THE MUNICIPAL ORDINANCE
4 AUTHORIZING ISSUANCE OF A SUMMONS AND COMPLAINT. THE PENALTY ON CONVICTION
5 FOR VIOLATION OF A MUNICIPAL ORDINANCE FOR TOLL EVASION SHALL NOT EXCEED THE
6 LIMIT ESTABLISHED IN SUBSECTION B.

7 F. MUNICIPAL AND JUSTICE COURTS HAVE JURISDICTION TO TRY ALL CASES
8 ARISING UNDER MUNICIPAL ORDINANCES AND STATE LAWS GOVERNING THE USE OF A
9 PUBLIC HIGHWAY OPERATED BY AN AUTHORITY AND ARISING UNDER THE TOLL EVASION
10 CIVIL PENALTY RULES ADOPTED BY AUTHORITIES. VENUE FOR THE CASES SHALL BE IN
11 THE MUNICIPALITY OR COUNTY IN WHICH THE ALLEGED VIOLATION OF MUNICIPAL
12 ORDINANCE OR STATE LAW OR OF THE AUTHORITY RULE OCCURRED.

13 G. AN AUTHORITY MAY FILE A CERTIFIED COPY OF AN ORDER IMPOSING A TOLL,
14 FEE AND CIVIL PENALTY THAT IS ENTERED BY THE HEARING OFFICER IN AN
15 ADJUDICATION OF A TOLL EVASION WITH THE CLERK OF THE COURT IN THE COUNTY IN
16 WHICH THE VIOLATION OCCURRED AT ANY TIME AFTER THE ORDER IS ENTERED. THE
17 CLERK SHALL RECORD THE ORDER IN THE JUDGMENT BOOK OF THE COURT AND ENTER IT
18 IN THE JUDGMENT DOCKET. THE ORDER SHALL HAVE THE EFFECT OF A JUDGMENT OF THE
19 COURT AND EXECUTION MAY ISSUE ON THE ORDER OUT OF THE COURT AS IN OTHER
20 CASES.

21 H. NOTWITHSTANDING THE SPECIFIC REMEDIES PROVIDED BY THIS SECTION, AN
22 AUTHORITY HAS EVERY REMEDY AVAILABLE UNDER THE LAW TO ENFORCE UNPAID TOLLS
23 AND FEES AS DEBTS OWED TO THE AUTHORITY.

24 I. THE AGGREGATE AMOUNT OF PENALTIES, EXCLUSIVE OF COURT COSTS,
25 COLLECTED AS A RESULT OF CIVIL PENALTIES IMPOSED PURSUANT TO RESOLUTIONS
26 ADOPTED AS AUTHORIZED IN SUBSECTION B SHALL BE REMITTED TO THE AUTHORITY IN
27 WHOSE NAME THE CIVIL PENALTY ASSESSMENT NOTICE WAS ISSUED AND SHALL BE
28 APPLIED BY THE AUTHORITY TO DEFRAY THE COSTS AND EXPENSES OF ENFORCING THE
29 LAWS OF THIS STATE AND THE RULES OF THE AUTHORITY. IF A MUNICIPAL SUMMONS OR
30 COMPLAINT IS ISSUED, THE AGGREGATE PENALTY SHALL BE APPORTIONED PURSUANT TO
31 THE TERMS OF ANY ENFORCEMENT AGREEMENT.

32 J. IN ADDITION TO THE PENALTY ASSESSMENT PROCEDURE PROVIDED FOR IN
33 SUBSECTION C, IF AN INSTANCE OF TOLL EVASION IS EVIDENCED BY TECHNOLOGY NOT
34 INVOLVING A PEACE OFFICER, A CIVIL PENALTY ASSESSMENT NOTICE MAY BE ISSUED
35 AND SENT BY FIRST CLASS MAIL, OR BY ANY MAIL DELIVERY SERVICE OFFERED BY AN
36 ENTITY OTHER THAN THE UNITED STATES POSTAL SERVICE THAT IS EQUIVALENT TO OR
37 SUPERIOR TO FIRST CLASS MAIL WITH RESPECT TO DELIVERY SPEED, RELIABILITY AND
38 PRICE, BY THE AUTHORITY TO THE REGISTERED OWNER OF THE MOTOR VEHICLE
39 INVOLVED. THE NOTICE SHALL CONTAIN THE NAME AND ADDRESS OF THE REGISTERED
40 OWNER OF THE VEHICLE INVOLVED, THE LICENSE NUMBER OF THE VEHICLE INVOLVED,
41 THE TIME AND LOCATION OF THE VIOLATION, THE AMOUNT OF THE PENALTY PRESCRIBED
42 FOR THE VIOLATION, A PLACE FOR THE REGISTERED OWNER OF THE VEHICLE TO EXECUTE
43 A SIGNED ACKNOWLEDGMENT OF LIABILITY FOR THE CITED VIOLATION AND OTHER
44 INFORMATION AS MAY BE REQUIRED BY LAW TO CONSTITUTE NOTICE AS A COMPLAINT TO
45 APPEAR FOR ADJUDICATION OF A TOLL EVASION CIVIL PENALTY.

1 K. IF THE PRESCRIBED PENALTY IS NOT PAID WITHIN TWENTY DAYS, IN ORDER
 2 TO ENSURE THAT ADEQUATE NOTICE HAS BEEN GIVEN, THE AUTHORITY SHALL SEND A
 3 SECOND NOTICE BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY ANY MAIL
 4 DELIVERY SERVICE OFFERED BY AN ENTITY OTHER THAN THE UNITED STATES POSTAL
 5 SERVICE THAT IS EQUIVALENT TO OR SUPERIOR TO CERTIFIED MAIL, RETURN RECEIPT
 6 REQUESTED, WITH RESPECT TO RECEIPT VERIFICATION AND DELIVERY SPEED,
 7 RELIABILITY AND PRICE. THE NOTICE SHALL SPECIFY THAT THE REGISTERED OWNER OF
 8 THE VEHICLE MAY PAY THE SAME PENALTY AT ANY TIME BEFORE THE SCHEDULED
 9 HEARING. IF THE REGISTERED OWNER OF THE VEHICLE DOES NOT PAY THE PRESCRIBED
 10 TOLL, FEE AND CIVIL PENALTY WITHIN TWENTY DAYS AFTER THE NOTICE, THE CIVIL
 11 PENALTY NOTICE CONSTITUTES A COMPLAINT TO APPEAR FOR ADJUDICATION OF A TOLL
 12 EVASION IN COURT OR IN AN ADMINISTRATIVE TOLL ENFORCEMENT PROCEEDING AND THE
 13 REGISTERED OWNER OF THE VEHICLE, WITHIN THE TIME SPECIFIED IN THE CIVIL
 14 PENALTY NOTICE, SHALL FILE AN ANSWER TO THE COMPLAINT IN THE MANNER SPECIFIED
 15 IN THE NOTICE. IF THE REGISTERED OWNER OF THE VEHICLE FAILS TO PAY IN FULL
 16 THE OUTSTANDING TOLL, FEE AND CIVIL PENALTY SET FORTH IN THE NOTICE OR TO
 17 APPEAR AND ANSWER THE NOTICE AS SPECIFIED IN THE NOTICE, THE REGISTERED OWNER
 18 OF THE VEHICLE IS DEEMED TO HAVE ADMITTED RESPONSIBILITY AND WAIVED THE RIGHT
 19 TO A HEARING AND A FINAL ORDER FINDING RESPONSIBILITY IN DEFAULT AGAINST THE
 20 REGISTERED OWNER OF THE VEHICLE MAY BE ENTERED.

21 ARTICLE 2. FINANCING

22 28-7741. Bonds

23 A. THE AUTHORITY MAY ISSUE BONDS FOR ANY OF ITS CORPORATE PURPOSES.
 24 THE BONDS SHALL BE ISSUED PURSUANT TO RESOLUTION OF THE BOARD AND SHALL BE
 25 PAYABLE SOLELY OUT OF ALL OR A SPECIFIED PORTION OF THE REVENUES AS
 26 DESIGNATED BY THE BOARD.

27 B. AS PROVIDED IN THE RESOLUTION OF THE AUTHORITY UNDER WHICH THE
 28 BONDS ARE AUTHORIZED TO BE ISSUED OR AS PROVIDED IN A TRUST INDENTURE BETWEEN
 29 THE AUTHORITY AND ANY COMMERCIAL BANK OR TRUST COMPANY HAVING FULL TRUST
 30 POWERS, BONDS MAY:

31 1. BE EXECUTED AND DELIVERED BY THE AUTHORITY AT TIMES PROVIDED BY THE
 32 AUTHORITY.

33 2. BE IN FORM AND DENOMINATIONS AND INCLUDE TERMS AND MATURITIES AS
 34 PROVIDED BY THE AUTHORITY.

35 3. BE SUBJECT TO OPTIONAL OR MANDATORY REDEMPTION BEFORE MATURITY WITH
 36 OR WITHOUT A PREMIUM.

37 4. BE IN FULLY REGISTERED FORM OR BEARER FORM REGISTRABLE AS TO
 38 PRINCIPAL OR INTEREST, OR BOTH.

39 5. BEAR CONVERSION PRIVILEGES.

40 6. BE PAYABLE IN INSTALLMENTS AND AT TIMES NOT EXCEEDING FORTY YEARS
 41 AFTER THE DATE OF THE BOND ISSUANCE.

42 7. BE PAYABLE INSIDE OR OUTSIDE THIS STATE.

43 8. BEAR INTEREST AT RATES PER ANNUM THAT MAY BE FIXED OR VARY
 44 ACCORDING TO INDEX, PROCEDURE OR FORMULA OR AS DETERMINED BY THE AUTHORITY OR

1 ITS AGENTS WITHOUT REGARD TO ANY INTEREST RATE LIMITATION APPEARING IN ANY
2 OTHER LAW OF THIS STATE.

3 9. BE SUBJECT TO PURCHASE AT THE OPTION OF THE HOLDER OR THE
4 AUTHORITY.

5 10. BE EVIDENCED IN A MANNER AND BE EXECUTED BY OFFICERS OF THE
6 AUTHORITY, INCLUDING THE USE OF ONE OR MORE FAX SIGNATURES, IF AT LEAST ONE
7 MANUAL SIGNATURE APPEARS ON THE BONDS, THAT MAY BE EITHER OF AN OFFICER OF
8 THE AUTHORITY OR OF AN AGENT AUTHENTICATING THE SAME.

9 11. BE IN THE FORM OF COUPON BONDS THAT HAVE ATTACHED INTEREST COUPONS
10 BEARING A MANUAL OR FAX SIGNATURE OF AN OFFICER OF THE AUTHORITY.

11 12. CONTAIN PROVISIONS NOT INCONSISTENT WITH THIS CHAPTER.

12 C. THE BONDS MAY BE SOLD AT PUBLIC OR PRIVATE SALE AT A PRICE AND IN A
13 MANNER AND TIME AS DETERMINED BY THE BOARD AND THE BOARD MAY PAY ALL FEES,
14 EXPENSES AND COMMISSIONS THAT IT DEEMS NECESSARY OR ADVANTAGEOUS IN
15 CONNECTION WITH THE SALE OF THE BONDS. THE POWER TO FIX THE DATE OF SALE OF
16 THE BONDS, TO RECEIVE BIDS OR PROPOSALS, TO AWARD AND SELL BONDS, TO FIX
17 INTEREST RATES AND TO TAKE ALL OTHER ACTION NECESSARY TO SELL AND DELIVER THE
18 BONDS MAY BE DELEGATED TO AN OFFICER OR AGENT OF THE AUTHORITY. ANY
19 OUTSTANDING BONDS MAY BE REFUNDED BY THE AUTHORITY. ALL BONDS AND ANY
20 INTEREST COUPONS ARE NEGOTIABLE INSTRUMENTS.

21 D. THE RESOLUTION OR TRUST INDENTURE AUTHORIZING THE ISSUANCE OF THE
22 BONDS MAY PLEDGE ALL OR A PORTION OF THE REVENUES OF THE AUTHORITY, MAY
23 CONTAIN PROVISIONS FOR PROTECTING AND ENFORCING THE RIGHTS AND REMEDIES OF
24 HOLDERS OF ANY OF THE BONDS AS THE AUTHORITY DEEMS APPROPRIATE, MAY SET FORTH
25 THE RIGHTS AND REMEDIES OF THE HOLDERS OF ANY OF THE BONDS AND MAY CONTAIN
26 PROVISIONS THAT THE AUTHORITY DEEMS APPROPRIATE FOR THE SECURITY OF THE
27 HOLDERS OF THE BONDS, INCLUDING PROVISIONS FOR LETTERS OF CREDIT, INSURANCE,
28 STANDBY CREDIT AGREEMENTS OR OTHER FORMS OF CREDIT INSURING TIMELY PAYMENT OF
29 THE BONDS, INCLUDING THE REDEMPTION PRICE OR THE PURCHASE PRICE.

30 E. ANY PLEDGE OF REVENUES OR PROPERTY MADE BY THE AUTHORITY OR BY ANY
31 PERSON OR GOVERNMENTAL UNIT WITH WHICH THE AUTHORITY CONTRACTS SHALL BE VALID
32 AND BINDING FROM THE TIME THE PLEDGE IS MADE. THE REVENUES OR PROPERTY SO
33 PLEDGED SHALL IMMEDIATELY BE SUBJECT TO THE LIEN OF THE PLEDGE WITHOUT ANY
34 PHYSICAL DELIVERY OR FURTHER ACT AND THE LIEN OF THE PLEDGE SHALL BE VALID
35 AND BINDING AGAINST ALL PARTIES HAVING CLAIMS OF ANY KIND IN TORT, CONTRACT
36 OR OTHERWISE AGAINST THE PLEDGING PARTY, IRRESPECTIVE OF WHETHER THE CLAIMING
37 PARTY HAS NOTICE OF THE LIEN. THE INSTRUMENT BY WHICH THE PLEDGE IS CREATED
38 NEED NOT BE RECORDED OR FILED.

39 F. THE MEMBERS OF THE BOARD, EMPLOYEES OF THE AUTHORITY OR ANY PERSON
40 EXECUTING THE BONDS SHALL NOT BE LIABLE PERSONALLY ON THE BONDS OR SUBJECT TO
41 ANY PERSONAL LIABILITY OR ACCOUNTABILITY BY REASON OF THE ISSUANCE OF THE
42 BONDS.

43 G. THE AUTHORITY MAY PURCHASE ITS BONDS OUT OF ANY AVAILABLE MONIES
44 AND MAY HOLD, PLEDGE, CANCEL OR RESELL BONDS SUBJECT TO AND IN ACCORDANCE
45 WITH AGREEMENTS WITH THE HOLDERS.

1 28-7742. Cooperative powers

2 THE AUTHORITY MAY CONTRACT WITH THE DEPARTMENT OR ANY PERSON TO DO ANY
3 OF THE FOLLOWING:

4 1. ACCEPT CONTRIBUTIONS, LOANS OR ADVANCES FROM ANY PERSON WITH
5 RESPECT TO THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE OF A PUBLIC
6 HIGHWAY AND, IN CONNECTION WITH ANY LOAN OR ADVANCE, ENTER INTO CONTRACTS
7 ESTABLISHING THE REPAYMENT TERMS.

8 2. ENTER INTO CONTRACTS TO FINANCE, CONSTRUCT, OPERATE OR MAINTAIN A
9 SPECIFIED PUBLIC HIGHWAY.

10 3. ENTER INTO JOINT OPERATING CONTRACTS CONCERNING A PUBLIC HIGHWAY.

11 4. COOPERATE IN ACQUIRING EASEMENTS OR RIGHTS-OF-WAY FOR A PUBLIC
12 HIGHWAY.

13 5. DESIGNATE A PUBLIC HIGHWAY AS PART OF THE STATE HIGHWAY SYSTEM OR A
14 COUNTY HIGHWAY SYSTEM IF THE PERSON WITH JURISDICTION OVER THE HIGHWAY SYSTEM
15 CONSENTS TO THE DESIGNATION.

16 28-7743. Powers of governmental units

17 FOR THE PURPOSE OF AIDING AND COOPERATING IN THE FINANCING,
18 CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY PUBLIC HIGHWAY, A GOVERNMENTAL
19 UNIT MAY DO ALL OF THE FOLLOWING:

20 1. SELL, LEASE, LOAN, DONATE, GRANT, CONVEY, ASSIGN, TRANSFER AND
21 OTHERWISE DISPOSE TO THE AUTHORITY ANY REAL OR PERSONAL PROPERTY OR
22 INTERESTS.

23 2. ENTER INTO AGREEMENTS WITH ANY PERSON FOR THE JOINT FINANCING,
24 CONSTRUCTION, OPERATION OR MAINTENANCE OF ANY PUBLIC HIGHWAY. ON COMPLIANCE
25 WITH APPLICABLE CONSTITUTIONAL OR CHARTER LIMITATIONS, THE GOVERNMENTAL UNIT
26 MAY AGREE TO MAKE PAYMENTS WITHOUT LIMITATION AS TO AMOUNT EXCEPT AS SET
27 FORTH IN THE AGREEMENT, FROM REVENUES FROM ONE OR MORE FISCAL YEARS, TO THE
28 AUTHORITY OR ANY PERSON TO DEFRAY THE COSTS OF THE FINANCING, CONSTRUCTION,
29 OPERATION OR MAINTENANCE OF A PUBLIC HIGHWAY.

30 3. TRANSFER OR ASSIGN TO THE AUTHORITY ANY CONTRACTS THAT MAY HAVE
31 BEEN AWARDED BY THE GOVERNMENTAL UNIT FOR CONSTRUCTION, OPERATION OR
32 MAINTENANCE OF ANY PUBLIC HIGHWAY.

33 4. BY CONTRACT, PLEDGE TO THE AUTHORITY ALL OR A PORTION OF THE
34 REVENUES IT RECEIVES FROM THE ARIZONA HIGHWAY USER REVENUE FUND ESTABLISHED
35 BY SECTION 28-6533. THE AUTHORITY SHALL APPLY REVENUES THAT IT RECEIVES
36 PURSUANT TO A PLEDGE TO THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE
37 OF PUBLIC HIGHWAYS.

38 28-7744. Notice; reports on authorities

39 A. AT LEAST FORTY-FIVE DAYS BEFORE THE ESTABLISHMENT OF ANY AUTHORITY
40 PURSUANT TO THIS CHAPTER, A NOTICE CONTAINING THE PROPOSED BOUNDARIES OF THE
41 AUTHORITY AND THE METHODS PROPOSED FOR FINANCING PUBLIC HIGHWAYS IN THE
42 AUTHORITY SHALL BE SENT TO THE DEPARTMENT OF TRANSPORTATION AND TO THE
43 DEPARTMENT OF REVENUE.

1 B. AN AUTHORITY SHALL REPORT ANNUALLY IN AUGUST TO THE DEPARTMENT OF
2 TRANSPORTATION ON ITS ACTIVITIES DURING THE PRECEDING TWELVE MONTHS AND ON
3 ITS PROPOSED ACTIVITIES DURING THE SUCCEEDING TWELVE MONTHS.

4 28-7745. Successor to prior entity; assumption of obligations
5 and liabilities; action for mandamus or injunctive
6 relief

7 A. AN AUTHORITY AND A COUNTY OR MUNICIPALITY THAT IS A MEMBER OF THE
8 COMBINATION MAY ENTER INTO A CONTRACT BY WHICH THE COUNTY OR MUNICIPALITY
9 ASSIGNS ITS LIABILITIES AND OBLIGATIONS AND THE AUTHORITY ASSUMES LIABILITIES
10 AND OBLIGATIONS UNDER ANY CONTRACT, RESOLUTION, ORDINANCE OR OTHER PUBLIC ACT
11 THAT THE COUNTY OR MUNICIPALITY HAS ENTERED INTO OR ADOPTED WITH RESPECT TO
12 THE FINANCING, CONSTRUCTION, OPERATION OR MAINTENANCE OF A PUBLIC HIGHWAY,
13 INCLUDING BONDS THAT IT HAS ISSUED.

14 B. A COUNTY OR MUNICIPALITY THAT HAS ISSUED BONDS TO FINANCE A PUBLIC
15 HIGHWAY BEFORE THE ESTABLISHMENT OF AN AUTHORITY AND THAT HAS LENT ALL OR A
16 PORTION OF THE PROCEEDS OF THE BONDS TO THE AUTHORITY SHALL NOT TAKE ANY
17 ACTION OR FAIL TO TAKE ANY ACTION THAT WOULD LIMIT THE AVAILABILITY OF THE
18 PROCEEDS OF THE BONDS TO THE AUTHORITY OR ADVERSELY AFFECT THE ABILITY OF THE
19 AUTHORITY TO FINANCE THE PUBLIC HIGHWAY UNLESS THE AUTHORITY CONSENTS OR
20 UNLESS ACTION OR FAILURE TO ACT IS REQUIRED BY THE AGREEMENTS WITH THE
21 HOLDERS OF THE BONDS. IF A COUNTY OR MUNICIPALITY HAS ASSIGNED TO AN
22 AUTHORITY ITS RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED TO FINANCE A
23 PUBLIC HIGHWAY, THE COUNTY OR MUNICIPALITY SHALL TAKE ANY ACTION REQUESTED BY
24 THE AUTHORITY IN CONNECTION WITH THE BONDS AND THE DOCUMENTS GOVERNING THE
25 BONDS. A COUNTY OR MUNICIPALITY THAT HAS ASSIGNED TO AN AUTHORITY ALL OF ITS
26 RIGHTS AND PRIVILEGES REGARDING BONDS ISSUED BY THE COUNTY OR MUNICIPALITY TO
27 FINANCE A PUBLIC HIGHWAY SHALL NOT HAVE ANY FINANCIAL LIABILITY WITH RESPECT
28 TO THE REPAYMENT OF THE BONDS EXCEPT TO THE EXTENT EXPRESSLY PROVIDED IN THE
29 BONDS OR THE ASSIGNMENT. THE ASSUMPTION OF OBLIGATIONS AND LIABILITIES BY AN
30 AUTHORITY PURSUANT TO THIS SECTION SHALL NOT BE DEEMED TO BE THE CREATION OF
31 ANY NEW DEBT OR OBLIGATION FOR THE PURPOSES OF THE CONSTITUTION OR LAWS OF
32 THIS STATE.

33 C. SUBSECTION B MAY BE ENFORCED BY THE AUTHORITY FILING AN ACTION FOR
34 MANDAMUS OR INJUNCTIVE RELIEF WITH THE SUPERIOR COURT. THE SUPERIOR COURT
35 SHALL ENTER AN ORDER WITHIN THIRTY DAYS AFTER THE FILING OF ANY ACTION.

36 28-7746. Investments; deposits

37 THE AUTHORITY MAY INVEST OR DEPOSIT ANY MONIES. IN ADDITION, THE
38 AUTHORITY MAY DIRECT A CORPORATE TRUSTEE THAT HOLDS MONIES OF THE AUTHORITY
39 TO INVEST OR DEPOSIT SUCH MONIES IN INVESTMENTS OR DEPOSITS IF THE BOARD
40 DETERMINES, BY RESOLUTION, THAT THE INVESTMENT OR DEPOSIT MEETS THE STANDARD
41 ESTABLISHED BY THE BOARD AND THE INVESTMENT WILL ASSIST THE AUTHORITY IN THE
42 FINANCING, CONSTRUCTION, MAINTENANCE OR OPERATION OF PUBLIC HIGHWAYS.

43 28-7747. Bonds eligible for investment

44 ALL BANKS, TRUST COMPANIES, SAVINGS AND LOAN ASSOCIATIONS, INSURANCE
45 COMPANIES, EXECUTORS, ADMINISTRATORS, GUARDIANS, TRUSTEES AND OTHER

FIDUCIARIES MAY LEGALLY INVEST ANY MONIES WITHIN THEIR CONTROL IN ANY BONDS ISSUED UNDER THIS CHAPTER.

28-7748. Exemption from taxation

THE INCOME OR OTHER REVENUES OF THE AUTHORITY, ALL PROPERTIES AT ANY TIME OWNED BY THE AUTHORITY, ANY BONDS ISSUED BY THE AUTHORITY AND THE TRANSFER OF AND THE INCOME FROM ANY BONDS ISSUED BY THE AUTHORITY ARE EXEMPT FROM ALL TAXATION AND ASSESSMENTS IN THIS STATE. IN THE RESOLUTION OR INDENTURE AUTHORIZING THE BONDS, THE AUTHORITY MAY WAIVE THE EXEMPTION FROM FEDERAL INCOME TAXATION FOR INTEREST ON THE BONDS.

28-7749. No action maintainable after thirty days

AN ACTION OR PROCEEDING, AT LAW OR IN EQUITY, TO REVIEW ANY ACTS OR PROCEEDINGS OR TO QUESTION THE VALIDITY OR ENJOIN THE PERFORMANCE OF ANY ACTS OR PROCEEDINGS OR THE ISSUANCE OF ANY BONDS, OR FOR ANY OTHER RELIEF AGAINST OR FROM ANY ACTS OR PROCEEDINGS DONE UNDER THIS CHAPTER, WHETHER BASED ON IRREGULARITIES OR JURISDICTIONAL DEFECTS, SHALL NOT BE MAINTAINED, UNLESS COMMENCED WITHIN THIRTY DAYS AFTER THE PERFORMANCE OF THE ACT OR PROCEEDING OR THE EFFECTIVE DATE, AND SHALL BE PERPETUALLY BARRED AFTER THE THIRTY DAYS.

28-7750. Judicial examination of powers, acts, proceedings or contracts of an authority

THE BOARD MAY FILE A PETITION AT ANY TIME IN THE SUPERIOR COURT IN ANY COUNTY IN WHICH THE AUTHORITY IS LOCATED, WHOLLY OR IN PART, PRAYING FOR A JUDICIAL EXAMINATION AND DETERMINATION OF ANY POWER CONFERRED TO THE AUTHORITY, ANY REVENUE RAISING POWER EXERCISED OR TO BE EXERCISED BY THE AUTHORITY OR ANY ACT, PROCEEDING OR CONTRACT OF THE AUTHORITY, WHETHER OR NOT THE CONTRACT HAS BEEN EXECUTED.

Sec. 4. Section 35-701, Arizona Revised Statutes, is amended to read:

35-701. Definitions

In this chapter, unless the context otherwise requires:

1. "Corporation" means any corporation organized as an authority as provided in this chapter.

2. "Designated area" means any area of this state which is either designated pursuant to section 36-1479 as a slum or blighted area as defined in section 36-1471, designated by regulation as a pocket of poverty or a neighborhood strategy area by the United States department of housing and urban development pursuant to title I of the housing and community development act of 1977 (P.L. 95-128; 42 United States Code sections 5301 through 5320), as amended, and the department of housing and urban development act (P.L. 89-174; 42 United States Code section 3535(d)) or designated by the United States department of housing and urban development as an empowerment or enterprise zone pursuant to the federal omnibus budget reconciliation act of 1993 (P.L. 103-66; 26 United States Code section 1391(g)) or an area certified as an enterprise zone pursuant to section 41-1524, subsection B.

1 3. "Governing body" means:

2 (a) The board or body in which the general legislative powers of the
3 municipality or the county are vested.

4 (b) The Arizona board of regents with respect to a corporation formed
5 with the permission of the Arizona board of regents.

6 4. "Income" means gross earnings from wages, salary, commissions,
7 bonuses or tips from all jobs, net earnings from such person's or family's
8 own nonfarm business, professional practice or partnership, and net earnings
9 from such person's or family's own farm. Income includes income, other than
10 earnings, that consists of amounts received from social security or railroad
11 retirement, interest, dividends, veterans payments, pensions and other
12 regular payments, public assistance or welfare payments, including aid for
13 dependent children, old age assistance, general assistance and aid to the
14 blind or totally disabled, but excluding separate payments for hospital or
15 other medical care.

16 5. "Manufactured house" means a structure that is manufactured in a
17 factory after June 15, 1976, that is delivered to a homesite in more than one
18 section and that is placed on a permanent foundation. The dimensions of the
19 completed house shall not be less than twenty feet by forty feet, the roof
20 must be sloping, the siding and roofing must be the same as those found in
21 site-built houses and the house must be eligible for thirty year real estate
22 mortgage financing.

23 6. "Municipality" or "county" means the Arizona board of regents or
24 any incorporated city or town, including charter cities, or any county in
25 this state in which a corporation may be organized and in which it is
26 contemplated the corporation will function.

27 7. "Persons of low and moderate income" means, for the purposes of
28 financing owner-occupied single family dwelling units in areas which the
29 municipality has found, pursuant to section 36-1479, to be slum or blighted
30 areas, as defined in section 36-1471, persons and families whose income does
31 not exceed two and one-half times the median family income of this state. In
32 all other areas it means persons and families whose income does not exceed
33 one and one-half times the median family income of this state.

34 8. "Project" means any land, any building or any other improvement and
35 all real and personal properties, including machinery and equipment whether
36 or not now in existence or under construction and whether located within or
37 without this state or the municipality or county approving the formation of
38 the corporation, that are suitable for any of the following:

39 (a) With respect to a corporation formed with the permission of a
40 municipality or county other than the Arizona board of regents:

41 (i) Any enterprise for the manufacturing, processing or assembling of
42 any agricultural or manufactured products.

43 (ii) Any commercial enterprise for the storing, warehousing,
44 distributing or selling of products of agriculture, mining or industry, or of
45 processes related thereto, including research and development.

(iii) Any office building or buildings for use as corporate or company headquarters or regional offices or the adaptive use for offices of any building within this state that is on the national register of historic places or rehabilitation of residential buildings located in registered historic neighborhoods.

(iv) A health care institution as defined in section 36-401.

(v) Residential real property for dwelling units located within the municipality or county approving the formation of the corporation and, in the case of a county, whether or not also within a municipality that is within the county.

(vi) Repairing or rehabilitating single family dwelling units or constructing or repairing residential fences and walls.

(vii) Convention or trade show facilities.

(viii) Airports, docks, wharves, mass commuting facilities, parking facilities or storage or training facilities directly related to any of the facilities as provided in this item.

(ix) Sewage or solid waste disposal facilities or facilities for the furnishing of electric energy, gas or water.

(x) Industrial park facilities.

(xi) Air or water pollution control facilities.

(xii) Any educational institution that is operated by a nonprofit educational organization that is exempt from taxation under section 501(c)(3) of the United States internal revenue code and that is not otherwise funded by state monies, any educational institution or organization that is established under title 15, chapter 1, article 8 and that is owned by a nonprofit organization, any private nonsectarian school or any private nonsectarian organization established for the purpose of funding a joint technological education school district.

(xiii) Research and development facilities.

(xiv) Commercial enterprises, including facilities for office, recreational, hotel, motel and service uses if the facilities authorized by this item are to be located in a designated area.

(xv) A child welfare agency, as defined in section 8-501, owned and operated by a nonprofit organization.

~~(xvi) A transportation facility constructed or operated pursuant to title 28, chapter 22, article 1 or 2.~~

~~(xvii)~~ (xvi) A museum operated by a nonprofit organization.

~~(xviii)~~ (xvii) Facilities owned or operated by a nonprofit organization described in section 501(c) of the United States internal revenue code of 1986.

~~(xix)~~ (xviii) New or existing correctional facilities within this state.

(b) With respect to a corporation formed with the permission of the Arizona board of regents, any facility consisting of classrooms, lecture halls or conference centers or any facility for research and development or

1 for manufacturing, processing, assembling, marketing, storing and
2 transferring items developed through or connected with research and
3 development or in which the results of such research and development are
4 utilized, but only if the facility is located in an area designated as a
5 research park by the Arizona board of regents.

6 9. "Property" means any land, improvements thereon, buildings and any
7 improvements thereto, machinery and equipment of any and all kinds necessary
8 to a project and any other personal properties deemed necessary in connection
9 with a project.

10 10. "Research park" means an area of land that has been designated by
11 the Arizona board of regents as a research park for a university and that, at
12 the date of designation, is owned by this state or by the Arizona board of
13 regents.

14 11. "Single family dwelling unit" includes any new, used or
15 manufactured house that meets the insuring requirements of the federal
16 housing administration, the veterans administration or any other insuring
17 entity of the United States government or any private mortgage insurance or
18 surety company that is approved by the federal home loan mortgage corporation
19 or the federal national mortgage association.

20 Sec. 5. Section 42-5069, Arizona Revised Statutes, is amended to read:

21 42-5069. Commercial lease classification; definitions

22 A. The commercial lease classification is comprised of the business of
23 leasing for a consideration the use or occupancy of real property.

24 B. A person who, as a lessor, leases or rents for a consideration
25 under one or more leases or rental agreements the use or occupancy of real
26 property that is used by the lessee for commercial purposes is deemed to be
27 engaged in business and subject to the tax imposed by article 1 of this
28 chapter, but this subsection does not include leases or rentals of real
29 property used for residential or agricultural purposes.

30 C. The commercial lease classification does not include:

31 1. Any business activities that are classified under the transient
32 lodging classification.

33 2. Activities engaged in by the Arizona exposition and state fair
34 board or county fair commissions in connection with events sponsored by those
35 entities.

36 3. Leasing real property to a lessee who subleases the property if the
37 lessee is engaged in business classified under the commercial lease
38 classification or the transient lodging classification.

39 4. Leasing real property pursuant to a written lease agreement entered
40 into before December 1, 1967. This exclusion does not apply to the
41 businesses of hotels, guest houses, dude ranches and resorts, rooming houses,
42 apartment houses, office buildings, automobile storage garages, parking lots
43 or tourist camps, or to the extension or renewal of any such written lease
44 agreement.

5. Leasing real property by a corporation to an affiliated corporation. For the purposes of this paragraph, "affiliated corporation" means a corporation that owns or controls at least eighty per cent of the lessor, that is at least eighty per cent owned or controlled by the lessor or that is at least eighty per cent owned or controlled by a corporation that also owns or controls at least eighty per cent of the lessor. Ownership and control are determined by reference to the voting shares of a corporation.

~~6. Leasing real property for sublease if the tenant in possession of the property is subject to the rental occupancy tax pursuant to article 9 of this chapter.~~

~~7.~~ 6. Leasing real property for boarding horses.

~~8.~~ 7. Leasing or renting real property or the right to use real property at exhibition events in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4) or 501(c)(6) of the internal revenue code if the organization is associated with major league baseball teams or a national touring professional golfing association and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~9.~~ 8. Leasing or renting real property or the right to use real property for use as a rodeo featuring primarily farm and ranch animals in this state sponsored, operated or conducted by a nonprofit organization that is exempt from taxation under section 501(c)(3), 501(c)(4), 501(c)(6), 501(c)(7) or 501(c)(8) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~10.~~ 9. Leasing or renting dwelling units, lodging facilities or trailer or mobile home spaces if the units, facilities or spaces are intended to serve as the principal or permanent place of residence for the lessee or renter or if the unit, facility or space is leased or rented to a single tenant thirty or more consecutive days.

~~11.~~ 10. Leasing or renting real property and improvements for use primarily for religious worship by a nonprofit organization that is exempt from taxation under section 501(c)(3) of the internal revenue code and no part of the organization's net earnings inures to the benefit of any private shareholder or individual.

~~12.~~ 11. Leasing or renting real property used for agricultural purposes under either of the following circumstances:

(a) The lease or rental is between family members, trusts, estates, corporations, partnerships, joint venturers or similar entities, or any combination thereof, if the individuals or at least eighty per cent of the beneficiaries, shareholders, partners or joint venturers share a family relationship as parents or ancestors of parents, children or descendants of children, siblings, cousins of the first degree, aunts, uncles, nieces or nephews of the first degree, spouses of any of the listed relatives and listed relatives by the half-blood or by adoption.

(b) The lessor leases or rents real property used for agricultural purposes under no more than three leases or rental agreements.

~~13.~~ 12. Leasing, renting or granting the right to use real property to vendors or exhibitors by a trade or industry association that is a qualifying organization pursuant to section 513(d)(3)(C) of the internal revenue code for a period not to exceed twenty-one days in connection with an event that meets all of the following conditions:

(a) The majority of such vending or exhibition activities relate to the nature of the trade or business sponsoring the event.

(b) The event is held in conjunction with a formal business meeting of the trade or industry association.

(c) The event is organized by the persons engaged in the particular trade or industry.

~~14.~~ 13. Leasing, renting or granting the right to use real property for a period not to exceed twenty-one days by a coliseum, civic center, civic plaza, convention center, auditorium or arena owned by this state or any of its political subdivisions.

~~15.~~ 14. Leasing or subleasing real property used by a nursing care institution as defined in section 36-401 that is licensed pursuant to title 36, chapter 4.

~~16. Leasing or renting a transportation facility as provided in section 28-7705, subsections A and B.~~

~~17.~~ 15. Granting or providing rights to real property that constitute a profit à prendre for the severance of minerals, including all rights to use the surface or subsurface of the property as is necessary or convenient to the right to sever the minerals. This paragraph does not exclude from the commercial lease classification leasehold rights to the real property that are granted in addition to and not included within the right of profit à prendre, but the tax base for the grant of such a leasehold right, if the gross income derived from the grant is not separately stated from the gross income derived from the grant of the profit à prendre, shall not exceed the fair market value of the leasehold rights computed after excluding the value of all rights under the profit à prendre. For the purposes of this paragraph, "profit à prendre" means a right to use the land of another to mine minerals, and carries with it the right of entry and the right to remove and take the minerals from the land and also includes the right to use the surface of the land as is necessary and convenient for exercise of the profit.

D. The tax base for the commercial lease classification is the gross proceeds of sales or gross income derived from the business, but reimbursements to the lessor for utility service shall be deducted from the tax base.

E. Notwithstanding section 42-1104, subsection B, paragraph 1, subdivision (b) and paragraph 2, the failure to file tax returns for the commercial lease classification that report gross income derived from any

1 agreement that constitutes, in whole or in part, a grant of a right of profit
2 à prendre for the severance of minerals does not constitute an exception to
3 the general rule for the statute of limitations.

4 F. For the purposes of this section:

5 1. "Leasing" includes renting.

6 2. "Real property" includes any improvements, rights or interest in
7 such property.

8 Sec. 6. Section 42-6208, Arizona Revised Statutes, is amended to read:

9 42-6208. Exempt government property improvements

10 The tax under this article does not apply with respect to:

11 1. Property that is used for a governmental activity.

12 2. Property that is used for public housing.

13 3. Easements and rights-of-way of railroads and gas, electric, water,
14 pipeline and telephone utilities.

15 4. Interests in all or any part of a facility that is owned of record
16 by a government lessor and used primarily for athletic, recreational,
17 entertainment, artistic, cultural or convention activities if the interest is
18 used for those activities or activities directly related and incidental to
19 these uses including concession stands.

20 5. Property that is located on municipal airports and airports that
21 operate pursuant to sections 28-8423, 28-8424 and 28-8425, if the property is
22 used for or in connection with aviation, including hangars, tie-downs,
23 aircraft maintenance, sale of aviation related items, charter and rental
24 activities, commercial aircraft terminal franchises, parking facilities and
25 restaurants, stores and other services that are located in a terminal.

26 6. The use by a commercial airline of the runways and terminal
27 facilities of state, city, town or county airports and public airports
28 operating pursuant to sections 28-8423, 28-8424 and 28-8425.

29 ~~7. Leases of property or interests in a transportation facility that~~
30 ~~is constructed or operated pursuant to title 28, chapter 22, article 1 or 2.~~

31 ~~8.~~ 7. Interests in property held in trust for an Indian or an Indian
32 tribe by the United States government.

33 ~~9.~~ 8. Interests in property that is defined as "contractor-acquired
34 property" or "government-furnished property" in the federal acquisition
35 regulations (48 Code of Federal Regulations section 45.101) and that is owned
36 by the government and used to perform a government contract.

37 ~~10.~~ 9. Property of a corporation that is organized by or at the
38 direction of a county, city or town to develop, construct, improve, repair,
39 replace or own any property, improvement, building or other facility to be
40 used for public purposes that the county, city or town pledges to lease or
41 lease-purchase with county or municipal special or general revenues.

42 ~~11.~~ 10. Interests in property used by a chamber of commerce recognized
43 under section 501(c)(6) of the United States internal revenue code if the
44 property is used predominately for those federal tax exempt purposes.

- 1 ~~12.~~ 11. Interests in property used by organizations that are exempt
- 2 from taxation under section 501(c)(3) of the internal revenue code.
- 3 ~~13.~~ 12. Interests in parking garages or decks if the parking garages
- 4 or decks are owned and operated by a government lessor or operated on behalf
- 5 of a government lessor, by an entity other than the prime lessee, pursuant to
- 6 a management agreement with the government lessor.
- 7 ~~14.~~ 13. Residential rentals if the prime lessee is the occupant.