

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HOUSE BILL 2497

AN ACT

AMENDING SECTIONS 48-3603, 48-3609 AND 48-3615, ARIZONA REVISED STATUTES;
AMENDING TITLE 48, CHAPTER 21, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING
SECTIONS 48-3615.01 AND 48-3615.02; RELATING TO COUNTY FLOOD CONTROL
DISTRICTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 48-3603, Arizona Revised Statutes, is amended to
3 read:

4 48-3603. Powers, duties and immunities of district and board;
5 exemptions

6 A. A county flood control district organized under this article is a
7 political taxing subdivision of this state and has all the powers, privileges
8 and immunities granted generally to municipal corporations by the
9 constitution and laws of this state including immunity of its property and
10 bonds from taxation.

11 B. The board of directors shall exercise all powers and duties in the
12 acquisition and operation of the properties of the district and in carrying
13 out its regulatory functions under this article as are ordinarily exercised
14 by the governing body of a municipal corporation.

15 C. A district organized under this article, acting through its board
16 of directors, may:

17 1. Acquire by eminent domain, purchase, donation, dedication, exchange
18 or other lawful means rights-of-way for and construct, operate and maintain
19 flood control works and storm drainage facilities within or without the
20 district for the benefit of the district.

21 2. Acquire by eminent domain, purchase, donation, dedication, exchange
22 or other lawful means and dispose of by sale, exchange or other lawful means
23 real and personal property within the boundaries of the district.

24 3. Contract and join with this state, the United States or any other
25 flood control district or floodplain board, municipality, political
26 subdivision, governmental agency, irrigation or agricultural improvement
27 district, association, corporation or individual in acquiring, constructing,
28 maintaining and operating flood control works, and regulating floodplains.

29 4. Enter into contracts of indemnity to indemnify this state, the
30 United States or any other flood control district, municipality, political
31 subdivision, governmental agency, irrigation or agricultural improvement
32 district, association, corporation or individual against liability by virtue
33 of injuries, losses or damages occurring through the use of their facilities,
34 structures, streets, rights-of-way or properties in connection with the
35 operation of a flood control district and the regulation of floodplains.

36 5. Acquire and maintain existing flood control and drainage facilities
37 within the district for the benefit of the district if mutually agreeable to
38 the owners of such facilities.

39 6. Acquire, convert and maintain surplus irrigation facilities as
40 storm drainage facilities if mutually agreeable to owners of such facilities.

41 7. Construct, maintain and operate flood control and storm drainage
42 facilities and regulate floodplains in the district by agreement with this
43 state, counties, other municipal corporations, political subdivisions and
44 other persons and reimburse such agencies or persons for the cost of the
45 work.

- 1 8. On the dissolution of any other flood control district, assume the
2 assets and obligations of the other district.
- 3 9. Enter into intergovernmental agreements with other public agencies
4 pursuant to title 11, chapter 7, article 3 to carry out the objects and
5 purposes of the district.
- 6 10. Apply for, obtain, expend and repay flood control loans pursuant to
7 title 45, chapter 8, article 5.
- 8 11. Apply to the director of water resources for alternative flood
9 control assistance for flood control projects pursuant to section 45-1471,
10 except that the director shall not grant any such assistance for any project
11 unless the director has approved the project in advance of planning.
- 12 12. Sue and be sued, enter into contracts and generally do all things
13 which may be necessary to construct, acquire and maintain facilities, operate
14 the district and perform its regulatory functions and which are in the
15 interests of the district.
- 16 13. Adopt such rules and bylaws for its orderly operation as it sees
17 fit.
- 18 14. Appoint a chief engineer and general manager, who may be the county
19 engineer.
- 20 15. Appoint a treasurer, who may be the county treasurer, an attorney,
21 who may be the county attorney, and other employees it considers desirable
22 and necessary to carry out the purposes of the district. Any other work
23 required by the district may be performed by regular employees of the county
24 on assignment by the board of supervisors, except that regular county
25 employees shall not undertake construction projects with an estimated cost of
26 five thousand dollars or more.
- 27 16. Allow variances from the terms or regulations adopted pursuant to
28 this article to the extent permitted by section 48-3609, subsection B,
29 paragraph 7 and if, owing to peculiar conditions, a strict interpretation
30 would work an unnecessary hardship, if in granting the variance the general
31 intent and purposes of this article and the regulations will be preserved.
- 32 17. Construct, operate and maintain artificial groundwater recharge
33 facilities, and, if organized in a county having a population of more than
34 five hundred thousand persons according to the most recent United States
35 decennial census, underground storage and recovery facilities, if they have
36 flood control benefits, and contract and join with the United States, this
37 state and other governmental units for the purpose of constructing, operating
38 and maintaining multipurpose groundwater recharge, underground storage and
39 recovery and flood control facilities, except that a district shall not
40 expend district funds for any underground storage and recovery facility that
41 does not have flood control benefits.
- 42 18. Acquire real property by purchase, donation, dedication, exchange
43 or other lawful means, except by eminent domain, in areas suitable for
44 groundwater recharge projects.

1 19. Cooperate and join with other entities that engage in underground
2 water storage and recovery projects under title 45, chapter 3, including
3 multi-county water conservation districts and other political subdivisions.

4 20. Either alone, or by entering into any combination of contracts with
5 this state, the United States, any other flood control district, a floodplain
6 board, a municipality or other political subdivision, a government agency, an
7 irrigation or agricultural improvement district or an association,
8 corporation or individual, implement flood control enhancement solutions
9 including:

10 (a) Assistance for property owners within the floodplain and through
11 the elevation, bank stabilization and flood proofing of existing structures.

12 (b) Preservation and restoration of the floodplain.

13 (c) Maintenance of flood warning systems and associated flood response
14 plans.

15 21. **ADOPT AND ENFORCE CIVIL PENALTIES FOR VIOLATIONS OF ITS REGULATIONS**
16 **OR ORDINANCES AND FOR UNAUTHORIZED DAMAGE AND INTERFERENCE TO THOSE DISTRICT**
17 **FACILITIES THAT ARE AUTHORIZED PURSUANT TO THIS CHAPTER.**

18 22. **PURSUANT TO THE AUTHORITY PRESCRIBED IN THIS CHAPTER, APPOINT**
19 **HEARING OFFICERS TO HEAR AND DETERMINE ACTIONS.**

20 23. **FOR ANY DISTRICT THAT INTENDS TO TAKE ENFORCEMENT ACTION PURSUANT**
21 **TO SECTION 48-3615.01, ADOPT WRITTEN RULES OF PROCEDURE FOR THE HEARING AND**
22 **REVIEW OF DECISIONS ON ACTIONS PRESCRIBED BY THIS CHAPTER.**

23 24. **ESTABLISH A BOARD OF HEARING REVIEW TO REVIEW DECISIONS OF HEARING**
24 **OFFICERS THAT ARE ISSUED PURSUANT TO SECTION 48-3615.01. THE BOARD OF**
25 **HEARING REVIEW SHALL CONSIST OF ONE MEMBER FROM EACH BOARD OF DIRECTORS'**
26 **DISTRICT OR THE BOARD OF DIRECTORS MAY AUTHORIZE THE CITIZENS' FLOOD CONTROL**
27 **ADVISORY BOARD OR THE BOARD OF REVIEW TO DESIGNATE A LIKE NUMBER OF ITS**
28 **MEMBERS TO SERVE AS THE BOARD OF HEARING REVIEW.**

29 D. The board shall adopt and enforce floodplain regulations as
30 provided in section 48-3609.

31 E. The board may adopt a fee schedule for review of applications for
32 permits and variances from or interpretations of the floodplain regulations.

33 F. The affirmative vote of a majority of the board of directors is
34 necessary to approve any measure. One member may adjourn any meeting at
35 which a quorum is not present.

36 G. The board shall keep a proper written record of all of its
37 proceedings, which shall be open to public inspection.

38 H. The accounts of the district are subject to annual and other audits
39 as provided by law.

40 I. Section 9-403 does not apply to a flood control district organized
41 under this article and section 9-402 does not apply when the district is
42 selling property to a political subdivision. If any property sold by the
43 district to a political subdivision without complying with section 9-402 is
44 subsequently sold by the political subdivision as undeveloped property for a
45 price exceeding the original sale price, the district shall be paid the

1 difference between the original price and the subsequent sale price. For the
2 purposes of this subsection, "political subdivision" means any incorporated
3 city or town, school district, charter school, community college or
4 university.

5 Sec. 2. Section 48-3609, Arizona Revised Statutes, is amended to read:
6 48-3609. Floodplain delineation; regulation of use; federal
7 requirements and definitions

8 A. Except as provided in section 48-3610, the board within its area of
9 jurisdiction shall delineate or may by rule require developers of land to
10 delineate for areas where development is ongoing or imminent, and thereafter
11 as development becomes imminent, floodplains consistent with the criteria
12 developed by the director of water resources.

13 B. Except as provided in section 48-3610, the board shall adopt and
14 enforce regulations governing floodplains and floodplain management in its
15 area of jurisdiction which shall include the following:

16 1. Regulations for all development of land, construction of
17 residential, commercial or industrial structures or uses of any kind which
18 may divert, retard or obstruct floodwater and threaten public health or
19 safety or the general welfare.

20 2. Regulations which establish minimum flood protection elevations and
21 flood damage prevention requirements for uses, structures and facilities
22 which are vulnerable to flood damage. Regulations adopted under this section
23 shall comply with state and local land use plans and ordinances, if any.

24 3. Regulations which provide for coordination by the district with all
25 other interested and affected political subdivisions and state agencies.

26 4. Regulations that require any residential structure built in a
27 floodplain to be constructed so as to place the lowest floor elevation of the
28 structure at or above the regulatory flood elevation, that require commercial
29 or industrial structures to be flood proofed or elevated to or above the
30 regulatory flood elevation and that prohibit any activity in a designated
31 floodway, including fill, that would increase the water surface elevation
32 during a base flood.

33 5. Regulations to allow a mobile home located in a floodplain on
34 August 3, 1984 to be replaced by another mobile home if:

35 (a) The mobile home to be replaced was not damaged by a flood to more
36 than fifty per cent of its value before the flood.

37 (b) The replacement mobile home is elevated so that the bottom of the
38 structural frame or the lowest point of any attached appliances, whichever is
39 lower, is at or above the regulatory flood elevation.

40 6. Regulations that require all new placement of mobile homes to be
41 anchored to prevent flotation, collapse or movement.

42 7. Variance procedures to permit variances from the regulations that
43 do not result in danger or damage to persons or property in floodplains in
44 the area of jurisdiction. Variances may be granted only if special
45 circumstances, such as size, shape, topography, location or surroundings of

1 the property, would cause the strict application of the regulations to
2 deprive the property of privileges enjoyed by similar property in the
3 floodplain. A variance is subject to conditions to ensure that the variance
4 does not constitute a grant of special privileges inconsistent with the
5 limitations on similar property in the floodplain.

6 C. Waste disposal systems shall not be installed wholly or partially
7 in a regulatory floodway.

8 D. Water supply, water treatment and sewage collection and disposal
9 systems built in a regulatory floodplain shall be designed to prevent or
10 minimize floodwater infiltrating the systems and to prevent or minimize
11 floodwater contamination during the base flood.

12 E. Floodplain regulations enacted pursuant to this article may only be
13 adopted after a public hearing at which parties in interest and other
14 citizens have an opportunity to be heard. At least thirty days before the
15 hearing, a notice of the time and place of the hearing shall be published in
16 a newspaper of general circulation within the county or, if no newspaper of
17 general circulation is regularly published, in a newspaper of general
18 circulation nearest the area of jurisdiction. A notice of any hearing
19 accompanied by a copy of each of the proposed regulations shall be furnished
20 to the director at least thirty days before the date of the hearing. A copy
21 of any regulation adopted by a district pursuant to this article shall within
22 five days thereafter be filed with the director and with each political
23 subdivision and municipal corporation in the area of jurisdiction.

24 F. All development of land, construction of residential, commercial or
25 industrial structures or future development within delineated floodplain
26 areas is prohibited unless floodplain regulations have been adopted pursuant
27 to this article for such floodplain area and are in full force and effect.

28 G. Before adopting regulations the board may issue a special permit
29 authorizing construction or development if the board finds that construction
30 or development is not a danger to persons or property.

31 H. Unless expressly provided, this article and any regulations adopted
32 pursuant to this article do not affect:

33 1. Existing legal uses of property or the right to continuation of
34 such legal use. However, if a nonconforming use of land or a building or
35 structure is discontinued for twelve months or destroyed to the extent of
36 fifty per cent of its value, as determined by a competent appraiser, any
37 further use shall comply with this article and regulations of the district.

38 2. Reasonable repair or alteration of property for the purposes for
39 which the property was legally used on August 3, 1984 or on the date any
40 regulations affecting such property take effect, except that any alteration,
41 addition or repair to a nonconforming building or structure which would
42 result in increasing its flood damage potential by fifty per cent or more
43 shall be either flood proofed or elevated to or above the regulatory flood
44 elevation.

1 3. Reasonable repair of structures constructed with the written
2 authorization required by section 48-3613.

3 4. Facilities constructed or installed pursuant to a certificate of
4 environmental compatibility issued pursuant to title 40, chapter 2,
5 article 6.2.

6 I. Within one hundred twenty days after completion of construction of
7 any flood control protective works which changes the rate of flow during the
8 flood or the configuration of the floodplain upstream or downstream from or
9 adjacent to the project, the person or agency responsible for installation of
10 the project shall provide to the governing bodies of all jurisdictions
11 affected by the project a new delineation of all floodplains affected by the
12 project. The new delineation shall be done according to the criteria adopted
13 by the director of water resources.

14 J. A flood control district or appropriate public agency which has
15 failed to adopt or enforce floodplain regulations required by this section
16 shall not be eligible for disaster relief identified by section 35-192,
17 subsection D, paragraphs 3 and 5. The director of water resources shall
18 advise the director of the division of emergency management within the
19 department of emergency and military affairs of such failure to comply.

20 K. A district and its agents may have reasonable access as provided by
21 written authorization issued pursuant to section 48-3613 or if no
22 authorization has been issued during business hours or in the case of an
23 emergency, at any time, to enter and inspect any development on real property
24 that is located in a floodplain in order to determine whether an owner is in
25 violation of this chapter. This subsection does not authorize the inspection
26 of any records or files on a site or the interior of any building. A
27 district shall attempt to provide written notice to the owner at least
28 forty-eight hours in advance that the real property is to be inspected and
29 that the owner or the owner's agent may accompany the district inspector on
30 the inspection. A district inspector shall comply with any safety
31 requirements that may be applicable to a particular site. The district shall
32 prepare a report of any inspections made pursuant to this subsection. The
33 report shall be made available in the records of the district and a copy sent
34 to the owner within thirty days after the inspection.

35 L. IN ADDITION TO THE ACCESS PRESCRIBED IN SUBSECTION K OF THIS
36 SECTION, THE CHIEF ENGINEER OF THE DISTRICT MAY APPLY FOR AND OBTAIN
37 ADMINISTRATIVE SEARCH WARRANTS FOR ENTRY AND INSPECTION FROM A LOCAL COURT OF
38 GENERAL JURISDICTION TO CARRY OUT THE ENFORCEMENT PURPOSES OF THIS CHAPTER.

39 M. THE DISTRICT SHALL PREPARE A REPORT OF ANY INSPECTIONS MADE
40 PURSUANT TO SUBSECTION L OF THIS SECTION. THE REPORT SHALL BE MADE AVAILABLE
41 IN THE RECORDS OF THE DISTRICT, AND THE DISTRICT SHALL MAIL OR OTHERWISE
42 DELIVER A COPY TO THE OWNER WITHIN FIFTEEN DAYS AFTER THE INSPECTION OF THE
43 OWNER'S PREMISES.

44 ~~L~~. N. The floodplain regulations adopted by a district pursuant to
45 this chapter are intended to carry out the requirements of the national flood

1 insurance program and any term not otherwise defined in this chapter shall
2 have the meaning set forth in 44 Code of Federal Regulations parts 59 through
3 78, as effective on January 1, 2005.

4 Sec. 3. Section 48-3615, Arizona Revised Statutes, is amended to read:
5 48-3615. Violation; classification; civil penalties; strict
6 liability

7 A. It is unlawful for a person to engage in any development or to
8 divert, retard or obstruct the flow of waters in a watercourse if it creates
9 a hazard to life or property without securing the written authorization
10 required by section 48-3613. Where the watercourse is a delineated
11 floodplain it is unlawful to engage in any development affecting the flow of
12 waters without securing written authorization required by section 48-3613.

13 B. A person who violates SUBSECTION A OF this section is guilty of a
14 class 2 misdemeanor.

15 C. A PERSON WHO VIOLATES THIS CHAPTER OR RULES ADOPTED PURSUANT TO
16 THIS CHAPTER MAY BE ASSESSED A CIVIL PENALTY NOT TO EXCEED THE FINE
17 CHARGEABLE FOR A CLASS 2 MISDEMEANOR. EACH DAY THE VIOLATION CONTINUES
18 CONSTITUTES A SEPARATE VIOLATION.

19 D. A PERSON WHO WITHOUT WRITTEN AUTHORIZATION FROM THE BOARD OF
20 DIRECTORS DAMAGES OR INTERFERES WITH A FACILITY THAT IS OWNED, OPERATED OR
21 OTHERWISE UNDER THE JURISDICTION OF THE DISTRICT IS STRICTLY LIABLE FOR BOTH
22 OF THE FOLLOWING:

23 1. ANY ACTUAL DAMAGES TO PERSONS OR PROPERTY THAT IS CAUSED BY THE
24 DAMAGE OR INTERFERENCE.

25 2. PAYMENT OF COSTS TO THE DISTRICT FOR REMEDIATING THE DAMAGE OR
26 INTERFERENCE.

27 Sec. 4. Title 48, chapter 21, article 1, Arizona Revised Statutes, is
28 amended by adding sections 48-3615.01 and 48-3615.02, to read:

29 48-3615.01. Notice of violation; hearing; final decision; civil
30 penalty; injunctive relief

31 A. IF THE CHIEF ENGINEER FINDS THAT A PERSON HAS ENGAGED OR IS
32 ENGAGING IN DEVELOPMENT IN THE FLOODPLAIN WITHOUT A FLOODPLAIN USE PERMIT,
33 HAS ENGAGED OR IS ENGAGING IN ANY DEVELOPMENT THAT IS NOT IN COMPLIANCE WITH
34 AN ACTIVE FLOODPLAIN USE PERMIT OR HAS DAMAGED OR INTERFERED WITH FACILITIES
35 THAT ARE AUTHORIZED PURSUANT TO THIS CHAPTER WITHOUT WRITTEN AUTHORIZATION OF
36 THE BOARD OF DIRECTORS, THE CHIEF ENGINEER SHALL ISSUE A NOTICE OF VIOLATION
37 TO THE OWNER, OCCUPANT OR MANAGER OF THE REAL PROPERTY ON WHICH THE
38 DEVELOPMENT IS LOCATED OR TO THE PERSON WHO HAS DAMAGED OR INTERFERED WITH
39 THE FACILITIES. THE NOTICE OF VIOLATION SHALL IDENTIFY THE VIOLATIONS
40 OBSERVED AND ORDER THE VIOLATOR TO CEASE AND DESIST ANY ONGOING ACTIVITY THAT
41 IS NOT IN COMPLIANCE WITH THE REGULATIONS ADOPTED PURSUANT TO THIS CHAPTER OR
42 CEASE AND DESIST ANY DAMAGE OR INTERFERENCE THAT IS NOT AUTHORIZED BY THE
43 BOARD. THE NOTICE OF VIOLATION SHALL INCLUDE THE DATE, TIME AND PLACE WHERE
44 THE PERSON RESPONDING TO THE NOTICE OF VIOLATION MAY APPEAR TO SHOW CAUSE WHY
45 THE NOTICE OF VIOLATION SHOULD BE VACATED.

1 B. ON RECEIPT OF THE NOTICE OF VIOLATION, THE PERSON MAY:
2 1. ADMIT THE ALLEGATIONS BY DOING EITHER OF THE FOLLOWING:
3 (a) APPEARING IN PERSON, BY ATTORNEY OR BY ANOTHER DESIGNATED
4 REPRESENTATIVE AT A TIME AND LOCATION GIVEN IN THE NOTICE OF VIOLATION.
5 (b) MAILING OR DELIVERING TO THE CHIEF ENGINEER A FORM PROVIDED WITH
6 THE NOTICE OF VIOLATION OR A WRITTEN STATEMENT SIGNED BY THE PERSON IN WHICH
7 THE PERSON ADMITS THE ALLEGATIONS, AGREES TO ACQUIRE ANY REQUIRED PERMIT AND
8 AGREES TO REMEDY THE VIOLATION, DAMAGE OR INTERFERENCE IN ACCORDANCE WITH THE
9 TERMS DETERMINED BY THE CHIEF ENGINEER.
10 2. DENY THE ALLEGATIONS BY DOING EITHER OF THE FOLLOWING:
11 (a) APPEARING IN PERSON, BY ATTORNEY OR BY ANOTHER DESIGNATED
12 REPRESENTATIVE AT THE TIME AND LOCATION GIVEN IN THE NOTICE OF VIOLATION.
13 (b) MAILING OR DELIVERING TO THE CHIEF ENGINEER A FORM PROVIDED WITH
14 THE NOTICE OF VIOLATION OR A WRITTEN STATEMENT SIGNED BY THE PERSON DENYING
15 THE ALLEGATIONS AND REQUESTING A HEARING ON THE MATTER.
16 C. ON REQUEST FOR A HEARING, THE HEARING OFFICER SHALL SET A DATE,
17 TIME AND PLACE FOR A HEARING AND SERVE A NOTICE OF HEARING ON THE PERSON
18 ALLEGED TO BE IN VIOLATION AND PROVIDE A NOTICE OF THE HEARING TO THE CHIEF
19 ENGINEER. SERVICE OF NOTICE SHALL BE BY PERSONAL DELIVERY OR CERTIFIED MAIL,
20 RETURN RECEIPT REQUESTED, OR BY ANY OTHER METHOD REASONABLY CALCULATED TO
21 EFFECT ACTUAL NOTICE ON THE ALLEGED VIOLATOR, THE CHIEF ENGINEER AND EVERY
22 OTHER PARTY TO THE ACTION.
23 D. THE HEARING OFFICER SHALL BE APPOINTED BY THE BOARD OF DIRECTORS
24 AND MAY BE AN EMPLOYEE OF THE DISTRICT. DECISIONS OF THE HEARING OFFICER OR
25 BY THE BOARD OF HEARING REVIEW SHALL BE AVAILABLE TO ANY PARTY TO THE
26 HEARING. THE BOARD OF DIRECTORS SHALL ADOPT WRITTEN RULES OF PROCEDURE FOR
27 THE HEARING AND REVIEW OF HEARINGS. THESE RULES SHALL BE ADOPTED IN THE SAME
28 MANNER AS FLOODPLAIN ORDINANCES.
29 E. AT THE HEARING, A REPRESENTATIVE OF THE DISTRICT SHALL PRESENT
30 EVIDENCE OF THE VIOLATION DESCRIBED IN THE NOTICE OF HEARING. THE COUNTY
31 ATTORNEY MAY PRESENT EVIDENCE ON BEHALF OF THE DISTRICT. THE NOTICED PARTY
32 OR ATTORNEY OR OTHER DESIGNATED REPRESENTATIVE SHALL BE GIVEN THE OPPORTUNITY
33 TO PRESENT EVIDENCE AT THE HEARING. AFTER COMPLETION OF THE HEARING, THE
34 HEARING OFFICER SHALL ISSUE A WRITTEN FINDING, A RECOMMENDATION FOR THE
35 APPROPRIATE MEASURES TO BE TAKEN TO ABATE OR AMELIORATE ANY HARM OR DAMAGE
36 ARISING FROM THE VIOLATION AND THE IMPOSITION OF ANY CIVIL PENALTIES
37 ATTRIBUTED TO THE VIOLATION.
38 F. THE HEARING OFFICER'S WRITTEN FINDING SHALL BE SUBMITTED TO THE
39 CHIEF ENGINEER AND THE NOTICED PARTY WITHIN THIRTY DAYS AFTER THE DATE OF THE
40 HEARING. ON RECEIPT OF THE HEARING OFFICER'S FINDINGS, DETERMINATION AND
41 RECOMMENDATION, THE CHIEF ENGINEER SHALL ISSUE A FINAL DECISION AND ORDER.
42 THE CHIEF ENGINEER'S FINAL DECISION AND ORDER MAY BE IN ANY FORM AS ADOPTED
43 BY THE BOARD OF DIRECTORS PURSUANT TO ITS AUTHORITY UNDER THIS CHAPTER AND
44 MAY INCLUDE A DETERMINATION OF VIOLATION, AN ORDER DIRECTING THAT MEASURES BE

1 TAKEN TO ABATE OR AMELIORATE ANY HARM OR DAMAGE ARISING FROM THE VIOLATION
2 AND THE IMPOSITION OF A CIVIL PENALTY.

3 G. ON WRITTEN REQUEST OF ANY PARTY WHO IS SUBJECT TO THE DECISION AND
4 ORDER OF THE CHIEF ENGINEER PURSUANT TO THIS SECTION, THE BOARD OF HEARING
5 REVIEW MAY REVIEW ANY DECISION AND ORDER OF THE CHIEF ENGINEER. THE WRITTEN
6 REQUEST FOR REVIEW SHALL BE DELIVERED TO THE CLERK OF THE BOARD OF DIRECTORS
7 WITHIN FIFTEEN DAYS AFTER THE DATE OF THE FINAL DECISION AND ORDER.

8 H. IF THE PERSON ALLEGED TO BE IN VIOLATION CONTINUES THE VIOLATION
9 AFTER THE CHIEF ENGINEER HAS ISSUED A FINAL DECISION AND ORDER OR AFTER THE
10 BOARD OF HEARING REVIEW HAS COMPLETED ITS REVIEW PURSUANT TO THIS SECTION,
11 THE CHIEF ENGINEER MAY APPLY FOR A TEMPORARY RESTRAINING ORDER OR PRELIMINARY
12 OR PERMANENT INJUNCTION FROM THE SUPERIOR COURT ACCORDING TO THE ARIZONA
13 RULES OF CIVIL PROCEDURE. A DECISION TO SEEK INJUNCTIVE RELIEF DOES NOT
14 PRECLUDE OTHER FORMS OF RELIEF OR ENFORCEMENT AGAINST THE VIOLATOR. THE
15 REMEDIES PRESCRIBED BY THIS SECTION ARE CUMULATIVE AND DO NOT PREVENT THE
16 DISTRICT FROM SEEKING INJUNCTIVE RELIEF AT ANY TIME.

17 I. THE CHIEF ENGINEER MAY DESIGNATE ANOTHER PERSON TO CARRY OUT THE
18 CHIEF ENGINEER'S POWERS AND DUTIES PRESCRIBED BY THIS SECTION AND THAT
19 DESIGNEE IS AUTHORIZED TO TAKE ALL ACTIONS PRESCRIBED BY THIS SECTION IN
20 PLACE OF THE CHIEF ENGINEER.

21 48-3615.02. Judicial review; remedies

22 THE FINAL DECISION OF THE BOARD OF HEARING REVIEW IS SUBJECT TO
23 JUDICIAL REVIEW PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6. A DISTRICT THAT
24 HAS ESTABLISHED CIVIL PENALTIES FOR VIOLATIONS OF ITS REGULATIONS OR
25 ORDINANCES OR FOR DAMAGE OR INTERFERENCE TO ITS FACILITIES IS NOT PRECLUDED
26 FROM PURSUING OTHER REMEDIES PROVIDED BY LAW.