

REFERENCE TITLE: agricultural improvement districts; amendments

State of Arizona  
House of Representatives  
Forty-eighth Legislature  
Second Regular Session  
2008

## **HB 2524**

Introduced by  
Representative Crandall

### **AN ACT**

AMENDING SECTIONS 48-2309, 48-2333, 48-2362, 48-2363, 48-2364, 48-2365, 48-2366, 48-2383 AND 48-2384, ARIZONA REVISED STATUTES; AMENDING TITLE 48, CHAPTER 17, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 48-2384.01; AMENDING SECTION 48-2392, ARIZONA REVISED STATUTES; REPEALING SECTION 48-2421, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL IMPROVEMENT DISTRICTS; 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. Section 48-2309, Arizona Revised Statutes, is amended to  
3 read:

4 48-2309. Qualifications of electors

5 No person shall be entitled to vote at any election held under the  
6 provisions of this chapter unless the person possesses all the qualifications  
7 required of electors for state officers under the general election laws and  
8 is the owner of record, or holds the power of revocation over a revocable  
9 trust that is the owner of record, of real property that is located within  
10 the boundaries of the district as of ~~sixty~~ ONE HUNDRED days preceding the  
11 district election and on which the person or trust has been assessed for  
12 property taxes as shown by the property tax roll next preceding the date of  
13 the election.

14 Sec. 2. Section 48-2333, Arizona Revised Statutes, is amended to read:

15 48-2333. Meetings of board of directors; minutes

16 A. The board of directors shall hold a regular meeting in its office  
17 on the first ~~Tuesday~~ MONDAY in March, June, September and December, and such  
18 special meetings as required for the transaction of business. IF THE DAY  
19 PRESCRIBED FOR A MEETING IS A LEGAL HOLIDAY, THE BOARD SHALL MEET ON THE  
20 MONDAY FOLLOWING THE LEGAL HOLIDAY.

21 B. All special meetings shall be ordered by the president or a  
22 majority of the board by order entered in the minutes specifying the business  
23 to be transacted. Three days notice to any member not joining in the order  
24 shall be given by the secretary, and only the business specified in the order  
25 shall be transacted at the special meeting.

26 C. All meetings of the board shall be public and a majority of the  
27 members shall constitute a quorum for the transaction of business.

28 D. Minutes of all proceedings of the board shall be kept by the  
29 secretary and all records of the board shall be open to public inspection  
30 during business hours.

31 Sec. 3. Section 48-2362, Arizona Revised Statutes, is amended to read:

32 48-2362. District council; powers; meetings

33 A. The council shall consist of thirty members, three of whom shall be  
34 elected from each division. ~~The members~~ EACH MEMBER shall at the time of  
35 ~~their~~ election be ~~owners~~ THE OWNER OF RECORD OR HOLD THE POWER OF REVOCATION  
36 OVER A REVOCABLE TRUST THAT IS THE OWNER OF RECORD of land located in the  
37 division from which ~~they are~~ THE MEMBER IS elected, and shall be ~~residents~~ A  
38 RESIDENT of the district.

39 B. The council may enact and adopt by-laws and provide for the  
40 enforcement thereof for the government of the district, the management of its  
41 business and the conduct of its affairs, and may repeal, modify and amend  
42 them from time to time. No by-law shall be passed or enforced which will  
43 interfere with any existing vested right of any landowner within the district  
44 to the use of water for irrigation.

1 C. The council shall meet at least once each year in the place where  
2 the principal office of the district is located. The regular annual meeting  
3 of the council shall begin on the first Tuesday in May each year, and shall  
4 continue in session at its pleasure. Special meetings may be called in such  
5 manner and at such times as prescribed by the by-laws.

6 D. The compensation of members of the board of directors shall be  
7 determined by the council, but shall not exceed sixty dollars per day for  
8 each day's attendance at meetings of the board, and actual and necessary  
9 expenses while engaged in official business under order of the board.

10 Sec. 4. Section 48-2363, Arizona Revised Statutes, is amended to read:

11 48-2363. Board of directors; qualifications; election; powers  
12 and duties

13 A. Until the election held in 1980, the board of directors shall  
14 consist of the president and twelve directors, one of whom shall be elected  
15 from each division and two of whom shall be elected at large to fill the  
16 seats which shall be designated as at large director seats numbers 12 and 14.  
17 Beginning with the election held in 1980, the board shall consist of the  
18 president and fourteen directors, one of whom shall be elected from each  
19 division and four of whom shall be elected at large to fill the seats which  
20 shall be designated as at large director seats numbers 11, 12, 13 and 14.  
21 ~~The members~~ EACH MEMBER shall at the time of election be ~~owners~~ THE OWNER OF  
22 RECORD OR HOLD THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT IS THE  
23 OWNER OF RECORD of land located in the division from which ~~they are~~ THE  
24 MEMBER IS elected or in the case of directors at large, land located within  
25 the district, and shall be ~~residents~~ A RESIDENT of the district.

26 B. The board of directors shall, except as modified by this article,  
27 have the same powers, obligations and duties as are otherwise prescribed in  
28 this chapter. Except for the president and vice-president who shall be  
29 elected as provided by this article, the board of directors may appoint  
30 officers necessary for the efficient administration of the affairs of the  
31 district, and fix their compensation.

32 Sec. 5. Section 48-2364, Arizona Revised Statutes, is amended to read:

33 48-2364. President and vice-president; election; term of office

34 The president and vice-president of the district shall be elected at  
35 large at the regular election and shall serve for a term of four years. ~~They~~  
36 EACH shall be ~~residents~~ A RESIDENT OF and ~~landowners~~ THE OWNER OF RECORD OR  
37 HOLD THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT IS THE OWNER OF  
38 RECORD OF LANDS WITHIN THE BOUNDARIES of the district and shall have such  
39 powers and perform such duties as prescribed by law and the by-laws of the  
40 district. The president shall be the chief officer of the district and shall  
41 have general supervision over all other officers of the district in the  
42 performance of their duties as such and of the conduct and business affairs  
43 of the district. The president shall preside at all meetings of the board of  
44 directors and shall be ex officio a member of that board.

1           Sec. 6. Section 48-2365, Arizona Revised Statutes, is amended to read:  
2           48-2365. Terms of office: elections

3           A. Elections shall be held on the first Tuesday in April each  
4 even-numbered year. The terms of councilmen, directors, president and  
5 vice-president shall be four years and shall commence on the first Monday in  
6 May following the election. The president, vice-president, and directors and  
7 councilmen elected from divisions 2, 4, 6, 8 and 10, and directors at large  
8 numbers 12 and 14, shall be elected to terms of four years at the regular  
9 election held in 1978 and every four years thereafter. Directors and  
10 councilmen elected from divisions 1, 3, 5, 7 and 9 shall be elected to terms  
11 of two years at the regular election held in 1978 and to terms of four years  
12 at the regular election held in 1980 and every four years thereafter.  
13 Directors at large numbers 11 and 13 shall be elected at the regular election  
14 held in 1980 and every four years thereafter.

15           B. The governing body of the district may at any time after March 6,  
16 1952, by appropriate resolution, divide the district into divisions as  
17 provided in this article, and shall thereupon assign to proper divisions  
18 directors theretofore elected and whose terms have not expired, and appoint  
19 councilmen to serve until their successors are elected and qualified at the  
20 next succeeding election.

21           C. Nominations for council and the board of directors seats 1 through  
22 10 shall be by petition signed by not less than twenty-five ~~landowners~~ OWNERS  
23 OF RECORD OR HOLDERS OF THE POWER OF REVOCATION OVER A REVOCABLE TRUST THAT  
24 IS THE OWNER OF RECORD OF LAND within ~~their~~ THE CANDIDATE'S division, and  
25 nominations for president and vice-president and board of directors seats 11  
26 through 14 shall be signed by not less than two hundred fifty ~~landowners~~  
27 OWNERS OF RECORD OR HOLDERS OF THE POWER OF REVOCATION OVER A REVOCABLE TRUST  
28 THAT IS THE OWNER OF RECORD OF LAND within the district and filed with the  
29 secretary of the district at least ~~twenty~~ SIXTY days before the election.  
30 Nominating petitions for election as director at large shall state to which  
31 numbered seat the petitioner seeks election. A petitioner shall not file  
32 petitions for more than one office or seat and shall not be eligible for  
33 election to any other seat or office of the district at that election.

34           D. The directors at large shall be elected by the electors of the  
35 district qualified under this chapter, and each such qualified elector shall  
36 be entitled to cast one vote for the election of each director at large,  
37 notwithstanding that the petition for organization of the district provides  
38 for acreage voting.

39           Sec. 7. Section 48-2366, Arizona Revised Statutes, is amended to read:  
40           48-2366. Vacancies in office

41           If any member of the council or board of directors ceases to be  
42 ~~a landowner~~ THE OWNER OF RECORD OR THE HOLDER OF THE POWER OF REVOCATION OVER  
43 A REVOCABLE TRUST THAT IS THE OWNER OF RECORD OF LAND in ~~his~~ THE MEMBER'S  
44 division or a resident of the district, or if the president or vice-president  
45 ceases to be ~~a landowner~~ THE OWNER OF RECORD OR THE HOLDER OF THE POWER OF

1 REVOCATION OVER A REVOCABLE TRUST THAT IS THE OWNER OF RECORD OF LANDS WITHIN  
2 THE BOUNDARIES OF THE DISTRICT or A resident of the district, ~~his~~ THE office  
3 shall thereupon become vacant. The council may by appointment fill a vacancy  
4 in the council and in the board of directors. The council shall adopt  
5 by-laws providing for the filling of vacancies in the office of president or  
6 vice-president.

7 Sec. 8. Section 48-2383, Arizona Revised Statutes, is amended to read:  
8 48-2383. Acreage system of voting

9 A. The petition for organization of the district may provide that each  
10 owner of land shall have one vote, or may provide for voting on an acreage  
11 basis.

12 B. Except as provided in section 48-2365, subsection D, if the  
13 district is or has been organized under a provision for voting on an acreage  
14 basis, each landowner possessing the qualifications of an elector shall be  
15 entitled to cast one vote at all elections after the organization election on  
16 each office to be filled, or each question submitted, for each acre of land  
17 within the district owned by him.

18 C. Except as provided in section 48-2365, subsection D, from and after  
19 April 18, 1969 each landowner possessing the qualifications of an elector who  
20 owns less than one acre of land within the district shall be entitled to a  
21 fractional vote on each office to be filled or each question submitted. The  
22 fractional vote shall be equal to the fraction of an acre owned by such  
23 elector.

24 D. If land is held in more than one name, each owner otherwise  
25 possessing the qualifications of an elector may vote the number of acres or  
26 fractions thereof represented by his legal interest or proportionate share of  
27 and in the lands.

28 E. The result of each election shall be determined by ~~a majority of~~  
29 ~~the acres voted~~ THE HIGHEST NUMBER OF VOTES CAST as provided in subsections  
30 B, C and D of this section.

31 F. The district shall maintain a record of the persons owning real  
32 property within the boundaries of the district as such ownership appears on  
33 the records of the county recorder and the number of votes or fractions  
34 thereof the owner thereof shall be entitled to vote.

35 Sec. 9. Section 48-2384, Arizona Revised Statutes, is amended to read:  
36 48-2384. Designation of election precincts and voting places;  
37 notice of election; election officers; polling  
38 places

39 A. The board shall on or before October 1st of each year preceding the  
40 year of an election, by an order, establish a convenient number of election  
41 precincts in each division, and define the boundaries thereof.

42 B. Fifteen days before an election held under this article, the  
43 secretary of the board shall cause ~~notices~~ A NOTICE to be posted in ~~three~~ A  
44 public ~~places~~ PLACE in each election precinct of the time and place of  
45 holding the election, and shall post a similar notice thereof in a

1 conspicuous place at the office of the board, specifying the polling places  
2 of each precinct and the names of the members of the board of election for  
3 each precinct. Notice of the election shall also be given by publication in  
4 a newspaper published in the county in which the office of the board of  
5 directors of the district is located, once a week for at least two successive  
6 weeks. The notice shall specify the time of the holding of the election, the  
7 boundaries of the precincts, and the location of the polling places.

8 C. Prior to the time for posting the notices the board shall appoint  
9 for each precinct from the electors thereof one inspector, one judge and one  
10 clerk, who shall constitute a board of election for the precinct. If the  
11 board fails to appoint a board of election, or if the persons appointed, or  
12 any of them, do not attend at the opening of the polls on the morning of the  
13 election, the electors of the precinct present at that hour may appoint the  
14 election board or fill the places of the absent members thereof.

15 D. The board of directors shall in its order appointing the board of  
16 election designate the place in each precinct where the election shall be  
17 held.

18 Sec. 10. Title 48, chapter 17, article 4, Arizona Revised Statutes, is  
19 amended by adding section 48-2384.01, to read:

20 48-2384.01. Alternative election process; balloting exclusively  
21 by mail

22 NOTWITHSTANDING ANY OTHER LAW, AS AN ALTERNATIVE TO THE ELECTION  
23 PROCESS PRESCRIBED IN SECTION 48-2384, THE BOARD MAY CHOOSE TO CONDUCT VOTING  
24 IN ANY ELECTION EXCLUSIVELY BY MAIL BALLOT, AS PRESCRIBED BY THIS SECTION.  
25 IF THE BOARD CHOOSES TO CONDUCT VOTING EXCLUSIVELY BY MAIL BALLOT, THE  
26 FOLLOWING APPLY:

27 1. BEGINNING NINETY DAYS NEXT PRECEDING THE SATURDAY BEFORE ANY  
28 ELECTION, THE SECRETARY OF THE BOARD SHALL CAUSE NOTICE OF THE ELECTION TO BE  
29 GIVEN BY PUBLICATION IN A NEWSPAPER PUBLISHED IN THE COUNTY IN WHICH THE  
30 OFFICE OF THE BOARD OF DIRECTORS OF THE DISTRICT IS LOCATED, ONCE A WEEK FOR  
31 AT LEAST TWO SUCCESSIVE WEEKS. THE NOTICE SHALL PROVIDE THAT THE ELECTION  
32 SHALL BE CONDUCTED EXCLUSIVELY BY MAIL BALLOT AND SHALL DESCRIBE THE  
33 PROCEDURES FOR OBTAINING AND SUBMITTING A BALLOT AND THE APPLICABLE TIMES AND  
34 DATES. IN ADDITION, THE NOTICE SHALL BE POSTED IN ONE PUBLIC PLACE IN EACH  
35 DIVISION AND IN A CONSPICUOUS PLACE AT THE OFFICE OF THE BOARD.

36 2. MAIL BALLOTS MAY BE REQUESTED IN PERSON AT THE OFFICE OF THE  
37 SECRETARY OF THE BOARD, OR MAY BE REQUESTED BY MAIL, TELEPHONE, THE INTERNET  
38 OR OTHER ELECTRONIC MEANS CONSISTENT WITH PROCEDURES TO BE ESTABLISHED BY THE  
39 SECRETARY. BALLOTS MAY ALSO BE REQUESTED AND VOTED AT AN ON-SITE EARLY  
40 VOTING LOCATION, WHICH SHALL REMAIN OPEN UNTIL 7:00 P.M. ON THE DAY OF THE  
41 ELECTION. THE PROCESS AND TIME FRAMES FOR REQUESTING AND VOTING BALLOTS  
42 SHALL GENERALLY COMPLY WITH THE PROCESS ESTABLISHED FOR EARLY VOTING BY  
43 SECTION 16-542, TO THE EXTENT NOT INCONSISTENT WITH THIS ARTICLE.

1 3. MAIL BALLOTS MAY BE RETURNED BY MAIL AND MUST BE RECEIVED BY THE  
2 SECRETARY OF THE BOARD NO LATER THAN 7:00 P.M. ON THE DAY OF THE ELECTION.

3 4. MAIL BALLOTS MAY ALSO BE RETURNED IN PERSON AT THE OFFICE OF THE  
4 SECRETARY OF THE BOARD NO LATER THAN 7:00 P.M. ON THE DAY OF THE ELECTION.

5 5. FOR PURPOSES OF ELECTIONS CONDUCTED PURSUANT TO THIS SECTION, THERE  
6 SHALL BE A SINGLE BOARD OF ELECTION CONSISTING OF ONE INSPECTOR, ONE JUDGE  
7 AND ONE CLERK, ALL OF WHOM ARE APPOINTED BY THE BOARD OF DIRECTOR.

8 6. ELECTIONS CONDUCTED PURSUANT TO THIS SECTION ARE EXEMPT FROM TITLE  
9 16, CHAPTER 4, ARTICLE 8.1.

10 Sec. 11. Section 48-2392, Arizona Revised Statutes, is amended to  
11 read:

12 48-2392. Tie vote; primary and general election

13 A. If, at any election held as provided in this article, there ~~be any~~  
14 ~~office or offices to which no candidate therefor received a majority of the~~  
15 ~~votes cast~~ ARE TWO OR MORE CANDIDATES WHO ARE TIED FOR THE HIGHEST NUMBER OF  
16 VOTES CAST FOR A SINGLE OFFICE, then as to ~~such THAT~~ office ~~or offices said~~  
17 THE election shall be considered to be a primary election for the nomination  
18 of candidates for ~~such THAT~~ office ~~or offices~~, and a second or general  
19 election shall be held not less than thirty days following the canvassing of  
20 election returns, to vote for ~~candidates~~ A CANDIDATE to fill ~~such THAT~~ office  
21 ~~or offices~~. The candidates WHO WERE not elected at ~~such THE~~ first  
22 election, ~~equal in number to twice the number to be elected to any given~~  
23 ~~office, or less if so there be,~~ and who ~~received~~ WERE TIED FOR the highest  
24 number of votes for the ~~respective~~ office ~~or offices~~ at ~~such THE~~ first  
25 election shall be the only candidates at ~~such THE~~ second election; ~~provided~~  
26 ~~that, if there be any persons who under the provisions of this section would~~  
27 ~~have been entitled to become candidates for any office except for the fact~~  
28 ~~that another candidate or candidates received an equal number of votes~~  
29 ~~therefor, then such persons receiving said equal number of votes shall~~  
30 ~~likewise become candidates for such office or offices.~~

31 B. The ~~candidates equal in number to the persons to be elected~~  
32 CANDIDATE who ~~shall receive~~ RECEIVES the highest number of votes at ~~said THE~~  
33 second election HELD PURSUANT TO SUBSECTION A shall be declared elected to  
34 such office.

35 Sec. 12. Repeal

36 Section 48-2421, Arizona Revised Statutes, is repealed.

37 Sec. 13. Conditional enactment; notice

38 A. Sections 48-2309, 48-2365, 48-2383, 48-2384 and 48-2392, Arizona  
39 Revised Statutes, as amended by this act, are not effective unless the Salt  
40 river valley water users' association votes in an election held on or before  
41 December 31, 2009 and approves amendments to the association's articles of  
42 incorporation that are similar to all of the statutory sections prescribed in  
43 this subsection.

1           B. Section 48-2333, Arizona Revised Statutes, as amended by this act,  
2 is not effective unless the Salt river valley water users' association votes  
3 in an election held on or before December 31, 2009 and approves amendments to  
4 the association's articles of incorporation that are similar to the statutory  
5 section prescribed in this subsection.

6           C. Sections 48-2362, 48-2363, 48-2364 and 48-2366, Arizona Revised  
7 Statutes, as amended by this act, are not effective unless the Salt river  
8 valley water users' association votes in an election held on or before  
9 December 31, 2009 and approve amendments to the association's articles of  
10 incorporation that are similar to all of the statutory sections prescribed in  
11 this subsection.

12           D. The governing body of the Salt river project agricultural  
13 improvement and power district shall notify in writing the director of the  
14 Arizona legislative council of the date on which any or all of the three  
15 conditions are met or if the conditions are not met.