

PROPOSED

HOUSE OF REPRESENTATIVES AMENDMENTS TO S.B. 1502

(Reference to Senate engrossed bill)

1 Page 1, between lines 1 and 2, insert:

2 "Section 1. Section 11-951, Arizona Revised Statutes, is amended to  
3 read:

4 11-951. Definition of public agency

5 For the purposes of this article, ~~the term~~ "public agency" ~~shall~~  
6 ~~include~~ INCLUDES the federal government or any federal department or agency,  
7 Indian ~~tribe~~ TRIBES, this state, any other state, all departments, agencies,  
8 boards and commissions of this state or any other state, counties, school  
9 districts, FIRE DISTRICTS, cities, towns, all municipal corporations, and any  
10 other political subdivisions of this state or any other state."

11 Renumber to conform

12 Page 13, between lines 23 and 24, insert:

13 "Sec. 5. Title 48, chapter 5, article 1, Arizona Revised Statutes, is  
14 amended by adding section 48-805.01, to read:

15 48-805.01. Separate legal entities: joint exercise of powers

16 A. IF PUBLIC AGENCIES IDENTIFIED IN SUBSECTION B OF THIS SECTION FORM  
17 A SEPARATE LEGAL ENTITY PURSUANT TO SECTION 11-952, THE ENTITY HAS THE POWERS  
18 COMMON TO THE CONTRACTING POWERS SPECIFIED IN THE AGREEMENT AND MAY JOINTLY  
19 EXERCISE POWERS HELD IN COMMON BY THE CONTRACTING PARTIES IN A MANNER OR  
20 ACCORDING TO THE METHOD PROVIDED IN THE AGREEMENT. NOTWITHSTANDING TITLE 38,  
21 AN OFFICER OR ELECTED MEMBER OF THE GOVERNING BODY OF A PARTY TO THE  
22 AGREEMENT MAY ALSO ACT IN THE CAPACITY OF A MEMBER OF THE GOVERNING BODY OF  
23 THE SEPARATE LEGAL ENTITY. IN ITS OWN NAME AND SUBJECT TO THE PROVISIONS OF  
24 THE AGREEMENT, THE SEPARATE LEGAL ENTITY, SUBJECT TO EXISTING APPLICABLE LAW,  
25 MAY:

26 1. MAKE AND ENTER INTO CONTRACTS, INCLUDING CONTRACTS, LEASES OR OTHER  
27 TRANSACTIONS WITH ONE OR MORE OF THE PARTIES TO THE AGREEMENT FORMING THE  
28 SEPARATE LEGAL ENTITY.

29 2. EMPLOY AGENTS AND EMPLOYEES.

30 3. ACQUIRE, HOLD OR DISPOSE OF PROPERTY.

31 4. ACQUIRE, CONSTRUCT, MANAGE, MAINTAIN AND OPERATE BUILDINGS, WORKS,  
32 INFRASTRUCTURE, APPARATUS, EQUIPMENT AND IMPROVEMENTS.

33 5. INCUR DEBTS, LIABILITIES AND OBLIGATIONS.

34 6. SUE AND BE SUED.

35 B. CITIES, TOWNS, COUNTIES AND FIRE DISTRICTS ESTABLISHED PURSUANT TO  
36 THIS TITLE MAY FORM A SEPARATE LEGAL ENTITY PURSUANT TO SECTION 11-952, FOR  
37 THE PURPOSES OF JOINTLY EXERCISING POWERS HELD IN COMMON BY THE CONTRACTING  
38 PARTIES. COMMON POWERS OF THE CONTRACTING PARTIES WHEN OTHERWISE AUTHORIZED

1 PURSUANT TO STATE LAW MAY INCLUDE FIRE PROTECTION, THE PRESERVATION OF LIFE,  
2 PROVIDING EMERGENCY MEDICAL SERVICES, AND CARRYING OUT ITS OTHER POWERS AND  
3 DUTIES, INCLUDING PROVIDING AMBULANCE TRANSPORTATION SERVICES WHEN AUTHORIZED  
4 TO DO SO PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2. ANY SEPARATE LEGAL  
5 ENTITY FORMED PURSUANT TO THIS SECTION SHALL INCLUDE A FIRE DISTRICT. THE  
6 INTERGOVERNMENTAL AGREEMENT MUST STATE THE INTENT TO FORM A SEPARATE LEGAL  
7 ENTITY PURSUANT TO THIS SUBSECTION. THE GOVERNING BODY OF A SEPARATE LEGAL  
8 ENTITY FORMED PURSUANT TO THIS SUBSECTION SHALL BE COMPOSED OF OFFICIALS  
9 ELECTED TO ONE OR MORE OF THE GOVERNING BODIES OF THE POLITICAL SUBDIVISIONS  
10 THAT ARE PARTIES TO THE AGREEMENT, OR THEIR DESIGNEES. A SEPARATE LEGAL  
11 ENTITY IDENTIFIED PURSUANT TO THIS SUBSECTION:

12 1. IS A POLITICAL SUBDIVISION OF THIS STATE HAVING:

13 (a) THE GOVERNMENTAL AND PROPRIETARY POWERS THAT ARE COMMON TO THE  
14 CONTRACTING PARTIES SPECIFIED IN THE AGREEMENT AND THOSE POWERS PROVIDED FOR  
15 IN SECTION 11-952 AND THIS SECTION.

16 (b) THE RIGHTS AND IMMUNITIES OF THE PARTIES THAT ARE GRANTED BY THE  
17 CONSTITUTION AND STATUTES OF THIS STATE, INCLUDING IMMUNITY OF ITS PROPERTY  
18 FROM TAXATION.

19 2. MAY SEPARATELY CONTRACT FOR AN UNDERTAKING WITH ANY TWO OR MORE OF  
20 THE PARTIES OR OTHER PUBLIC AGENCIES OR OTHER ENTITIES. LIMITATIONS ON THE  
21 EXERCISE OF COMMON POWERS SHALL BE APPLICABLE ONLY TO THE PARTIES TO THE  
22 AGREEMENT PARTICIPATING IN THE UNDERTAKING.

23 3. IN ADDITION TO OTHER POWERS PROVIDED FOR IN THE AGREEMENT BY A VOTE  
24 OF ITS GOVERNING BODY, MAY INCUR OBLIGATIONS PAYABLE FROM THE ENTITY'S  
25 REVENUES, TO PAY THE COSTS AND EXPENSES OF ACQUIRING OR CONSTRUCTING ANY  
26 STRUCTURES, FACILITIES OR EQUIPMENT NECESSARY TO EFFECTUATE THE PURPOSES OF  
27 THE AGREEMENT SUBJECT TO THE FOLLOWING CONDITIONS AND REQUIREMENTS:

28 (a) THE PARTIES TO THE AGREEMENT MAY, WITH THE APPROVAL OF EACH  
29 PARTICIPATING ENTITY'S VOTERS, ISSUE GENERAL OBLIGATION BONDS FOR THE PURPOSE  
30 OF FUNDING THE COSTS AND EXPENSES OF ACQUIRING OR CONSTRUCTING ANY  
31 STRUCTURES, FACILITIES OR EQUIPMENT NECESSARY TO EFFECTUATE THE PURPOSES OF  
32 THE AGREEMENT. EACH OF THE PARTICIPATING PARTY'S GENERAL OBLIGATION BONDING  
33 AUTHORITY IS LIMITED TO THAT OF EACH PARTY'S ENABLING LEGISLATION.

34 (b) THE GENERAL OBLIGATION BONDS ARE PAYABLE FROM THE TAXES OR  
35 ASSESSMENTS PAID TO, OR TO BE LEVIED OR COLLECTED BY, THE ENTITY OR THE  
36 POLITICAL SUBDIVISIONS THAT ARE PARTIES TO THE AGREEMENT THAT FORMS THE  
37 ENTITY.

38 (c) THE GENERAL OBLIGATION BONDS ARE LIMITED TO AN AMOUNT AS  
39 AUTHORIZED BY THE QUALIFIED ELECTORS THAT ARE PARTIES TO THE AGREEMENT AND  
40 ARE SUBJECT TO THE REQUIREMENTS OF SECTIONS 35-431 AND 48-806.

41 C. FOR THE PURPOSES OF SUBSECTION B OF THIS SECTION, "UNDERTAKING":

42 1. MEANS ONE OR MORE OF THE FOLLOWING:

1 (a) PURCHASING, CONSTRUCTING, LEASING OR ACQUIRING ANY REAL OR  
2 PERSONAL PROPERTY, WORKS, APPARATUS, EQUIPMENT OR FACILITIES THAT THE  
3 POLITICAL SUBDIVISIONS THAT FORMED THE ENTITY ARE AUTHORIZED BY LAW TO  
4 PURCHASE, CONSTRUCT, LEASE OR OTHERWISE ACQUIRE.

5 (b) IMPROVING, RECONSTRUCTING, EXTENDING OR ADDING TO ANY REAL OR  
6 PERSONAL PROPERTY, WORKS, APPARATUS, EQUIPMENT OR FACILITIES OWNED OR  
7 OPERATED BY THE ENTITY.

8 (c) ANY PROGRAM OF DEVELOPMENT INVOLVING REAL OR PERSONAL PROPERTY,  
9 WORKS, APPARATUS, EQUIPMENT OR FACILITIES THAT THE ENTITY IS AUTHORIZED BY  
10 LAW TO PURCHASE, CONSTRUCT, LEASE OR OTHERWISE ACQUIRE OR THE IMPROVEMENT,  
11 RECONSTRUCTION, EXTENSION OR ADDITION TO THE PROGRAM.

12 (d) PROVIDING FIRE PROTECTION, FOR THE PRESERVATION OF LIFE, FOR  
13 PROVIDING EMERGENCY MEDICAL SERVICES AND FOR CARRYING OUT ITS OTHER POWERS  
14 AND DUTIES, INCLUDING PROVIDING AMBULANCE TRANSPORTATION SERVICES WHEN  
15 AUTHORIZED TO DO SO PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2 AND  
16 PURCHASING, CONSTRUCTING, LEASING OR ACQUIRING, OR THE EXTENSION OR ADDITION  
17 OF, WORKS, APPARATUS, EQUIPMENT OR FACILITIES DESIGNED TO SERVE AREAS OR  
18 TERRITORIES ALREADY BEING SERVED BY ANY OF THE PARTIES TO THE AGREEMENT.

19 2. DOES NOT INCLUDE THE ACQUISITION BY EMINENT DOMAIN OF EXISTING  
20 WORKS OR FACILITIES OF A POLITICAL SUBDIVISION.

21 3. THE EXERCISE OF JOINT POWERS DOES NOT CREATE ANY EXPANSION OF A  
22 CERTIFICATE OF NECESSITY ISSUED PURSUANT TO TITLE 36, CHAPTER 21.1, ARTICLE 2  
23 OR THE OPERATING RIGHTS AS DEFINED BY THE CERTIFICATE OF NECESSITY HELD BY  
24 ONE OR MORE OF THE ENTITIES ENTERING INTO A JOINT POWERS AUTHORITY. SUCH  
25 OPERATING RIGHTS SHALL REMAIN THE SAME AS THOSE RIGHTS GRANTED TO THE  
26 CERTIFICATE OF NECESSITY HOLDER AT THE DATE OF THE ESTABLISHMENT OF THE JOINT  
27 POWERS AUTHORITY UNLESS MODIFIED PURSUANT TO TITLE 36, CHAPTER 21.1,  
28 ARTICLE 2."

29 Renumber to conform

30 Amend title to conform

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3/11/11

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