



PINAL COUNTY

**SPECIAL DISTRICTS
GOVERNING BOARD MEMBERS
RESOURCE MANUAL**

Prepared by
PINAL COUNTY
January 2025

INTRODUCTION

As a Board Member of a special taxing district you are responsible for assuring compliance with State and Federal laws applicable to your specific district type. The Pinal County Special District Administrator within the Treasurer Department is your resource for formation and is a resource for completion of certain statutory requirements such as annual reports, posting notices, election related issues and open meeting law. The Pinal County Board of Supervisors (BOS) only has authority to intervene in certain districts if a special taxing district board no longer has enough members for a quorum or if the health and safety of the citizens are in question.

The Treasurer's office provides guidance to relevant Arizona Revised Statutes and other resources. Enforcement action relative to a district's non-compliance with State and Federal laws is the responsibility of the Attorney General, the County Attorney or another enforcement agency. Moreover, the Pinal County Special District Administrator is not an attorney and does NOT provide any legal advice. It is recommended that districts retain their own legal counsel.

This Manual provides guidance on annual reporting, open meeting law (OML), elections, budgets, and other resources that are available. Multiple references to Arizona Revised Statutes (A.R.S.) are included throughout this manual. It is **strongly recommended** that you review these statutes online to assure you are reviewing the most up-to-date information. You can access the relevant statutes online at <http://www.azleg.gov/arsDetail/?title=48>. The Arizona Agency Handbook is another resource that will provide valuable information about the Open Meeting Law for managing special taxing districts. You can access this handbook online at <https://www.azag.gov/agency-handbook>

Fire Districts: All Fire Districts should keep a current copy of the Arizona Fire District Handbook from the Arizona Fire District Association and use it as a reference. It can be accessed online at <http://www.azfiredistricts.org/>.

References and/or information found in this manual are excerpts from the A.R.S. and the Arizona Agency Handbook. The excerpts are not the complete documentation of the entire A.R.S. or Arizona Agency Handbook. If you have any questions, please call the Pinal County Special District Administrator at (520) 866-6470

Pinal County Treasurer
Special Districts Administrator
P.O. Box 729
Florence, AZ. 85132

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TYPES OF COUNTY IMPROVEMENT DISTRICTS

Arizona Revised Statutes

Title 48 – Chapter 6

The most common types of Special Taxing Districts in Pinal County are listed below:

County Improvement Districts – A.R.S §§ 48-901-1098 – The most common County Improvement Districts are:

Domestic Water Improvement District (DWID) – A DWID may be established for the acquisition, construction, reconstruction, or repair of waterworks for the delivery of water for domestic purposes. Improvements may be financed through the sale of bonds or through a loan provided by the Water Infrastructure Finance Authority of Arizona. Domestic Water Improvement Districts may charge user fees and connection fees in addition to levying a property tax for maintenance and operation of the district. A DWID may be governed by the Board of Supervisors acting as the District board or may have a separately elected board.

Street Lighting Improvement District (SLID) – A.R.S § 48-960 A SLID may be established for the sole purpose of purchasing electricity for the lighting of public streets and parks within the district. The Board of Directors shall furnish annual estimates of the expenses of the district. The expenses shall be paid by a tax on the property of the district pursuant to sections 48-952, 48-954 and 48-955. The Board of Supervisors sits as the district's Board of Directors.

Note: Pursuant to A.R.S. §48-1018, a county improvement district that has acquired, has constructed or owns a water system that provides domestic water to residents of that district or a county improvement district that has constructed and owns a wastewater treatment facility that serves the residents of that district may be converted to a domestic water or domestic wastewater improvement district.

Fire Districts - A.R.S § 48-802-854 (created under A.R.S. § 48-261) A fire district, through its board, may employ any personnel and provide services deemed necessary for fire protection, for preservation of life and for carrying out its other powers and duties, including providing ambulance transportation services when authorized to do so pursuant to title 36, chapter 21.1, article 2, but a member of a district board shall not be an employee of the district. The merger of two or more fire districts pursuant to section 48-820 or the consolidation with one or more fire districts pursuant to section 48-822 shall not expand the boundaries of an existing certificate of necessity unless authorized pursuant to title 36, chapter 21.1, article 2.

Electrical Districts - A.R.S §§ 48-1701 – 1822 A. Districts created under this chapter shall be bodies corporate for the purposes specified in this chapter and such as reasonably may be implied.

B. A district shall have perpetual succession and may:

1. Exercise the power of eminent domain under the constitution and general laws of the state relating to such proceedings.
2. Make contracts.
3. Sue and be sued in its corporate name.
4. Acquire and hold real and personal property which is needed or useful in the conduct of its business.
5. Adopt a seal.
6. Do all things reasonably useful and lawful in carrying out the purposes expressed or implied by this chapter.

Sanitary Districts - A.R.S §§ 48-2001- 2091.05 (created under A.R.S. § 48-261) – Notwithstanding the provisions of section 48-261 or 48-262, a sanitary district shall not include territory located within an incorporated city or town at the time the district is established and the territory included in a sanitary district is required to be contiguous except as provided in section 48-2002.

Irrigation Water Delivery District (IWDD) – A.R.S §48-3402 A. Irrigation water delivery districts shall be bodies corporate for the purposes specified in this chapter and shall have the rights, privileges and powers conferred by law, but the districts shall not be considered municipal corporations.

B. The district shall have perpetual succession, and may:

1. Exercise the power of eminent domain.
2. Contract and be contracted with.
3. Sue and be sued in its corporate name.
4. Acquire, hold and dispose of, for the benefit of the district, all real and personal property which is necessary or useful in the conduct of its business.
5. Adopt a seal.
6. Provide by contract with any irrigation project, or United States reclamation project, for the performance of any service which it is authorized by this chapter to perform.
7. Do all things lawful and reasonably useful in carrying out the purposes of this chapter.

SECTION 1
ANNUAL REPORTS
A.R.S. §48-251

Special taxing districts (unless exempted – see “Exemptions” below) must file an annual report providing certain information as defined in Arizona Revised Statute (A.R.S.) §48-251.

The Annual Report must be submitted to the Elections Department 240 days following the close of your fiscal year. This is February 25 of each year if your fiscal year ends June 30 and August 28 if your fiscal year ends December 31. Approximately 60 days prior to this due date you will receive a packet from the Elections Department with instructions and the forms to be utilized in this process. These forms are also attached in Appendix A. Districts may download a copy of the forms from the Auditor General’s website at <https://www.azauditor.gov/reports-publications/special-districts/forms>. This requirement is independent of any audit or financial review requirement. The Annual Report is not required to be filed with the Arizona Auditor General’s Office.

Annual Reports, Audits and Financial Reviews shall be sent via email to SpecialServices@pinal.gov or mail to:

Pinal County Clerk of the Board of Supervisors
PO Box 827
Florence, AZ. 85132

With a copy to:

Pinal County Treasurer
Attn: Brandy Schiller
P.O. Box 729
Florence, AZ. 85132

- A. Non-exempted Districts organized under A.R.S. Title 48 shall submit an annual report including the following information:
1. A schedule of the beginning and ending fund balances and all revenues and expenditures for the preceding fiscal year. The schedule or statement shall include all monies, gifts or donations received from all sources which have a value exceeding one hundred dollars.
 2. Legal descriptions of any boundary changes which occurred during the preceding fiscal year.
 3. The names, occupations, and business telephone numbers of all members of the governing board and officers of the district on the last day of the preceding fiscal year.
 4. The schedule and location of regular meetings of the district governing board.
 5. The location(s) where public notices of meetings are posted pursuant to A.R.S. 38-431.02.
 6. The name/title of the person(s) who completed the reporting requirements pursuant to this subsection.
 7. A copy of any audit or financial review required to be prepared as detailed further in this Section.
- B. The secretary/officer of the district governing board shall submit the report within 240 days of the close of the district's fiscal year to the Clerk of the Board of each county in which the district is located. For Cochise County please submit the annual report to the Elections Department and the Treasurer’s Office.

- C. Districts organized under A.R.S. Title 48 Ch. 4, 6, 17, 22, 27 & 28 are exempt from the requirements of this section. Districts that do not provide services or otherwise operate during the entire period covered by the report and that notify the Elections Department in writing of such circumstances within the time for filing the report are exempt from the requirements of subsection A of this section.
- D. If a district fails to submit a report as required by this section, any taxpayer residing in the district may petition the superior court in the county where the district is organized to order the district to show cause why the report has not been submitted. The court may order the district to file all reports as required by this section. Failure to obey the court order is punishable as contempt of court.
- E. If the court finds that a district has violated this section, it shall award the taxpayer attorney fees and costs associated with bringing the action.
- F. The BOS of each county shall submit annually by March 31 a report on compliance with the requirements of this section to the Governor, President of the Senate and the Speaker of the House.

By statute a \$100 a day fine can be assessed by the county for every day the report is late.

A.R.S. § 48-251(G) The board of supervisors shall notify each district not in compliance with the reporting requirements of this section to comply within thirty days after receipt by certified mail of the noncompliance and that the district is subject to a civil penalty if it fails to comply. The board of supervisors shall assess, and the county treasurer shall collect from the monies of a district remaining in noncompliance thirty days after receipt of certified mail a penalty assessment of one hundred dollars per day for each day that the district is not in compliance with the reporting requirements of this section from thirty days after receipt by certified mail of the noncompliance notice until such time as the board of supervisors receives a copy of the district's annual report, to the extent that district monies are available and unencumbered. Penalty monies collected shall be deposited in the county general fund.

District audits and financial reviews

- A. Each district organized under A.R.S. Title 48, and not exempt under subsection F of this section and required to make an annual report shall have its reports audited in accordance with generally accepted government auditing. A district shall not be required to perform a financial review more than once per fiscal year.

Pursuant to A.R.S. § 48-253, audits and reviews are required based on the district budget as follows.

Irrigation and water conservation districts:

ANNUAL BUDGET	REQUIREMENT
At least \$5,000,000	Annual audit
\$1,000,000 to \$4,999,999	Audit every 5 years and a financial review each year an audit is not performed
\$100,000 to \$999,999	Audit every 10 years and a financial review each year an audit is not performed

For fire districts (except noncontiguous county island fire districts):

ANNUAL BUDGET	REQUIREMENT
\$500,000 or more in revenues	Annual audit
\$500,000 or less budgeted, but receives more than \$500,000 in revenues	Audit of previous year
\$100,000 or more but less than \$500,000 in revenues	Annual financial review
\$50,000 or more but less than \$100,000 in revenues	Biennial financial review (Only auditor general's form needed in off years (See Appendix A)

All other districts (see exemptions below):

ANNUAL BUDGET	REQUIREMENT
Greater than \$1 million	Annual audit
\$100,000 or more but less than \$1 million	Annual financial review
\$50,000 or more but less than \$100,000	Biennial financial review
Less than \$50,000	Upon request of the BOS or 10 residents (Use the auditor general's form. See Appendix A)

1. A district may select an outside auditor who is a certified public accountant or an agent of a certified public accountant who is selected by the BOS and who is trained as an auditor.

2. A district may advertise and use competitive bidding practices to select an agent to perform the audits or financial reviews required by this section.

B. Each district that submits a financial statement for the preceding fiscal year that has been attested to by an independent certified public accountant pursuant to A.R.S. 48-251 is deemed to have complied with this section by submitting a copy of the financial statement to the County Treasurer and the Elections Department.

C. Each district shall submit a copy of the completed audit or financial review to the County Treasurer and the Elections Department within 240 days after the close of the district's fiscal year or within 180 days after a request for a financial review is received by the district pursuant to subsection A, paragraph 1 of this section.

D. If a district fails to submit an audit or financial review as required by this section, any taxpayer residing in the district, the BOS or the County Treasurer may petition the superior court in the county where the district is organized to show cause why the audit or financial review has not been submitted. On a failure to show cause the court shall order the district to submit the audit or financial review within ten (10) days after the judgment is entered.

E. If the court enters a judgment against the district under this section, the court may award the taxpayer, BOS or County Treasurer reasonable attorney fees and costs associated with bringing the action.

F. The following Districts are exempt from the requirements of this section.

Chapter 4 – Municipal Improvement District

Chapter 6 – County Improvement District

Chapter 22 – Multi-County Water District

Chapter 27 – Groundwater Replenishment District

Chapter 28 – Active Management Area Water District

Districts that do not operate or provide any service during the entire fiscal year. Those districts asserting an exemption must notify the Elections Department in writing within 240 days following the end of the fiscal year.

SECTION 2

BUDGETS / FINANCIAL MATTERS

In April of each year you will receive a packet from the Special Districts Administrator from the Pinal County Treasurer Department for submission of yearly budgets. Due dates are as listed below. These budgets are utilized to calculate the Special District tax rate. **It is critical that these be accurate and submitted on time.** These forms may be found in Appendix B.

<u>District Type</u>	<u>Due Date</u>	<u>Statute</u>
Fire Districts	August 1	A.R.S. § 48-805.02
Electrical Districts	June 1	A.R.S. § 48-1773
Sanitary Districts	July 10	A.R.S. § 48-252
Drainage and Flood Protection Districts	June 30	A.R.S. § 48-2702
Irrigation Water Delivery Districts	July 1	A.R.S. § 48-3473
Flood Control Districts	July 15	A.R.S. § 48-3620
All other Special Districts	July 10	A.R.S. § 48-252

Districts are responsible for filing an annual budget whether notice is received or not. If a district fails to submit a budget, a taxpayer residing in the district, the Board of Supervisors, or the County Treasurer may petition the Superior Court to show cause why a budget was not submitted. If a district fails to show cause why a budget was not submitted, the court shall order the district to submit a budget within 10 days after the judgment is entered (ARS § 48-252(B)).

DISTRICT BUDGETS

A.R.S. § 48-252 requires each district to submit an annual budget (excluding Municipal Improvement Districts, County Improvement Districts, Agricultural Improvement Districts and Multi-County Water Conservation Districts) to the Pinal County Clerk of the Board and the Special Districts Administrator at the County Treasurer. A separate budget for each fund within a district must be submitted.

A separate budget resource manual containing required forms and detailed instructions will be provided to all Special Districts in April.

Fire Districts must submit their budgets on forms provided by the Arizona Auditor General’s Office, and post their budget in accordance with A.R.S. § 48-805.02. Fire Districts must also file an Information Sheet, Schedule of District Governing Board Regular Meetings, Outstanding Warrants, Public Notice, and Signature Card with the budget. These forms will be provided to Fire Districts.

Sanitary districts **must** publish their budget in accordance with A.R.S. § 48-2026. A copy of the publisher's affidavit and the published budget must be submitted along with the district budgets.

WARRANTS

All warrants require two authorized signatures. A signature card signed by all persons authorized to sign warrants for the district must be submitted to the County Treasurer no later than July 1 of each year designating persons authorized to sign warrants for the district. It is recommended that only Board Members and Special District staff be authorized to sign warrants. It is important to avoid any perception of conflict of interest when authorizing someone to sign warrants. Whenever there is a change in authorized signers a new signature card **must** be sent to the Special Districts Administrator at the County Treasurer.

All warrants issued by a district must have a completed memo line with sufficient detail stating the purpose for which the warrant was issued. All voided and unused warrants must be returned to the Special Districts Administrator at County Treasurer. All warrants issued to a district must be accounted for at the end of the fiscal year.

Warrants issued in any amount exceeding the adopted budget will not be honored by the County Treasurer. If a district experiences a cash flow shortage and finds it necessary to borrow money from their credit line or by registering warrants, the district must have a line of credit approved by the county servicing bank through the County Treasurer's Office. A new line of credit should be established each fiscal year prior to July 10. Credit lines must be repaid by the end of the fiscal year. Warrants cannot be registered nor monies expended from credit lines until July 10th of the new fiscal year.

Borrowed money (i.e. registered warrants, credit line and lease-purchase agreements) must be reported on an IRS Form 8038-GC. The signed forms are to be sent to the IRS on or before February 15 with 2 copies sent to the County Treasurer. The Treasurer will send the proper forms, with instructions, to the districts as necessary. Each district is assessed the cost of printed warrants in May of each year.

SECTION 3

ARIZONA AGENCY HANDBOOK

The Arizona Agency Handbook is published by the Arizona Attorney General's office and is available on line at [6-handbook](#). This handbook is very helpful with instruction on the Open Meeting Law and in managing your district. Below are topics that are covered in the handbook. Those topics that are most important as a resource for special taxing districts are in **bold** print.

01. The Attorney General and the Department of Law
02. **Public Officers and Employees**
03. Personnel
04. Public Monies
05. **Procurement**
06. **Public Records**
07. **Open Meetings**
08. Conflict of Interest
09. Licensing
10. Administrative Adjudications
11. Rulemaking
12. Enforcement
13. Litigation Against State Entities
14. Detection of Criminal Violations
15. Discrimination Law
16. Lobbying

If you need further information, please contact:

Arizona Attorney General
1275 West Washington Street
Phoenix, AZ 85007
(602) 542-5025
<https://www.azag.gov/>

SECTION 4

ARIZONA DEPARTMENT OF REVENUE **INTERNAL REVENUE SERVICES** **SOCIAL SECURITY ADMINISTRATION**

The Arizona Department of Revenue (ADOR) can assist you with obtaining an Employer Identification Number (EIN) and withholding tax for employees. The management of your organization's payroll is critical. The following website can serve as a resource for your district:

<https://www.azdor.gov/Business/WithholdingTax.aspx>

The Internal Revenue Service is another resource for guidance on Social Security, Medicare coverage, and withholding tax requirements for state, local, and Indian tribal government employees and public employers (Publication 963). Social Security and Medicare coverage of State and Local government employees are also covered in the above referenced manual. The website address is:

<http://www.irs.gov/Businesses/Small-Businesses-&-Self-Employed/Starting-Operatingor-Closing-a-Business>

The Social Security Administration can also assist with information regarding employee withholding tax (Publication 15 Employer's Tax Guide). The website addresses are:

<http://www.socialsecurity.gov/pgm/business.htm>

<https://www.ssa.gov/employer/pub.htm>

SECTION 5

ARIZONA REVISED STATUTES

It is **strongly recommended** that you routinely reference the Arizona Revised Statutes online to assure that the most current and accurate statute is being referenced. The website to access this information is <https://www.azleg.gov/arstitle/>. You will find references to specific statutes throughout this manual.

Key Titles with pertinent information for special taxing districts include:

Title 16 – Elections

Title 38 – Public Officers and Employees

Title 39 – Public Records

Title 42 – Taxation

Title 48 – Special Taxing Districts - This Title includes general chapters related to all special districts and chapters that are specific to different types of special districts.

Where the statutes reference submitting reports or information to the Pinal County Board of Supervisors, please contact:

Pinal County Treasurer
Attention: Special Districts Administrator
P.O. Box 729
Florence, AZ. 85132

Email: specialdistricts@pinal.gov
Phone: (520) 866-6470

SECTION 6

CALENDAR

Unless otherwise noted, deadline dates for required reports are in **bold** print.

January 1

Newly elected directors and trustees take office on January 1 with the exception of:

- Fire districts – directors take office on the 1st day of the month following the election;
- Electrical districts – directors take office on the 1st day following the election;
- Flood protection districts – directors take office on the 3rd Tuesday in October

February 25

***Annual reports** for Special Taxing Districts with a fiscal year ending June 30 (alternate fiscal yearend dates are noted in August and November) are due (along with district audits or reviews) for special taxing districts. The annual report is submitted to the following:

Please remit to: Pinal County Clerk of the Board
P.O. Box 827
Florence, AZ. 85132

With copy to: Pinal County Treasurer
Attention: Special Districts Administrator
P.O. Box 729
Florence, AZ. 85132

March 31

The Pinal County Special Districts Administrator is required to notify the Governor, the Speaker of the House, and the President of the Senate which special taxing districts are in compliance and which are not in compliance with the annual reports pursuant with A.R.S. § 48-251.

June 1

Electrical District ****annual budgets** are due.

June 30

Drainage and Flood Protection Districts ****annual budgets** are due.

July 1

****Annual budgets** are due for the following special taxing districts:

- Drainage and Flood Protection Districts
- Irrigation and Water Conservation Districts (IWCDs)
- Irrigation Water Delivery Districts (IWDDs)

July 10

Sanitary District ****annual budgets** are due.

July 15

****Annual budgets** are due for the following special taxing districts:

- Flood Control Districts

August Due Dates

Annual reports are due (along with district audits or reviews) by August 28 for Special Taxing Districts having a fiscal year ending December 31

Annual budgets are due for the following special districts:

- Fire Districts – August 1 (**would prefer to receive them by beginning-mid July to get Tax rates set in time.**)

Tax rates are set the **3rd Monday in August** by the Board of Supervisors based upon information submitted in each special taxing district's budget.

August 29

Annual Reports for those Special Districts whose fiscal year ends December 31st are due in the Elections Department. See February 25th deadline for details.

November 26

Annual reports are due (along with district audits or reviews) for special taxing districts having a fiscal year ending March 31

December 1

Newly elected directors of Fire and Sanitary Districts take office

****Oaths of Office** are sent to the Pinal County Special District Administrator and the Elections Department.

*Annual Reports A.R.S. §48-251 – Forms located in Appendix A

**Annual Budgets A.R.S. §48-252 – Forms located in Appendix B

SECTION 7

CONFLICT OF INTEREST

Arizona Agency Handbook – Chapter 8

Conflicts of interest require public officers and employees to make fact specific assessments of the interests involved based on statutorily established standards and exceptions. These excerpts do not address every situation that may qualify as a conflict of interest and do not assess all specialized conflict of interest prohibitions that may apply to a special district. Public (District) officers and employees should consult with the District's legal counsel concerning conflicts of interest not specifically addressed.

A.R.S. §§ 38-501 to -511 set forth the minimum standards expected of public officers and employees who, in their official capacities, are faced with a decision or contract that might affect their pecuniary or proprietary interests or those of a relative. The object of conflict of interest statutes is to remove or limit the possibility of personal influence which might bear upon an official's decision. Arizona's conflict of interest laws serve to prevent self-dealing by public officials. The term "public officer" includes "all elected and appointed officers of a public agency established by charter, ordinance, resolution, state constitution or statute." "Relative" is expansively defined and includes: "the spouse, child, child's child, parent, grandparent, brother or sister of the whole or half blood and their spouses and the parent, brother, sister or child of a spouse."

Arizona law states as follows:

- A. Any public officer or employee of a public agency who has, or whose relative has, a substantial interest in any contract, sale, purchase or service to such public agency shall make known that interest in the official records of such public agency and shall refrain from voting upon or otherwise participating in any manner as an officer or employee in such contract, sale or purchase.
- B. Any public officer or employee who has, or whose relative has, a substantial interest in any decision of a public agency shall make known such interest in the official records of such public agency and shall refrain from participating in any manner as an officer or employee in such decision.

Pursuant to A.R.S. § 38-503, a public officer/employee who has a conflict of interest must disclose the interest and refrain from participating in the matter.

Substantial Interest. The starting point to assess if a public officer or employee has a conflict of interest is to evaluate whether the official or the official's relative has a "substantial interest" in the matter under consideration. An interest is "substantial" if it is not defined by statute as "remote" and if it is "any pecuniary or proprietary interest, either direct or indirect," of public officers or employees or of their relatives.

To determine whether a substantial interest exists, the public officer should ask the following questions:

1. Could the decision affect, either positively or negatively, an interest of the officer or employee or the officer's or employee's relative?
2. Is the interest a pecuniary or proprietary interest? Could it affect a financial interest or ownership interest?
3. Is the interest other than one statutorily designated as a remote interest?

SECTION 8

COUNTY CONTACTS

BOARD OF SUPERVISORS

District 1 Rich Vitiello
District 2 Chairman Mike Goodman
District 3 Stephen Q. Miller
District 4 Vice-Chairman Jeffrey McClure
District 5 Jeff Serdy
P.O. Box 827
Florence, AZ. 85132
(520) 866-6068
ClerkoftheBoard@pinal.gov

COUNTY RECORDER

Dana Lewis
Chief Deputy: Dana Diaz
P.O. Box 848
Florence, AZ. 85132
(520) 866-6830
Recorder@pinal.gov

COUNTY ATTORNEY

Brad Miller
P.O. Box 887
Florence, AZ. 85132
(520) 866-6271
PinalCountyAttorney@pinal.gov

CLERK OF THE BOARD

Natasha Kennedy
P.O. Box 827
Florence, AZ. 85132
(520) 866-6068
ClerkoftheBoard@pinal.gov

COUNTY TREASURER

Michael McCord
Chief Deputy: Kelli Munroe
PO Box 729
Florence, AZ. 85132
(520) 509-3555
Treasurer@pinal.gov

COUNTY ASSESSOR

Douglas Wolf
Chief Deputy: John Ellinwood
31 N Pinal St.
Building E
Florence, AZ. 85132
(520) 866-6361
Assessor@pinal.gov

Other Key Contacts

Arizona Attorney General

1275 W. Washington St
Phoenix, AZ 85007
(602) 542-5025
www.azag.gov

Arizona Secretary of State

1700 W. Washington, 7th Floor
Phoenix, AZ. 85007
(602) 542-4285

SECTION 9

EDUCATION / TRAINING MATERIALS

There are resources on the Internet that you will find useful when performing your duties as a governing board member of a special taxing district. Some of these include:

Information on **record retention** through the Arizona Library and archives office
<https://azlibrary.gov/arm/retention-schedules>

Information on **open meeting laws** through the Attorney General's office
<http://www.azag.gov>

On line training of open meeting laws
<http://www.youtube.com/user/AZLeague>

Information on **elections, campaign finance, special district formation and reporting** through the Secretary of State and Pinal County Elections Department
www.azsos.gov/elections
<http://pinal.gov/Elections>

Information on **Fire districts** through the Arizona Fire Chiefs Association
www.azfirechiefs.org
Arizona Fire District Association
<http://azfiredistricts.org>

Information on Arizona Revised Statutes
www.azleg.gov/arstitle

SECTION 10

ELECTIONS

ALL BOARD MEMBERS OF SPECIAL TAXING DISTRICTS ARE ELECTED TO OFFICE. If the number of candidates equals the number of vacancies, the special taxing district board may petition the Board of Supervisors to have the election cancelled. In that case, the Board of Supervisors cancels the election and appoints those candidates to the deemed offices.

If there is a need to appoint a board member to fill a vacancy, the person appointed serves until the expiration of the term of the person being replaced and may seek reelection at that time.

Example:

- John Doe is elected to serve a four-year term from 01/01/2023 to 12/31/2026 on a district board of directors.
 - John Doe resigns 02/03/2024 and Jane Smith is appointed to replace John Doe on 02/05/2024.
 - Jane Smith will serve from 02/05/2024 to 12/31/2026.
 - Jane Smith may run for election to the board in November of 2026 to begin serving a full term if she is elected.
-
- In general, board members have staggered terms. The district's board shall keep track of term of office for each board position and provide any changes to the Elections Department at Genelections@pinal.gov and the Special Districts Administrator with the Pinal County Treasurer at SpecialServices@pinal.gov
 - For jurisdictions (special taxing districts) looking to conduct an election in Pinal County, use the appropriate Intergovernmental Agreement (IGA) located at <https://www.pinal.gov/267/Election-Procedures-for-Districts> and email or call 520-866-7550 as soon as possible.
 - Board members serve to the expiration of that term only and then must seek re-election. In the event of a resignation, email a copy of the signed oath of office and approved minutes stating the resignation of a board member and appointment of the new board member to SpecialServices@pinal.gov.
 - The petition signature requirements are based on active voter registration totals as of January 2 of the election year - minimum 5 to a maximum of 250 qualified signatures. Number of minimum and maximum signatures requirements will be posted online by May 1 of an election year.
 - Candidate filing period is 150 to 120 days prior to the General Election in November. The Election Department is the filing office for all Special Districts.
 - 210 days prior to an election, the Elections Department will send each special district a notice of the next election dates by statute. The notice is required to be returned even if the District is not conducting an election in that cycle.

- The district shall decide if they wish to conduct the election themselves or contract with the County through an Intergovernmental Agreement. If contracted through the Elections Department, a calendar of actions required shall be provided to the District.
- The special district will be charged for election services based on the election fee schedule. Money for elections must be included in your budget. Invoices are payable 30 days after the election.
- If an election is required, and the District does not conduct the election or enter into an agreement with the Elections Department, the county will conduct the election on behalf of the District and bill the District for the cost.
- Recall Elections - every board member is open to recall after the first 6 months of being newly elected to the board. Members re-elected to the same position are open to immediate recall. The district bears all costs associated with a recall election.

• **CALL OF ELECTION** - A.R.S. § 16-227

- Nonpartisan election shall be called by the governing body no later than 180 days prior to the election. (A.R.S. § 16-226)
- The District is responsible for publishing the Call of Election which must be published in a newspaper of general circulation at least two times, once a week, in the six calendar weeks prior to 150 days before the election. This notice must state:
 - the purpose of the election.
 - the election date.
 - last day to file nomination papers – 120 days before the election.
 - last day to register to vote in the election.
 - name of district.
- Call of Election must be published in both English and Spanish.

• **NOTICE OF ELECTION** - A.R.S. § 16-228

The governing body is responsible for publishing the Notice of Election which is published twice in newspaper of general circulation once a week for two weeks prior to twenty (20) days before the election. This notice shall state:

- date of election.
- location of polls (www.pinal.az.gov/elections).
- hours polls are open - 6:00 a.m. until 7:00 p.m.
- purpose of election.
- name of district.

Notice requirements specific to fire district or irrigation and water conservation district bond elections can be found at A.R.S. § 48-806(A) and A.R.S. § 48-3190(A), respectively.

The Notice of Election must be published in both English and Spanish.

• **AFFIDAVIT OF COMPLIANCE** - A.R.S. § 16-229

The governing body shall file an affidavit certifying that the district is in compliance with Federal and State election laws with the Elections Department no later than five (5) days prior to the election. A sample Affidavit of Compliance is included as Appendix G.

• **MAIL BALLOT ELECTIONS** A.R.S. § 16-558

State law authorizes Special Districts to conduct a mail ballot election if the governing board obtains approval from the Board of Supervisors prior to publishing the Call of Election. The County will not conduct an all-mail election if the election can be held in conjunction with a statewide election.

• **CANVASS OF ELECTION**

A.R.S. § 16-642(A) The governing body of the special district holding the election shall meet and canvass the election not less than six days nor more than 20 days following the election. A.R.S. § 16-643 requires your board to present the election results in a public meeting. § 16-646 (D) requires your board to certify the results at the public meeting and file them with the County, who shall maintain and preserve them as a permanent public record.

The governing body of the special district holding the election shall present to the Board of Supervisors a certified copy of the official canvass of the election. The presentation shall be at the next regularly scheduled board of supervisors.

SECTION 11

OATH OF OFFICE AND PUBLIC OFFICIAL BOND

A.R.S. § 38-231

Arizona Agency Handbook Chapter 2

A loyalty oath is required of officers and employees of all government agencies, including Special Districts. Officer or employee is defined for this purpose as "any person elected, appointed or employed, either on a part-time or full-time basis, by this state, or any of its political subdivisions or any county, city, town, municipal corporation, school district, public educational institution or any board, commission or agency of any county, city, town, municipal corporation, school district or public educational institution."

The loyalty oath provides as follows:

State of Arizona, County of _____ I, _____

(type or print name)

do solemnly swear (or affirm) that I will support the Constitution of the United States and the Constitution and laws of the State of Arizona, that I will bear true faith and allegiance to the same and defend them against all enemies, foreign and domestic, and that I will faithfully and impartially discharge the duties of the office of _____ (name of office) _____ according to the best of my ability, so help me God (or so I do affirm).

(signature of officer or employee)

An officer or member of a board or commission must take, subscribe, and file the loyalty oath "if appointed, at or before commencement of the term of office," or "if elected, at any time after receiving the officer's certificate of election, and at or before commencement of the term of office."

Any person who fails to take and execute the loyalty oath may not receive compensation and is deemed to have vacated the office. A person who exercises the duties of public office without first taking the oath is guilty of a class 2 Misdemeanor.

SECTION 12

OPEN MEETING LAW

A.R.S. § 38-431

Arizona Agency Handbook Chapter 7 (Excerpts)

The Open Meeting Laws (OML) are set out in *A.R.S. § 38-431 et seq.* The OML requires that Board meetings be conducted openly, and that notices and agendas contain enough information to reasonably inform the public of the matters to be discussed. **If a Board is not certain whether the OML requires that a matter be discussed in private or public, the Board “shall construe ... (the OML) in favor of open and public meetings.”** *A.R.S. § 38-431.09.*

All discussion and action must occur at a public meeting. Under the OML, all discussion and legal action, including collective decisions, commitments and promises, must take place in a duly noticed public meeting. *A.R.S. § 38-431(3) & § 38-431.01(A)* A “meeting” is deemed to occur whenever a quorum of the board gets together, in person or through technological devices to discuss, propose, or take legal action. *A.R.S. § 38-431(4).*

The public must receive prior notice of the meeting. Except in an actual emergency, no meeting may take place unless the public was given written notice of the meeting at 24 hours in advance. The notice must include the date, time and location of the meeting and an agenda listing the specific matters to be discussed, considered or decided upon. *A.R.S. § 38-431.02.* The board cannot consider or discuss matters not listed on the Agenda! *A.R.S. § 38-431.02.* Once a meeting has been properly convened with proper prior notice to the public, it may be recessed and resumed with less than twenty-four (24) hours’ notice if, prior to recessing, notice is publicly given as to the time and place of resumption. (In the rare case of an actual emergency, a meeting may be held upon such notice as is appropriate but the notice of the agenda and a notice declaring that an emergency session was held must be posted within twenty-four hours after the meeting.)

The board must receive the agenda and packet in advance of the meeting. Although not required by the OML, most board policies (and common sense) require that the board receive the agenda and supporting information at least 24 hours before a meeting.

Superintendent or Board Member reports ok if generally noticed on agenda The superintendent or a board member may present a brief summary of current events without the specific items being listed on the agenda, as long as the summary is on the agenda and the board does not propose, discuss or take legal action on any matter raised in the summary unless it is specifically noticed on the agenda. *A.R.S. § 38-431.02(K)*

The board may allow the public to speak at a Call to the Public. The OML permits (but does not require) boards to allow the public to speak at board meetings. Public input may be limited to items on the agenda or expanded to also include an open Call to the Public on issues that are not on the agenda but are within the Board's jurisdiction. Whatever form of public input is allowed, it should be subject to reasonable time, place and manner restrictions. Board members should avoid arguing or engaging in lengthy discussions with members of the public who address the board on matters that are on the agenda. Response is even more limited with respect to non-agenda issues raised at call to the public. As to those items, the Board must wait until conclusion of the open call, at which time individual board members may respond to criticism, ask staff to review a matter or ask that a matter be put on a future

agenda. However, board members must not discuss or take legal action on matters raised during an open call to the public unless the matters are properly noticed for discussion and legal action. *A.R.S. § 38-431.01(G)*.

The public is entitled to minutes or a recording within three working days after a meeting. The board must make written minutes or a recording of meetings available to the public within three working days after a meeting. Minutes of a public meeting must include:

1. the date, time and place of the meeting;
2. the members present and absent;
3. a general description of the matters considered; and
4. an accurate description of all actions proposed, discussed or taken, including names of members who propose each motion; names of anyone making a statement and presenting material; and a reference to the action to which such statement or material relates. *A.R.S. § 38- 431.01(A & 8)*

Minutes of executive sessions shall include the information in 1, 2, and 3 above, plus an accurate description of all Instructions *given* to the board's attorneys or representatives regarding its position on contract negotiations, litigation, settlement discussions, real property transactions and employee benefit negotiations, and such other matters as may be deemed appropriate by the public body. *A.R.S. § 38431.01(C)*.

Consequences of Violating the OML: Any action taken at a meeting held in violation of the OML is null and void (*A.R.S. § 38-431.05(A)*) unless ratified within 30 days after discovery pursuant to *A.R.S. § 38-431.05*. In addition, anyone who knowingly violates the open meeting laws or aids, agrees to aid or attempts to aid another to violate the laws is subject to civil fines of up to \$500.00 for each violation. Public funds may not be used to pay for legal services to defend an action brought under the OML unless the public body has authority to do so pursuant to some other provision of law and approves the expenditure at a properly noticed open meeting prior to incurring the obligation. *A.R.S. § 38-431.07*. If an action is brought and the court determines there was intent to deprive the public of information or opportunity to be heard, the offender may be required to pay the plaintiff's costs and fees personally and, if a board member, may be removed from the board.

More information is available at this link:

The Open Meeting Law, beginning with *A.R.S. § 38-431.01*, is available online at <https://www.azleg.gov/viewdocument/?docName=https://www.azleg.gov/ars/38/00431-01.htm>

SECTION 13

PUBLIC RECORDS / RECORDS RETENTION

A.R.S. § 39-101 TO 171

Arizona Agency Handbook, Chapter 6

Policy of Public Disclosure. Public records and other matters in the custody of any officer shall be open to inspection by any person at all times during office hours. This public records statute seeks to increase public access to government information and to make government agencies accountable to the public. However, some public records are confidential and should not be disclosed to the public.

What Is a Public Record? As a general rule, all records required to be kept under A.R.S. § 39-121.01(B), are presumed open to the public for inspection as public records. Arizona law requires that all officers and public bodies maintain records, including records defined in A.R.S. § 41-151, reasonably necessary to provide an accurate accounting of their official activities and government-funded activities. Records are defined as follows: all books, papers, maps, photographs or other documentary materials, regardless of physical form or characteristics, including prints or copies of such items produced or reproduced on film or electronic media made or received by any governmental agency in pursuance of law or in connection with the transaction of public business and preserved or appropriate for preservation by the agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations or other activities of the government, or because of the informational and historical value of data contained therein.

A.R.S. § 39-121 requires public officers to disclose "other matters." Other matters subject to the public's right of access include documents which are not required by law to be filed as public records. Other matters include documents held by the public officer in his or her official capacity and in which the public's interest in disclosure outweighs the governmental interest in confidentiality.

Persons Subject to the Public Records Law. The Public Records Law applies to any person elected or appointed to hold any elective or appointive office of any public body and any chief administrative officer, head, director, superintendent or chairman of any public body.

Denying Public Inspection. The custodian of public records must deny inspection when the record is made confidential by statute. Although there is a presumption in favor of access to public records, this presumption may be outweighed by legitimate government considerations of privacy, confidentiality and the best interests of the State. If the custodian of public records determines that these interests outweigh the public's right of inspection, he or she may refuse to disclose the records but if challenged, he or she has the burden of overcoming the presumption in favor of disclosure. A public body or public officer may seek a declaratory judgment in cases in which it is unclear whether or not disclosure is appropriate.

Records Confidential by Statute. Over 300 Arizona Statutes are confidential by law (see Attorney General website for complete listing). A comprehensive list of the Arizona statutes that may require that all or a portion of governmental records be protected from public. Disclosures of employee personnel files are limited to providing the following information: name of employee; date of employment; current and previous class title; current and previous salaries and dates of each change; name of employee's current or last known supervisor.

Records Involving Privacy Interests. The Arizona courts have long recognized personal privacy as an exception to the general rule requiring access to government records. Under this exception, the custodian may deny public inspection when the disclosure would invade the interest of privacy or confidentiality and that invasion outweighs the public's right to know.

Inspection and Copying of Public Records. The right to inspect documents is not unqualified. Any person may request to examine or be furnished copies, printouts or photographs of any public record during regular office hours. Records may not be inspected at such times and in such manner as to disrupt public business. Records must be provided if they are in the custody of the public officer or public body, even if they are also available elsewhere. The custodian of public records must promptly respond to record requests and promptly furnish records that are subject to disclosure or access will be deemed denied. The governmental entity has the burden in proving that its response to records request was prompt in light of the circumstances surrounding each request.

Duty to Redact. When confidential and public information are commingled in a single document, a copy of the document may be made available for public inspection with the confidential material excised. (custodian must demonstrate specific reasons and a good faith basis for denying access to entire record rather than redacting confidential portions). If confidential material has been attached to an otherwise disclosable document, the attached material may simply be removed. The public body should note in its records precisely which material has been excised and which has been released.

Charges for Copies. The Legislature has distinguished between the fees an agency may impose for commercial and non-commercial requests for copies of public records. The custodian may require the person requesting the public record to pay in advance for any copying and postage charges. If records are available on the web site, the public body or public officer may direct the requestor to obtain copies there.

Non-Commercial Use. A person requesting copies, printouts, digital copies, or photographs of public records for a non-commercial purpose may be charged a fee for the records. An agency may charge a fee it deems appropriate for copying records, including a reasonable amount for the cost of time, equipment, and personnel used in producing copies of records, but not for costs of searching for the records.

Commercial Use. Persons requesting reproductions for a commercial purpose must provide a statement setting forth the commercial purpose for which the records are requested. Commercial purpose is defined as: The use of a public record for the purpose of sale or resale or for the purpose of producing a document containing all or part of the copy, printout or photograph for sale or the obtaining of names and addresses from public records for the purpose of solicitation or the sale of names and addresses to another for the purpose of solicitation or for any purpose in which the purchaser can reasonably anticipate the receipt of monetary gain from the direct or indirect use of the public record. Commercial purpose does not mean the use of a public record as evidence or as research for evidence in an action in any judicial or quasi-judicial body.

If the custodian of a public record determines that the requester's commercial purpose is a misuse of public records or is an abuse of the right to receive public records, the custodian may apply to the Governor requesting that the Governor by executive order prohibit the furnishing of copies, printouts or photographs for such commercial purpose.

Consequences of Wrongful Refusal to Disclose.

Attorney's Fees. A court may award legal costs, including attorney's fees, to the requester if he or she substantially prevails. This does not limit the rights of any party to recover attorney's fees, expenses, and double damages that are authorized by other statutes.

Damages. A public officer or agency may also be liable for damages that result from wrongfully denying a person access to public records.

Preservation, Maintenance, Reproduction, and Disposition of Public Records.

All records made or received by public officials or in the course of their public duties are the property of the state. Each public body and officer is responsible for preserving, maintaining, and caring for the public records within their offices. Each officer and public body is required by statute to carefully secure, protect, and preserve public records from deterioration, mutilation, loss, or destruction, unless the records are disposed.

Quality and Storage Requirements. All permanent public records must be transcribed or kept on paper or other material which is of durable or permanent quality and which conforms to standards established by the Director of the Arizona State Library, Archives and Public Records. These public records must also be stored and maintained according to the Director's standards. A public officer who fails to keep permanent public records in accordance with the Director's standards is guilty of a class 2 misdemeanor.

Disposition of Public Records. The disposition of public records by the State or any of its political subdivisions is governed by A.R.S. §§ 41-151.15, -151.17, -151.19, and 44-7601. An agency may destroy records when the record has no further administrative, legal, fiscal, research or historical value. The agency may obtain approval to destroy records from the Records Management Division of the State Library on a continuing basis pursuant to a records retention and disposition schedule or, for records not on a retention schedule, pursuant to single request form. A report of records destruction that includes a list of all records disposed of shall be filed at least annually with the State Library on a form prescribed by the State Library. The forms are available on the State Library website.

A public officer or other person having custody or possession of any record for any purpose, who steals, or knowingly and without lawful authority destroys, mutilates, defaces, alters, falsifies, removes or secretes all or part of a public record, or who permits any other person to do so, is guilty of a class 4 felony. Any record series listed as permanent on a general retention schedule should be transferred to the State Archives when the agency or political subdivision no longer wishes to maintain those records.

If a record is historically significant, it is a permanent record. Records are deemed historically significant when they:

- Document a controversial issue
- Document a program, project, event or issue that results in a significant change that affects the local community, city, county or state
- Document a program, project, event or issue that involves prominent people, places or events
- Document a program, project, event or issue that resulted in media attention locally, statewide or nationally

For more information or questions about record retention please visit the following website:

<https://azlibrary.gov/arm/retention-schedules>

APPENDIX A

The Annual Report Form is provided by the Arizona Auditor General's Office and is available online at:
<https://www.azauditor.gov/reports-publications/special-districts/forms>

APPENDIX B

ANNUAL BUDGET FORMS

Annual Budget Forms and Resource Manuals will be provided by the Elections Department in April.

KEY POINTS / REMINDERS:

- 1) When required, publish/post budgets prior to the public hearing.
- 2) Cash-carry forward - funds you will need to use in the beginning of a fiscal year before tax revenues come in - try to build up enough cash-carry forward to cover the district's basic expenses for two months.
- 3) Tax collection - plan spending in accordance to 1st and 2nd half collections:
 - a. 1st half due October 1 and delinquent November
 - b. 2nd half due March 1 and delinquent May 1
- 4) Budget packets will be emailed to each special district by the Elections Department.
- 5) Complete adopted budget is due by July 10. Fire Districts by August 1.
- 6) Proposed budget published and a copy of the proposed budgets posted in location of agenda postings prior to adoption. Three locations for fire districts.
- 7) The special district board adopts the budget at a public meeting
- 8) Remember that you **cannot spend more than your adopted budget** even if revenues exceed budgeted revenues!
- 9) County improvement, light and water districts are exempt from "filing" a yearly budget, but as a courtesy are asked to do so.
- 10) New law now includes fire districts in the above exempted districts, **but** fire districts are still required by law to submit an estimate, certified by items, of the amount of money required for equipment and maintenance of the district for the ensuing year.
- 11) To receive the correct amount needed in tax dollars, you must submit your complete budget on the forms provided by the Elections Department.
- 12) The budget must be received for the tax rate can be calculated and for the Fire Districts to determine the amount of Fire Districts Assistance Tax for adoption by the Board of Supervisors.
- 13) Deposits - submitted to the County Treasurer on the official "Treasurer Deposit" forms.
- 14) All warrants must have two signatures. The Treasurer's office must be immediately notified and a new signature card completed for any changes in who is authorized to sign warrants.

APPENDIX C

DISCLOSURE STATEMENT STATEMENT OF LOCATIONS WHERE ALL POSTING NOTICES OF THE MEETINGS OF THE

(NAME OF DISTRICT)
WILL BE POSTED

Pursuant to A.R.S. §38-431.02 (A)(2), the _____
(Name of District)
hereby states that all meeting notices of the _____
(Name of District)
and any of its committees and subcommittees will be posted at the _____
(Name of Building)
at _____, which is open to the public from 8:00
(Address of Building)
a.m. to 5:00 p.m., Monday through Friday, except legal holidays, and _____
(Name of District)
_____ website at: _____. Such notice(s) will
(Web Address)

indicate the date, time, and place of meeting(s), and will include an agenda or information on how the public may obtain a copy of such an agenda. Agendas are available at least 24 hours prior to any meeting.

DATED this _____ day of _____, 20__.

Name of Chairman
Job Title
Name of Special Taxing District

APPENDIX D
AFFIDAVIT OF COMPLIANCE

AFFIDAVIT OF COMPLIANCE

THIS IS TO CERTIFY THAT THE _____ DISTRICT has complied with all applicable Federal and State Election laws for the Election to be held on November _____, 20____.

DISTRICT

CHAIRMAN

Subscribed and sworn to before me this ____ day of _____, 20____.

Notary Public

My commission expires: _____