

DIAMOND VALLEY WATER DISTRICT
(AN ARIZONA DOMESTIC WATER IMPROVEMENT DISTRICT)

BOARD BY-LAWS

ARTICLE I. NAME

This organization shall be known as the Diamond Valley Water District (DVWD), an Arizona Domestic Water Improvement District, hereafter referred to as the District Board.

The DVWD shall be governed by a Board of Directors, hereby referred as the Board.

ARTICLE II. PURPOSE and MISSION

This District Board is organized for the purpose of furnishing policy to facilitate the mission, policy, and guidance for the operation of the Diamond Valley Water District, hereafter referred to as the District.

The mission statement for the District is as follows:

- To provide the Diamond Valley Community with safe, potable drinking water.
- To serve the Diamond Valley Community's best interest within the guidelines of managing a public water utility.
- To sustain responsible, professional, businesslike, educated, and ethical practices in representation of the Diamond Valley Community's water needs.
- To provide for fiduciary responsibility and oversight of the water utility.
- To support and facilitate Board teamwork through dedication, cooperation, communication, participation, and preparation.

ARTICLE III. ESTABLISHMENT

The Diamond Valley Water District was established on December 20, 2006 by the Yavapai County Board of Supervisors, and appointed a five-member Board of Directors, pursuant to A.R.S. 48, Chapter 6 and A.R.S. 48-1012.

ARTICLE IV. GOVERNING BODY

SECTION 1. The District Board shall consist of a five-member Board who are elected by the electorate of the District, or who are appointed by the District Board, pursuant to A.R.S. 48-1012. Members shall be a resident of the district and be registered to vote in the county of said district and be qualified to serve the position.

SECTION 2. A Board Member may terminate membership at any time by written notice to the District Board (or to the Yavapai County Board of Supervisors), pursuant to A.R.S. 38-295, a Board Member may (will be required to if needed to maintain a quorum) be asked to continue to discharge the duties of office until his resignation is accepted by the board.

SECTION 3. In case of vacancy(s) pursuant to A.R.S. 38-291, the Board shall appoint a replacement Board Member to fill the vacancy. A posting of the vacancy(ies) shall be made on the district website with specific instructions for submitting applications. This posting shall remain on the website for a minimum of 30 days from the date of written notice from the terminated board

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member. The board shall consider all qualified applicants at the first available meeting where a quorum of remaining board members are present. The vacancy(ies) shall remain in place until a qualified applicant has been appointed.

An exception to the above posting rule shall be made when an interested member of the community who has attended at least two meetings (verified by the clerk secretary) in the preceding six months prior to the resignation date of the departing board member and who meets the basic qualifications for becoming a board member the board may appoint the qualified individual to the vacant seat at the next meeting of the board of directors.

Once appointed the new Board Member shall serve out the remainder of the term of the Board Member whose position is being filled according to A.R.S. 38-295 (C) and 48-1012 (C).

In the event of a tie vote to appoint a replacement member among the remaining voting board members the chairman shall have the authority to cast the tie breaking vote.

SECTION 4. Attendance is vital to the District's operation. A Board Member ceasing to conduct the duties of office for a period of three consecutive months without good cause, may be deemed to have vacated their office, pursuant to A.R.S. 38-291 (7).

SECTION 5. Any Board Member vacating their office shall return all files, documents, and other District materials back to the District.

SECTION 6. Not more than one member of a family by birth or marriage may be a Board member of the District during concurrent terms.

ARTICLE V. OFFICERS

SECTION 1. The officers of the District Board shall consist of a Chairperson, Vice-Chairperson, Treasurer, and Clerk/Secretary of the Board, as elected by the District Board, from time to time.

The duties and responsibilities of the Board of Directors is as follows:

- **Chairperson** shall convene over all scheduled board meetings; provide or arrange for other members to preside in their absence at each meeting in the following order: Vice-Chairperson, Clerk/Secretary, Treasurer; prepare or approve agendas; be the board's spokesperson; and be a role model.
- **Vice-Chairperson** shall chair committees on special subjects as designated by the Board or Chairperson and serve in the absence or unavailability of the Chairperson.
- **Treasurer** shall make a financial report at each board meeting. The Treasurer shall chair the finance committees, assist in the preparation of the budget, and make financial information available to the board members and the public.
- **Clerk/Secretary** shall be responsible for keeping records of the board's actions, including overseeing the taking of the minutes at all board meetings, sending out meeting

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announcements, distributing copies of minutes and the agenda to each board member, and assuring information is available to board members and the public, pursuant A.R.S. 38-431.01 (B-E). In addition, all permanent and active records and documentation by the District is kept or accounted for by the Clerk/Secretary.

- **Member at Large** shall be present at the scheduled meetings and prepare for all meetings by reading documentation provided for the meeting and being prepared to discuss and vote on action items, ask questions for clarification and complete research necessary to be prepared.

SECTION 2. All officers of the District Board following election/appointment shall be required to take an oath of office pursuant to A.R.S. 38-231. Commencement of office shall occur after execution of oath of office, pursuant to A.R.S. 38-232 and A.R.S. 38-233.

SECTION 3. The election of the officers of the District Board shall take place annually at the first meeting of the District Board, following the Yavapai County general election or in January of a non-election year, pursuant to A.R.S. 48-1012 (D).

ARTICLE VI. MEETINGS

SECTION 1. Meetings of the District Board and established subcommittees shall be open to the public and comply with Arizona's Open Meeting Laws, pursuant to A.R.S. 38-431 and A.R.S. 38-431.01.

SECTION 2. Meetings of the District Board shall be held monthly, on dates as determined by the District Board and pursuant to A.R.S. 38-431.02 (F).

SECTION 3. Special meetings shall be held by the District Board as deemed necessary by the District Board, pursuant to A.R.S. 38-431-02 (D).

SECTION 4. Executive sessions shall be held by the District Board during any meeting according to A.R.S. 38-431.03.

SECTION 5. The agenda for each meeting shall be posted according to the Laws of the State of Arizona, pursuant to A.R.S. 38-431.02 (G).

SECTION 6. The business to be transacted at any Board Meeting shall be limited to that set forth in the agenda, pursuant to A.R.S. 38-431.02 (H).

ARTICLE VII. FISCAL YEAR

The fiscal year shall coincide with that of Yavapai County, July 1 through June 30, pursuant to A.R.S. 45-2282 (A).

ARTICLE VIII. ANNUAL AUDIT REPORTS

The District will have a Financial Review performed annually by a Certified Public Account (CPA). The Financial Review shall be performed beginning in July of each year and to be submitted no later than 180 days after the end of the fiscal year. On the third year a full audit shall be performed with a review in each of the two intervening years. Results shall be presented to the Board by the CPA performing the review at the Board's general meeting in March of each year.

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Pursuant to A.R.S. 48-954, the Board of Directors of a District shall make annual statements and estimates for the District, publish notice thereof, have hearings thereon and adopt them at the times and in the manner provided for county statements and estimates by title 42, chapter 17, article 3.

ARTICLE IX. INCOME

SECTION 1. The District shall have the authority to set fees for the District following a public hearing, pursuant to A.R.S. 48-910.

SECTION 2. The Board of Directors of the Diamond Valley Water District will review the water charges, rates, and fees structure annually for the possible following actions: increases, decreases, additions of various fees, discontinuance of various fees, and/or any needed alteration in charges and fees. The review is to be done at a regular board meeting in time for budget consideration of each year.

SECTION 3. The District shall adopt an operating budget for the fiscal year, pursuant to A.R.S. 45-2282.

SECTION 4. No part of the income of the District shall inure to the benefit of, or be distributable to the Members of the Board, except for Board compensation for expenses outlined in A.R.S. 48-1013. Each member of the District is eligible to receive not more than seventy-five dollars for each meeting attended and reimbursement for necessary travel expenses for attending not more than four meetings during a calendar month. Pursuant to A.R.S. 48-1013 (B) each director shall receive reimbursement for necessary expenses while engaged in official business of the district as authorized by the board.

ARTICLE X. INDEMNIFICATION

The private property of the Members of the Board shall be exempt from liability for the District's debts and obligations. Any person serving as Member, or designated agent of the District, shall be indemnified for any out-of-pocket expenses incurred, and held harmless by the District, in case legal action is filed against them for any act or omission resulting in damage or injury, if such person were acting in good faith and within the scope of their official capacity, unless such damage or injury was caused by willful and wanton action or grossly negligent conduct of such person, pursuant to A.R.S. 38-717.

ARTICLE XI. DISSOLUTION

Upon dissolution of this District, all the properties, funds, equipment, and duties of the District shall inure to the Yavapai County Board of Supervisors, according to the laws of the State of Arizona and pursuant to A.R.S. 48-264.

ARTICLE XII. AMENDMENTS

SECTION 1. These By-Laws may be amended or replaced by the Laws of the State of Arizona, and the Diamond Valley Water District Policy at any properly called meeting of the District Board, by a majority affirmative vote of the Members.

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SECTION 2. The text of the proposed amendments to the By-Laws shall be published with the agenda for the subject meeting, at which the amendment is to be considered.

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ARTICLE XIII. EFFECTIVE DATE

These By-Laws, Originally Dated	<u>March 9, 2009</u>
Originally Effective	<u>March 9, 2009</u>
Amended and Accepted	<u>March 9, 2009</u>
Are Hereby Revised and Dated	<u>May 27, 2019</u>
Amendments Shall become Effective	<u>July 25, 2019</u>
Amended and Accepted	<u>July 25, 2019</u>

CERTIFICATE TO BY-LAWS

We, the undersigned do hereby certify that the foregoing By-Laws, under the caption of DIAMOND VALLEY WATER DISTRICT BOARD BY-LAWS are the original By-Laws of the Diamond Valley Water District, approved and adopted at the Board Meeting held September 8, 2008 and as amended by a majority affirmative vote of the Board Members present on **October 5, 2008**:

DVWD BOARD APPROVED
SIGNATURE PAGE for By-laws

Dave Cracknell 
SIGNATURE OF DVWD CHAIRPERSON OR ACTING CHAIRPERSON

7-25-19
DATE

Kurt Womack 
ATTESTED BY:
SIGNATURE OF DVWD CLERK

7/25/19
DATE

LEGAL REVIEW BY: Robert C. Kozak on May 28, 2019
ATTORNEY FOR DVWD

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REFERENCES in DVWD BY-LAWS
ARIZONA REVISED STATUTES (A.R.S.) from:
www.azleg.gov/ArizonaRevisedStatutes

38-231. Officers and employees required to take loyalty oath; form; classification; definition

A. In order to ensure the statewide application of this section on a uniform basis, each board, commission, agency and independent office of this state, and of any of its political subdivisions, and of any county, city, town, municipal corporation, school district and public educational institution, shall completely reproduce this section so that the form of written oath or affirmation required in this section contains all of the provisions of this section for use by all officers and employees of all boards, commissions, agencies and independent offices.

B. Any officer or employee who fails to take and subscribe to the oath or affirmation provided by this section within the time limits prescribed by this section is not entitled to any compensation until the officer or employee does so take and subscribe to the form of oath or affirmation prescribed by this section.

C. Any officer or employee having taken the form of oath or affirmation prescribed by this section, and knowingly at the time of subscribing to the oath or affirmation, or at any time thereafter during the officer's or employee's term of office or employment, does commit or aid in the commission of any act to overthrow by force, violence or terrorism as defined in section 13-2301 the government of this state or of any of its political subdivisions, or advocates the overthrow by force, violence or terrorism as defined in section 13-2301 of the government of this state or of any of its political subdivisions, is guilty of a class 4 felony and, on conviction under this section, the officer or employee is deemed discharged from the office or employment and is not entitled to any additional compensation or any other emoluments or benefits which may have been incident or appurtenant to the office or employment.

D. Any of the persons referred to in article XVIII, section 10, Constitution of Arizona, as amended, relating to the employment of aliens, are exempted from any compliance with this section.

E. In addition to any other form of oath or affirmation specifically provided by law for an officer or employee, before any officer or employee enters upon the duties of the office or employment, the officer or employee shall take and subscribe the following oath or affirmation:

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)

F. For the purposes of this section, "officer or employee" means 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.

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38-232. Time of oath

When a different time is not prescribed, the oath of office shall be taken, subscribed and filed as follows:

1. If appointed, at least one day before commencement of the term of office.
2. If elected, at any time after receiving the officer's certificate of election, and at least one day before commencement of the term of office.

38-233. Filing oaths of record

A. The official oaths of state elective officers shall be filed of record in the office of the secretary of state. The official oaths of all other state officers and employees shall be filed of record in the office of the employing state board, commission or agency.

B. The official oaths of elective county and elective precinct officers shall be filed of record in the office of the county recorder, except the oath of the recorder, which shall be filed with the clerk of the board of supervisors. The official oaths of notaries public shall be endorsed upon their bond and filed with the secretary of state. The official oaths of all other county and precinct officers and employees shall be filed of record in the office of the employing county or precinct board, commission or agency.

C. The official oaths of all city, town or municipal corporation officers or employees shall be filed of record in the respective office of the employing board, commission or agency of the cities, towns and municipal corporations.

D. The official oaths of all officers and employees of all school districts shall be filed of record in the school district office.

E. The official oaths of all officers and employees of each public educational institution except school districts shall be filed of record in the respective offices of the public educational institutions.

F. The official oath or affirmation required to be filed of record shall be maintained as an official record throughout the person's term, appointment or employment plus a period of time to be determined pursuant to sections 41-1347 and 41-1351.

38-291. Vacancy defined

An office shall be deemed vacant from and after the occurrence of any of the following events before the expiration of a term of office:

1. Death of the person holding the office.
2. Insanity of the person holding the office, when judicially determined.
3. Resignation of the person holding the office and the lawful acceptance of the resignation.
4. Removal from office of the person holding the office, including the removal of a board or commission member by the appointing power before the expiration of the person's term of office.
5. If the office is elective, the person holding the office ceasing to be a resident of the state, or, if the office is local, or from a legislative or congressional district, the person holding the office ceasing to be a resident of the district, county, city, town or precinct for which he was elected, or within which the duties of his office are required to be discharged.

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6. Absence from the state by the person holding the office, without permission of the legislature, beyond the period of three consecutive months.
7. The person holding the office ceasing to discharge the duties of office for the period of three consecutive months.
8. Conviction of the person holding the office of a felony or an offense involving a violation of his official duties.
9. Failure of the person elected or appointed to such office to file his official oath within the time prescribed by law.
10. A decision of a competent tribunal declaring void the election or appointment of the person elected or appointed to the office.
11. Failure of a person to be elected or appointed to the office.
12. A violation of section 38-296 by the person holding the office.

38-295. Term of office; discharge of official duties after expiration of term; appointment to fill unexpired term

- A. Unless otherwise specified by law, every officer holds office at the pleasure of the appointing power.
- B. Every officer shall continue to discharge the duties of the office, although the term has expired, until a successor has qualified. The discharge of the duties of office for appointments requiring senate confirmation shall be governed by section 38-211.
- C. Vacancies occurring in an office, or in the membership of a board or commission, shall be filled only for the unexpired term of the officer or member.

38-431. Definitions

In this article, unless the context otherwise requires:

1. "Advisory committee" or "subcommittee" means any entity, however designated, that is officially established, on motion and order of a public body or by the presiding officer of the public body, and whose members have been appointed for the specific purpose of making a recommendation concerning a decision to be made or considered or a course of conduct to be taken or considered by the public body.
2. "Executive session" means a gathering of a quorum of members of a public body from which the public is excluded for one or more of the reasons prescribed in section 38-431.03. In addition to the members of the public body, officers, appointees and employees as provided in section 38-431.03 and the auditor general as provided in section 41-1279.04, only individuals whose presence is reasonably necessary in order for the public body to carry out its executive session responsibilities may attend the executive session.
3. "Legal action" means a collective decision, commitment or promise made by a public body pursuant to the constitution, the public body's charter, bylaws or specified scope of appointment and the laws of this state.
4. "Meeting" means the gathering, in person or through technological devices, of a quorum of members of a public body at which they discuss, propose or take legal action, including any deliberations by a quorum with respect to such action.
5. "Political subdivision" means all political subdivisions of this state, including without limitation all counties, cities and towns, school districts and special districts.

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6. "Public body" means the legislature, all boards and commissions of this state or political subdivisions, all multimember governing bodies of departments, agencies, institutions and instrumentalities of this state or political subdivisions, including without limitation all corporations and other instrumentalities whose boards of directors are appointed or elected by this state or political subdivision. Public body includes all quasi-judicial bodies and all standing, special or advisory committees or subcommittees of, or appointed by, the public body. Public body includes all commissions and other public entities established by the Arizona Constitution or by way of ballot initiative, including the independent redistricting commission, and this article applies except and only to the extent that specific constitutional provisions supersede this article.

7. "Quasi-judicial body" means a public body, other than a court of law, possessing the power to hold hearings on disputed matters between a private person and a public agency and to make decisions in the general manner of a court regarding such disputed claims.

38-431.01. Meetings shall be open to the public

A. All meetings of any public body shall be public meetings and all persons so desiring shall be permitted to attend and listen to the deliberations and proceedings. All legal action of public bodies shall occur during a public meeting.

B. All public bodies shall provide for the taking of written minutes or a recording of all their meetings, including executive sessions. For meetings other than executive sessions, the minutes or recording shall include:

1. The date, time and place of the meeting.

2. The members of the public body recorded as either present or absent.

3. A general description of the matters considered.

4. An accurate description of all legal actions proposed, discussed or taken, including a record of how each member voted. The minutes shall also include the names of the members who propose each motion and the names of the persons, as given, who make statements or present material to the public body and a reference to the legal action about which they made statements or presented material.

C. Minutes of executive sessions shall include items set forth in subsection B, paragraphs 1, 2 and 3 of this section, an accurate description of all instructions given pursuant to section 38-431.03, subsection A, paragraphs 4, 5 and 7 and other matters as may be deemed appropriate by the public body.

D. The minutes or a recording of a meeting shall be available for public inspection three working days after the meeting except as otherwise specifically provided by this article.

E. A public body of a city or town with a population of more than two thousand five hundred persons shall:

1. Within three working days after a meeting, except for subcommittees and advisory committees, post on its website, if applicable, either:

(a) A statement describing the legal actions taken by the public body of the city or town during the meeting.

(b) Any recording of the meeting.

2. Within two working days following approval of the minutes, post approved minutes of city or town council meetings on its website, if applicable, except as otherwise specifically provided by this article.

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3. Within ten working days after a subcommittee or advisory committee meeting, post on its website, if applicable, either:

- (a) A statement describing legal action, if any.
- (b) A recording of the meeting.

F. All or any part of a public meeting of a public body may be recorded by any person in attendance by means of a tape recorder or camera or any other means of sonic reproduction, provided that there is no active interference with the conduct of the meeting.

G. The secretary of state for state public bodies, the city or town clerk for municipal public bodies and the county clerk for all other local public bodies shall conspicuously post open meeting law materials prepared and approved by the attorney general on their website. A person elected or appointed to a public body shall review the open meeting law materials at least one day before the day that person takes office.

H. A public body may make an open call to the public during a public meeting, subject to reasonable time, place and manner restrictions, to allow individuals to address the public body on any issue within the jurisdiction of the public body. At the conclusion of an open call to the public, individual members of the public body may respond to criticism made by those who have addressed the public body, may ask staff to review a matter or may ask that a matter be put on a future agenda. However, members of the public body shall 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.

I. A member of a public body shall not knowingly direct any staff member to communicate in violation of this article.

J. Any posting required by subsection E of this section must remain on the applicable website for at least one year after the date of the posting.

38-431.02. Notice of meetings

A. Public notice of all meetings of public bodies shall be given as follows:

1. The public bodies of this state, including governing bodies of charter schools, shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

2. The public bodies of the counties and school districts shall:

(a) Conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding

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of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

3. Special districts that are formed pursuant to title 48:

(a) May conspicuously post a statement on their website stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) May post all public meeting notices on their website and shall give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

(c) If a statement or notice is not posted pursuant to subdivision (a) or (b) of this paragraph, shall file a statement with the clerk of the board of supervisors stating where all public notices of their meetings will be posted and shall give additional public notice as is reasonable and practicable as to all meetings.

4. The public bodies of the cities and towns shall:

(a) Conspicuously post a statement on their website or on a website of an association of cities and towns stating where all public notices of their meetings will be posted, including the physical and electronic locations, and shall give additional public notice as is reasonable and practicable as to all meetings.

(b) Post all public meeting notices on their website or on a website of an association of cities and towns and give additional public notice as is reasonable and practicable as to all meetings. A technological problem or failure that either prevents the posting of public notices on a website or that temporarily or permanently prevents the use of all or part of the website does not preclude the holding of the meeting for which the notice was posted if the public body complies with all other public notice requirements required by this section.

B. If an executive session is scheduled, a notice of the executive session shall state the provision of law authorizing the executive session, and the notice shall be provided to the:

1. Members of the public body.

2. General public

C. Except as provided in subsections D and E of this section, meetings shall not be held without at least twenty-four hours' notice to the members of the public body and to the general public. The twenty-four-hour period includes Saturdays if the public has access to the physical posted location in addition to any website posting but excludes Sundays and other holidays prescribed in section 1-301.

D. In case of an actual emergency, a meeting, including an executive session, may be held on such notice as is appropriate to the circumstances. If this subsection is utilized for conduct of an emergency session or the consideration of an emergency measure at a previously scheduled meeting the public body must post a public notice within twenty-four hours declaring that an emergency session has been held and setting forth the information required in subsections H and I of this section.

E. A meeting may be recessed and resumed with less than twenty-four hours' notice if public notice of the initial session of the meeting is given as required in subsection A of this section, and if, before recessing, notice is publicly given as to the time and place of the resumption of

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the meeting or the method by which notice shall be publicly given.

F. A public body that intends to meet for a specified calendar period, on a regular day, date or event during the calendar period, and at a regular place and time, may post public notice of the meetings at the beginning of the period. The notice shall specify the period for which notice is applicable.

G. Notice required under this section shall include an agenda of the matters to be discussed or decided at the meeting or information on how the public may obtain a copy of such an agenda. The agenda must be available to the public at least twenty-four (24) hours prior to the meeting, except in the case of an actual emergency under subsection D.

H. Agendas required under this section shall list the specific matters to be discussed, considered or decided at the meeting. The public body may discuss, consider or make decisions only on matters listed on the agenda and other matters related thereto.

I. Notwithstanding the other provisions of this section, notice of executive sessions shall be required to include only a general description of the matters to be considered. Such agenda a recital of the statutory provisions authorizing the executive session but need not contain information that would defeat the purpose of the executive session, compromise the legitimate privacy interests of a public officer, appointee or employee, or compromise the attorney-client privilege.

J. Notwithstanding subsections H and I of this section, in the case of an actual emergency a matter may be discussed and considered and, at public meetings, decided, if the matter was not listed on the agenda and a statement setting forth the reasons necessitating the discussion, consideration or decision is placed in the minutes of the meeting and is publicly announced at the public meeting. In the case of an executive session, the reason for consideration of the emergency measure shall be announced publicly immediately before the executive session.

K. Notwithstanding subsection H of this section, the chief administrator, presiding officer or a member of the public body may present a brief summary of current events without listing in the agenda the specific matters to be summarized, if:

1. The summary is listed on the agenda.
2. The public body does not propose, discuss, deliberate or take legal action at that meeting on any matter in the summary unless specific matter is properly noticed for the action.

38-431.03. Executive sessions

A. Upon a public majority vote of the members constituting a quorum, a public body may hold an executive session but only for the following purposes:

1. Discussion or consideration of employment, assignment, appointment, promotion, demotion, dismissal, salaries, disciplining or resignation of a public officer, appointee or employee of any public body, except that, with the exception of salary discussions, an officer, appointee or employee may demand that the discussion or consideration occur at a public meeting. The public body shall provide the officer, appointee or employee with written notice of the executive session as is appropriate but not less than twenty-four hours for the officer, appointee or employee to determine whether the discussion or consideration should occur at a public meeting.

2. Discussion or consideration of records exempt by law from public inspection, including the receipt and discussion of information or testimony that is specifically required to be maintained as confidential by state or federal law.

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3. Discussion or consultation for legal advice with the attorney or attorneys of the public body.
 4. Discussion or consultation with the attorneys of the public body in order to consider its position and instruct its attorneys regarding the public body's position regarding contracts that are the subject of negotiations, in pending or contemplated litigation or in settlement discussions conducted in order to avoid or resolve litigation.
 5. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations with employee organizations regarding the salaries, salary schedules or compensation paid in the form of fringe benefits of employees of the public body.
 6. Discussion, consultation or consideration for international and interstate negotiations or for negotiations by a city or town, or its designated representatives, with members of a tribal council, or its designated representatives, of an Indian reservation located within or adjacent to the city or town.
 7. Discussions or consultations with designated representatives of the public body in order to consider its position and instruct its representatives regarding negotiations for the purchase, sale or lease of real property.
- B. Minutes of and discussions made at executive sessions shall be kept confidential except from:
1. Members of the public body which met in executive session.
 2. Officers, appointees or employees who were the subject of discussion or consideration pursuant to subsection A, paragraph 1 of this section.
 3. The auditor general on a request made in connection with an audit authorized as provided by law.
 4. A county attorney or the attorney general when investigating alleged violations of this article.
- C. The public body shall instruct persons who are present at the executive session regarding the confidentiality requirements of this article.
- D. Legal action involving a final vote or decision shall not be taken at an executive session, except that the public body may instruct its attorneys or representatives as provided in subsection A, paragraphs 4, 5 and 7 of this section. A public vote shall be taken before any legal action binds the public body.
- E. Except as provided in section 38-431.02, subsections I and J, a public body shall not discuss any matter in an executive session which is not described in the notice of the executive session.
- F. Disclosure of executive session information pursuant to this section or section 38-431.06 does not constitute a waiver of any privilege, including the attorney-client privilege. Any person receiving executive session information pursuant to this section or section 38-431.06 shall not disclose that information except to the attorney general or county attorney, by agreement with the public body or to a court in camera for purposes of enforcing this article. Any court that reviews executive session information shall take appropriate action to protect privileged information.

38-717. Liability insurance and immunity for the board

- A. The department of administration shall provide coverage pursuant to title 41, chapter 3.1, article 1 against all liability for acts or omissions of any nature by members of the board while

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acting in an authorized governmental or proprietary capacity and within the course and scope of their employment or authority.

B. Notwithstanding any other law, a member of the board is immune from civil liability and is not subject to suit directly or by way of contribution for any act or omission resulting in any damage or injury if the member was acting in good faith and within the scope of the member's official capacity, unless the damage or injury was caused by willful and wanton or grossly negligent conduct of the member. For the purposes of this subsection, "official capacity" means any decision or act taken by a member of the board to further the purpose for which the board is established.

45-2282. Operating budget

A. On or before the third Monday of July of each year, the authority shall adopt a budget for the fiscal year that begins on July 1 of that year. The budget shall include:

1. A complete statement of the sources and amount of all revenues received by the authority during the year ending June 30 and the funds into which the revenues were deposited.

2. A complete statement of expenditures and disbursements identified by class that were made by the authority during the year ending June 30 and the funds from which the expenditures were made.

3. An estimate of all revenues to be received by the authority during the year beginning July 1 and a listing of the funds into which the estimated revenues will be deposited.

4. An itemized estimate of the amount of expenditures or disbursements that the authority may make from each fund during the year beginning July 1 that, subject to the provisions of this section, may include expenditures for contingencies and emergencies.

B. The authority shall not budget any expenditure or disbursement from a fund that exceeds the amount of revenues estimated to be received by the fund during the year beginning July 1 except that revenues deposited in the grant fund may be expended for the purposes specified in section 45-2281, subsection C. The authority shall not make any expenditure or disbursement from a fund during the year that exceeds the amount budgeted to be expended or disbursed from the fund during the year.

C. Subject to the requirements in section 45-2281, subsection C, the authority may allocate unexpended revenues among funds on or before June 30 and include the unexpended revenues of a fund in the budgeted amount of expenditures or disbursements to be made in the fiscal year that begins July 1.

D. The allocation of revenues into the funds and the budgeting, expenditure and disbursement of the funds is at all times subject to section 45-2281, subsection C.

E. On or before the third Monday of July of each year, in connection with the preparation of the budget required by subsection A of this section the authority shall prepare a comprehensive statement of the authority's assets and liabilities and sources and application of funds.

F. The board at any time may authorize the preparation of an audited financial statement of the authority according to generally accepted accounting principles applicable to public bodies.

G. The authority shall file copies of the budget and financial statements with each member of the authority within thirty days of their adoption by the authority.

48-264. Dissolution of inactive special taxing districts; board of supervisor's action; exceptions

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A. If a special taxing district is found to have been inactive for at least five consecutive years, and upon investigation the board of supervisors finds that the district has no future purpose as determined by the district board of directors and no current indebtedness, the board of supervisors shall dissolve the district by board resolution.

B. Dissolution action pursuant to subsection A does not apply to districts formed under chapters 4, 21, 22, 27 and 28 of this title.

48-910. Domestic water and domestic wastewater services; authority to set fees; liens; foreclosure

A. The board of directors of a domestic water improvement district, a domestic wastewater improvement district or a county improvement district that provides or is established for the purpose of providing water or wastewater services shall have the authority to set fees for the district following a public hearing. Fees may include any of the following:

1. User fees that are proportionate shares of the cost of operation, maintenance and replacement of a water delivery system, a water disposal system or a wastewater treatment and disposal system or any combination of those systems, including a system for the treatment and use of effluent, and may include the cost of administrators, surveyors, sanitation experts, engineers, legal counsel and other persons as are reasonably necessary for the operation, maintenance and replacement of the systems. The fees may also include any contractual amounts required to meet covenants relating to bonds or other obligations of the district secured by a pledge of, or promise to pay from, the district's fees.

2. Hookup fees for connection to the district water or wastewater system, not including the cost of the actual physical connection.

3. Lateral fees for the cost of constructing a water or wastewater lateral from the property line of the user to the middle of the easement or right-of-way in which the water system or wastewater system is located.

4. For a domestic wastewater improvement district or a county improvement district that provides or is established for the purpose of providing wastewater systems or services, either of the following:

(a) A capacity fee based on the cost of developing the wastewater collection, treatment and disposal facilities that are required to treat the flows into the system from a particular wastewater connection.

(b) An availability fee that is charged on all property in the district that is not connected to the existing wastewater treatment system but that is adjacent to a wastewater line and that is based on the cost of having the wastewater line and treatment facility capacity to accommodate that property if it is developed. An availability fee is limited to fifty per cent of the user fee.

B. Notice announcing the hearing shall be posted in not less than three places within the district for not less than ten days before the date of the hearing and shall be published twice in a newspaper of general circulation within the district. The newspaper publications shall be not less than one week apart, and the first publication shall be not less than ten days before the

date of the hearing. The district may also mail notice of the hearing to all district customers. The notice may be included in the district's regular billings and shall be mailed at least ten days before the date of the hearing.

C. The board of supervisors shall be notified by mail of the hearing not less than ten days

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before the date of the hearing. The board of supervisors may be represented at the hearing and may advise the board of directors.

D. At the hearing all interested district property owners and customers may appear and be heard on any matter relating to the establishment of the proposed fees. Any person wishing to object to the establishment of the proposed fees, before the date set for the hearing, may file objections with the chairman or the clerk of the board of directors.

E. A domestic or wastewater systems or services may file a lien on property for the nonpayment of user fees for services provided to the property if the fees are delinquent for more than ninety days. At least thirty days before filing the lien, the district shall provide written notice to the owner of the property and shall include notice of an opportunity for a hearing before a designated officer of the district. The notice of lien shall be personally served on the property owner or mailed by certified mail to the property owner's last known address or to the address to which the most recent property tax assessment was mailed. If the property owner does not reside on the property, the notice shall be mailed by certified mail to the owner's last known address.

F. The unpaid user fees are a lien on the property from the date of recording in the office of the county recorder in the county in which the property is located until the fees and all costs are paid. The lien is subject and inferior to the lien for general taxes and to all prior recorded mortgages and encumbrances of record. A sale of the property to satisfy a lien assessed pursuant to this section shall be made on a judgment of foreclosure and order of sale. A domestic water or domestic wastewater improvement district or a county improvement district that provides or is established for the purpose of providing water or wastewater systems or services may bring an action to foreclose the lien in the superior court in the county in which the property is located any time after recording. Failure to foreclose the lien does not affect its validity. The recorded unpaid user fees are prima facie evidence of the truth of all matters recited in the recording and of the regularity of all proceedings before the recording.

G. Unpaid user fees pursuant to this section accrue interest at the rate prescribed by section 44-1201.

H. The district shall add all costs incurred by the district, including interest, attorney fees and costs in filing and enforcing the lien, to the unpaid user fees, and the costs are a liability of the property owner payable from the proceeds of the sale.

I. A prior assessment of unpaid user fees pursuant to this section does not bar a subsequent assessment pursuant to this section, and any number of liens on the same parcel of property may be enforced in the same action.

J. A district shall not file a lien for unpaid user fees against a residential property that is occupied by a lessee and at which the lessee is responsible for payment of the user fees. The district shall determine the status of leased residential property before filing the lien.

48-954. Annual statements and estimates

The board of directors of a district organized under the provisions of this article shall make annual statements and estimates for the district, publish notice thereof, have hearings thereon and adopt them at the times and in the manner provided for county statements and estimates by title 42, chapter 17, article 3.

48-1012. Elected board of directors; initial members; qualifications; terms; filling vacancy; chairperson; qualifications of electors

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A. At the option of the board of supervisors after presentation of a petition requesting the establishment of a domestic water improvement district or a domestic wastewater improvement district, or upon the submission of a separate petition following the establishment of an improvement district as prescribed by section 48-903, and subsequent to the approval of the county board of supervisors, the district shall be governed by an elected board of directors. The elected board shall consist of the number of members, not less than three, specified in the petition for establishment of the district. The first directors of such board shall be selected by the board of supervisors at the time the district is established. Members of the board of directors shall be qualified electors of the district and, after the members first appointed by the board of supervisors, shall be elected by the qualified electors of the district.

B. Immediately after the selection and qualification of the first directors of the board, the directors shall meet and divide themselves by lot into two classes as nearly equal in number as possible. Directors of the first class shall serve for a term of four years, and directors of the second class shall serve for a term of two years. Every director shall continue to discharge the duties of office until a successor is appointed and qualifies. Thereafter, at each regular election, one director for each expired term shall be elected and shall hold office for a term of four years, and until a successor is elected and qualifies. The dates of elections and of expiration of terms shall be specified in the petition for establishment of the district.

C. If a vacancy in the district board occurs due to death or disability or any other cause other than resignation, the board of directors of the district shall appoint a qualified elector of the district to fill the office for the remaining portion of that term. If there is a vacancy in the district board due to resignation, the district board shall accept the resignation and appoint a qualified elector to fill the remaining portion of that term of office. If the district board lacks a quorum for any reason for more than thirty days, the county board of supervisors may revoke the authority of the appointed or elected board of directors pursuant to section 48-1016.

D. The board of directors shall annually elect a chairperson from among its members.

E. If only one person files or no person files a nominating petition for election to fill a position on the board of directors of the district, the county board of supervisors, by resolution, may cancel the election for that office and appoint the person who filed the nominating petition to fill that position. If no person files a nominating petition for an election to fill a district board office, the county board of supervisors, by resolution, may cancel the election for those offices and those offices are deemed vacant and shall be filled as otherwise provided by law. A person who is appointed pursuant to this section is fully vested with the powers and duties of the office as if elected to that office.

F. The board of supervisors shall make an order calling an election to decide whether to reorganize a domestic water improvement district that has a board consisting of three members as a domestic water improvement district that has a board consisting of five members when a petition containing the signatures of twenty-five percent of the qualified electors residing within the district and requesting that the district be reorganized is filed with the board except the board of supervisors may not call for a reorganization election to expand the number of directors on the district board more frequently than once every two years. The election may be held on any consolidated election date as prescribed in section 16-204. The domestic water improvement district shall reimburse the county for the expenses of the district election. The board of supervisors shall give notice of the election by posting copies of the order of election in three public places within the district not less than twenty days before the date of the election and if a newspaper is published within the county having a general circulation within the district, the order shall be published in the newspaper not less than once a week during each of the three calendar weeks preceding the calendar week of the election. The ballot for the election shall state "shall the current three-member domestic water

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improvement district board be reorganized to a five-member board - yes or no". The ballot shall also allow each elector to indicate the elector's choice for two additional board members in the event of reorganization. Within twenty days after the election, the board of supervisors shall meet and canvass the returns, and if it is determined that a majority of the votes cast at the election were in favor of reorganizing the domestic water improvement district as a district with a five-member board, the board shall enter that fact on its minutes, declare the district duly reorganized and announce the names of those elected to the district board.

G. For the purposes of either a domestic water improvement district or a domestic wastewater improvement district that is organized pursuant to this article and that serves at the time of organization a population of ten thousand persons or less, in addition to any other qualified elector of the district, any natural person who is a qualified elector of this state and who is a real property owner within the district is eligible to vote in a district election without regard to that person's residency and shall be deemed a qualified elector of the district for purposes of service on the board of directors.

48-1013. Compensation; expenses

A. Each director of an elected domestic water improvement district or domestic wastewater improvement district board of directors is eligible to receive not more than seventy-five dollars for each meeting of the board attended and reimbursement for necessary travel expenses for attending not more than four meetings of the board during a calendar month. Compensation shall be paid by the district.

B. Each director shall receive reimbursement for necessary expenses while engaged in official business of the district as authorized by the board.