

PROPOSED AMENDMENT

SENATE AMENDMENTS TO H.B. 2463

(Reference to House engrossed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 11, chapter 2, article 4, Arizona Revised Statutes,
3 is amended by adding section 11-251.16, to read:

4 START_STATUTE11-251.16. Adoption of rules; procedures; exemptions;
5 definitions

6 A. THE BOARD OF SUPERVISORS SHALL ADOPT PROCEDURES FOR THE ADOPTION,
7 AMENDMENT, REPEAL AND ENFORCEMENT OF RULES.

8 B. THE PROCEDURES SHALL CONTAIN AT LEAST THE FOLLOWING PROVISIONS FOR
9 THE COUNTY DEPARTMENT THAT IS PROPOSING THE CHANGE:

10 1. THE DEPARTMENT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A
11 MEETING AT WHICH THE PUBLIC IS ABLE TO PROVIDE COMMENTS ON THE DRAFT LANGUAGE
12 OF THE PROPOSED RULE. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE DRAFT
13 PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC. THE DEPARTMENT
14 SHALL ACCEPT WRITTEN OR VERBAL COMMENTS ON THE DRAFT LANGUAGE.

15 2. THE DEPARTMENT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A
16 MEETING AT WHICH THE FINAL TEXT OF THE PROPOSED RULE IS CONSIDERED BY THE
17 BOARD OF SUPERVISORS. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE FINAL
18 VERSION OF THE PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC.
19 AT LEAST ONE WEEK BEFORE THE MEETING, THE DEPARTMENT SHALL PROVIDE THE PUBLIC
20 WITH THE DEPARTMENT'S WRITTEN RESPONSES TO WRITTEN PUBLIC COMMENTS AND MAY
21 PROVIDE WRITTEN RESPONSES TO VERBAL COMMENTS.

22 3. THE DEPARTMENT SHALL PROVIDE THE BOARD OF SUPERVISORS WITH COPIES
23 OF THE PUBLIC COMMENTS AND THE DEPARTMENT'S WRITTEN RESPONSES TO THE PUBLIC
24 COMMENTS. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, THE BOARD OF
25 SUPERVISORS DETERMINES THAT THE TEXT OF A PROPOSED RULE REQUIRES SUBSTANTIAL
26 CHANGE, THE BOARD OF SUPERVISORS SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING

1 THE CHANGES TO THE PROPOSED RULE AND SHALL PROVIDE FOR ADDITIONAL PUBLIC
2 COMMENT BEFORE ADOPTION.

3 C. NOTWITHSTANDING THIS SECTION, THE BOARD OF SUPERVISORS MAY PROVIDE
4 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE BOARD MAKES A
5 FINDING THAT AN EMERGENCY EXISTS AND ADOPTION OF THE RULE IS NECESSARY TO
6 PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE, TO AVOID AN IMMINENT BUDGET
7 REDUCTION OR TO AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST. WITHIN A
8 REASONABLE TIME AFTER ADOPTING AN EMERGENCY RULE, THE BOARD OF SUPERVISORS
9 SHALL REVIEW THE EMERGENCY RULE TO DETERMINE WHETHER THE RULE SHOULD CONTINUE
10 IN EFFECT OR BE TERMINATED.

11 D. NOTWITHSTANDING THIS SECTION, THE BOARD OF SUPERVISORS MAY PROVIDE
12 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE RULE IS REQUIRED BY
13 STATE OR FEDERAL LAW OR REGULATION, AND THE BASIS FOR THE REQUIREMENT TO
14 ADOPT THE RULE IS NOT THE RESULT OF DELAY OR INACTION BY THE BOARD OF
15 SUPERVISORS.

16 E. NOTWITHSTANDING THIS SECTION, THE BOARD OF SUPERVISORS MAY PROVIDE
17 ALTERNATIVE PROCEDURES FOR THE EXPEDITED ADOPTION, AMENDMENT OR REPEAL OF A
18 RULE IF THE EXPEDITED RULEMAKING DOES NOT INCREASE THE COST OF REGULATORY
19 COMPLIANCE OR REDUCE THE PROCEDURAL RIGHTS OF REGULATED PARTIES.

20 F. A RULE CANNOT BE ENFORCED WITHOUT SUBSTANTIAL COMPLIANCE WITH THIS
21 SECTION, EXCEPT THOSE RULES THAT WERE APPROVED BY THE BOARD OF SUPERVISORS
22 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

23 G. THE DEPARTMENT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON
24 THE DEPARTMENT'S WEBSITE.

25 H. THE DEPARTMENT MAY MEET INFORMALLY WITH ANY INTERESTED PARTY FOR
26 THE PURPOSE OF DISCUSSING ANY PROPOSED RULE.

27 I. THIS SECTION DOES NOT APPLY TO:

28 1. ORDINANCES ADOPTED OR AMENDED BY THE BOARD OF SUPERVISORS PURSUANT
29 TO SECTION 11-251.05, TITLE 11, CHAPTER 6, ARTICLE 2, TITLE 42 OR TITLE 43.

30 2. SUBSTANTIVE POLICY STATEMENTS.

1 3. PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF
2 THE COUNTY AND THAT DO NOT IMPOSE ADDITIONAL REQUIREMENTS, CONDITIONS OR
3 PENALTIES ON REGULATED PARTIES.

4 4. USE OR ADOPTION OF ANY FORM WHOSE CONTENTS OR SUBSTANTIVE
5 REQUIREMENTS ARE CONSISTENT WITH AN ORDINANCE OR STATUTE, AND ANY PROCEDURES
6 FOR THE EXECUTION OR USE OF THE FORM.

7 5. A COUNTY FUNCTION, POWER OR DUTY THAT IS ESTABLISHED PURSUANT TO
8 TITLE 49, CHAPTER 3, ARTICLE 3.

9 J. FOR THE PURPOSES OF THIS SECTION:

10 1. "DEPARTMENT" MEANS ANY COUNTY DEPARTMENT OR AGENCY OR ANY OTHER
11 UNIT OF COUNTY GOVERNMENT.

12 2. "RULE" MEANS A COUNTY STATEMENT OF GENERAL APPLICABILITY THAT
13 IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR POLICY, OR DESCRIBES THE
14 PROCEDURE OR PRACTICE REQUIREMENTS OF A COUNTY. RULE INCLUDES PRESCRIBING
15 FEES OR THE AMENDMENT OR REPEAL OF AN EXISTING RULE BUT DOES NOT INCLUDE
16 INTRA-AGENCY MEMORANDA THAT ARE NOT DELEGATION AGREEMENTS.

17 Sec. 2. Section 11-1602, Arizona Revised Statutes, is amended to read:

18 START_STATUTE11-1602. Regulatory bill of rights

19 To ensure fair and open regulation by counties, a person:

20 1. Is eligible for reimbursement of fees and other expenses if the
21 person prevails by adjudication on the merits against a county in a court
22 proceeding regarding a county decision as provided in section 12-348.

23 2. Is entitled to receive information and notice regarding inspections
24 as provided in section 11-1603.

25 3. Is entitled to have a county not base a licensing decision in whole
26 or in part on licensing conditions or requirements that are not specifically
27 authorized as provided in section 11-1604.

28 4. May have a county approve or deny the person's license application
29 within a predetermined period of time as provided in section 11-1605.

30 5. Is entitled to receive written or electronic notice from a county
31 on denial of a license application:

1 (a) That justifies the denial with references to the statute,
2 ordinance, regulation, delegation agreement or authorized substantive policy
3 statements on which the denial is based as provided in section 11-1605.

4 (b) That explains the applicant's right to appeal the denial as
5 provided in section 11-1605.

6 6. Is entitled to receive information regarding the license
7 application process at the time the person obtains an application for a
8 license as provided in section 11-1606.

9 7. May inspect all ordinances, **RULES**, regulations and substantive
10 policy statements of a county, including a directory of documents, at the
11 office of the county or on the county's website as provided in section
12 11-1607.

13 8. Unless specifically authorized, may expect counties to avoid
14 duplication of other laws that do not enhance regulatory clarity and to avoid
15 dual permitting to the maximum extent practicable as provided in section
16 11-1604.

17 9. May file a complaint with the board of supervisors concerning an
18 ordinance, **RULE**, regulation or substantive policy statement that fails to
19 comply with this section.

20 **10. MAY PARTICIPATE IN THE RULE DEVELOPMENT PROCESS AS PROVIDED IN**
21 **SECTION 11-251.16, INCLUDING PROVIDING WRITTEN OR VERBAL COMMENTS ON PROPOSED**
22 **RULES TO A COUNTY DEPARTMENT OR AGENCY AND HAVING THE AGENCY OR DEPARTMENT**
23 **ADDRESS COMMENTS AS PROVIDED IN SECTION 11-251.16.END_STATUTE**

24 Sec. 3. Section 11-1608, Arizona Revised Statutes, is amended to read:
25 START_STATUTE11-1608. Complaints: board of supervisors review

26 A. The board of supervisors shall ~~receive~~ **ESTABLISH A PROCEDURE FOR**
27 **RECEIVING** complaints **FROM AN ADVERSELY AFFECTED PERSON** concerning ordinances,
28 **RULES**, regulations, substantive policy statements or county practices alleged
29 to violate this article **OR SECTION 11-251.16**. ~~The board of supervisors may~~
30 ~~review any ordinance, regulation, substantive policy statement or county~~
31 ~~practice alleged to violate this article and may hold hearings regarding the~~
32 ~~allegations. The board of supervisors may recommend actions to alleviate the~~

1 ~~aspects of the ordinances, regulations, substantive policy statements or~~
2 ~~county practices alleged to violate this article.~~

3 B. THE BOARD OF SUPERVISORS MAY REQUIRE THE COMPLAINT TO BE MADE IN
4 WRITING AND TO INCLUDE THE FOLLOWING INFORMATION:

5 1. THE NAME AND ADDRESS OF THE ADVERSELY AFFECTED PERSON MAKING THE
6 COMPLAINT.

7 2. THE ORDINANCE, RULE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR
8 COUNTY PRACTICE ALLEGED TO VIOLATE THIS ARTICLE OR SECTION 11-251.16.

9 3. ANY FACTS RELEVANT TO, AND THE LEGAL BASIS FOR, THE COMPLAINT.

10 C. PROCEDURES ADOPTED BY THE BOARD OF SUPERVISORS PURSUANT TO THIS
11 SECTION SHALL INCLUDE REASONABLE TIMEFRAMES TO ADDRESS COMPLAINTS AND SHALL
12 PROVIDE A PROCESS FOR APPEAL.

13 Sec. 4. Title 48, chapter 21, article 1, Arizona Revised Statutes, is
14 amended by adding section 48-3609.02, to read:

15 START_STATUTE48-3609.02. Adoption of rules; procedures; exemptions;
16 definition

17 A. THE BOARD OF DIRECTORS SHALL ADOPT PROCEDURES FOR THE ADOPTION,
18 AMENDMENT, REPEAL AND ENFORCEMENT OF RULES.

19 B. THE PROCEDURES SHALL CONTAIN AT LEAST THE FOLLOWING PROVISIONS:

20 1. THE DISTRICT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A MEETING
21 AT WHICH THE PUBLIC IS ABLE TO PROVIDE COMMENTS ON THE DRAFT LANGUAGE OF THE
22 PROPOSED RULE. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE DRAFT
23 PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC. THE DISTRICT
24 SHALL ACCEPT WRITTEN OR VERBAL COMMENTS ON THE DRAFT LANGUAGE.

25 2. THE DISTRICT SHALL PROVIDE AT LEAST TWO WEEKS' NOTICE OF A MEETING
26 AT WHICH THE FINAL TEXT OF THE PROPOSED RULE IS CONSIDERED BY THE BOARD OF
27 DIRECTORS. THE NOTICE SHALL INCLUDE THE ENTIRE TEXT OF THE FINAL VERSION OF
28 THE PROPOSED RULE AND IT SHALL BE MADE AVAILABLE TO THE PUBLIC. AT LEAST ONE
29 WEEK BEFORE THE MEETING, THE DISTRICT SHALL PROVIDE THE PUBLIC WITH THE
30 DISTRICT'S WRITTEN RESPONSES TO WRITTEN PUBLIC COMMENTS AND MAY PROVIDE
31 WRITTEN RESPONSES TO VERBAL COMMENTS.

1 3. THE DISTRICT SHALL PROVIDE THE BOARD OF DIRECTORS WITH COPIES OF
2 THE PUBLIC COMMENTS AND THE DISTRICT'S WRITTEN RESPONSES TO THE PUBLIC
3 COMMENTS. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, THE BOARD OF
4 DIRECTORS DETERMINES THAT THE TEXT OF A PROPOSED RULE REQUIRES SUBSTANTIAL
5 CHANGE, THE BOARD OF DIRECTORS SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING
6 THE CHANGES TO THE PROPOSED RULE AND SHALL PROVIDE FOR ADDITIONAL PUBLIC
7 COMMENT BEFORE ADOPTION.

8 C. NOTWITHSTANDING THIS SECTION, THE BOARD OF DIRECTORS MAY PROVIDE
9 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE BOARD MAKES A
10 FINDING THAT AN EMERGENCY EXISTS AND ADOPTION OF THE RULE IS NECESSARY TO
11 PROTECT THE PUBLIC HEALTH, SAFETY OR WELFARE, TO AVOID AN IMMINENT BUDGET
12 REDUCTION OR TO AVOID SERIOUS PREJUDICE TO THE PUBLIC INTEREST. WITHIN A
13 REASONABLE TIME AFTER ADOPTING AN EMERGENCY RULE, THE BOARD OF DIRECTORS
14 SHALL REVIEW THE EMERGENCY RULE TO DETERMINE WHETHER THE RULE SHOULD CONTINUE
15 IN EFFECT OR BE TERMINATED.

16 D. NOTWITHSTANDING THIS SECTION, THE BOARD OF DIRECTORS MAY PROVIDE
17 ALTERNATIVE PROCEDURES FOR THE ADOPTION OF A RULE IF THE RULE IS REQUIRED BY
18 STATE OR FEDERAL LAW OR REGULATION, AND THE BASIS FOR THE REQUIREMENT TO
19 ADOPT THE RULE IS NOT THE RESULT OF DELAY OR INACTION BY THE BOARD OF
20 DIRECTORS.

21 E. NOTWITHSTANDING THIS SECTION, THE BOARD OF DIRECTORS MAY PROVIDE
22 ALTERNATIVE PROCEDURES FOR THE EXPEDITED ADOPTION, AMENDMENT OR REPEAL OF A
23 RULE IF THE EXPEDITED RULEMAKING DOES NOT INCREASE THE COST OF REGULATORY
24 COMPLIANCE OR REDUCE THE PROCEDURAL RIGHTS OF REGULATED PARTIES.

25 F. A RULE CANNOT BE ENFORCED WITHOUT SUBSTANTIAL COMPLIANCE WITH THIS
26 SECTION, EXCEPT THOSE RULES THAT WERE APPROVED BY THE BOARD OF DIRECTORS
27 BEFORE THE EFFECTIVE DATE OF THIS SECTION.

28 G. THE DISTRICT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON
29 THE DISTRICT'S WEBSITE.

30 H. THE DISTRICT MAY MEET INFORMALLY WITH ANY INTERESTED PARTY FOR THE
31 PURPOSE OF DISCUSSING ANY PROPOSED RULE.

32 I. THIS SECTION DOES NOT APPLY TO:

1 1. SUBSTANTIVE POLICY STATEMENTS.

2 2. PROCEDURAL DOCUMENTS THAT ONLY AFFECT THE INTERNAL PROCEDURES OF
3 THE DISTRICT AND DO NOT IMPOSE ADDITIONAL REQUIREMENTS, CONDITIONS OR
4 PENALTIES ON REGULATED PARTIES.

5 3. USE OR ADOPTION OF ANY FORM WHOSE CONTENTS OR SUBSTANTIVE
6 REQUIREMENTS ARE CONSISTENT WITH AN ORDINANCE OR STATUTE, AND ANY PROCEDURES
7 FOR THE EXECUTION OR USE OF THE FORM.

8 J. FOR THE PURPOSES OF THIS SECTION, "RULE" MEANS A DISTRICT STATEMENT
9 OF GENERAL APPLICABILITY THAT IMPLEMENTS, INTERPRETS OR PRESCRIBES LAW OR
10 POLICY, OR DESCRIBES THE PROCEDURE OR PRACTICE REQUIREMENTS OF A DISTRICT.
11 RULE INCLUDES PRESCRIBING FEES OR THE AMENDMENT OR REPEAL OF AN EXISTING RULE
12 BUT DOES NOT INCLUDE INTRA-AGENCY MEMORANDA THAT ARE NOT DELEGATION
13 AGREEMENTS.

14 Sec. 5. Section 48-3642, Arizona Revised Statutes, is amended to read:
15 START_STATUTE48-3642. Regulatory bill of rights

16 To ensure fair and open regulation by districts, a person:

17 1. Is eligible for reimbursement of fees and other expenses if the
18 person prevails by adjudication on the merits against a district in a court
19 proceeding regarding a district decision as provided in section 12-348.

20 2. Is entitled to receive information and notice regarding inspections
21 as provided in section 48-3643.

22 3. Is entitled to have a district not base a licensing decision in
23 whole or in part on licensing conditions or requirements that are not
24 specifically authorized as provided in section 48-3644.

25 4. May have a district approve or deny the person's license
26 application within a predetermined period of time as provided in section
27 48-3645.

28 5. Is entitled to receive written or electronic notice from a district
29 on denial of a license application:

30 (a) That justifies the denial with references to the statute,
31 ordinance, regulation, executive order, delegation agreement or authorized

1 substantive policy statement on which the denial is based as provided in
2 section 48-3645.

3 (b) That explains the applicant's right to appeal the denial as
4 provided in section 48-3645.

5 6. Is entitled to receive information regarding the license
6 application process at the time the person obtains an application for a
7 license as provided in section 48-3646.

8 7. May inspect all ordinances, RULES, regulations and substantive
9 policy statements of a district, including a directory of documents, at the
10 office of the district or a district website as provided in section 48-3647.

11 8. Unless specifically authorized, may expect districts to avoid
12 duplication of other laws that do not enhance regulatory clarity and to avoid
13 dual permitting to the maximum extent practicable as provided in section
14 48-3644.

15 9. May file a complaint with the board of ~~review~~ DIRECTORS concerning
16 an ordinance, RULE, regulation or substantive policy statement that fails to
17 comply with this section.

18 10. MAY PARTICIPATE IN THE RULE DEVELOPMENT PROCESS AS PROVIDED IN
19 SECTION 48-3609.02, INCLUDING PROVIDING WRITTEN OR VERBAL COMMENTS ON
20 PROPOSED RULES TO THE DISTRICT AND HAVING THE DISTRICT ADDRESS COMMENTS AS
21 PROVIDED IN SECTION 48-3609.02.END_STATUTE

22 Sec. 6. Section 48-3648, Arizona Revised Statutes, is amended to read:
23 START_STATUTE48-3648. Complaints; board of directors review

24 A. The board of ~~review~~ DIRECTORS shall ~~receive~~ ESTABLISH A PROCEDURE
25 TO RECEIVE complaints FROM AN ADVERSELY AFFECTED PERSON concerning
26 ordinances, RULES, substantive policy statements or district practices
27 alleged to violate this ~~article~~ CHAPTER. ~~The board of review may review any~~
28 ~~ordinance, regulation, substantive policy statement or district practice~~
29 ~~alleged to violate this article and may hold hearings regarding the~~
30 ~~allegations. The board of review may recommend actions to alleviate the~~
31 ~~aspects of the ordinances, regulations, substantive policy statements or~~
32 ~~district practices alleged to violate this article.~~

1 B. THE BOARD OF DIRECTORS MAY REQUIRE THE COMPLAINT TO BE MADE IN
2 WRITING AND TO INCLUDE THE FOLLOWING INFORMATION:

3 1. THE NAME AND ADDRESS OF THE ADVERSELY AFFECTED PERSON MAKING THE
4 COMPLAINT.

5 2. THE ORDINANCE, RULE, REGULATION, SUBSTANTIVE POLICY STATEMENT OR
6 DISTRICT PRACTICE ALLEGED TO VIOLATE THIS ARTICLE OR SECTION 48-3609.02.

7 3. ANY FACTS RELEVANT TO, AND THE LEGAL BASIS FOR, THE COMPLAINT.

8 C. PROCEDURES ADOPTED BY THE BOARD OF DIRECTORS PURSUANT TO THIS
9 SECTION SHALL INCLUDE REASONABLE TIME FRAMES TO ADDRESS COMPLAINTS AND SHALL
10 PROVIDE A PROCESS FOR APPEAL.END_STATUTE

11 Sec. 7. Effective date: county population

12 This act is effective:

13 1. For a county with a population of three hundred seventy-five
14 thousand persons or more, from and after December 31, 2013.

15 2. For a county with a population of less than three hundred
16 seventy-five thousand persons, from and after December 31, 2014.”

17 Amend title to conform

GAIL GRIFFIN

3/19/13
8:23 AM
S: SLL/ly