



Bill Number: H.B. 2146

Kavanagh Floor Amendment

Reference to: House engrossed bill

Amendment drafted by: Leg Council

FLOOR AMENDMENT EXPLANATION

- 1. Eliminates the process for the disincorporation and reincorporation of a municipality, including:
 - a) requirements for petitioning and elections;**
 - b) qualifications for electors; and**
 - c) the establishment of a Board of Trustees or governing body of a municipality.****
- 2. Removes the term *Board of Trustees* from definitions in statute.**
- 3. Makes technical and conforming changes.**
- 4. Contains a delayed effective date of January 1, 2017.**

Amendment explanation prepared by Fareed Bailey

3/17/2016

KAVANAGH FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. 2146
(Reference to House engrossed bill)

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

2 "Section 1. Section 9-201, Arizona Revised Statutes, is amended to
3 read:

4 9-201. Elective officers in cities and towns of less than six
5 hundred voters; duties

6 A. In cities or towns that are not organized under article ~~2~~, 3 or 4
7 of this chapter and in which at the next preceding municipal election less
8 than six hundred votes were cast, the only officers shall be a mayor, a
9 councilman from each district and a marshal or chief of police.

10 B. The chief of police or marshal ~~shall be~~ IS ALSO ex officio city or
11 town license tax collector, pound-master, street commissioner and fire
12 warden, shall perform all duties as such and shall receive in full
13 compensation for all services ~~a sum not exceeding~~ NOT MORE THAN one hundred
14 twenty-five dollars per month.

15 Sec. 2. Section 9-204, Arizona Revised Statutes, is amended to read:

16 9-204. Officers in cities and towns of six hundred to eight
17 hundred fifty voters; terms of office; elections;
18 removal

19 A. In all cities or towns not organized under article ~~2~~, 3 or 4 of
20 this chapter, in which at the next preceding municipal election not more than
21 eight hundred fifty nor less than six hundred votes were cast, the only
22 officers shall be a mayor, four councilmen, a chief of police, a recorder who
23 ~~shall~~ IS also ~~be~~ ex officio city auditor and police judge, and a treasurer.

24 B. The term of office of each officer, except councilmen, ~~shall be~~ IS
25 two years. Each councilman shall hold office for a term of four years. The
26 recorder shall be elected as other city or town officers.

1 C. Elections shall be held on the third Tuesday in May of each
2 odd-numbered year at which all officers whose terms have then expired shall
3 be elected.

4 D. The mayor and common council may remove an officer for malfeasance
5 in office.

6 Sec. 3. Section 9-219, Arizona Revised Statutes, is amended to read:

7 9-219. General powers of trustees; publication of ordinance;
8 sale of property

9 A. The board of trustees may:

10 1. Pass ordinances for the government of the corporation, its officers
11 and the people within its corporate limits not inconsistent or in conflict
12 with the laws of this state.

13 2. Provide for preserving the peace, and define the punishment by
14 fine, ~~OR~~ imprisonment, or both, for the violation of ordinances so passed.

15 3. Establish a board of health and establish and maintain pest houses,
16 and guard against the introduction or spread of contagious diseases, and
17 preserve a sanitary condition of all places within the corporate limits.

18 4. Employ legal counsel at a stated salary or fee.

19 5. Restrain, under penalties, the running at large of cattle or other
20 animals, and provide rules for impounding them, and provide for taxing dogs
21 and penalties for the nonpayment of such taxes, or the killing of dogs
22 running at large in the corporate limits.

23 6. Prohibit, by fine or imprisonment, or both, any theatrical or other
24 performance, show or exhibition it deems injurious to the morals or good
25 order of the corporation.

26 7. Fix the amount of license to be paid for carrying on any business,
27 game or amusement, and prescribe the manner of collection or payment of the
28 license for stated periods in advance, and fix penalties for nonpayment by
29 fine, ~~OR~~ imprisonment, or both.

30 8. Regulate, by ordinance, the days and the hours that places where
31 any kind of amusement is carried on shall be closed.

1 9. Prohibit, with proper penalty, by fine or imprisonment, or both,
2 the sale, furnishing, or giving away of spirituous or malt liquors.

3 B. The board may, by ordinance, in all cases not enumerated in this
4 section, protect the public health and preserve the public peace, and
5 prescribe punishment by fine or imprisonment, or both, for the violation of
6 such ordinances, and it may designate the place of imprisonment in a jail or
7 prison in the county for violations of the ordinances of the corporation.

8 C. The board may provide for the deposit of all monies received for
9 licenses and fines to such fund as may be necessary to pay the expenses of
10 the government of the corporation or its indebtedness, or the indebtedness of
11 the disincorporated corporation.

12 D. Before any general ordinance of the corporation shall take effect,
13 it shall be passed by a vote of a majority of the board of trustees, be
14 recorded by the clerk in a book provided for that purpose, and be published
15 at least once a week for two successive weeks in a newspaper published in the
16 corporation, to be designated by the board. If there is no newspaper
17 published in the corporation, the ordinance shall be published by posting
18 copies thereof in three public places in the corporation two weeks before it
19 shall be operative. Proof of the publication or posting shall be made by
20 affidavit and recorded by the clerk.

21 E. The board of trustees may sell and convey, lease or rent real or
22 personal property belonging to the corporation for a price and on terms it
23 deems expedient and advantageous to the interest of the corporation, but no
24 sale of any property shall be entered into or made by the trustees until a
25 resolution of intention has been published in some newspaper in the
26 corporation, if there is one, in the manner provided by section 9-402, or by
27 posting a notice in at least three conspicuous public places for a period of
28 two weeks before such sale. **FOR THE SALE OF REAL PROPERTY VALUING MORE THAN**
29 **ONE MILLION FIVE HUNDRED THOUSAND DOLLARS, THE BOARD OF TRUSTEES SHALL COMPLY**
30 **WITH SECTION 9-403.**

31 F. Before exercising the powers enumerated in paragraphs 3, 4, 5, 6
32 and 7 of section 9-220, the board shall cause a resolution of intention to be

spread on their minutes, and publish it in some daily or weekly newspaper at least two weeks, or post it for the same period, as the board deems to the best interest of the corporation, prior to the time of hearing the petition or ordering such improvement or expenditure."

5 Renumber to conform

6 Page 1, after line 21, insert:

"Sec. 5. Section 9-911, Arizona Revised Statutes, is amended to read:

9-911. Definitions

In this article, unless the context otherwise requires:

1. "Board" means the police pension board.

2. "Department" means the police department.

3. "Departmental member" means a member of the police pension board chosen from among the members of the department other than the chief of police.

4. "Fund" means the police pension fund.

5. "Governing body" means the city commission, city or town council, ~~board of trustees~~ or other governing body of the municipality.

6. "Member" or "member of the department" means a member of the police department, duly commissioned and sworn as a peace officer with all the powers and duties thereof, and includes all ranks and both sexes. Any person employed in the police department who has actually contributed to the police pension fund ~~prior to~~ BEFORE the first day of January, 1964, and who is not included within this definition, shall be allowed to continue to contribute to the police pension fund and to receive the benefits conferred by this article but all other persons are excluded.

Sec. 6. Section 16-104, Arizona Revised Statutes, is amended to read:

16-104. Registration in incorporated cities and towns

A. ~~The provisions of~~ This chapter, except as it applies to registration of absent electors, ~~are~~ IS applicable to cities and towns incorporated under a ~~board of trustees or~~ common council government.

B. In the registration of electors other than absent electors in a city or town incorporated under ~~a board of trustees government or~~ a common

1 council government, the city or town clerk shall have the same duties as to
2 registration as are imposed ~~upon~~ ON the county recorder by ~~the provisions of~~
3 this chapter.

4 Sec. 7. Section 35-321, Arizona Revised Statutes, is amended to read:

5 35-321. Definitions

6 In this article, unless the context otherwise requires:

7 1. "Agency pool participant" means a subdivision or an entity of a
8 subdivision that has monies maintained by the treasurer and that has the
9 authority to draw negotiable instruments on the treasurer or make other
10 disbursements from monies that the treasurer holds for the subdivision or
11 entity.

12 2. "Board of deposit" means, in the case of a county, the board of
13 supervisors, and in the case of a city or town, the ~~board of trustees or~~
14 common council.

15 3. "Capital structure" means the amount of the capital of the eligible
16 depository shown by the latest call statement of condition as defined by rule
17 of the superintendent of financial institutions for the purpose of
18 administration of this article.

19 4. "Collecting entity" means the entity from which the treasurer
20 receives general funding including the county for collections performed by a
21 county treasurer, the city for collections performed by a city treasurer or
22 the district for collections performed by a district treasurer.

23 5. "Eligible depository" means any:

24 (a) Commercial or savings bank or savings and loan association having
25 either a branch in this state or its principal place of business in this
26 state and insured by the federal deposit insurance corporation or its
27 successor or any other insuring instrumentality of the United States
28 according to the applicable federal law.

29 (b) Credit union that is insured by the national credit union
30 administration or its successor.

31 6. "Involuntary pool participant" means a subdivision that only
32 receives the principal ratio of the monies collected, for which the principal

1 monies are mandated to be distributed on a specific date and for which the
2 interest earned on the monies between the time of collection and other
3 statutory requirements reverts to the general fund of the collecting entity.

4 7. "Permissible rate of interest" means a rate of interest ~~which~~ THAT
5 an eligible financial institution is permitted to pay by state or federal law
6 or valid state rules or federal regulations.

7 8. "Public deposit" means public monies deposited in an eligible
8 depository pursuant to this article.

9 9. "Public monies" includes subdivision monies.

10 10. "State monies" means all monies in the treasury of this state or
11 coming lawfully into the possession or custody of the state treasurer.

12 11. "Subdivision" means any county, noncharter city or town. Cities
13 governed by charter have the option of operating under this article.

14 12. "Subdivision monies" means all monies in the treasury of a
15 subdivision or coming lawfully into the possession or custody of the
16 treasurer.

17 13. "Treasurer" includes the treasurer or officer exercising the
18 functions of treasurer of any subdivision but excludes the state treasurer.

19 14. "Trust funds" means those monies entrusted to a public body or
20 official for preservation and investment, as prescribed by the instrument
21 establishing such funds.

22 Sec. 8. Section 36-1401, Arizona Revised Statutes, is amended to read:

23 36-1401. Definitions

24 In this article, unless the context otherwise requires:

25 1. "Area of operation" includes all the territory of a city, town or
26 county.

27 2. "Authority", "public housing authority", "public agency" or
28 "housing authority" means an agency of a city, town or county created and
29 controlled pursuant to this article.

30 3. "Blighted area" means an area where dwellings predominate that are
31 detrimental to safety, health or morals because they are dilapidated or
32 overcrowded or lack ventilation, light or sanitary facilities.

1 4. "Bonds" means bonds, notes, interim certificates, debentures or
2 other obligations issued by a public housing authority, city, town or county
3 pursuant to this article.

4 5. "Clerk" means the clerk of the board of supervisors, the city or
5 town clerk or the officer charged with the duties customarily imposed on the
6 clerk.

7 6. "Federal government" includes the United States, the United States
8 department of housing and urban development or any other agency or
9 instrumentality, corporate or otherwise, of the United States.

10 7. "Governing body" means the board of commissioners of a public
11 housing authority, the common council, ~~board of trustees~~ or other legislative
12 body of the city or town or the county board of supervisors.

13 8. "Housing project":

14 (a) Means any work or undertaking:

15 (i) To demolish, clear or remove buildings from any blighted
16 area. Such work or undertaking may embrace the adoption of the area to
17 public purposes, including parks or other recreational or community purposes.

18 (ii) To provide decent, safe and sanitary urban or rural dwellings,
19 apartments or other living accommodations for persons of low income. Such
20 work or undertaking may include buildings, land, equipment, facilities and
21 other real or personal property to be used for any necessary, convenient or
22 desirable appurtenances, streets, sewers, water service, parks, site
23 preparation, gardening, administrative, community, health, recreational,
24 welfare or other purposes and consistent with the provision of housing
25 pursuant to this article.

26 (iii) To accomplish a combination of the foregoing.

27 (b) Includes the planning and designing of buildings and improvements,
28 the acquisition or receipt of property, the demolition of existing
29 structures, the construction, reconstruction, alteration and repair of the
30 improvements and all other work in connection therewith.

1 9. "Mayor" means the mayor of the city or town or the officer thereof
2 charged with the duties customarily imposed on the mayor or executive head of
3 a city or town.

4 10. "Obligee" includes any holder of bonds issued pursuant to this
5 article, trustee or trustees for such bondholders, or lessor demising to a
6 public housing authority, city, town or county property used in connection
7 with a housing project, or an assignee or assignees of such lessor's interest
8 or any part thereof, and the federal government when it is a party to a
9 contract with a public housing authority, city, town or county in regard to a
10 housing project.

11 11. "Persons of low income" means persons or families who lack the
12 amount of income ~~which~~ THAT is necessary, as determined by the public housing
13 authority, city, town or county undertaking the housing project, to enable
14 them, without financial assistance, to live in decent, safe and sanitary
15 dwellings without overcrowding.

16 12. "Real property" includes all lands, including improvements and
17 fixtures on the land, and property of any nature appurtenant to the land, or
18 used in connection with the land, and every estate, interest and right, legal
19 or equitable, therein, including terms for years and liens by way of
20 judgment, mortgage or otherwise and the indebtedness secured by such liens.

21 13. "State public body" means any public housing authority, county,
22 municipal corporation, commission, district, authority or other subdivision
23 or public body of the state.

24 Sec. 9. Delayed repeal

25 Title 9, chapter 2, article 2, Arizona Revised Statutes, is repealed
26 from and after December 31, 2016.

27 Sec. 10. Intent

28 It is the intent of the legislature to repeal title 9, chapter 2,
29 article 2, Arizona Revised Statutes, because, pursuant to a 2014 attorney
30 general opinion, some of the voting provisions, although potentially
31 severable, were found to violate the equal protection clause of the
32 Constitution of the United States and election laws of this state.

1 Additionally, there have been no instances in the history of this state where
2 a county board of supervisors has disincorporated a city or town and
3 established a board of trustees government.

4 Sec. 11. Effective date

5 Sections 9-201, 9-204, 9-911, 16-104, 35-321 and 36-1401, Arizona
6 Revised Statutes, as amended by this act, are effective from and after
7 December 31, 2016."

8 Amend title to conform

JOHN KAVANAGH

2146FloorKAVANAGH
03/09/2016
4:25 PM
C: LD