

REFERENCE TITLE: **elected county officers; authority**

State of Arizona
Senate
Fiftieth Legislature
First Regular Session
2011

SB 1411

Introduced by
Senators Smith, Bundgaard, Griffin, Pearce R: Gould, Melvin, Shooter;
Representative Fillmore

AN ACT

AMENDING SECTION 11-201, ARIZONA REVISED STATUTES; AMENDING SECTION 11-251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 238, SECTION 1; REPEALING SECTION 11-251, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, CHAPTER 244, SECTION 2; AMENDING SECTION 11-401, ARIZONA REVISED STATUTES; BLENDING MULTIPLE ENACTMENTS; RELATING TO COUNTY OFFICERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 11-201, Arizona Revised Statutes, is amended to
3 read:

4 11-201. Powers of county

5 A. The powers of a county shall be exercised only by the board of
6 supervisors or by agents and officers acting under its authority and
7 authority of law. It has the power to:

8 1. Sue and be sued.

9 2. Purchase and hold lands within its limits.

10 3. Make such contracts and purchase and hold such personal property as
11 may be necessary to the exercise of its powers.

12 4. Make such orders for the disposition or use of its property as the
13 interests of the inhabitants of the county require.

14 5. Levy and collect taxes for purposes under its exclusive
15 jurisdiction as are authorized by law.

16 6. ~~Determine~~ APPROVE AND APPROPRIATE the budgets of all elected and
17 appointed county officers enumerated under section 11-401 by action of the
18 board of supervisors. IN A COUNTY WITH A POPULATION OF MORE THAN THREE
19 HUNDRED FIFTY THOUSAND PERSONS, THE MONIES APPROPRIATED BY ACTION OF THE
20 BOARD OF SUPERVISORS PURSUANT TO THIS PARAGRAPH SHALL BE IN A LUMP SUM.

21 B. Except for the purposes of acting as an intermediary in a license
22 transfer or sale, a county shall not own a commercial cable television system
23 or any other pay television system.

24 C. Section 11-251.05, subsection A, paragraph 1 does not authorize a
25 county to levy and collect taxes for any purposes beyond those otherwise
26 specifically authorized by statute.

27 D. A COUNTY THAT HAS MULTIPLE JUSTICES OF THE PEACE MAY MANAGE
28 SYSTEMWIDE RESOURCES IF AUTHORIZED BY A POLICY THAT IS PASSED BY A MAJORITY
29 VOTE OF THE JUSTICES OF THE PEACE IN THAT COUNTY OR IF REQUIRED BY AN
30 ADMINISTRATIVE ORDER OF THE SUPREME COURT.

31 Sec. 2. Section 11-251, Arizona Revised Statutes, as amended by Laws
32 2010, chapter 238, section 1, is amended to read:

33 11-251. Powers of board

34 The board of supervisors, under such limitations and restrictions as
35 are prescribed by law, may:

36 1. SUBJECT TO SECTION 11-401, supervise the official conduct of all
37 county officers and officers of all districts and other subdivisions of the
38 county charged with assessing, collecting, safekeeping, managing or
39 disbursing the public revenues, see that such officers faithfully perform
40 their duties and direct prosecutions for delinquencies, and, when necessary,
41 require the officers to renew their official bonds, make reports and present
42 their books and accounts for inspection.

43 2. Divide the counties into such districts or precincts as required by
44 law, change them and create others as convenience requires.

- 1 3. Establish, abolish and change election precincts, appoint
2 inspectors and judges of elections, canvass election returns, declare the
3 result and issue certificates thereof.
- 4 4. Lay out, maintain, control and manage public roads, ferries and
5 bridges within the county and levy such tax for that purpose as may be
6 authorized by law.
- 7 5. Provide for the care and maintenance of the sick of the county,
8 erect and maintain hospitals for that purpose and, in its discretion, provide
9 a farm in connection with the county hospital and adopt ordinances for
10 working the farm.
- 11 6. Provide suitable rooms for county purposes.
- 12 7. Purchase, receive by donation or lease real or personal property
13 necessary for the use of the county prison and take care of, manage and
14 control the property, but no purchase of real property shall be made unless
15 the value has been previously estimated by three disinterested citizens of
16 the county, appointed by the board for that purpose, and no more than the
17 appraised value shall be paid for the property.
- 18 8. Cause to be erected and furnished a courthouse, jail and hospital
19 and such other buildings as necessary, and construct and establish a branch
20 jail, when necessary, at a point distant from the county seat.
- 21 9. Sell at public auction, after thirty days' previous notice given by
22 publication in a newspaper of the county, stating the time and place of the
23 auction, and convey to the highest bidder, for cash or contract of purchase
24 extending not more than ten years from the date of sale and upon such terms
25 and conditions and for such consideration as the board shall prescribe, any
26 property belonging to the county that the board deems advantageous for the
27 county to sell, or that the board deems unnecessary for use by the county,
28 and shall pay the proceeds thereof into the county treasury for use of the
29 county, except that personal property need not be sold but may be used as a
30 trade-in on the purchase of personal property when the board deems this
31 disposition of the personal property to be in the best interests of the
32 county. When the property for sale is real property, the board shall have
33 such property appraised by a qualified independent fee appraiser who has an
34 office located in this state. The appraiser shall establish a minimum price,
35 which shall not be less than ninety per cent of the appraised value. The
36 notice regarding the sale of real property shall be published in the county
37 where the property is situated and may be published in one or more other
38 counties, and shall contain, among other things, the appraised value, the
39 minimum acceptable sale price, and the common and legal description of the
40 real property. Notwithstanding the requirement for a sale at public auction
41 prescribed in this paragraph, a county, ~~and~~ with unanimous consent of the
42 board, ~~AND~~ without a public auction, may sell or lease any county property
43 to any other duly constituted governmental entity, including the state,
44 cities, towns and other counties. A county, ~~and~~ with unanimous consent of
45 the board, ~~AND~~ without public auction, may grant an easement on county

1 property for public purposes to a utility as defined in section 40-491. A
2 county, ~~and~~ with unanimous consent of the board, ~~AND~~ without public auction,
3 may sell or lease any county property for a specific use to any solely
4 charitable, social or benevolent nonprofit organization incorporated or
5 operating in this state. A county may dispose of surplus equipment and
6 materials that have little or no value or that are unauctionable in any
7 manner authorized by the board.

8 10. Examine and exhibit the accounts and performance of all officers
9 having the care, management, collection or disbursement of monies belonging
10 to the county or appropriated by law or otherwise for the use and benefit of
11 the county. The working papers and other audit files in an examination and
12 audit of the accounts and performance of a county officer are not public
13 records and are exempt from title 39, chapter 1. The information contained
14 in the working papers and audit files prepared pursuant to a specific
15 examination or audit is not subject to disclosure, except to the county
16 attorney and the attorney general in connection with an investigation or
17 action taken in the course of their official duties.

18 11. Examine, settle and allow all accounts legally chargeable against
19 the county, order warrants to be drawn on the county treasurer for that
20 purpose and provide for issuing the warrants.

21 12. Levy such tax annually on the taxable property of the county as may
22 be necessary to defray the general current expenses thereof, including
23 salaries otherwise unprovided for, and levy such other taxes as are required
24 to be levied by law.

25 13. Equalize assessments.

26 14. Direct and control the prosecution and defense of all actions to
27 which the county is a party, and compromise them.

28 15. Insure the county buildings in the name of and for the benefit of
29 the county.

30 16. Fill by appointment all vacancies occurring in county or precinct
31 offices.

32 17. Adopt provisions necessary to preserve the health of the county,
33 and provide for the expenses thereof.

34 18. With the approval of the department of health services, contract
35 with any qualified person to provide all or part of the health services,
36 funded through the department of health services with federal or state
37 monies, that the board in its discretion extends to residents of the county.

38 19. Contract for county printing and advertising, and provide books and
39 stationery for county officers.

40 20. Provide for rebinding county records, or, if necessary, the
41 transcribing of county records.

42 21. Make and enforce necessary rules and regulations for the government
43 of its body, the preservation of order and the transaction of business.

1 22. Adopt a seal for the board, a description and impression of which
2 shall be filed by the clerk in the office of the county recorder and the
3 secretary of state.

4 23. Establish, maintain and conduct or aid in establishing, maintaining
5 and conducting public aviation fields, purchase, receive by donation or lease
6 any property necessary for that purpose, lease, at a nominal rental if
7 desired, sell such aviation fields or property to the United States or any
8 department, or sell or lease such aviation fields to a city, exchange lands
9 acquired pursuant to this section for other lands, or act in conjunction with
10 the United States in maintaining, managing and conducting all such property.
11 If any such property or part of that property is not needed for these
12 purposes, it shall be sold by the board and the proceeds shall be paid into
13 the general fund of the county.

14 24. Acquire and hold property for the use of county fairs, and conduct,
15 take care of and manage them.

16 25. Authorize the sheriff to offer a reward, not exceeding ten thousand
17 dollars in one case, for information leading to the arrest and conviction of
18 persons charged with crime.

19 26. Contract for the transportation of insane persons to the state
20 hospital or direct the sheriff to transport such persons. The county is
21 responsible for such expense to the extent the expense is not covered by any
22 third party payor.

23 27. Provide for the reasonable expenses of burial for deceased
24 indigents as provided in section 36-831 and maintain a permanent register of
25 deceased indigents, including name, age and date of death, and when burial
26 occurs, the board shall mark the grave with a permanent marker giving the
27 name, age, and date of birth, if known.

28 28. Sell or grant to the United States the title or interest of the
29 county in any toll road or toll train in or partly within a national park,
30 upon such terms and consideration as may be agreed upon by the board and the
31 secretary of the interior of the United States.

32 29. Enter into agreements for acquiring rights-of-way, construction,
33 reconstruction or maintenance of highways in their respective counties,
34 including highways that pass through Indian reservations, with the government
35 of the United States, acting through its duly authorized officers or agents
36 pursuant to any act of Congress, except that the governing body of any Indian
37 tribe whose lands are affected must consent to the use of its land, and any
38 such agreements entered into before June 26, 1952 are validated and
39 confirmed.

40 30. Do and perform all other acts and things necessary to the full
41 discharge of its duties as the legislative authority of the county
42 government, including receiving and accepting payment of monies by credit
43 card or debit card, or both. Any fees or costs incurred by the use of the
44 credit or debit card shall be paid by the person tendering payment unless the

1 charging entity determines that the financial benefits of accepting credit
2 cards or debit cards exceeds the additional processing fees.

3 31. Make and enforce all local, police, sanitary and other regulations
4 not in conflict with general law.

5 32. Budget for funds for foster home care during the school week for
6 mentally retarded and otherwise handicapped children who reside within the
7 county and attend a school for the handicapped in a city or town within such
8 county.

9 33. Do and perform all acts necessary to enable the county to
10 participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat.
11 508), as amended.

12 34. Provide a plan or plans for its employees that provide tax deferred
13 annuity and deferred compensation plans as authorized pursuant to title 26,
14 United States Code. Such plans shall allow voluntary participation by all
15 employees of the county. Participating employees shall authorize the board
16 to make reductions in their remuneration as provided in an executed deferred
17 compensation agreement.

18 35. Adopt and enforce standards for shielding and filtration of
19 commercial or public outdoor portable or permanent light fixtures in
20 proximity to astronomical or meteorological laboratories.

21 36. Subject to the prohibitions, restrictions and limitations as set
22 forth in section ~~11-830~~ 11-812, adopt and enforce standards for excavation,
23 landfill and grading to prevent unnecessary loss from erosion, flooding and
24 landslides.

25 37. Make and enforce necessary ordinances for the operation and
26 licensing of any establishment not in the limits of an incorporated city or
27 town in which is carried on the business of providing baths, showers or other
28 forms of hydrotherapy or any service of manual massage of the human body.

29 38. Provide pecuniary compensation as salary or wages for overtime work
30 performed by county employees, including those employees covered by title 23,
31 chapter 2, article 9. In so providing, the board may establish salary and
32 wage plans incorporating classifications and conditions prescribed by the
33 federal fair labor standards act.

34 39. Establish, maintain and operate facilities that provide for
35 physical evaluation, diagnosis and treatment of patients and that do not keep
36 patients overnight as bed patients or treat patients under general
37 anesthesia.

38 40. Enact ordinances under its police authority prescribing reasonable
39 curfews in the entire unincorporated area or any area less than the entire
40 unincorporated area of the county for minors and fines not to exceed the fine
41 for a petty offense for violation of such ordinances. Nothing in this
42 paragraph shall be construed to require a request from an association or a
43 majority of the residents of an area before the board may enact an ordinance
44 applicable to the entire or any portion of the unincorporated area. An
45 ordinance enacted pursuant to this paragraph shall provide that a minor is

1 not violating a curfew if the minor is accompanied by a parent, a guardian or
2 an adult having supervisory custody, is on an emergency errand or has been
3 specifically directed to the location on reasonable, legitimate business or
4 some other activity by the parent, guardian or adult having supervisory
5 custody. If no curfew ordinance is applicable to a particular unincorporated
6 area of the county, the board may adopt a curfew ordinance on the request or
7 petition of either:

8 (a) A homeowners' association that represents a majority of the
9 homeowners in the area covered by the association and to which the curfew
10 would apply.

11 (b) A majority of the residents of the area to which the curfew would
12 apply.

13 41. Lease or sublease personal property owned by the county to other
14 political subdivisions of this state to be used for a public purpose.

15 42. In addition to the agreements authorized by section 11-651, enter
16 into long-term agreements for the purchase of personal property, provided
17 that the board may cancel any such agreement at the end of a fiscal year, at
18 which time the seller may repossess the property and the agreement shall be
19 deemed terminated.

20 43. Make and enforce necessary ordinances not in conflict with the laws
21 of this state to regulate off-road recreational motor vehicles that are
22 operated within the county on public lands without lawful authority or on
23 private lands without the consent of the lawful owner or that generate air
24 pollution. For the purposes of this paragraph, "off-road recreational motor
25 vehicle" means three and four wheel vehicles manufactured for recreational
26 nonhighway all terrain travel.

27 44. Acquire land for roads, drainage ways and other public purposes by
28 exchange without public auction, except that notice shall be published thirty
29 days before the exchange, listing the property ownership and descriptions.

30 45. Purchase real property for public purposes, provided that final
31 payment shall be made not later than five years after the date of purchase.

32 46. Lease-purchase real property and improvements for real property for
33 public purposes, provided that final payment shall be made not later than
34 twenty-five years after the date of purchase. Any increase in the final
35 payment date from fifteen years up to the maximum of twenty-five years shall
36 be made only on unanimous approval by the board of supervisors.

37 47. Make and enforce ordinances for the protection and disposition of
38 domestic animals subject to inhumane, unhealthful or dangerous conditions or
39 circumstances provided that nothing in this paragraph limits or restricts the
40 authority granted to incorporated cities and towns or counties pursuant to
41 section 13-2910. An ordinance enacted pursuant to this paragraph shall not
42 restrict or limit the authority of the game and fish commission to regulate
43 the taking of wildlife. For the purposes of this paragraph, "domestic
44 animal" means an animal kept as a pet and not primarily for economic
45 purposes.

1 48. If a part of a parcel of land is to be taken for roads, drainage,
2 flood control or other public purposes and the board and the affected
3 property owner determine that the remainder will be left in such a condition
4 as to give rise to a claim or litigation concerning severance or other
5 damage, acquire the whole parcel by purchase, donation, dedication, exchange,
6 condemnation or other lawful means, and the remainder may be sold or
7 exchanged for other properties needed for any public purpose.

8 49. Make and enforce necessary rules providing for the reimbursement of
9 travel and subsistence expenses of members of county boards, commissions and
10 advisory committees when acting in the performance of their duties, if the
11 board, commission or advisory committee is authorized or required by federal
12 or state law or county ordinance, and the members serve without compensation.

13 50. Provide a plan or plans for county employee benefits that allow for
14 participation in a cafeteria plan that meets the requirements of the United
15 States internal revenue code of 1986.

16 51. Provide for fringe benefits for county employees, including sick
17 leave, personal leave, vacation and holiday pay and jury duty pay.

18 52. Make and enforce ordinances that are more restrictive than state
19 requirements to reduce or encourage the reduction of carbon monoxide and
20 ozone levels, provided an ordinance does not establish a standard for
21 vehicular emissions, including ordinances to reduce or encourage the
22 reduction of the commuter use of motor vehicles by employees of the county
23 and employees whose place of employment is in unincorporated areas of the
24 county.

25 53. Make and enforce ordinances to provide for the reimbursement of up
26 to one hundred per cent of the cost to county employees of public bus or van
27 pool transportation to and from their place of employment.

28 54. Lease for public purposes any real property, improvements for real
29 property and personal property under the same terms and conditions, to the
30 extent applicable, as are specified in sections 11-651 and 11-653 for
31 lease-purchases.

32 55. Enact ordinances prescribing regulation of alarm systems and
33 providing for civil penalties to reduce the incidence of false alarms at
34 business and residential structures relating to burglary, robbery, fire and
35 other emergencies not within the limits of an incorporated city or town.

36 56. In addition to paragraph 9 of this section, and notwithstanding
37 section 23-504, sell or dispose of, at no less than fair market value, county
38 personal property that the board deems no longer useful or necessary through
39 a retail outlet or to another government entity if the personal property has
40 a fair market value of no more than one thousand dollars, or by retail sale
41 or private bid, if the personal property has a fair market value of no more
42 than fifteen thousand dollars. Notice of sales in excess of one thousand
43 dollars shall include a description and sale price of each item and shall be
44 published in a newspaper of general circulation in the county, and for thirty
45 days after notice other bids may be submitted that exceed the sale price by

1 at least five per cent. The county shall select the highest bid received at
2 the end of the thirty day period.

3 57. Sell services, souvenirs, sundry items or informational
4 publications that are uniquely prepared for use by the public and by
5 employees and license and sell information systems and intellectual property
6 developed from county resources that the county is not obligated to provide
7 as a public record.

8 58. On unanimous consent of the board of supervisors, license, lease or
9 sell any county property pursuant to paragraphs 56 and 57 of this section at
10 less than fair market value to any other governmental entity, including this
11 state, cities, towns, public improvement districts or other counties within
12 or outside of this state, or for a specific purpose to any charitable, social
13 or benevolent nonprofit organization incorporated or operating in this state.

14 59. On unanimous consent of the board of supervisors, provide technical
15 assistance and related services to a fire district pursuant to an
16 intergovernmental agreement.

17 60. Adopt contracting procedures for the operation of a county health
18 system pursuant to section 11-291. Before the adoption of contracting
19 procedures the board shall hold a public hearing. The board shall publish
20 one notification in a newspaper of general circulation in the county seat at
21 least fifteen days before the hearing.

22 61. Enter into an intergovernmental agreement pursuant to chapter 7,
23 article 3 of this title for a city or town to provide emergency fire or
24 emergency medical services pursuant to section 9-500.23 to a county island as
25 defined in section 11-251.12. The board may charge the owners of record in
26 the county island a fee to cover the cost of an intergovernmental agreement
27 that provides fire and emergency medical services.

28 62. In counties that employ or have designated an animal control county
29 enforcement agent pursuant to section 11-1005, enter into agreements with
30 foundations or charitable organizations to solicit donations, property or
31 services, excluding enforcement or inspection services, for use by the county
32 enforcement agent solely to perform nonmandated services and to fund capital
33 improvements for county animal control, subject to annual financial and
34 performance audits by an independent party as designated by the county board
35 of supervisors. For the purposes of this paragraph, nonmandated services are
36 limited to low cost spay and neuter services, public education and outreach
37 efforts, pet adoption efforts, care for pets that are victims of cruelty or
38 neglect and support for volunteer programs.

39 63. Adopt and provide for the enforcement of ordinances prohibiting
40 open fires and campfires on designated lands in the unincorporated areas of
41 the county when a determination of emergency is issued by the county
42 emergency management officer and the board deems it necessary to protect
43 public health and safety on those lands.

44 64. Fix the amount of license fees to be paid by any person, firm,
45 corporation or association for carrying on any game or amusement business in

1 unincorporated areas of the county and prescribe the method of collection or
2 payment of those fees, for a stated period in advance, and fix penalties for
3 failure to comply by fine. Nothing in this article shall be construed as
4 authorizing any county to require an occupational license or fee for any
5 activity if state law precludes requiring such a license or fee.

6 65. Adopt and enforce ordinances for the prevention, abatement and
7 removal of graffiti, providing that any restrictions on the retail display of
8 potential graffiti tools be limited to any of the following, as determined by
9 the retail business:

10 (a) In a place that is in the line of sight of a cashier or in the
11 line of sight from a work station normally continuously occupied during
12 business hours.

13 (b) In a manner that makes the product accessible to a patron of the
14 business establishment only with the assistance of an employee of the
15 establishment.

16 (c) In an area electronically protected, or viewed by surveillance
17 equipment that is monitored, during business hours.

18 66. Adopt ordinances and fees related to the implementation of a local
19 stormwater quality program pursuant to title 49, chapter 2, article 11.

20 Sec. 3. Repeal

21 Section 11-251, Arizona Revised Statutes, as amended by Laws 2010,
22 chapter 244, section 2, is repealed.

23 Sec. 4. Section 11-401, Arizona Revised Statutes, is amended to read:

24 11-401. Enumeration of officers; authority of elected county
25 officers

26 A. The officers of the county are:

- 27 1. Sheriff.
- 28 2. Recorder.
- 29 3. Treasurer.
- 30 4. School superintendent.
- 31 5. County attorney.
- 32 6. Assessor.
- 33 7. Supervisors.
- 34 8. Clerk of the board of supervisors.
- 35 9. Tax collector.

36 10. JUSTICES OF THE PEACE.

37 B. The county treasurer shall be ex officio tax collector.

38 C. AN ELECTED COUNTY OFFICER IN A COUNTY WITH A POPULATION OF MORE
39 THAN THREE HUNDRED FIFTY THOUSAND PERSONS HAS THE FULL AUTHORITY AND
40 DISCRETION TO CHOOSE THE APPROPRIATE MEANS TO ACCOMPLISH THE STATUTORY DUTIES
41 OF THE OFFICE AS PROVIDED BY THE CONSTITUTION AND STATUTES OF THIS STATE.
42 ALL NECESSARY OR IMPLIED POWER OR AUTHORITY OF A COUNTY OFFICE IS RESERVED TO
43 EACH ELECTED COUNTY OFFICER. SUBJECT TO APPLICABLE STATUTES, THESE POWERS
44 AND AUTHORITIES INCLUDE:

- 45 1. THE DELIVERY OF GOODS AND SERVICES.

1 2. THE FINAL APPROVAL OF PROCUREMENT OF GOODS AND SERVICES OF THE
2 OFFICE.

3 3. THE ORGANIZATION OF THE OFFICE, INCLUDING ALLOCATING AVAILABLE
4 MONIES TO PURCHASE GOODS AND PROPERTY DETERMINED BY THE ELECTED COUNTY
5 OFFICER TO BE NECESSARY OR APPROPRIATE TO FURTHER THE FUNCTIONS OF THE
6 OFFICE. THIS PARAGRAPH DOES NOT APPLY TO REAL PROPERTY OR BUILDINGS OR
7 STRUCTURES ON REAL PROPERTY.

8 4. THE HIRING, ASSIGNMENT AND CONTROL OF PERSONNEL IN THE COUNTY
9 OFFICE, INCLUDING STAFFING AND SALARY LEVELS, SUBJECT TO AVAILABLE FUNDING,
10 ESTABLISHED PERSONNEL RULES AND APPLICABLE COUNTY EMPLOYEE MERIT SYSTEM
11 REQUIREMENTS AND WITHIN THE BUDGET THAT IS ALLOCATED BY THE BOARD OF
12 SUPERVISORS.

13 5. ENTERING INTO AGREEMENTS OR CONTRACTS THAT INVOLVE GRANT MONIES
14 THAT DO NOT HAVE MATCHING MONIES AND THAT FURTHER THE FUNCTIONS OF THE
15 OFFICE.

16 Sec. 5. Effective date

17 Section 11-251, Arizona Revised Statutes, as amended by Laws 2010,
18 chapter 238, section 1 and this act, is effective from and after September
19 30, 2011.