

COMMITTEE ON GOVERNMENT AND ENVIRONMENT

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 11-251.16. Adoption of rules; procedures; exemptions; definitions

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

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

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

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

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

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

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

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

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

21 G. THE DEPARTMENT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON  
22 THE DEPARTMENT'S WEBSITE.

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

25 I. THIS SECTION DOES NOT APPLY TO:

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

28 2. SUBSTANTIVE POLICY STATEMENTS.

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

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

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

6           J. FOR THE PURPOSES OF THIS SECTION:

7           1. "DEPARTMENT" MEANS ANY COUNTY DEPARTMENT OR AGENCY OR ANY OTHER  
8 UNIT OF COUNTY GOVERNMENT.

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

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

15           11-1602. Regulatory bill of rights

16           To ensure fair and open regulation by counties, 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 county in a court  
19 proceeding regarding a county decision as provided in section 12-348.

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

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

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

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

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

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

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

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

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

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

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

21 Sec. 3. Section 11-1608, Arizona Revised Statutes, is amended to read:

22 11-1608. Complaints: board of supervisors review

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

1           B. THE BOARD OF SUPERVISORS 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 COUNTY PRACTICE ALLEGED TO VIOLATE THIS ARTICLE OR SECTION 11-251.16.

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

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

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

13           48-3609.02. Adoption of rules; procedures; exemptions; definition

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

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

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

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

29           3. THE DISTRICT SHALL PROVIDE THE BOARD OF DIRECTORS WITH COPIES OF  
30 THE PUBLIC COMMENTS AND THE DISTRICT'S WRITTEN RESPONSES TO THE PUBLIC  
31 COMMENTS. IF AS A RESULT OF PUBLIC COMMENTS OR INTERNAL REVIEW, THE BOARD OF  
32 DIRECTORS DETERMINES THAT THE TEXT OF A PROPOSED RULE REQUIRES SUBSTANTIAL

1 CHANGE, THE BOARD OF DIRECTORS SHALL ISSUE A SUPPLEMENTAL NOTICE CONTAINING  
2 THE CHANGES TO THE PROPOSED RULE AND SHALL PROVIDE FOR ADDITIONAL PUBLIC  
3 COMMENT BEFORE ADOPTION.

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

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

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

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

24 G. THE DISTRICT MAY PROVIDE THE NOTICES REQUIRED BY THIS SECTION ON  
25 THE DISTRICT'S WEBSITE.

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

28 I. THIS SECTION DOES NOT APPLY TO:

29 1. SUBSTANTIVE POLICY STATEMENTS.

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

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

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

10           Sec. 5. Section 48-3642, Arizona Revised Statutes, is amended to read:

11           48-3642. Regulatory bill of rights

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

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

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

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

21           4. May have a district approve or deny the person's license  
22           application within a predetermined period of time as provided in section  
23           48-3645.

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

26           (a) That justifies the denial with references to the statute,  
27           ordinance, regulation, executive order, delegation agreement or authorized  
28           substantive policy statement on which the denial is based as provided in  
29           section 48-3645.

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

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

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

7           8. Unless specifically authorized, may expect districts to avoid  
8 duplication of other laws that do not enhance regulatory clarity and to avoid  
9 dual permitting to the maximum extent practicable as provided in section  
10 48-3644.

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

14           10. MAY PARTICIPATE IN THE RULE DEVELOPMENT PROCESS AS PROVIDED IN  
15 SECTION 48-3609.02, INCLUDING PROVIDING WRITTEN OR VERBAL COMMENTS ON  
16 PROPOSED RULES TO THE DISTRICT AND HAVING THE DISTRICT ADDRESS COMMENTS AS  
17 PROVIDED IN SECTION 48-3609.02

18           Sec. 6. Section 48-3648, Arizona Revised Statutes, is amended to read:  
19 48-3648. ~~Complaints: board of directors review~~

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

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

31           1. THE NAME AND ADDRESS OF THE ADVERSELY AFFECTED PERSON MAKING THE  
32 COMPLAINT.

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

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

4           C. PROCEDURES ADOPTED BY THE BOARD OF DIRECTORS PURSUANT TO THIS  
5 SECTION SHALL INCLUDE REASONABLE TIME FRAMES TO ADDRESS COMPLAINTS AND SHALL  
6 PROVIDE A PROCESS FOR APPEAL.

7           Sec. 7. Effective date; county population

8           This act is effective:

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

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

13 Amend title to conform

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