

State of Arizona  
House of Representatives  
Fifty-second Legislature  
Second Regular Session  
2016

**CHAPTER 62**  
**HOUSE BILL 2146**

AN ACT

AMENDING SECTIONS 9-201, 9-204, 9-219, 9-403, 9-911, 16-104, 35-321 AND 36-1401, ARIZONA REVISED STATUTES; REPEALING TITLE 9, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES; RELATING TO CITIES AND TOWNS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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.

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

30 D. The mayor and common council may remove an officer for malfeasance  
31 in office.

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

33 9-219. General powers of trustees; publication of ordinance;  
34 sale of property

35 A. The board of trustees may:

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

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

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

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

45 5. Restrain, under penalties, the running at large of cattle or other  
46 animals, and provide rules for impounding them, and provide for taxing dogs

1 and penalties for the nonpayment of such taxes, or the killing of dogs  
2 running at large in the corporate limits.

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

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

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

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

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

19 C. The board may provide for the deposit of all monies received for  
20 licenses and fines to such fund as may be necessary to pay the expenses of  
21 the government of the corporation or its indebtedness, or the indebtedness of  
22 the disincorporated corporation.

23 D. Before any general ordinance of the corporation shall take effect,  
24 it shall be passed by a vote of a majority of the board of trustees, be  
25 recorded by the clerk in a book provided for that purpose, and be published  
26 at least once a week for two successive weeks in a newspaper published in the  
27 corporation, to be designated by the board. If there is no newspaper  
28 published in the corporation, the ordinance shall be published by posting  
29 copies thereof in three public places in the corporation two weeks before it  
30 shall be operative. Proof of the publication or posting shall be made by  
31 affidavit and recorded by the clerk.

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

1 F. Before exercising the powers enumerated in paragraphs 3, 4, 5, 6  
2 and 7 of section 9-220, the board shall cause a resolution of intention to be  
3 spread on their minutes, and publish it in some daily or weekly newspaper at  
4 least two weeks, or post it for the same period, as the board deems to the  
5 best interest of the corporation, prior to the time of hearing the petition  
6 or ordering such improvement or expenditure.

7 Sec. 4. Section 9-403, Arizona Revised Statutes, is amended to read:

8 9-403. Sale of real property valued at more than one million  
9 five hundred thousand dollars; special election; sale  
10 at auction

11 A. Real property of a city or town, the value of which exceeds ONE  
12 MILLION five hundred thousand dollars, shall not be sold unless first  
13 authorized by a special election called for the purpose of submitting to the  
14 voters of the city or town the question of selling or not selling the real  
15 property proposed for sale. The election shall be held within the corporate  
16 limits of the city or town on a date prescribed by section 16-204, and notice  
17 shall be given as provided in section 9-402.

18 B. The ballots shall contain a description of the property proposed  
19 for sale and the reason why the governing body desires the property sold. The  
20 description and reasons shall be printed in eight-point type and shall  
21 contain not more than one hundred words.

22 C. If a majority of the ballots cast is in favor of selling, then the  
23 governing body may sell the property at public auction, after giving the  
24 notice required in section 9-402, to the highest bidder for cash, reserving  
25 the right to reject any and all bids.

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

27 9-911. Definitions

28 In this article, unless the context otherwise requires:

29 1. "Board" means the police pension board.

30 2. "Department" means the police department.

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

34 4. "Fund" means the police pension fund.

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

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

1           Sec. 6. Section 16-104, Arizona Revised Statutes, is amended to read:  
2           16-104. Registration in incorporated cities and towns

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

6           B. In the registration of electors other than absent electors in a  
7 city or town incorporated under ~~a board of trustees government or~~ a common  
8 council government, the city or town clerk shall have the same duties as to  
9 registration as are imposed ~~upon~~ ON the county recorder by ~~the provisions of~~  
10 this chapter.

11          Sec. 7. Section 35-321, Arizona Revised Statutes, is amended to read:  
12          35-321. Definitions

13          In this article, unless the context otherwise requires:

14          1. "Agency pool participant" means a subdivision or an entity of a  
15 subdivision that has monies maintained by the treasurer and that has the  
16 authority to draw negotiable instruments on the treasurer or make other  
17 disbursements from monies that the treasurer holds for the subdivision or  
18 entity.

19          2. "Board of deposit" means, in the case of a county, the board of  
20 supervisors, and in the case of a city or town, the ~~board of trustees or~~  
21 common council.

22          3. "Capital structure" means the amount of the capital of the eligible  
23 depository shown by the latest call statement of condition as defined by rule  
24 of the superintendent of financial institutions for the purpose of  
25 administration of this article.

26          4. "Collecting entity" means the entity from which the treasurer  
27 receives general funding including the county for collections performed by a  
28 county treasurer, the city for collections performed by a city treasurer or  
29 the district for collections performed by a district treasurer.

30          5. "Eligible depository" means any:

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

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

38          6. "Involuntary pool participant" means a subdivision that only  
39 receives the principal ratio of the monies collected, for which the principal  
40 monies are mandated to be distributed on a specific date and for which the  
41 interest earned on the monies between the time of collection and other  
42 statutory requirements reverts to the general fund of the collecting entity.

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

- 1           8. "Public deposit" means public monies deposited in an eligible  
2 depository pursuant to this article.
- 3           9. "Public monies" includes subdivision monies.
- 4           10. "State monies" means all monies in the treasury of this state or  
5 coming lawfully into the possession or custody of the state treasurer.
- 6           11. "Subdivision" means any county, noncharter city or town. Cities  
7 governed by charter have the option of operating under this article.
- 8           12. "Subdivision monies" means all monies in the treasury of a  
9 subdivision or coming lawfully into the possession or custody of the  
10 treasurer.
- 11          13. "Treasurer" includes the treasurer or officer exercising the  
12 functions of treasurer of any subdivision but excludes the state treasurer.
- 13          14. "Trust funds" means those monies entrusted to a public body or  
14 official for preservation and investment, as prescribed by the instrument  
15 establishing such funds.
- 16          Sec. 8. Section 36-1401, Arizona Revised Statutes, is amended to read:  
17 36-1401. Definitions
- 18          In this article, unless the context otherwise requires:
- 19          1. "Area of operation" includes all the territory of a city, town or  
20 county.
- 21          2. "Authority", "public housing authority", "public agency" or  
22 "housing authority" means an agency of a city, town or county created and  
23 controlled pursuant to this article.
- 24          3. "Blighted area" means an area where dwellings predominate that are  
25 detrimental to safety, health or morals because they are dilapidated or  
26 overcrowded or lack ventilation, light or sanitary facilities.
- 27          4. "Bonds" means bonds, notes, interim certificates, debentures or  
28 other obligations issued by a public housing authority, city, town or county  
29 pursuant to this article.
- 30          5. "Clerk" means the clerk of the board of supervisors, the city or  
31 town clerk or the officer charged with the duties customarily imposed on the  
32 clerk.
- 33          6. "Federal government" includes the United States, the United States  
34 department of housing and urban development or any other agency or  
35 instrumentality, corporate or otherwise, of the United States.
- 36          7. "Governing body" means the board of commissioners of a public  
37 housing authority, the common council, ~~board of trustees~~ or other legislative  
38 body of the city or town or the county board of supervisors.
- 39          8. "Housing project":
- 40           (a) Means any work or undertaking:
- 41           (i) To demolish, clear or remove buildings from any blighted  
42 area. Such work or undertaking may embrace the adoption of the area to  
43 public purposes, including parks or other recreational or community purposes.

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

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

10 (b) Includes the planning and designing of buildings and improvements,  
11 the acquisition or receipt of property, the demolition of existing  
12 structures, the construction, reconstruction, alteration and repair of the  
13 improvements and all other work in connection therewith.

14 9. "Mayor" means the mayor of the city or town or the officer thereof  
15 charged with the duties customarily imposed on the mayor or executive head of  
16 a city or town.

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

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

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

34 13. "State public body" means any public housing authority, county,  
35 municipal corporation, commission, district, authority or other subdivision  
36 or public body of the state.

37 Sec. 9. Delayed repeal

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

40 Sec. 10. Intent

41 It is the intent of the legislature to repeal title 9, chapter 2,  
42 article 2, Arizona Revised Statutes, because, pursuant to a 2014 attorney  
43 general opinion, some of the voting provisions, although potentially  
44 severable, were found to violate the equal protection clause of the  
45 Constitution of the United States and election laws of this state.  
46 Additionally, there have been no instances in the history of this state where

1 a county board of supervisors has disincorporated a city or town and  
2 established a board of trustees government.

3 Sec. 11. Effective date

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

APPROVED BY THE GOVERNOR MARCH 24, 2016.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 24, 2016.