

REFERENCE TITLE: **municipal policies; authority**

State of Arizona  
Senate  
Fifty-first Legislature  
Second Regular Session  
2014

## **SB 1161**

Introduced by  
Senators Griffin, Farnsworth D, Murphy, Ward; Representatives Gowan,  
Stevens: Senator Burges; Representatives Barton, Borrelli, Livingston,  
Mitchell, Montenegro, Petersen, Seel, Thorpe, Townsend

**AN ACT**

**AMENDING TITLE 9, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 13; RELATING TO  
STREAMLINED LOCAL GOVERNMENT POLICIES.**

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, Arizona Revised Statutes, is amended by adding  
3 chapter 13, to read:

4 CHAPTER 13

5 STREAMLINED LOCAL GOVERNMENT POLICIES

6 ARTICLE 1. GENERAL PROVISIONS

7 9-1401. Findings; purpose; standing

8 A. THE LEGISLATURE FINDS THAT THE TAXING, SPENDING, REGULATORY,  
9 EMINENT DOMAIN, PLANNING AND ZONING AUTHORITY THAT IS GRANTED TO  
10 MUNICIPALITIES MAY ENCOURAGE THE EXERCISE OF LOCAL GOVERNMENTAL POWER THAT IS  
11 THREATENING TO GENUINE PUBLIC HEALTH, SAFETY AND WELFARE, FRUSTRATING TO  
12 ECONOMIC DEVELOPMENT, INIMICAL TO FISCAL RESPONSIBILITY, AS WELL AS OVERLY  
13 CENTRALIZED, BUREAUCRATIC, INTRUSIVE AND POLITICIZED. THE LEGISLATURE  
14 FURTHER FINDS THAT PUBLIC HEALTH, SAFETY, WELFARE AND THE PRINCIPLE OF LOCAL  
15 CONTROL, ARE MATTERS OF STATEWIDE CONCERN AND JUSTIFY GIVING MUNICIPALITIES,  
16 LOCAL ELECTED OFFICIALS AND CITIZENS A CONVENIENT OPTION OF ADOPTING A MODEL  
17 OF STREAMLINED LOCAL GOVERNANCE. ACCORDINGLY, THE LEGISLATURE INTENDS TO  
18 GRANT MUNICIPALITIES THE LEGAL AUTHORITY TO ADOPT AN INTEGRATED SET OF  
19 STREAMLINED LOCAL GOVERNMENT POLICIES THAT COLLECTIVELY REPRESENT BEST  
20 PRACTICES TO ENSURE THAT LOCAL GOVERNMENT MAXIMIZES ECONOMIC FREEDOM AND  
21 FISCAL RESPONSIBILITY.

22 B. IN ANY COURT CHALLENGE TO THE VALIDITY OF THIS ACT, TAXPAYERS HAVE  
23 STANDING TO INTERVENE.

24 9-1402. Definitions

25 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

26 1. "ADOPTING MUNICIPALITY" MEANS A MUNICIPALITY THAT IS EFFECTIVELY  
27 ADOPTING THE STREAMLINED LOCAL GOVERNMENT POLICIES THAT ARE SET OUT IN THIS  
28 CHAPTER.

29 2. "BOARD" MEANS THE MANAGED COMPETITION INDEPENDENT REVIEW BOARD.

30 3. "MANAGED COMPETITION" MEANS TRANSPARENT, OPEN COMPETITIVE BIDDING  
31 FOR SERVICE CONTRACTS BY INDEPENDENT CONTRACTORS AND MUNICIPAL DEPARTMENTS.

32 4. "STREAMLINED LOCAL GOVERNMENT POLICIES" MEANS THE POLICIES ADOPTED  
33 PURSUANT TO THIS CHAPTER BY AN ADOPTING MUNICIPALITY.

34 9-1403. Authority to adopt

35 A. A MUNICIPALITY MAY ADOPT THE ENTIRE SET OF STREAMLINED LOCAL  
36 GOVERNMENT POLICIES THAT IS ESTABLISHED IN THIS CHAPTER THROUGH MUNICIPAL  
37 LEGISLATION OR LOCAL INITIATIVE. IF THE MUNICIPALITY IS PROPOSING THE  
38 POLICIES THROUGH LOCAL INITIATIVE, THE INITIATIVE MUST STATE IN REASONABLY  
39 INTELLIGIBLE TERMS THAT THE MUNICIPALITY IS "PROPOSING TO ADOPT THE  
40 STREAMLINED LOCAL GOVERNMENT POLICIES THAT ARE ESTABLISHED BY TITLE 9,  
41 CHAPTER 13, ARIZONA REVISED STATUTES".

42 B. FOR A CHARTER CITY, THE ENTIRE SET OF STREAMLINED LOCAL GOVERNMENT  
43 POLICIES THAT IS ESTABLISHED BY THIS CHAPTER MAY BE ADOPTED THROUGH CHARTER  
44 AMENDMENT AS PROVIDED BY LAW. THE CHARTER AMENDMENT MUST STATE IN REASONABLY  
45 INTELLIGIBLE TERMS THAT THE MUNICIPALITY IS "PROPOSING TO ADOPT THE

1 STREAMLINED LOCAL GOVERNMENT POLICIES THAT ARE ESTABLISHED BY TITLE 9,  
2 CHAPTER 13, ARIZONA REVISED STATUTES, AS A CHARTER AMENDMENT".

3 C. IF A MUNICIPALITY ADOPTS THE STREAMLINED LOCAL GOVERNMENT POLICIES  
4 THAT ARE ESTABLISHED BY THIS CHAPTER, THE POLICIES ARE THE EQUIVALENT OF  
5 STATUTORY LAW FOR THE ADOPTING MUNICIPALITY AND SUPERSEDE AND CONTROL ANY  
6 CONTRARY OR INCONSISTENT LAW, INCLUDING ALL CONTRARY OR INCONSISTENT STATE  
7 STATUTES, ADMINISTRATIVE REGULATIONS, INTERGOVERNMENTAL AGREEMENTS, MUNICIPAL  
8 CHARTERS, ORDINANCES, RESOLUTIONS OR LOCAL RULES THAT HAVE BEEN PREVIOUSLY  
9 ENACTED OR ADOPTED BY THIS STATE, ANY STATE AGENCY, ANY POLITICAL SUBDIVISION  
10 OF THIS STATE, THE ADOPTING MUNICIPALITY OR ANY SPECIAL DISTRICT AS DEFINED  
11 IN SECTION 48-271, SUBSECTION B THAT WOULD OTHERWISE APPLY TO A PERSON,  
12 PROPERTY OR BUSINESS THAT IS LOCATED WITHIN THE JURISDICTION OF THE ADOPTING  
13 MUNICIPALITY. THE SPECIFICATION OF LAWS THAT ARE MODIFIED OR DISPLACED BY  
14 THIS CHAPTER ARE INCLUDED ONLY FOR THE PURPOSES OF CONVENIENCE AND  
15 ILLUSTRATION AND ARE NOT INTENDED TO LIMIT THE GENERALITY OF THE STREAMLINED  
16 LOCAL GOVERNMENT POLICIES THAT ARE ESTABLISHED BY THIS CHAPTER.

17 9-1404. Regulatory policies

18 A. IF A MUNICIPALITY ADOPTS THE STREAMLINED LOCAL GOVERNMENT POLICIES  
19 THAT ARE ESTABLISHED BY THIS CHAPTER, THE REGULATORY POLICIES THAT ARE  
20 PROVIDED IN THIS SECTION ARE EFFECTIVE WITHIN THE JURISDICTION OF THE  
21 ADOPTING MUNICIPALITY.

22 B. AN ADOPTING MUNICIPALITY MAY NOT ADOPT ANY REGULATION THAT  
23 RESTRICTS OR BURDENS THE FREE EXERCISE OF PROPERTY RIGHTS OR THE FREEDOM TO  
24 ENGAGE IN A LAWFUL BUSINESS OR OCCUPATION UNLESS:

25 1. THE REGULATION IS REASONABLY EXPECTED TO SUBSTANTIALLY REDUCE OR  
26 ELIMINATE THE THREAT TO PUBLIC HEALTH, SAFETY OR GENERAL WELFARE IT TARGETS.

27 2. THE REGULATION'S BENEFITS ARE ROUGHLY PROPORTIONAL TO ITS SHORT,  
28 MEDIUM AND LONG TERM COSTS.

29 3. THE REGULATION PROVIDES FOR PERFORMANCE BENCHMARKING.

30 4. ENFORCEMENT OF THE REGULATION IS CAPABLE OF PERFORMANCE  
31 BENCHMARKING THE REDUCTION OR ELIMINATION OF THREATS TO PUBLIC HEALTH, SAFETY  
32 OR WELFARE.

33 C. THE ADOPTING MUNICIPALITY MAY IMPLEMENT ONLY THE LEAST RESTRICTIVE  
34 MODE OF REGULATION THAT RESTRICTS OR BURDENS THE FREE EXERCISE OF PROPERTY  
35 RIGHTS OR THE FREEDOM TO ENGAGE IN A LAWFUL BUSINESS OR OCCUPATION. THE  
36 REGULATION MAY:

37 1. FURNISH ADDITIONAL OR AUGMENTED CIVIL REMEDIES TO RENDER PREVIOUSLY  
38 EXISTING COMMON LAW OR STATUTORY CIVIL ACTIONS MORE EFFECTIVE.

39 2. IMPOSE CLEAR, OBJECTIVE LEGAL STANDARDS AND ENABLE THE ENFORCEMENT  
40 OF VIOLATIONS BY INJUNCTIVE RELIEF ONLY IF FURNISHING MORE EFFECTIVE CIVIL  
41 REMEDIES WILL NOT REASONABLY REDUCE THE THREAT POSED TO PUBLIC HEALTH, SAFETY  
42 OR GENERAL WELFARE.

43 3. ENABLE THE ENFORCEMENT OF CLEAR, OBJECTIVE LEGAL STANDARDS BY  
44 INSPECTIONS AND ENFORCEMENT OF VIOLATIONS BY CIVIL PENALTY AND INJUNCTIVE

1 RELIEF ONLY IF THE MODES OF REGULATION WILL NOT REASONABLY REDUCE THE THREAT  
2 POSED TO PUBLIC HEALTH, SAFETY OR GENERAL WELFARE.

3 4. ENABLE THE ENFORCEMENT OF CLEAR, OBJECTIVE LEGAL STANDARDS BY  
4 PERMITTING, LICENSING OR OTHER REGULATORY PREAPPROVAL PROCESSES ONLY IF THE  
5 MODES OF REGULATION WILL NOT REASONABLY REDUCE THE THREAT POSED TO PUBLIC  
6 HEALTH, SAFETY OR GENERAL WELFARE.

7 5. ENABLE THE ENFORCEMENT OF CLEAR, OBJECTIVE LEGAL STANDARDS BY  
8 CRIMINAL SANCTIONS ONLY IF THE MODES OF REGULATION WILL NOT REASONABLY REDUCE  
9 THE THREAT POSED TO PUBLIC HEALTH, SAFETY OR GENERAL WELFARE.

10 D. AT THE BEGINNING OF EACH FISCAL YEAR, THE ADOPTING MUNICIPALITY'S  
11 CHIEF EXECUTIVE OFFICER SHALL DETERMINE AND PUBLISH ONLINE IN A CONVENIENTLY  
12 ACCESSIBLE AND SEARCHABLE, USER-FRIENDLY PUBLIC WEBSITE FORMAT PROCESSING  
13 DEADLINES FOR ALL COMPLETED APPLICATIONS REQUESTING REGULATORY APPROVAL OF  
14 ANY KIND. DEADLINES SHALL BE SET FOR THE SHORTEST FEASIBLE PERIOD OF TIME  
15 GIVEN THE NATURE OF THE REGULATORY APPROVAL SOUGHT AND THE RESOURCES  
16 AVAILABLE TO THE MUNICIPALITY. NO DEADLINE MAY BE LONGER THAN SIXTY DAYS.  
17 THE FAILURE OF THE MUNICIPALITY TO SET A DEADLINE AS REQUIRED BY THIS  
18 SUBSECTION OR TO APPROVE OR DENY ANY APPLICATION THAT SEEKS REGULATORY  
19 APPROVAL BEFORE THE PUBLISHED DEADLINE SHALL RESULT IN THE AFFECTED  
20 APPLICATION BEING DEEMED APPROVED BY THE MUNICIPALITY AS OF THE DATE OF  
21 SUBMISSION. THE MUNICIPALITY MAY NOT SEEK A WAIVER OF ANY DEADLINE OR THE  
22 AUTOMATIC APPROVAL FROM ANY APPLICANT. THE MUNICIPALITY MAY NOT CLAIM THAT  
23 AN APPLICATION FOR REGULATORY APPROVAL IS INCOMPLETE UNLESS THE MUNICIPALITY  
24 GIVES NOTICE TO THE APPLICANT THAT THE APPLICATION IS INCOMPLETE NO LATER  
25 THAN THE MIDPOINT OF THE APPLICABLE PROCESSING PERIOD. THE DENIAL OF ANY  
26 APPLICATION FOR REGULATORY APPROVAL OF ANY KIND SHALL BE TIMELY FURNISHED TO  
27 THE APPLICANT IN WRITING AND INCLUDE A WRITTEN DISCLOSURE OF THE DISPOSITION  
28 OF ALL APPLICATIONS FOR APPROVAL THAT ARE SUBMITTED TO THE MUNICIPALITY UNDER  
29 THE SAME REGULATORY PROVISIONS WITHIN THE IMMEDIATELY PRECEDING ONE HUNDRED  
30 EIGHTY DAYS.

31 E. BEGINNING ON THE EFFECTIVE DATE OF THE ADOPTED STREAMLINED LOCAL  
32 GOVERNMENT POLICIES, ANY PROPOSED POLICY, RULE, ORDINANCE OR REGULATION THAT  
33 WOULD RESTRICT OR BURDEN THE FREE EXERCISE OF PROPERTY RIGHTS OR THE FREEDOM  
34 TO ENGAGE IN A LAWFUL BUSINESS OR OCCUPATION MAY NOT BE CONSIDERED FOR  
35 ENACTMENT OR ADOPTION WITHIN THE JURISDICTION OF THE ADOPTING MUNICIPALITY  
36 UNLESS THE ADOPTING MUNICIPALITY FIRST HOLDS A PUBLIC MEETING AND FINDS THAT  
37 THE PROPOSED REGULATION IS PERMISSIBLE UNDER THIS CHAPTER. ALL EXISTING  
38 POLICIES, RULES, ORDINANCES OR REGULATIONS THAT RESTRICT OR BURDEN THE FREE  
39 EXERCISE OF PROPERTY RIGHTS OR THE FREEDOM TO ENGAGE IN A LAWFUL BUSINESS OR  
40 OCCUPATION WITHIN THE JURISDICTION OF THE ADOPTING MUNICIPALITY THAT HAVE  
41 BEEN PREVIOUSLY ENACTED OR ADOPTED BY THE ADOPTING MUNICIPALITY EXPIRE AND  
42 ARE REGARDED AS REPEALED EITHER ON THEIR SPECIFIED EXPIRATION DATE OR, IF  
43 NONE, THE LATTER OF FIVE YEARS AFTER THE EFFECTIVE DATE OF THE ADOPTION OF  
44 THE STREAMLINED LOCAL GOVERNMENT POLICIES OR FIVE YEARS FROM THEIR EFFECTIVE

1 DATE, UNLESS EXTENDED FOLLOWING A PUBLIC HEARING AT WHICH THE ADOPTING  
2 MUNICIPALITY FINDS THAT THE REGULATION IS PERMISSIBLE UNDER THIS CHAPTER.

3 F. ANY INDIVIDUAL OR BUSINESS SUBJECT TO CIVIL OR CRIMINAL PROCEEDINGS  
4 THAT ARISE FROM A REGULATION ADOPTED AFTER THE EFFECTIVE DATE OF THE ADOPTED  
5 STREAMLINED LOCAL GOVERNMENT POLICIES HAS A COMPLETE DEFENSE TO ANY  
6 ENFORCEMENT ACTION IF THE REGULATION VIOLATES THIS CHAPTER. ANY COURT OR  
7 ADJUDICATORY BODY THAT CONSIDERS OR REVIEWS THIS DEFENSE SHALL RULE ON ITS  
8 MERITS WITHOUT DEFERENCE TO ANY LEGISLATIVE, ADMINISTRATIVE OR EXECUTIVE  
9 FINDING THAT CONCERN THE REGULATION. AN INDIVIDUAL OR BUSINESS THAT PREVAILS  
10 IN ADVANCING THIS DEFENSE IS ENTITLED TO REIMBURSEMENT OF ALL INCURRED LEGAL  
11 COSTS, EXPENSES AND ATTORNEY FEES FROM THE PROSECUTING AGENCY.

12 9-1405. Property rights policies

13 IF A MUNICIPALITY ADOPTS THE STREAMLINED LOCAL GOVERNMENT POLICIES THAT  
14 ARE ESTABLISHED BY THIS CHAPTER, THE FOLLOWING PROPERTY RIGHTS POLICIES ARE  
15 EFFECTIVE WITHIN THE JURISDICTION OF THE ADOPTING MUNICIPALITY:

16 1. AN ADOPTING MUNICIPALITY SHALL EXERCISE ITS ZONING AND LAND USE  
17 REGULATORY AUTHORITY, IF ANY, AS IF ALL LAWFUL USES OF REAL PROPERTY THAT  
18 EXIST AT THE TIME OF THE EXERCISE OF AUTHORITY ARE VESTED PROPERTY INTERESTS  
19 OF THE OWNER OF RECORD.

20 2. AN ADVANCE WAIVER OF CLAIMS AND COVENANT NOT TO SUE UNDER SECTION  
21 12-1134, OR A SIMILAR STATUTE, MAY NOT BE SOUGHT BY AN ADOPTING MUNICIPALITY  
22 FROM ANY PERSON AS A CONDITION OF APPROVING OR PROCESSING ANY APPLICATION FOR  
23 REGULATORY APPROVAL.

24 3. NO ADVANCE WAIVER OF CLAIMS OR COVENANT NOT TO SUE UNDER SECTION  
25 12-1134, OR A SIMILAR STATUTE, IS ENFORCEABLE BY THE MUNICIPALITY WITHOUT  
26 PROOF BEYOND A REASONABLE DOUBT THAT IT WAS SUPPORTED BY AN EXCHANGE OF  
27 VALUABLE CONSIDERATION THAT WAS UNRELATED TO THE EXERCISE OR FORBEARANCE OF  
28 ANY REGULATORY AUTHORITY.

29 4. WHEN EXERCISING THE POWER OF EMINENT DOMAIN, IF ANY, AN ADOPTING  
30 MUNICIPALITY SHALL PAY SUFFICIENT JUST COMPENSATION TO PLACE A PERSON WHO HAS  
31 A PROPERTY INTEREST IN THE CONDEMNED PROPERTY IN AN EQUIVALENT ECONOMIC  
32 POSITION AS THE PERSON WOULD HAVE BEEN IN IF THE ADOPTING MUNICIPALITY HAD  
33 NOT EXERCISED THE POWER OF EMINENT DOMAIN. AS COMPONENTS OF JUST  
34 COMPENSATION, THE MUNICIPALITY SHALL PAY A PERSON WHO HAS A PROPERTY INTEREST  
35 IN THE CONDEMNED PROPERTY:

36 (a) AT LEAST ONE HUNDRED TEN PER CENT OF THE PROPERTY INTEREST'S FAIR  
37 MARKET VALUE.

38 (b) ALL REASONABLE RELOCATION EXPENSES THAT ARE PROXIMATELY CAUSED OR  
39 LIKELY TO BE INCURRED BECAUSE OF THE MUNICIPALITY'S EXERCISE OF EMINENT  
40 DOMAIN.

41 (c) ALL LOSSES IN PERSONAL OR BUSINESS INCOME THAT ARE PROXIMATELY  
42 CAUSED OR LIKELY TO BE INCURRED BECAUSE OF THE MUNICIPALITY'S EXERCISE OF  
43 EMINENT DOMAIN.

1 (d) ALL REASONABLE ATTORNEY AND EXPERT FEES AND COSTS THAT ARE  
2 INCURRED BY THE PROPERTY INTEREST HOLDER IN THE COURSE OF PRELITIGATION  
3 SETTLEMENT NEGOTIATIONS OVER THE AMOUNT OF JUST COMPENSATION.

4 (e) IF A CONDEMNATION SUIT IS FILED AND EITHER THE SUIT IS  
5 INVOLUNTARILY DISMISSED, OTHERWISE UNLAWFULLY ADJUDICATED OR  
6 UNCONSTITUTIONALLY FILED, OR THE ULTIMATE AWARD OF JUST COMPENSATION IS  
7 TWENTY PER CENT MORE THAN THE MUNICIPALITY'S INITIAL OFFER, ALL LITIGATION  
8 EXPENSES THAT ARE INCURRED BY THE PROPERTY INTEREST HOLDER, INCLUDING  
9 REASONABLE ATTORNEY AND EXPERT FEES AND COSTS.

10 9-1406. Criminal law enforcement policies

11 A. FOR EACH FISCAL YEAR BEGINNING AFTER THE ADOPTION OF THE  
12 STREAMLINED LOCAL GOVERNMENT POLICIES, THE ADOPTING MUNICIPALITY SHALL ADOPT  
13 PERFORMANCE BENCHMARKING THAT TARGETS AND MEASURES THE DESIRED CRIME RATES,  
14 CRIME CLEARANCE RATES, PUBLIC COMPLAINT RATES AND RESPONSE TIMES BOTH FOR  
15 INDIVIDUAL PRECINCTS AND FOR THE MUNICIPALITY AS A WHOLE. THE BENCHMARKING  
16 PERFORMANCE STANDARDS REQUIRE BENCHMARKED STATISTICS IN EACH PRECINCT AND IN  
17 THE MUNICIPALITY AS A WHOLE TO IMPROVE EVERY MONTH. THE BENCHMARKING  
18 PERFORMANCE STANDARDS ALSO REQUIRE AN ULTIMATE STATISTICAL FISCAL YEAR  
19 PERFORMANCE GOAL TO BE SET FOR EACH BENCHMARKED STATISTIC FOR EACH PRECINCT  
20 AND THE MUNICIPALITY AS A WHOLE BASED ON WHAT THE MUNICIPAL POLICE DEPARTMENT  
21 DETERMINES TO BE A REASONABLE STATE OF SECURITY.

22 B. A MAJORITY OF THE MUNICIPAL LEGISLATIVE BODY MUST APPROVE THE  
23 FISCAL YEAR PERFORMANCE GOALS. BENCHMARKED STANDARDS, GOALS AND STATISTICS  
24 MUST BE PUBLISHED ONLINE AS SOON AS PRACTICABLE IN A CONVENIENTLY ACCESSIBLE  
25 AND SEARCHABLE, USER-FRIENDLY PUBLIC WEBSITE FORMAT AND UPDATED FREQUENTLY,  
26 AS WELL AS MADE IMMEDIATELY AVAILABLE FOR INSPECTION AND COPYING BY THE  
27 GENERAL PUBLIC.

28 C. PRIORITY ACCESS TO OVERTIME BENEFITS, IF ANY, MUST BE GIVEN TO  
29 PEACE OFFICERS WHO WORK IN PRECINCTS WHERE PERFORMANCE STANDARDS HAVE BEEN  
30 MET. PEACE OFFICERS WHO RECEIVE PRIORITY ACCESS TO OVERTIME SHALL PERFORM  
31 OVERTIME SERVICES IN PRECINCTS WHERE PERFORMANCE STANDARDS HAVE NOT BEEN MET.

32 D. IF THE MUNICIPAL POLICE DEPARTMENT FAILS TO MEET PERFORMANCE  
33 STANDARDS IN THE MAJORITY OF PRECINCTS OR IN THE MUNICIPALITY AS A WHOLE FOR  
34 TWO CONSECUTIVE FISCAL YEARS, THEN THE GOVERNING BODY OF THE MUNICIPALITY MAY  
35 ENACT AN APPROPRIATE ORDINANCE THAT OFFERS TAX CREDITS BY GENERAL LAW TO ANY  
36 PERSON WHO FURNISHES QUALIFYING SECURITY SERVICES IN THE PRECINCTS IN WHICH  
37 PERFORMANCE STANDARDS HAVE NOT BEEN MET IN PROPORTION TO THE PUBLIC BENEFIT  
38 AS DETERMINED BY UNIFORM, OBJECTIVE AND QUANTIFIABLE STANDARDS. IF THE  
39 MUNICIPAL POLICE DEPARTMENT FAILS TO MEET PERFORMANCE STANDARDS IN THE  
40 MAJORITY OF PRECINCTS OR IN THE MUNICIPALITY AS A WHOLE FOR FIVE CONSECUTIVE  
41 FISCAL YEARS, THEN THE PROVISION OF MUNICIPAL POLICING SERVICES WILL BECOME  
42 SUBJECT TO MANAGED COMPETITION.

43 9-1407. Fiscal policies

44 A. IF A MUNICIPALITY ADOPTS THE STREAMLINED LOCAL GOVERNMENT POLICIES  
45 THAT ARE ESTABLISHED BY THIS CHAPTER, THE FISCAL POLICIES THAT ARE PROVIDED

1 IN THIS SECTION ARE EFFECTIVE WITHIN THE JURISDICTION OF THE ADOPTING  
2 MUNICIPALITY AS SOON AS PRACTICABLE, BUT NO LATER THAN THE SECOND FISCAL YEAR  
3 AFTER ADOPTION.

4 B. THE ADOPTING MUNICIPALITY SHALL FURNISH MUNICIPAL SERVICES, OTHER  
5 THAN CORE PUBLIC SAFETY SERVICES, THROUGH MANAGED COMPETITION. CORE PUBLIC  
6 SAFETY SERVICES THAT ARE PROVIDED BY PEACE OFFICERS AND FIREFIGHTERS MAY BE  
7 MADE SUBJECT TO MANAGED COMPETITION IF A MAJORITY OF THE ELECTED MEMBERS OF  
8 THE MUNICIPAL LEGISLATIVE DEPARTMENT APPROVES THE SERVICES OR IF THE POLICE  
9 DEPARTMENT MEETS THE REQUIREMENTS IN SECTION 9-1406, SUBSECTION D.

10 C. THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER SHALL BE SOLELY  
11 RESPONSIBLE FOR ADMINISTERING AND MONITORING ANY AGREEMENTS WITH CONTRACTORS.  
12 THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER SHALL:

13 1. REQUIRE ANNUAL PERFORMANCE AUDITS FOR CONTRACTED SERVICES. THE  
14 COST OF THE PERFORMANCE AUDITS MUST BE ACCOUNTED FOR AND CONSIDERED DURING  
15 THE BIDDING PROCESS.

16 2. SEEK AN INDEPENDENT AUDIT EVERY FIVE YEARS TO EVALUATE THE  
17 MUNICIPALITY'S EXPERIENCE AND PERFORMANCE AUDITS.

18 D. IF A SERVICE CONTRACT IS AWARDED TO AN INDEPENDENT CONTRACTOR  
19 THROUGH MANAGED COMPETITION, IMPACTED MUNICIPAL EMPLOYEES WILL NOT BE  
20 PRECLUDED OR HINDERED FROM ACCEPTING EMPLOYMENT WITH THE INDEPENDENT  
21 CONTRACTOR.

22 E. THE MUNICIPAL LEGISLATIVE DEPARTMENT SHALL ADOPT ORDINANCES THAT  
23 ESTABLISH STANDARDS AND PROCESSES TO ENSURE TRANSPARENT, OPEN COMPETITIVE  
24 BIDDING FOR PUBLIC SERVICE CONTRACTS AND SAFEGUARD AGAINST CORRUPTION AND  
25 CONFLICTS OF INTEREST.

26 F. THE ADOPTING MUNICIPALITY SHALL ESTABLISH THE MANAGED COMPETITION  
27 INDEPENDENT REVIEW BOARD CONSISTING OF THE FOLLOWING MEMBERS:

28 1. FOUR MEMBERS OF THE PUBLIC WHO ARE APPOINTED BY THE MUNICIPALITY'S  
29 CHIEF EXECUTIVE OFFICER, SUBJECT TO THE MUNICIPAL COUNCIL'S CONFIRMATION, AND  
30 HAVE PROFESSIONAL EXPERIENCE IN ONE OR MORE OF THE FOLLOWING AREAS:

31 (a) FINANCE.

32 (b) LAW.

33 (c) PUBLIC ADMINISTRATION.

34 (d) BUSINESS MANAGEMENT.

35 (e) THE SERVICE AREAS UNDER CONSIDERATION BY THE MUNICIPALITY'S CHIEF  
36 EXECUTIVE OFFICER.

37 2. ONE MEMBER OF THE MUNICIPAL STAFF OR A STAFF DESIGNEE WHO IS  
38 APPOINTED BY THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER AND WHO DOES NOT HAVE  
39 ANY PERSONAL OR FINANCIAL INTERESTS THAT WOULD CREATE A CONFLICT OF INTEREST  
40 WITH THE DUTIES OF A BOARD.

41 3. ONE MEMBER OF THE MUNICIPAL LEGISLATIVE DEPARTMENT STAFF OR A STAFF  
42 DESIGNEE WHO IS APPOINTED BY THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER AND  
43 WHO DOES NOT HAVE ANY PERSONAL OR FINANCIAL INTERESTS THAT WOULD CREATE A  
44 CONFLICT OF INTEREST WITH THE DUTIES OF A BOARD.

1           4. THE MUNICIPAL AUDITOR AND COMPTROLLER OR THE AUDITOR AND  
2           COMPTROLLER'S DESIGNEE WHO IS APPOINTED BY THE MUNICIPALITY'S CHIEF EXECUTIVE  
3           OFFICER AND WHO DOES NOT HAVE ANY PERSONAL OR FINANCIAL INTERESTS THAT WOULD  
4           CREATE A CONFLICT OF INTEREST WITH THE DUTIES OF A BOARD.

5           G. MEMBERS OF THE BOARD ARE PROHIBITED FROM ENTERING INTO A CONTRACT  
6           OR ACCEPTING EMPLOYMENT FROM AN ORGANIZATION THAT SECURES A MUNICIPAL  
7           CONTRACT THROUGH THE MANAGED COMPETITION PROCESS FOR THE DURATION OF THE  
8           CONTRACT. THE TERM OF SERVICE FOR INITIAL MEMBERS OF THE BOARD MAY NOT END  
9           BEFORE THE THIRD FISCAL YEAR AFTER THE MUNICIPALITY ADOPTS THE STREAMLINED  
10          LOCAL GOVERNMENT POLICIES. THE ADOPTING MUNICIPALITY SHALL DETERMINE THE  
11          TERMS THEREAFTER BY ORDINANCE.

12          H. AS PRESCRIBED BY ORDINANCE, THE MUNICIPALITY'S CHIEF EXECUTIVE  
13          OFFICER SHALL PREPARE AN INITIAL PRELIMINARY WRITTEN STATEMENT OF WORK FOR  
14          EACH MUNICIPAL SERVICE PUT INTO MANAGED COMPETITION AND SHALL TRANSMIT EACH  
15          STATEMENT OF WORK TO THE BOARD FOR ITS CONSIDERATION AND RECOMMENDATIONS  
16          RELATIVE TO A REQUEST FOR PROPOSAL AND CONTRACTUAL STANDARDS AND CONTRACTOR  
17          QUALIFICATIONS. THE BOARD SHALL ISSUE ITS INITIAL RECOMMENDATIONS AS SOON AS  
18          PRACTICABLE, BUT NO LATER THAN THE THIRD FISCAL YEAR AFTER IT ADOPTS THE  
19          STREAMLINED LOCAL GOVERNMENT POLICIES, AND THEREAFTER AS DETERMINED BY  
20          ORDINANCE. IN DETERMINING ITS RECOMMENDATIONS, THE BOARD SHALL CONSIDER THE  
21          FOLLOWING FACTORS:

- 22           1. THE TYPE OF SERVICE THAT IS PROVIDED.
- 23           2. THE ABILITIES OF THE CURRENT AND PROJECTED COMPETITIVE MARKET.
- 24           3. POTENTIAL EFFICIENCIES THAT COULD BE ACHIEVED AND THE CAPACITY OF  
25          THE MUNICIPALITY TO DELIVER ESSENTIAL SERVICES IN THE EVENT OF CONTRACTOR  
26          DEFAULT.

27          I. IN ADDITION TO ANY STANDARDS AND QUALIFICATIONS THAT THE BOARD  
28          RECOMMENDS, THE MUNICIPALITY'S CHIEF EXECUTIVE OFFICER SHALL REQUIRE THAT ANY  
29          INDEPENDENT CONTRACTOR THAT PROVIDES SERVICES TO THE MUNICIPALITY MEET THE  
30          MINIMUM CONTRACT STANDARDS THAT ARE CONTAINED IN THE SOLICITATION FOR  
31          SERVICES OR REQUEST FOR PROPOSAL. THE MINIMUM CONTRACT STANDARDS SHALL  
32          INCLUDE THE FOLLOWING REQUIREMENTS:

- 33           1. THE INDEPENDENT CONTRACTOR SHALL PROVIDE PROOF THAT IT MAINTAINS AN  
34          ADEQUATE LEVEL OF LIABILITY INSURANCE THAT IS CONSISTENT WITH MUNICIPAL RISK  
35          MANAGEMENT REQUIREMENTS.
- 36           2. THE INDEPENDENT CONTRACTOR SHALL HAVE APPROPRIATE SAFETY POLICIES  
37          AND PROCEDURES IN PLACE TO PROTECT THE PUBLIC AND ITS EMPLOYEES IN PROVIDING  
38          THE SERVICE.
- 39           3. THE INDEPENDENT CONTRACTOR SHALL COMPLY WITH ALL APPLICABLE  
40          EMPLOYMENT AND LABOR LAWS.
- 41           4. THE PERFORMANCE STANDARDS AND CONSEQUENCES FOR NONPERFORMANCE, UP  
42          TO AND INCLUDING TERMINATION OF THE CONTRACT, MUST BE MADE CLEAR.
- 43           5. THE INDEPENDENT CONTRACTOR SHALL DESIGNATE APPROPRIATE PERSONNEL TO  
44          MONITOR CONTRACT COMPLIANCE.



1           6. THE INDEPENDENT CONTRACTOR'S EMPLOYEES SHALL MAINTAIN THE SAME  
2 CERTIFICATIONS THAT ARE REQUIRED OF MUNICIPAL EMPLOYEES WHO PERFORM THE SAME  
3 SERVICE.

4           7. THE INDEPENDENT CONTRACTOR SHALL PERFORM BACKGROUND CHECKS ON  
5 EMPLOYEES WHO PERFORM A PARTICULAR SERVICE IF A BACKGROUND CHECK IS REQUIRED  
6 OF MUNICIPAL EMPLOYEES WHO PERFORM THE SAME SERVICE.

7           8. THE SAME REGULATIONS AND REQUIREMENTS OF SERVICE DELIVERY NECESSARY  
8 TO MAINTAIN SERVICE QUALITY THAT APPLY TO A MUNICIPAL DEPARTMENT SHALL ALSO  
9 APPLY TO ANY INDEPENDENT CONTRACTOR.

10          9. THE MUNICIPALITY SHALL UNILATERALLY AND IMMEDIATELY TERMINATE THE  
11 CONTRACT IF THE INDEPENDENT CONTRACTOR ENTERS INTO A CONTRACT WITH OR EMPLOYS  
12 A MEMBER OF THE BOARD DURING THE TERM OF THE CONTRACT WITH THE MUNICIPALITY.

13          10. THE MUNICIPALITY SHALL UNILATERALLY AND IMMEDIATELY TERMINATE THE  
14 CONTRACT IF THE INDEPENDENT CONTRACTOR ENTERS INTO A CONTRACT WITH OR EMPLOYS  
15 A FORMER MEMBER OF THE BOARD DURING THE TERM OF THE CONTRACT WITH THE  
16 MUNICIPALITY, IF THAT FORMER BOARD MEMBER PARTICIPATED IN THE SELECTION  
17 PROCESS FOR THAT CONTRACT.

18          J. THE ADOPTING MUNICIPALITY SHALL NOT SUBSIDIZE PRIVATE ENTERPRISE.  
19 FOR THE PURPOSES OF THIS SUBSECTION, "SUBSIDY TO PRIVATE ENTERPRISE" MEANS AN  
20 ECONOMIC BENEFIT, DIRECT OR INDIRECT, THAT THE MUNICIPALITY GRANTS WITH THE  
21 PRIMARY PURPOSE OR SUBSTANTIAL EFFECT OF ENCOURAGING OR MAINTAINING  
22 PARTICULAR OR SPECIFIC CLASSES OF VENTURES IN WHICH PRIVATE PERSONS HAVE A  
23 SUBSTANTIAL FINANCIAL OR OWNERSHIP INTEREST. THE FOLLOWING ECONOMIC BENEFITS  
24 TO PRIVATE ENTERPRISE ARE NOT CONSIDERED SUBSIDIES:

25          1. BENEFITS FROM THE MUNICIPALITY'S PERFORMANCE OF ESSENTIAL  
26 GOVERNMENTAL FUNCTIONS, SPECIFICALLY BENEFITS FROM:

27           (a) THE MUNICIPALITY'S PROVISION AND MAINTENANCE OF PUBLIC  
28 INFRASTRUCTURE FOR GENERAL PUBLIC BENEFIT AND FOR ACTUAL PUBLIC USE.

29           (b) THE MUNICIPALITY'S PERFORMANCE OF FUNCTIONS WITHOUT WHICH THE  
30 MUNICIPALITY WOULD CEASE TO EXIST AS A GOVERNMENTAL BODY.

31           (c) THE RETENTION OF PRIVATE ENTERPRISE TO PERFORM FUNCTIONS WITHOUT  
32 WHICH THE MUNICIPALITY WOULD CEASE TO EXIST AS A GOVERNMENTAL BODY AFTER A  
33 PROCESS OF TRANSPARENT, OPEN COMPETITIVE BIDDING.

34           (d) THE PROCUREMENT OF SUPPLIES AND SERVICES FROM PRIVATE ENTERPRISE  
35 FOR THE MUNICIPALITY'S ORDINARY BUSINESS OPERATIONS AFTER A PROCESS OF  
36 TRANSPARENT, OPEN COMPETITIVE BIDDING.

37          2. BENEFITS FROM LOWER TAXES AND LESS REGULATION, SPECIFICALLY  
38 BENEFITS FROM:

39           (a) THE GENERAL AND UNIFORM RELAXATION OR REPEAL OF REGULATIONS.

40           (b) THE GENERAL AND UNIFORM REDUCTION OR REPEAL OF TAXES, ASSESSMENTS  
41 OR FEES.

42           (c) THE RELAXATION OR REPEAL OF SPECIAL REGULATIONS, THAT, IF NOT  
43 RELAXED OR REPEALED, WOULD OTHERWISE SUBJECT SPECIFIC INDIVIDUALS, ENTITIES  
44 OR CLASSES OF INDIVIDUALS OR ENTITIES TO REGULATORY BURDENS IN EXCESS OF  
45 THOSE GENERALLY AND UNIFORMLY IMPOSED.

1 (d) THE REDUCTION OR REPEAL OF SPECIAL TAXES, ASSESSMENTS OR FEES,  
2 THAT, IF NOT REDUCED OR REPEALED, WOULD OTHERWISE SUBJECT SPECIFIC  
3 INDIVIDUALS, ENTITIES OR CLASSES OF INDIVIDUALS OR ENTITIES TO TAXATION,  
4 ASSESSMENTS OR FEES IN EXCESS OF THOSE GENERALLY AND UNIFORMLY IMPOSED.

5 K. NOTWITHSTANDING ANY OTHER LAW, A SPECIAL TAXING DISTRICT THAT IS  
6 ESTABLISHED PURSUANT TO TITLE 48 MAY NOT BE FORMED WITHIN THE JURISDICTION OF  
7 THE ADOPTING MUNICIPALITY IF THE ADOPTING MUNICIPALITY HAS REACHED ITS  
8 SPECIAL DISTRICT TAXING CAP. FOR THE PURPOSES OF THIS SUBSECTION, AN  
9 ADOPTING MUNICIPALITY HAS REACHED ITS SPECIAL DISTRICT TAXING CAP WHEN THE  
10 AMOUNT OF THE AD VALOREM TAX LIMITATION FOR THAT POLITICAL SUBDIVISION AS  
11 PRESCRIBED IN ARTICLE IX, SECTION 19, CONSTITUTION OF ARIZONA, IS EQUAL TO OR  
12 LESS THAN THE SUM OF THE MOST RECENT PUBLICLY-REPORTED LEVEL OF AD VALOREM  
13 TAXES THAT IS THEN BEING LEVIED BY THE ADOPTING MUNICIPALITY AND THE MOST  
14 RECENT PUBLICLY-REPORTED AGGREGATE AMOUNT OF AD VALOREM TAXES THAT IS THEN  
15 BEING LEVIED BY ALL SPECIAL TAXING DISTRICTS THAT ARE LOCATED IN ANY PORTION  
16 OF THE ADOPTING MUNICIPALITY.

17 L. NOTWITHSTANDING ANY OTHER STATUTE, A SPECIAL TAXING DISTRICT THAT  
18 IS ESTABLISHED PURSUANT TO TITLE 48 MAY NOT BE FORMED WITHIN THE JURISDICTION  
19 OF THE ADOPTING MUNICIPALITY IF THE ADOPTING MUNICIPALITY HAS REACHED ITS  
20 SPECIAL DISTRICT SPENDING CAP. FOR THE PURPOSES OF THIS SUBSECTION, AN  
21 ADOPTING MUNICIPALITY HAS REACHED ITS SPECIAL DISTRICT SPENDING CAP WHEN THE  
22 AMOUNT OF THE EXPENDITURE LIMITATION FOR THE ADOPTING MUNICIPALITY AS  
23 PRESCRIBED IN ARTICLE IX, SECTION 20, CONSTITUTION OF ARIZONA, IS EQUAL TO OR  
24 LESS THAN THE SUM OF THE MOST RECENT PUBLICLY-REPORTED AMOUNT OF EXPENDITURES  
25 THAT IS THEN BEING MADE BY THE ADOPTING MUNICIPALITY AND THE MOST RECENT  
26 PUBLICLY-REPORTED AGGREGATE AMOUNT OF EXPENDITURES THAT IS THEN BEING MADE BY  
27 ALL SPECIAL TAXING DISTRICTS THAT ARE LOCATED IN ANY PORTION OF THE ADOPTING  
28 MUNICIPALITY.

29 Sec. 2. Severability

30 If a provision of this act or its application to any person or  
31 circumstance is held invalid, the invalidity does not affect other provisions  
32 or applications of the act that can be given effect without the invalid  
33 provision or application, and to this end the provisions of this act are  
34 severable.