

REFERENCE TITLE: board of trustees; disincorporation; repeal

State of Arizona
Senate
Fifty-second Legislature
Second Regular Session
2016

SB 1316

Introduced by
Senator Kavanagh

AN ACT

AMENDING SECTIONS 9-201 AND 9-204, ARIZONA REVISED STATUTES; REPEALING TITLE 9, CHAPTER 2, ARTICLE 2, ARIZONA REVISED STATUTES; AMENDING SECTIONS 9-911, 16-104, 35-321 AND 36-1401, ARIZONA REVISED STATUTES; RELATING TO LOCAL FORM OF GOVERNMENT.

(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. Repeal

33 Title 9, chapter 2, article 2, Arizona Revised Statutes, is repealed.

34 Sec. 4. Section 9-911, Arizona Revised Statutes, is amended to read:

35 9-911. Definitions

36 In this article, unless the context otherwise requires:

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

38 2. "Department" means the police department.

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

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

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

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

9 Sec. 5. Section 16-104, Arizona Revised Statutes, is amended to read:

10 16-104. Registration in incorporated cities and towns

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

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

19 Sec. 6. Section 35-321, Arizona Revised Statutes, is amended to read:

20 35-321. Definitions

21 In this article, unless the context otherwise requires:

22 1. "Agency pool participant" means a subdivision or an entity of a
23 subdivision that has monies maintained by the treasurer and that has the
24 authority to draw negotiable instruments on the treasurer or make other
25 disbursements from monies that the treasurer holds for the subdivision or
26 entity.

27 2. "Board of deposit" means, in the case of a county, the board of
28 supervisors, and in the case of a city or town, the ~~board of trustees or~~
29 common council.

30 3. "Capital structure" means the amount of the capital of the eligible
31 depository shown by the latest call statement of condition as defined by rule
32 of the superintendent of financial institutions for the purpose of
33 administration of this article.

34 4. "Collecting entity" means the entity from which the treasurer
35 receives general funding including the county for collections performed by a
36 county treasurer, the city for collections performed by a city treasurer or
37 the district for collections performed by a district treasurer.

38 5. "Eligible depository" means any:

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

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

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

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

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

11 9. "Public monies" includes subdivision monies.

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

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

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

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

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

24 Sec. 7. Section 36-1401, Arizona Revised Statutes, is amended to read:

25 36-1401. Definitions

26 In this article, unless the context otherwise requires:

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

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

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

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

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

41 6. "Federal government" includes the United States, the United States
42 department of housing and urban development or any other agency or
43 instrumentality, corporate or otherwise, of the United States.

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

4 8. "Housing project":

5 (a) Means any work or undertaking:

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

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

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

18 (b) Includes the planning and designing of buildings and improvements,
19 the acquisition or receipt of property, the demolition of existing
20 structures, the construction, reconstruction, alteration and repair of the
21 improvements and all other work in connection therewith.

22 9. "Mayor" means the mayor of the city or town or the officer thereof
23 charged with the duties customarily imposed on the mayor or executive head of
24 a city or town.

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

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

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

42 13. "State public body" means any public housing authority, county,
43 municipal corporation, commission, district, authority or other subdivision
44 or public body of the state.

1 Sec. 8. Intent

2 It is the intent of the legislature to repeal title 9, chapter 2,
3 article 2, Arizona Revised Statutes, because, pursuant to a 2014 attorney
4 general opinion, some of the voting provisions, although potentially
5 severable, were found to violate the equal protection clause of the
6 Constitution of the United States and election laws of this state.
7 Additionally, there have been no instances in the history of this state where
8 a county board of supervisors has disincorporated a city or town and
9 established a board of trustees government.