

State of Arizona
House of Representatives
Fifty-third Legislature
Second Regular Session
2018

CHAPTER 178
HOUSE BILL 2184

AN ACT

REPEALING SECTION 23-1326, ARIZONA REVISED STATUTES; AMENDING SECTION 41-124, ARIZONA REVISED STATUTES; REPEALING SECTION 41-131, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 1, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING A NEW SECTION 41-131; AMENDING SECTIONS 41-151.14, 41-1001, 41-1005, 41-1012, 41-1022, 41-1026 AND 41-1033, ARIZONA REVISED STATUTES; AMENDING TITLE 41, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 6.2; AMENDING SECTIONS 49-471.01, 49-471.04, 49-471.06, 49-471.07, 49-471.08, 49-471.09 AND 49-471.11, ARIZONA REVISED STATUTES; APPROPRIATING MONIES; RELATING TO RULEMAKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Repeal

3 Section 23-1326, Arizona Revised Statutes, is repealed.

4 Sec. 2. Section 41-124, Arizona Revised Statutes, is amended to
5 read:

6 41-124. Receipt and record of documents received

7 ~~A. All documents when delivered to~~ The secretary of state shall ~~be~~
8 ~~received for by him~~ PROVIDE A RECEIPT OF DELIVERY FOR ANY DOCUMENT THAT
9 IS DELIVERED TO THE SECRETARY OF STATE and ~~when distributed his records~~
10 ~~shall show~~ RECORD the number of documents delivered, to whom delivered and
11 THE date of delivery.

12 ~~B. The secretary of state shall indelibly mark each book delivered~~
13 ~~to officers in this state, with the name of the county and designation of~~
14 ~~the officer. The books shall remain the property of the state.~~

15 Sec. 3. Repeal; transfer of monies

16 A. Section 41-131, Arizona Revised Statutes, is repealed.

17 B. All unexpended and unencumbered monies remaining in the Arizona
18 blue book revolving fund established by section 41-131, Arizona Revised
19 Statutes, as repealed by subsection A of this section, are transferred to
20 the state general fund on the effective date of this section.

21 Sec. 4. Title 41, chapter 1, article 2, Arizona Revised Statutes,
22 is amended by adding a new section 41-131, to read:

23 41-131. Certified copies; fee

24 A. ON REQUEST, THE SECRETARY OF STATE OR THE SECRETARY'S DESIGNEE
25 MAY CERTIFY UNDER THE GREAT SEAL OF THE STATE OF ARIZONA ANY PUBLICLY
26 RECORDED DOCUMENT FILED PURSUANT TO THIS ARTICLE.

27 B. THE SECRETARY OF STATE MAY CHARGE A COPY FEE PER PAGE PURSUANT
28 TO SECTION 39-121.01 AND SHALL CHARGE A CERTIFIED COPY FEE PURSUANT TO
29 SECTION 41-126, SUBSECTION A, PARAGRAPH 10.

30 Sec. 5. Section 41-151.14, Arizona Revised Statutes, is amended to
31 read:

32 41-151.14. State and local public records management;
33 violation; classification; definition

34 A. The head of each state and local agency shall:

35 1. Establish and maintain an active, continuing program for the
36 economical and efficient management of the public records of the agency.

37 2. Make and maintain records containing adequate and proper
38 documentation of the organization, functions, policies, decisions,
39 procedures and essential transactions of the agency designed to furnish
40 information to protect the rights of ~~the~~ THIS state and of persons
41 directly affected by the agency's activities.

42 3. Submit to the director, in accordance with established
43 standards, schedules proposing the length of time each record series
44 warrants retention for administrative, legal or fiscal purposes after it
45 has been received by the agency.

1 ~~4. Submit a list of public records in the agency's custody that are~~
2 ~~not needed in the transaction of current business and that are not~~
3 ~~considered to have sufficient administrative, legal or fiscal value to~~
4 ~~warrant their inclusion in established disposal schedules.~~

5 ~~5.~~ 4. Once every five years submit to the director lists of all
6 essential public records in the custody of the agency.

7 ~~6.~~ 5. Cooperate with the director in the conduct of surveys.

8 ~~7.~~ 6. Designate an individual within the agency to manage the
9 records management program of the agency. The agency shall reconfirm the
10 identity of this individual to the state library every other year. The
11 designated individual:

12 (a) Must be at a level of management sufficient to direct the
13 records management program in an efficient and effective manner.

14 (b) Shall act as coordinator and liaison for the agency with the
15 state library.

16 ~~8.~~ 7. Comply with rules, standards and procedures adopted by the
17 director.

18 B. The governing body of each county, city, town or other political
19 subdivision shall promote the principles of efficient record management
20 for local public records. ~~Such~~ THE governing body, as far as practicable,
21 shall follow the program established for the management of state records.
22 The director, on request of the governing body, shall provide advice and
23 assistance in the establishment of a local public records management
24 program.

25 C. A head of a state or local agency who violates this section is
26 guilty of a class 2 misdemeanor.

27 D. For the purposes of this section, "records management" means the
28 creation and implementation of systematic controls for records and
29 information activities from the point where they are created or received
30 through final disposition or archival retention, including distribution,
31 use, storage, retrieval, protection and preservation.

32 Sec. 6. Section 41-1001, Arizona Revised Statutes, is amended to
33 read:

34 41-1001. Definitions

35 In this chapter, unless the context otherwise requires:

36 1. "Agency" means any board, commission, department, officer or
37 other administrative unit of this state, including the agency head and one
38 or more members of the agency head or agency employees or other persons
39 directly or indirectly purporting to act on behalf or under the authority
40 of the agency head, whether created under the Constitution of Arizona or
41 by enactment of the legislature. Agency does not include the legislature,
42 the courts or the governor. Agency does not include a political
43 subdivision of this state or any of the administrative units of a
44 political subdivision, but does include any board, commission, department,
45 officer or other administrative unit created or appointed by joint or

1 concerted action of an agency and one or more political subdivisions of
2 this state or any of their units. To the extent an administrative unit
3 purports to exercise authority subject to this chapter, an administrative
4 unit otherwise qualifying as an agency must be treated as a separate
5 agency even if the administrative unit is located within or subordinate to
6 another agency.

7 2. "Audit" means an audit, investigation or inspection pursuant to
8 title 23, chapter 2 or 4.

9 3. "Code" means the Arizona administrative code, WHICH IS PUBLISHED
10 PURSUANT TO SECTION 41-1011.

11 4. "Committee" means the administrative rules oversight committee.

12 5. "Contested case" means any proceeding, including rate making,
13 except rate making pursuant to article XV, Constitution of Arizona, price
14 fixing and licensing, in which the legal rights, duties or privileges of a
15 party are required or permitted by law, other than this chapter, to be
16 determined by an agency after an opportunity for an administrative
17 hearing.

18 6. "Council" means the governor's regulatory review council.

19 7. "Delegation agreement" means an agreement between an agency and
20 a political subdivision that authorizes the political subdivision to
21 exercise functions, powers or duties conferred on the delegating agency by
22 a provision of law. Delegation agreement does not include
23 intergovernmental agreements entered into pursuant to title 11, chapter 7,
24 article 3.

25 8. "Emergency rule" means a rule that is made pursuant to section
26 41-1026.

27 9. "Fee" means a charge prescribed by an agency for an inspection
28 or for obtaining a license.

29 10. "Final rule" means any rule filed with the secretary of state
30 and made pursuant to an exemption from this chapter in section 41-1005,
31 made pursuant to section 41-1026, approved by the council pursuant to
32 section 41-1052 or 41-1053 or approved by the attorney general pursuant to
33 section 41-1044. For purposes of judicial review, final rule includes
34 expedited rules pursuant to section 41-1027.

35 11. "General permit" means a regulatory permit, license or agency
36 authorization that is for facilities, activities or practices in a class
37 that are substantially similar in nature and that is issued or granted by
38 an agency to a qualified applicant to conduct identified operations or
39 activities if the applicant meets the applicable requirements of the
40 general permit, that requires less information than an individual or
41 traditional permit, license or authorization and that does not require a
42 public hearing.

43 12. "License" includes the whole or part of any agency permit,
44 certificate, approval, registration, charter or similar form of permission

1 required by law, but does not include a license required solely for
2 revenue purposes.

3 13. "Licensing" includes the agency process respecting the grant,
4 denial, renewal, revocation, suspension, annulment, withdrawal or
5 amendment of a license.

6 14. "Party" means each person or agency named or admitted as a
7 party or properly seeking and entitled as of right to be admitted as a
8 party.

9 15. "Person" means an individual, partnership, corporation,
10 association, governmental subdivision or unit of a governmental
11 subdivision, a public or private organization of any character or another
12 agency.

13 16. "Preamble" means:

14 (a) For any rulemaking subject to this chapter, a statement
15 accompanying the rule that includes:

16 (i) Reference to the specific statutory authority for the rule.

17 (ii) The name and address of agency personnel with whom persons may
18 communicate regarding the rule.

19 (iii) An explanation of the rule, including the agency's reasons
20 for initiating the rulemaking.

21 (iv) A reference to any study relevant to the rule that the agency
22 reviewed and either proposes to rely on in its evaluation of or
23 justification for the rule or proposes not to rely on in its evaluation of
24 or justification for the rule, where the public may obtain or review each
25 study, all data underlying each study and any analysis of each study and
26 other supporting material.

27 (v) The economic, small business and consumer impact summary, or in
28 the case of a proposed rule, a preliminary summary and a solicitation of
29 input on the accuracy of the summary.

30 (vi) A showing of good cause why the rule is necessary to promote a
31 statewide interest if the rule will diminish a previous grant of authority
32 of a political subdivision of this state.

33 (vii) Such other matters as are prescribed by statute and that are
34 applicable to the specific agency or to any specific rule or class of
35 rules.

36 (b) In addition to the information set forth in subdivision (a) of
37 this paragraph, for a proposed rule, the preamble also shall include a
38 list of all previous notices appearing in the register addressing the
39 proposed rule, a statement of the time, place and nature of the
40 proceedings for the making, amendment or repeal of the rule and where,
41 when and how persons may request an oral proceeding on the proposed rule
42 if the notice does not provide for one.

43 (c) In addition to the information set forth in subdivision (a) of
44 this paragraph, for an expedited rule, the preamble also shall include a
45 statement of the time, place and nature of the proceedings for the making,

1 amendment or repeal of the rule and an explanation of why expedited
2 proceedings are justified.

3 (d) For a final rule, except an emergency rule, the preamble also
4 shall include, in addition to the information set forth in subdivision
5 (a), the following information:

6 (i) A list of all previous notices appearing in the register
7 addressing the final rule.

8 (ii) A description of the changes between the proposed rules,
9 including supplemental notices and final rules.

10 (iii) A summary of the comments made regarding the rule and the
11 agency response to them.

12 (iv) A summary of the council's action on the rule.

13 (v) A statement of the rule's effective date.

14 (e) In addition to the information set forth in subdivision (a) of
15 this paragraph, for an emergency rule, the preamble also shall include an
16 explanation of the situation justifying the rule being made as an
17 emergency rule, the date of the attorney general's approval of the rule
18 and a statement of the emergency rule's effective date.

19 17. "Provision of law" means the whole or a part of the federal or
20 state constitution, or of any federal or state statute, rule of court,
21 executive order or rule of an administrative agency.

22 18. "Register" means the Arizona administrative register, WHICH IS:

23 (a) THIS STATE'S OFFICIAL PUBLICATION OF RULEMAKING NOTICES THAT
24 ARE FILED WITH THE OFFICE OF SECRETARY OF STATE.

25 (b) PUBLISHED PURSUANT TO SECTION 41-1011.

26 19. "Rule" means an agency statement of general applicability that
27 implements, interprets or prescribes law or policy, or describes the
28 procedure or practice requirements of an agency. Rule includes
29 prescribing fees or the amendment or repeal of a prior rule but does not
30 include intraagency memoranda that are not delegation agreements.

31 20. "Rulemaking" means the process ~~for formulation and finalization~~
32 ~~of~~ TO MAKE A NEW RULE OR AMEND, REPEAL OR RENUMBER a rule.

33 21. "Small business" means a concern, including its affiliates,
34 which is independently owned and operated, which is not dominant in its
35 field and which employs fewer than one hundred full-time employees or
36 which had gross annual receipts of less than four million dollars in its
37 last fiscal year. For purposes of a specific rule, an agency may define
38 small business to include more persons if it finds that such a definition
39 is necessary to adapt the rule to the needs and problems of small
40 businesses and organizations.

41 22. "Substantive policy statement" means a written expression which
42 informs the general public of an agency's current approach to, or opinion
43 of, the requirements of the federal or state constitution, federal or
44 state statute, administrative rule or regulation, or final judgment of a
45 court of competent jurisdiction, including, where appropriate, the

1 agency's current practice, procedure or method of action based upon that
2 approach or opinion. A substantive policy statement is advisory only. A
3 substantive policy statement does not include internal procedural
4 documents which only affect the internal procedures of the agency and does
5 not impose additional requirements or penalties on regulated parties,
6 confidential information or rules made in accordance with this chapter.

7 Sec. 7. Section 41-1005, Arizona Revised Statutes, is amended to
8 read:

9 41-1005. Exemptions

10 A. This chapter does not apply to any:

11 1. Rule that relates to the use of public works, including streets
12 and highways, under the jurisdiction of an agency if the effect of the
13 order is indicated to the public by means of signs or signals.

14 2. Order or rule of the Arizona game and fish commission that does
15 the following:

16 (a) Opens, closes or alters seasons or establishes bag or
17 possession limits for wildlife.

18 (b) Establishes a fee pursuant to section 5-321, 5-322 or 5-327.

19 (c) Establishes a license classification, fee or application fee
20 pursuant to title 17, chapter 3, article 2.

21 3. Rule relating to section 28-641 or to any rule regulating motor
22 vehicle operation that relates to speed, parking, standing, stopping or
23 passing enacted pursuant to title 28, chapter 3.

24 4. Rule concerning only the internal management of an agency that
25 does not directly and substantially affect the procedural or substantive
26 rights or duties of any segment of the public.

27 5. Rule that only establishes specific prices to be charged for
28 particular goods or services sold by an agency.

29 6. Rule concerning only the physical servicing, maintenance or care
30 of agency owned or operated facilities or property.

31 7. Rule or substantive policy statement concerning inmates or
32 committed youths of a correctional or detention facility in secure custody
33 or patients admitted to a hospital, if made by the state department of
34 corrections, the department of juvenile corrections, the board of
35 executive clemency or the department of health services or a facility or
36 hospital under the jurisdiction of the state department of corrections,
37 the department of juvenile corrections or the department of health
38 services.

39 8. Form whose contents or substantive requirements are prescribed
40 by rule or statute, and instructions for the execution or use of the form.

41 9. Capped fee-for-service schedule adopted by the Arizona health
42 care cost containment system administration pursuant to title 36,
43 chapter 29.

44 10. Fees prescribed by section 6-125.

- 1 11. Order of the director of water resources adopting or modifying
2 a management plan pursuant to title 45, chapter 2, article 9.
- 3 12. Fees established under section 3-1086.
- 4 13. Fees established under sections 41-4010 and 41-4042.
- 5 14. Rule or other matter relating to agency contracts.
- 6 15. Fees established under section 32-2067 or 32-2132.
- 7 16. Rules made pursuant to section 5-111, subsection A.
- 8 17. Rules made by the Arizona state parks board concerning the
9 operation of the Tonto natural bridge state park, the facilities located
10 in the Tonto natural bridge state park and the entrance fees to the Tonto
11 natural bridge state park.
- 12 18. Fees or charges established under section 41-511.05.
- 13 19. Emergency medical services protocols except as provided in
14 section 36-2205, subsection B.
- 15 20. Fee schedules established pursuant to section 36-3409.
- 16 21. Procedures of the state transportation board as prescribed in
17 section 28-7048.
- 18 22. Rules made by the state department of corrections.
- 19 23. Fees prescribed pursuant to section 32-1527.
- 20 24. Rules made by the department of economic security pursuant to
21 section 46-805.
- 22 25. Schedule of fees prescribed by section 23-908.
- 23 26. Procedure that is established pursuant to title 23, chapter 6,
24 article 6.
- 25 27. Rules, administrative policies, procedures and guidelines
26 adopted for any purpose by the Arizona commerce authority pursuant to
27 chapter 10 of this title if the authority provides, as appropriate under
28 the circumstances, for notice of an opportunity for comment on the
29 proposed rules, administrative policies, procedures and guidelines.
- 30 28. Rules made by a marketing commission or marketing committee
31 pursuant to section 3-414.
- 32 29. Administration of public assistance program monies authorized
33 for liabilities that are incurred for disasters declared pursuant to
34 sections 26-303 and 35-192.
- 35 30. User charges, tolls, fares, rents, advertising and sponsorship
36 charges, services charges or similar charges established pursuant to
37 section 28-7705.
- 38 31. Administration and implementation of the hospital assessment
39 pursuant to section 36-2901.08, except that the Arizona health care cost
40 containment system administration must provide notice and an opportunity
41 for public comment at least thirty days before establishing or
42 implementing the administration of the assessment.
- 43 32. Rules made by the Arizona department of agriculture to adopt
44 and implement the provisions of the federal milk ordinance as prescribed
45 by section 3-605.

1 B. Notwithstanding subsection A, paragraph 21 of this section, at
2 such time as the federal highway administration authorizes the
3 privatization of rest areas, the state transportation board shall make
4 rules governing the lease or license by the department of transportation
5 to a private entity for the purposes of privatization of a rest area.

6 C. Coincident with the making of a final rule pursuant to an
7 exemption from the applicability of this chapter under this section,
8 another statute or session law, the agency shall:

9 1. PREPARE A NOTICE AND FOLLOW FORMATTING GUIDELINES PRESCRIBED BY
10 THE SECRETARY OF STATE.

11 2. PREPARE THE RULEMAKING EXEMPTION NOTICES PURSUANT TO CHAPTER 6.2
12 OF THIS TITLE.

13 3. File a copy of the rule with the secretary of state for
14 publication pursuant to section 41-1012 and provide a copy to the council.

15 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
16 chapter do not apply to the Arizona board of regents and the institutions
17 under its jurisdiction, except that the Arizona board of regents shall
18 make policies or rules for the board and the institutions under its
19 jurisdiction that provide, as appropriate under the circumstances, for
20 notice of and opportunity for comment on the policies or rules proposed.

21 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
22 chapter do not apply to the Arizona state schools for the deaf and the
23 blind, except that the board of directors of all the state schools for the
24 deaf and the blind shall adopt policies for the board and the schools
25 under its jurisdiction that provide, as appropriate under the
26 circumstances, for notice of and opportunity for comment on the policies
27 proposed for adoption.

28 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
29 chapter do not apply to the state board of education, except that the
30 state board of education shall adopt policies or rules for the board and
31 the institutions under its jurisdiction that provide, as appropriate under
32 the circumstances, for notice of and opportunity for comment on the
33 policies or rules proposed for adoption. In order to implement or change
34 any rule, the state board of education shall provide at least two
35 opportunities for public comment.

36 Sec. 8. Section 41-1012, Arizona Revised Statutes, is amended to
37 read:

38 41-1012. Code; publication of rules; notification

39 A. The code shall contain the full text of each final, EXPEDITED
40 AND EMERGENCY rule filed with the secretary of state and each EXEMPT rule
41 ~~made~~ FILED WITH THE SECRETARY OF STATE TO BE PUBLISHED pursuant to a
42 statutory exemption from the applicability of this chapter. THE SECRETARY
43 OF STATE SHALL REMOVE EACH EXPIRED RULE AS PRESCRIBED IN SECTION 41-1011,
44 SUBSECTION C.

1 B. The secretary of state shall ELECTRONICALLY publish, ~~in~~
2 ~~loose-leaf form,~~ at least once every quarter ~~all final rules and rules~~
3 ~~made pursuant to a statutory exemption from the applicability of this~~
4 ~~chapter~~ A CODE SUPPLEMENT. Publication of a rule by the secretary of
5 state as provided in this section constitutes prima facie evidence of the
6 making, APPROVING and filing of ~~the~~ A FINAL, EMERGENCY OR EXEMPT rule
7 pursuant to this chapter or ~~the making of the rule pursuant to~~ a statutory
8 exemption from the applicability of this chapter.

9 C. The secretary of state ~~may contract for the printing of the code~~
10 ~~on terms most advantageous to this state~~ SHALL OFFER AN E-MAIL SERVICE FOR
11 PERSONS TO RECEIVE NOTIFICATION WHEN A QUARTERLY SUPPLEMENT HAS BEEN
12 PUBLISHED. THE SERVICE SHALL INCLUDE A LIST OF CHAPTERS PUBLISHED AND
13 WHERE THE CHAPTERS ARE POSTED.

14 ~~D. The code shall be available by subscription and for single copy~~
15 ~~purchase. The charge for each code or periodic subscription shall be a~~
16 ~~reasonable charge, not to exceed all costs of production and distribution~~
17 ~~of the code.~~

18 D. THE SECRETARY OF STATE SHALL PUBLISH THE CODE ELECTRONICALLY FOR
19 FREE. THE SECRETARY OF STATE SHALL ESTABLISH A COMMERCIAL USE FEE
20 PURSUANT TO SECTION 39-121.03. THE SECRETARY OF STATE SHALL HONOR ANY
21 PAPER SUBSCRIPTION IN PLACE BY THE END OF FISCAL YEAR 2017-2018 UNTIL THE
22 SUBSCRIPTION EXPIRES.

23 Sec. 9. Heading change

24 The article heading of title 41, chapter 6, article 3, Arizona
25 Revised Statutes, is changed from "RULE MAKING" to "RULEMAKING".

26 Sec. 10. Section 41-1022, Arizona Revised Statutes, is amended to
27 read:

28 41-1022. Notice of proposed rulemaking; contents of notice

29 A. ~~Before rule making, amendment~~ AN AGENCY SHALL PREPARE A NOTICE
30 OF PROPOSED RULEMAKING TO MAKE, AMEND, RENUMBER or repeal, ~~A RULE.~~ THE
31 AGENCY SHALL FOLLOW FORMATTING GUIDELINES PRESCRIBED BY THE SECRETARY OF
32 STATE IN THE PREPARATION OF THE NOTICE. The agency shall file ~~a~~ THE
33 notice ~~of the proposed action~~ with the secretary of state. The notice
34 shall include ALL OF THE FOLLOWING:

35 1. The preamble.

36 2. THE CODE CHAPTER AND ARTICLE IN WHICH THE RULE IS BEING
37 PROPOSED.

38 3. THE PROPOSED OR CURRENT RULE SECTION NUMBER.

39 ~~2.~~ 4. The exact wording of the rule, INCLUDING THE FULL TEXT OF A
40 NEW RULE AND ANY AMENDMENT TO, RENUMBERING OF OR REPEAL OF A CURRENT RULE.

41 B. The secretary of state shall ~~include in the next edition of the~~
42 ~~register the information in the notice under subsection A of this section~~
43 PUBLISH THE NOTICE IN THE REGISTER PURSUANT TO SECTION 41-1013.

44 C. ~~At the same time~~ WHEN the agency files ~~a~~ THE notice ~~of the~~
45 ~~proposed rule making with the secretary of state,~~ the agency shall notify

1 by ~~regular~~ FIRST CLASS mail, ~~telefacsimile~~ FAX or ~~electronic mail~~ E-MAIL
2 each person who has ~~made a timely request to the agency for~~ REQUESTED
3 notification of the proposed ~~rule making~~ RULEMAKING and to each person who
4 has requested notification of all proposed ~~rule makings~~ RULEMAKINGS. An
5 agency may provide the notification prescribed in this subsection in a
6 periodic agency newsletter. An agency may purge its list of persons
7 requesting notification of proposed ~~rule makings~~ RULEMAKINGS once each
8 year.

9 ~~D. Before commencing any proceedings for rule making, amendment or~~
10 ~~repeal, an agency shall allow at least thirty days to elapse after the~~
11 ~~publication date of the register in which the notice of the proposed rule~~
12 ~~making, amendment or repeal is contained.~~

13 D. AN AGENCY SHALL ALLOW FOR AND ACCEPT PUBLIC COMMENT ON THE
14 PROPOSED RULEMAKING AS PRESCRIBED IN SECTION 41-1023, SUBSECTION B. IF
15 THE PROPOSED RULEMAKING IS EXEMPT FROM THE RULEMAKING REQUIREMENTS, THE
16 AGENCY SHALL ALLOW FOR AND ACCEPT PUBLIC COMMENT AS PROVIDED UNDER THE
17 EXEMPTION.

18 E. If, as a result of public comments or internal review, an agency
19 determines that a proposed rule requires A substantial change pursuant to
20 section 41-1025, the agency shall ~~issue~~ PREPARE a NOTICE OF supplemental
21 ~~notice containing~~ RULEMAKING THAT CONTAINS the ~~changes~~ CHANGE in the
22 proposed rule. The agency shall provide for additional public comment
23 pursuant to section 41-1023 AND FILE THE NOTICE WITH THE SECRETARY OF
24 STATE. THE SECRETARY OF STATE SHALL PUBLISH THE NOTICE IN THE REGISTER
25 PURSUANT TO SECTION 41-1013.

26 Sec. 11. Section 41-1026, Arizona Revised Statutes, is amended to
27 read:

28 41-1026. Emergency rulemaking

29 A. If an agency makes a finding that a rule is necessary as an
30 emergency measure, the rule may be made, amended or repealed as an
31 emergency measure, without the notice prescribed by sections 41-1021 and
32 41-1022 and prior review by the council, if the rule is first approved by
33 the attorney general and filed with the secretary of state. The attorney
34 general may not approve the making, amendment or repeal of a rule as an
35 emergency measure if the emergency situation is created due to the
36 agency's delay or inaction and the emergency situation could have been
37 averted by timely compliance with the notice and public participation
38 provisions of this chapter, unless the agency submits substantial evidence
39 that the rule is necessary as an emergency measure to do any of the
40 following:

- 41 1. Protect the public health, safety or welfare.
- 42 2. Comply with deadlines in amendments to an agency's governing law
43 or federal programs.
- 44 3. Avoid violation of federal law or regulation or other state law.
- 45 4. Avoid an imminent budget reduction.

1 5. Avoid serious prejudice to the public interest or the interest
2 of the parties concerned.

3 B. Within sixty days ~~of~~ AFTER receipt, the attorney general shall
4 review the demonstration of emergency and the rule in accordance with the
5 standards prescribed in section 41-1044.

6 C. ~~After the rule is filed~~ IF THE EMERGENCY IS IN ACCORDANCE WITH
7 THE STANDARDS IN SECTION 41-1044, THE ATTORNEY GENERAL SHALL CREATE A
8 CERTIFICATE OF APPROVAL AND FILE THE RULE with the secretary of
9 state. ~~;~~ The secretary of state shall publish the rule in the register
10 as provided in section 41-1013 AND PUBLISH THE RULE IN THE CODE.

11 D. A rule made, amended or repealed pursuant to this section is
12 valid for one hundred eighty days after the filing of the rule with the
13 secretary of state. ~~and~~ THE EMERGENCY may be renewed for one more one
14 hundred ~~eighty day~~ EIGHTY-DAY period if all of the following ~~occur~~
15 REQUIREMENTS ARE MET:

16 1. The agency determines that the emergency situation still exists.

17 2. The agency follows the procedures prescribed in this section.

18 3. The ~~rule is approved by~~ AGENCY FILES A NOTICE OF THE RENEWAL OF
19 THE EMERGENCY WITH the attorney general ~~pursuant to this section~~ BEFORE
20 THE EXPIRATION OF THE PRECEDING ONE HUNDRED EIGHTY-DAY PERIOD.

21 4. The agency ~~has issued~~ MAKES the rule as a proposed rule or has
22 issued an alternative proposed rule pursuant to section 41-1022.

23 5. The agency ~~seeks~~ RECEIVES approval of the renewal from the
24 attorney general before the expiration of the preceding one hundred ~~eighty~~
25 ~~day~~ EIGHTY-DAY period.

26 6. The ~~agency files notice of the renewal and any required~~ attorney
27 general ~~approval~~ CREATES A CERTIFICATE OF APPROVAL AND FILES THE RULE with
28 the secretary of state. ~~and notice is published~~ THE SECRETARY OF STATE
29 SHALL PUBLISH THE RENEWAL OF THE EMERGENCY RULE in the register AS
30 PROVIDED IN SECTION 41-1013 AND PUBLISH THE RULE IN THE CODE.

31 E. A rule that is made pursuant to this chapter ~~and that replaces a~~
32 SHALL REPEAL AN EMERGENCY rule made, amended or repealed ~~pursuant to this~~
33 ~~section shall expressly repeal the rule replaced if it has not expired~~ IF
34 THE EMERGENCY IS STILL EFFECTIVE WITHIN THE ONE HUNDRED EIGHTY-DAY PERIOD.

35 F. ON EXPIRATION OF THE ONE HUNDRED EIGHTY-DAY PERIOD, THE
36 SECRETARY OF STATE SHALL REMOVE THE EMERGENCY RULE FROM THE CODE. IF A
37 RULE HAS NOT BEEN MADE PURSUANT TO SUBSECTION E OF THIS SECTION, THE RULE
38 IN PLACE BEFORE THE EMERGENCY IS RESTORED.

39 Sec. 12. Section 41-1033, Arizona Revised Statutes, is amended to
40 read:

41 41-1033. Petition for a rule or review of an agency practice,
42 substantive policy statement or final rule; notice

43 A. Any person, ~~in a manner and form prescribed by the agency,~~ may
44 petition an agency ~~to request the making of a final rule or a~~ TO DO EITHER
45 OF THE FOLLOWING:

- 1 1. MAKE, AMEND OR REPEAL A FINAL RULE.
- 2 2. Review ~~of~~ an existing agency practice or substantive policy
3 statement that the petitioner alleges to constitute a rule.
- 4 B. AN AGENCY SHALL PRESCRIBE THE FORM OF THE PETITION AND THE
5 PROCEDURES FOR THE PETITION'S SUBMISSION, CONSIDERATION AND DISPOSITION.
6 The ~~petition~~ PERSON shall ~~clearly~~ state ON THE PETITION the ~~rule,~~
7 RULEMAKING TO REVIEW OR THE agency practice or substantive policy
8 statement ~~that the person wishes the agency to make or review~~ TO CONSIDER
9 MAKING INTO A RULE.
- 10 C. ~~Within~~ NOT LATER THAN sixty days after submission of ~~a~~ THE
11 petition, the agency shall either:
- 12 1. ~~deny~~ REJECT the petition ~~in writing, stating~~ AND STATE its
13 reasons IN WRITING for denial, ~~TO THE PETITIONER.~~
- 14 2. Initiate rulemaking proceedings in accordance with this chapter.
15 ~~or,~~
- 16 3. If otherwise lawful, make a rule.
- 17 D. THE AGENCY'S RESPONSE TO THE PETITION IS OPEN TO PUBLIC
18 INSPECTION.
- 19 ~~B. E. A person may appeal to the council the agency's final~~
20 ~~decision within~~ IF AN AGENCY REJECTS A PETITION PURSUANT TO SUBSECTION C
21 OF THIS SECTION, THE PETITIONER HAS thirty days ~~after the agency gives~~
22 ~~written notice pursuant to subsection A of this section. The appeal shall~~
23 ~~be limited~~ to APPEAL TO THE COUNCIL TO REVIEW whether ~~an~~ THE existing
24 agency practice or substantive policy statement constitutes a rule. The
25 council chairperson shall place this appeal on the agenda of the council's
26 next meeting if at least three council members make such a request of the
27 council chairperson within two weeks after the filing of the appeal.
- 28 ~~E. F.~~ F. A person may petition the council to request a review of a
29 final rule based on the person's belief that the final rule does not meet
30 the requirements prescribed in section 41-1030.
- 31 ~~D. G.~~ G. If the council receives information ~~indicating~~ that
32 INDICATES an existing agency practice or substantive policy statement may
33 constitute a rule or that a final rule does not meet the requirements
34 prescribed in section 41-1030 and at least four council members request of
35 the chairperson that the matter be heard in a public meeting:
- 36 1. Within ninety days ~~of~~ AFTER receipt of the fourth council ~~member~~
37 MEMBER'S request, the council shall determine whether the agency practice
38 or substantive policy statement constitutes a rule or whether the final
39 rule meets the requirements prescribed in section 41-1030.
- 40 2. Within ten days ~~of~~ AFTER receipt of the fourth council ~~member~~
41 MEMBER'S request, the council shall notify the agency that the matter has
42 been or will be placed on an agenda.
- 43 3. ~~Within~~ NOT LATER THAN thirty days ~~of~~ AFTER receiving notice from
44 the council, the agency shall submit a statement TO THE COUNCIL that
45 addresses whether the existing agency practice or substantive policy

1 statement constitutes a rule or whether the final rule meets the
2 requirements prescribed in section 41-1030.

3 ~~F.~~ H. For the purposes of subsection ~~F.~~ G of this section, the
4 council meeting shall not be ~~held~~ SCHEDULED until the expiration of the
5 agency response period prescribed in subsection ~~F.~~ G, paragraph 3 of this
6 section.

7 ~~F.~~ I. An agency practice, substantive policy statement or final
8 rule considered by the council pursuant to this section shall remain in
9 effect while under consideration of the council. If the council
10 ultimately decides the agency practice or substantive policy statement
11 constitutes a rule or that the final rule does not meet the requirements
12 prescribed in section 41-1030, the practice, policy statement or rule
13 shall be considered void.

14 ~~F.~~ J. A council decision pursuant to this section shall include
15 findings of fact and conclusions of law, separately stated. Conclusions
16 of law shall specifically address the agency's authority to act consistent
17 with section 41-1030.

18 ~~F.~~ K. A decision by the agency pursuant to this section is not
19 subject to judicial review, except that, in addition to the procedure
20 prescribed in this section or in lieu of the procedure prescribed in this
21 section, a person may seek declaratory relief pursuant to section 41-1034.

22 ~~F.~~ L. Each agency and the secretary of state shall post
23 prominently on their ~~website~~ WEBSITES notice of an individual's right to
24 petition the council for review pursuant to this section.

25 Sec. 13. Heading change

26 The article heading of title 41, chapter 6, article 4, Arizona
27 Revised Statutes, is changed from "ATTORNEY GENERAL REVIEW OF RULE MAKING"
28 to "ATTORNEY GENERAL REVIEW OF RULEMAKING".

29 Sec. 14. Title 41, Arizona Revised Statutes, is amended by adding
30 chapter 6.2, to read:

31 CHAPTER 6.2

32 RULEMAKING EXEMPTIONS

33 ARTICLE 1. GENERAL PROVISIONS

34 41-1097. Definitions

35 A. THE DEFINITIONS IN SECTION 41-1001 APPLY TO THIS CHAPTER.

36 B. IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

37 1. "NOTICE OF EXEMPT RULEMAKING" MEANS A NOTICE OF:

38 (a) AN EXEMPTION PURSUANT TO SECTION 41-1005, EXCEPT THOSE
39 EXEMPTIONS THAT REQUIRE NOTICE AND AN OPPORTUNITY FOR PUBLIC COMMENT.

40 (b) AN EXEMPTION PURSUANT TO SECTION 41-1057.

41 (c) A RULE ADOPTED PURSUANT TO AN EXEMPTION, AS PROVIDED
42 EXCLUSIVELY TO AN AGENCY IN STATUTE OR SESSION LAW, FROM ALL REQUIREMENTS
43 OF THE ACT.

44 2. "PUBLISHED" MEANS A RULEMAKING THAT HAS BEEN PRINTED AND
45 DISTRIBUTED BY AN AGENCY OR POSTED ON AN AGENCY'S WEBSITE OR FILED BY AN

1 AGENCY AND PUBLISHED IN THE REGISTER OR A COMBINATION OF ANY OF THESE
2 REQUIREMENTS AS PROVIDED IN STATUTE OR SESSION LAW.

3 41-1097.01. Filing and publication of exempt rules

4 A. THE SECRETARY OF STATE SHALL PRESCRIBE A UNIFORM NUMBERING
5 SYSTEM AND HAVE REASONABLE DISCRETION TO DETERMINE THE FORM AND STYLE FOR
6 EXEMPT RULES FILED WITH AND PUBLISHED BY THE SECRETARY OF STATE'S OFFICE.
7 THE SECRETARY OF STATE SHALL REFUSE TO ACCEPT A NOTICE OF EXEMPT
8 RULEMAKING IF THE NOTICE OR FILING DOES NOT COMPLY WITH THE SECRETARY OF
9 STATE'S PRESCRIBED FILING REQUIREMENTS, NUMBERING SYSTEM, FORM AND STYLE.

10 B. IF AN AGENCY FILES A NOTICE OF EXEMPT RULEMAKING, THE SECRETARY
11 OF STATE SHALL PUBLISH THE NOTICE IN THE REGISTER PURSUANT TO THE
12 EXEMPTION REQUIREMENTS PRESCRIBED IN STATUTE OR SESSION LAW.

13 C. ALL EXEMPT RULES SHALL BE CODIFIED AND PUBLISHED IN THE CODE
14 ONLY AS PRESCRIBED IN STATUTE OR SESSION LAW.

15 Sec. 15. Section 49-471.01, Arizona Revised Statutes, is amended to
16 read:

17 49-471.01. Regulatory bill of rights

18 A. To ensure fair and open regulation under this article by
19 counties, a person:

20 1. Is eligible for reimbursement of fees and other expenses if the
21 person substantially prevails by adjudication on the merits against a
22 county in a court proceeding or an administrative appeal brought pursuant
23 to this article.

24 2. Is entitled to have a county not charge the person a fee unless
25 the fee for the specific activity is expressly authorized as provided in
26 section 49-471.02.

27 3. Is entitled to receive the information and notice regarding
28 inspections prescribed in section 49-471.03.

29 4. May review the full text or summary of ~~all~~ NOTICES OF rule or
30 ordinance making ~~activity~~ and the summary of substantive policy statements
31 ~~in the register~~ POSTED ON THE COUNTY'S WEBSITE as provided in sections
32 49-471.04, 49-471.08, 49-471.09 and 49-471.11.

33 5. May participate in the rule or ordinance making process as
34 provided in this article, including ~~providing~~ AN OPPORTUNITY TO PROVIDE
35 written or oral comments on NOTICES OF proposed ~~rules~~ RULE or ~~ordinances~~
36 ORDINANCE MAKING as provided in sections 49-471.06 and 49-471.08, and
37 having ~~the~~ A control officer adequately ~~address those~~ RESPOND TO comments
38 as provided in sections 49-471.07 and 49-471.08.

39 6. May ~~allege~~ PETITION THE COUNTY IN WRITING that an existing
40 county agency practice or substantive policy statement constitutes a rule
41 or ordinance and have that county agency practice or substantive policy
42 statement BE declared void because the practice or substantive policy
43 statement constitutes a rule or ordinance as an appealable agency action
44 under section 49-471.15 or as provided in sections 49-471.12 and 49-497.

1 7. Is entitled to have ~~the~~ A control officer not base a permitting
2 decision under this article in whole or in part on conditions or
3 requirements that are not specifically authorized by a provision of this
4 state's law as provided in section 49-471.10, subsection C.

5 8. Is entitled to have ~~the~~ A control officer identify the legal
6 authority for each condition in a permit issued under this article as
7 provided in section 49-471.10, subsection C.

8 9. Is entitled to have a county not make a rule or ordinance under
9 a general grant of rule or ordinance making authority to supplement a more
10 specific grant of rule or ordinance making authority as provided in
11 section 49-471.10, subsection D.

12 10. May inspect all rules or ordinances and substantive policy
13 statements of a county, including a directory of documents, in the office
14 of the county control officer as provided in section 49-471.11.

15 11. May have ~~the~~ A control officer approve or deny the person's
16 permit application within a predetermined period of time as provided in
17 section 49-471.13.

18 12. May have appealable agency actions heard by a hearing board or
19 administrative law judge as provided in section 49-471.15.

20 13. May have administrative appeal hearings governed by uniform
21 administrative procedures as set forth in section 49-496 for appeals to
22 the hearing board and title 41, chapter 6, article 10 for appeals to an
23 administrative law judge as provided in section 49-471.15.

24 14. Is entitled to request ~~the~~ A control officer to waive overly
25 burdensome permit procedures and requirements for sources that are not
26 required to obtain a title V permit as provided in section 49-480,
27 subsection M.

28 15. Is entitled to obtain judicial review of decisions by ~~the~~ A
29 hearing board, ~~the~~ AN administrative law judge or ~~the~~ A control officer in
30 appropriate cases as provided in sections 49-497, 49-497.01 and 49-497.02.

31 16. Is entitled, with the county's concurrence, to enter settlement
32 agreements with the county to resolve compliance matters without the need
33 for an order, action in court or allegation or finding of violation as
34 provided in section 49-511.

35 B. The reference to rights in subsection A of this section does not
36 grant any additional rights that are not prescribed in the other sections
37 of this article.

38 Sec. 16. Section 49-471.04, Arizona Revised Statutes, is amended to
39 read:

40 49-471.04. Notice of proposed rule or ordinance making

41 A. Before a board of supervisors ~~adopts or amends~~ ACTS ON a rule or
42 ordinance that is subject to section 49-112, subsection A or a rule or
43 ordinance that does not otherwise qualify under section ~~41-471.08~~
44 49-471.08, subsection A, ~~the~~ A control officer shall:

1 1. ~~File~~ PREPARE a notice of a proposed rule or ordinance making
2 ~~with the secretary of state for publication in the register. The~~
3 ~~secretary of state shall publish the notice in the next issue of the~~
4 ~~register at no cost to the county.~~ The notice shall include BOTH:

5 (a) ~~The~~ A preamble as prescribed in section 49-471.05.

6 (b) The ~~exact wording~~ FULL TEXT of the rule or ordinance, INCLUDING
7 THE INTENDED ACTIONS TO MAKE NEW SECTIONS OR AMEND, REPEAL OR RENUMBER THE
8 SECTIONS OF THE RULE OR ORDINANCE.

9 2. ~~At the time the control officer files a~~ POST THE notice of the
10 proposed rule or ordinance making ~~with the secretary of state~~ ON THE
11 COUNTY'S WEBSITE, ~~ON POSTING, THE CONTROL OFFICER SHALL~~ notify by
12 ~~regular~~ FIRST CLASS mail, fax or ~~electronic mail~~ E-MAIL each person who
13 has made a timely request to the county for notification of the proposed
14 rule or ordinance making and to each person who has requested notification
15 of all proposed rule or ordinance makings. A county may provide the
16 notification prescribed in this paragraph in a periodic newsletter. ~~The~~ A
17 control officer may purge the ~~control officer's~~ list of persons ~~requesting~~
18 WHO REQUESTED notification of proposed rule or ordinance makings once each
19 year by providing notice of the purge in the manner prescribed in this
20 paragraph.

21 B. Before ~~adopting or amending~~ MAKING, AMENDING, REPEALING OR
22 RENUMBERING a rule or ordinance pursuant to section 49-112, subsection B,
23 a control officer and board of supervisors shall follow the procedure
24 established in this section or in section 49-471.08.

25 C. THE COUNTY MAY TERMINATE A NOTICE OF PROPOSED RULE OR ORDINANCE
26 MAKING AT ANY TIME DURING THE RULE OR ORDINANCE MAKING PROCESS AND SHALL
27 PUBLISH THE NOTICE OF TERMINATION ON THE COUNTY'S WEBSITE.

28 D. IF THE COUNTY DETERMINES THAT THERE IS A SUBSTANTIAL CHANGE
29 BETWEEN THE PROPOSED RULE OR ORDINANCE MAKING AND A FINAL RULE OR
30 ORDINANCE MAKING, THE COUNTY SHALL PREPARE A NOTICE OF SUPPLEMENTAL
31 PROPOSED RULE OR ORDINANCE MAKING FOR PUBLIC REVIEW PURSUANT TO THE
32 REQUIREMENTS UNDER SUBSECTION A, PARAGRAPHS 1 AND 2 OF THIS SECTION.

33 Sec. 17. Section 49-471.06, Arizona Revised Statutes, is amended to
34 read:

35 49-471.06. Public participation; written statements; oral
36 proceedings

37 A. A control officer may ~~meet~~ informally MEET with any interested
38 party ~~for the purpose of discussing~~ TO DISCUSS a proposed rule or
39 ordinance making action. ~~The~~ A control officer may solicit comments,
40 suggested language or other input on the proposed rule or ordinance. ~~The~~
41 A control officer may ~~publish~~ POST notice of these meetings ~~in the~~
42 ~~register at no cost to the county~~ ON THE COUNTY'S WEBSITE.

43 B. For at least thirty days after ~~publication~~ POSTING of the notice
44 of the proposed rule or ordinance making ON THE COUNTY'S WEBSITE, ~~the~~ A
45 control officer shall ~~afford persons the opportunity to submit in writing~~

1 ACCEPT WRITTEN statements, arguments, data and views on the PREAMBLE AND
2 proposed rule or ordinance ~~and preamble, with or without the opportunity~~
3 ~~to present them orally.~~

4 C. ~~Before adopting or amending a rule or ordinance pursuant to~~
5 ~~section 49-471.04, subsection A, a control officer shall schedule an oral~~
6 ~~proceeding on a proposed rule or ordinance if, A PERSON MAY REQUEST IN~~
7 WRITING TO A CONTROL OFFICER, within thirty days after the ~~published~~
8 POSTED NOTICE, AN ORAL PROCEEDING TO PROVIDE VERBAL COMMENTS ON THE notice
9 of proposed rule or ordinance making, ~~a written request for an oral~~
10 ~~proceeding is submitted to the county.~~

11 D. IF A CONTROL OFFICER RECEIVES A REQUEST PURSUANT TO SUBSECTION C
12 OF THIS SECTION, THE CONTROL OFFICER SHALL SCHEDULE an oral proceeding on
13 ~~a~~ THE proposed rule or ordinance. ~~may not be held earlier than~~ A CONTROL
14 OFFICER SHALL PREPARE A NOTICE OF ORAL PROCEEDING AND SHALL ALLOW FOR AT
15 LEAST thirty days ~~after~~ BETWEEN THE DATE OF POSTING THE notice ~~of its~~
16 ~~location and time is published in the register~~ ON THE COUNTY'S WEBSITE AND
17 THE DATE OF THE PROCEEDING. ~~The~~ A notice for ~~the~~ AN oral proceeding may
18 be ~~published~~ POSTED concurrently with ~~the~~ A notice inviting comment
19 generally. ~~The~~ A control officer shall determine a location and time for
20 the oral proceeding that affords a reasonable opportunity to persons to
21 participate. The oral proceeding shall be conducted in a manner that
22 allows for adequate discussion of the substance and the form of the
23 proposed rule or ordinance, and persons may ask questions regarding the
24 proposed rule or ordinance and present oral argument, data and views on
25 the proposed rule or ordinance.

26 E. ~~The~~ A control officer, or ~~the~~ A control officer's designee,
27 shall preside ~~at~~ OVER an oral proceeding on a proposed rule or ordinance.
28 Oral proceedings shall be open to the public and MINUTES shall be recorded
29 ~~by stenographic or other means.~~

30 F. The board of supervisors may adopt rules or ordinances for the
31 conduct of oral proceedings.

32 Sec. 18. Section 49-471.07, Arizona Revised Statutes, is amended to
33 read:

34 49-471.07. Time and manner of rule or ordinance making

35 A. A board of supervisors may not act on a rule or ordinance until
36 the rule or ordinance making record is closed PURSUANT TO SUBSECTION E OF
37 THIS SECTION.

38 B. ~~At the time~~ A control officer ~~submits a rule or ordinance to the~~
39 ~~board of supervisors, the control officer shall issue~~ SHALL PREPARE A
40 PREAMBLE AND a concise explanatory statement ~~containing~~ BEFORE SUBMITTING
41 A NOTICE OF FINAL RULE OR ORDINANCE OR NOTICE OF FINAL SUPPLEMENTAL RULE
42 OR ORDINANCE TO THE BOARD. THE CONCISE EXPLANATORY STATEMENT SHALL
43 CONTAIN:

44 1. ~~An indication~~ A DESCRIPTION of any change between the ~~text of~~
45 ~~the proposed rule or ordinance or preamble contained in the notice of~~

1 proposed rule or ordinance, ~~making published in the register and the text~~
2 ~~of the rule or ordinance submitted to the board of supervisors, with the~~
3 ~~reasons for any change~~ THE FINAL RULE OR ORDINANCE OR NOTICE OF FINAL
4 SUPPLEMENTAL RULE OR ORDINANCE.

5 2. ~~An evaluation~~ A SUMMARY of the COMMENTS AND arguments for and
6 against the ~~rule or ordinance, including a response to comments received~~
7 ~~on the proposed rule or ordinance or preamble and any supplemental notices~~
8 NOTICE AND THE COUNTY'S RESPONSE TO THE COMMENTS AND ARGUMENTS.

9 C. ~~The board of supervisors shall not adopt~~ A FINAL rule or
10 ordinance that is substantially different from the proposed rule or
11 ordinance ~~contained in the notice of proposed rule or ordinance making.~~
12 ~~If the rule or ordinance is substantially different from the proposed rule~~
13 ~~or ordinance, the board of supervisors shall terminate the rule or~~
14 ~~ordinance making proceeding and commence a new rule or ordinance making~~
15 ~~proceeding by filing a new notice of proposed rule or ordinance making, or~~
16 ~~the board of supervisors may file~~ SHALL BE EITHER RESUBMITTED AS a
17 supplemental notice of proposed rule or ordinance making OR TERMINATED
18 PURSUANT TO SECTION 49-471.04, SUBSECTIONS C AND D.

19 D. ~~In determining~~ THE FOLLOWING SHALL BE CONSIDERED TO DETERMINE
20 whether a FINAL rule or ordinance is substantially different from the
21 ~~published~~ proposed rule or ordinance ~~on which it is required to be based,~~
22 ~~all of the following shall be considered~~ POSTED ON THE COUNTY'S WEBSITE:

23 1. The extent to which all persons affected by the rule or
24 ordinance should have understood that the ~~published~~ proposed rule or
25 ordinance POSTED ON THE COUNTY'S WEBSITE would affect their interests.

26 2. The extent to which the subject matter of the rule or ordinance
27 or the issues determined by that rule or ordinance are different from the
28 subject matter or issues involved in the ~~published~~ proposed rule or
29 ordinance POSTED ON THE COUNTY'S WEBSITE.

30 3. The extent to which the effects of the rule or ordinance differ
31 from the effects of the ~~published~~ proposed rule or ordinance POSTED ON THE
32 COUNTY'S WEBSITE if it had been made instead.

33 E. Within one hundred twenty days after the close of the record on
34 the proposed rule or ordinance making, a control officer shall take one of
35 the following actions:

36 1. Submit the FINAL rule or ordinance to the board of supervisors
37 FOR CONSIDERATION OF ADOPTION AND A VOTE.

38 2. ~~Continue or~~ Terminate the proceeding by ~~publication of~~ POSTING a
39 notice ~~to that effect in the register~~ OF TERMINATION ON THE COUNTY'S
40 WEBSITE.

41 3. EXTEND THE RULE OR ORDINANCE MAKING PROCESS BY MAKING ADDITIONAL
42 CHANGES TO THE PROPOSAL AND SUBMITTING THE CHANGES AS A SUPPLEMENTAL
43 NOTICE OF PROPOSED RULE OR ORDINANCE MAKING.

44 F. BEFORE THE BOARD OF SUPERVISORS CONSIDERS THE VOTE ON A FINAL
45 NOTICE PURSUANT TO SUBSECTION E, PARAGRAPH 1 OF THIS SECTION, THE BOARD

1 SHALL PLACE THE NOTICE ON ITS MEETING AGENDA. ON THE BOARD'S APPROVAL, a
2 final rule or ordinance is effective on the date the board of supervisors
3 adopts the final rule or ordinance. ~~, unless~~ The board of supervisors
4 ~~specifies~~ MAY SPECIFY a later effective date IF THE BOARD DETERMINES THAT
5 GOOD CAUSE EXISTS FOR AND THE PUBLIC INTEREST WILL NOT BE HARMED BY A
6 LATER EFFECTIVE DATE.

7 G. Within thirty days after adoption by the board of supervisors of
8 the NOTICE OF final rule or ordinance, ~~the~~ A control officer shall submit
9 ~~a~~ POST THE notice ~~to the secretary of state for publication in the next~~
10 ~~register~~ ON THE COUNTY'S WEBSITE. The notice shall contain the preamble
11 and text of the final rule or ordinance. ~~The secretary of state shall~~
12 ~~publish the notice in the next issue of the register at no cost to the~~
13 ~~county.~~

14 Sec. 19. Section 49-471.08, Arizona Revised Statutes, is amended to
15 read:

16 49-471.08. Expedited rule or ordinance making

17 A. THE COUNTY MAY CONDUCT EXPEDITED RULE OR ORDINANCE MAKING if a
18 rule or ordinance is ~~adopted~~ MADE pursuant to section 49-112, subsection
19 B, ~~and~~ the proposed rule or ordinance is a conforming change to directly
20 reflect federal or state rule or law, ~~the rule or ordinance making may be~~
21 ~~declared an expedited rule or ordinance making~~ and is not subject to
22 section 49-471.07, except as otherwise provided in this section, ~~AND~~ if
23 all of the following ~~apply~~ REQUIREMENTS ARE MET:

24 1. The rule or ordinance making is substantially identical to the
25 sense, meaning and effect of the federal or state rule or law from which
26 it is derived.

27 2. ~~The~~ A control officer makes a written finding setting forth the
28 reasons why the rule or ordinance making is necessary and does not alter
29 the sense, meaning or effect of the federal or state rule or law from
30 which it is derived.

31 3. Fees established in the rule or ordinance do not exceed limits
32 specified in section 49-112.

33 B. ~~For ordinances and rules that meet the requirements of~~
34 ~~subsection A of this section, the control officer shall file a notice with~~
35 ~~the secretary of state for publication in the register~~ IF THE REQUIREMENTS
36 OF SUBSECTION A OF THIS SECTION ARE MET, A CONTROL OFFICER SHALL PREPARE A
37 NOTICE OF EXPEDITED RULE OR ORDINANCE MAKING. The notice shall contain A
38 PREAMBLE, the full text of the proposed rule or ordinance, ~~and~~ the
39 written finding required pursuant to subsection A, paragraph 2 of this
40 section. ~~The secretary of state shall publish the notice in the next~~
41 ~~issue of the register at no cost to the county.~~ THE CONTROL OFFICER SHALL
42 POST THE NOTICE ON THE COUNTY'S WEBSITE.

43 C. For AT LEAST thirty days after ~~the date of publication in the~~
44 ~~register~~ POSTING THE NOTICE OF EXPEDITED RULE OR ORDINANCE MAKING ON THE

1 COUNTY'S WEBSITE, ~~the~~ A control officer shall accept public comment on the
2 ~~proposed~~ EXPEDITED rule or ordinance MAKING.

3 D. Subject to section 49-471.07, subsections C and D after
4 consideration of any comments, ~~the~~ A control officer shall ~~submit~~ PREPARE
5 A PREAMBLE TO INCLUDE A SUMMARY OF THE ARGUMENTS FOR AND AGAINST the
6 expedited rule or ordinance ~~to the board of supervisors for~~ MAKING AND THE
7 COUNTY'S RESPONSE TO THE COMMENTS AND ARGUMENTS. A CONTROL OFFICER SHALL
8 SUBMIT THE EXPEDITED RULE OR ORDINANCE MAKING TO THE BOARD OF SUPERVISORS
9 FOR CONSIDERATION OF adoption AND A VOTE. BEFORE THE BOARD OF SUPERVISORS
10 CONSIDERS THE VOTE ON AN EXPEDITED RULE OR ORDINANCE MAKING, THE BOARD
11 SHALL PLACE THE NOTICE ON ITS MEETING AGENDA. ON THE BOARD'S APPROVAL the
12 EXPEDITED rule or ordinance is effective on ~~adoption by the board of~~
13 ~~supervisors~~ THE DATE THE BOARD ADOPTS THE EXPEDITED RULE OR ORDINANCE.

14 E. After adoption by the board of supervisors, ~~the~~ A control
15 officer shall ~~submit a notice to the secretary of state for publication in~~
16 ~~the next issue of the register.~~ POST THE NOTICE ON THE COUNTY'S
17 WEBSITE. The notice shall contain the full text of the final EXPEDITED
18 rule or ordinance and the finding required pursuant to subsection A,
19 paragraph 2 of this section. ~~The secretary of state shall publish the~~
20 ~~notice in the next issue of the register at no cost to the county.~~

21 Sec. 20. Section 49-471.09, Arizona Revised Statutes, is amended to
22 read:

23 49-471.09. County rule or ordinance making record

24 A. A control officer shall maintain for public inspection an
25 ~~official~~ ARCHIVE OF A rule or ordinance making record for each proposed
26 rule or ordinance for which a notice is ~~published in the register~~ POSTED
27 ON THE COUNTY'S WEBSITE and each final rule or ordinance ~~filed with the~~
28 ~~office of the secretary of state~~ POSTED ON THE COUNTY'S WEBSITE.

29 B. The county ARCHIVE OF A rule or ordinance making record shall
30 contain all of the following:

31 1. Copies of all ~~publications in the register~~ POSTINGS ON THE
32 COUNTY'S WEBSITE with respect to the rule or ordinance.

33 2. All written petitions, requests, submissions and comments
34 received by the county and all other written materials considered or
35 prepared by ~~the~~ A control officer in connection with the rule or
36 ordinance.

37 3. Any official transcript of oral presentations made in the
38 proceeding on which the rule or ordinance is based, and any tape recording
39 or stenographic record of those presentations, and any memorandum
40 summarizing the contents of those presentations.

41 4. A copy of any materials, DOCUMENTS OR MEETING MINUTES submitted
42 to the board of supervisors.

43 5. A copy of the final rule or ordinance adopted by the board of
44 supervisors and the preamble, concise explanatory statement and response
45 to comments.

1 Sec. 21. Section 49-471.11, Arizona Revised Statutes, is amended to
2 read:
3 49-471.11. Substantive policy statements; directory of rules
4 and policy statements
5 A. A control officer shall ~~file~~ POST substantive policy statements
6 pertaining to this article ~~in the register in accordance with section~~
7 ~~41-1013, subsection B~~ ON THE COUNTY'S WEBSITE.
8 B. ~~The~~ A control officer shall ~~publish~~ POST ON THE COUNTY'S WEBSITE
9 at least annually a directory summarizing the subject matter of all
10 currently applicable rules or ordinances and substantive policy statements
11 pertaining to this article. ~~The~~ A control officer shall keep copies of
12 this directory and all of its substantive policy statements at one
13 location. The directory, rules or ordinances, substantive policy
14 statements and any materials incorporated by reference in the directory,
15 rules or ordinances or substantive policy statements shall be open to
16 public inspection at the office of the control officer.
17 C. On or before June 30 of each year, ~~the~~ A control officer shall
18 certify to the board of supervisors that the county is in compliance with
19 this section.

APPROVED BY THE GOVERNOR APRIL 11, 2018.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 11, 2018.