

REFERENCE TITLE: GRRC; legal rights; petition

State of Arizona
House of Representatives
Fifty-seventh Legislature
First Regular Session
2025

HB 2809

Introduced by
Representatives Heap: Way

AN ACT

AMENDING SECTION 41-1033, ARIZONA REVISED STATUTES; 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. Section 41-1033, Arizona Revised Statutes, is amended to
3 read:

4 41-1033. Petition for a rule or review of an agency practice,
5 substantive policy statement, final rule or unduly
6 burdensome licensing requirement; notice

7 A. Any person may petition an agency to do either of the following:

8 1. Make, amend or repeal a final rule.

9 2. Review an existing agency practice or substantive policy
10 statement that the petitioner alleges to constitute a rule.

11 B. An agency shall prescribe the form of the petition and the
12 procedures for the petition's submission, consideration and disposition.
13 The person shall state on the petition the rulemaking to review or the
14 agency practice or substantive policy statement to consider revising,
15 repealing or making into a rule.

16 C. Not later than sixty days after submission of the petition, the
17 agency shall either:

18 1. Reject the petition and state its reasons in writing for
19 rejection to the petitioner.

20 2. Initiate rulemaking proceedings in accordance with this chapter.

21 3. If otherwise lawful, make a rule.

22 D. The agency's response to the petition is open to public
23 inspection.

24 E. If an agency rejects a petition pursuant to subsection C of this
25 section, the petitioner has thirty days to appeal to the council to review
26 whether the existing agency practice or substantive policy statement
27 constitutes a rule. The petitioner's appeal may not be more than five
28 double-spaced pages.

29 F. A person may petition the council to request a review of a final
30 rule based on the person's belief that the final rule does not meet the
31 requirements prescribed in section 41-1030. A petition submitted under
32 this subsection may not be more than five double-spaced pages.

33 G. A person may petition the council to request a review of an
34 existing agency practice, substantive policy statement, final rule or
35 regulatory licensing requirement that the petitioner alleges is not
36 specifically authorized by statute, exceeds the agency's statutory
37 authority, is unduly burdensome, VIOLATES A PERSON'S FUNDAMENTAL LEGAL
38 RIGHTS or is not demonstrated to be necessary to specifically fulfill a
39 public health, safety or welfare concern. On receipt of a properly
40 submitted petition pursuant to this section, the council shall review the
41 existing agency practice, substantive policy statement, final rule or
42 regulatory licensing requirement as prescribed by this section. A
43 petition submitted under this subsection may not be more than five
44 double-spaced pages. This subsection does not apply to an individual or

1 institution that is subject to title 36, chapter 4, article 10 or
2 chapter 20.

3 H. If the council receives information that alleges an existing
4 agency practice or substantive policy statement may constitute a rule,
5 that a final rule does not meet the requirements prescribed in section
6 41-1030 or that an existing agency practice, substantive policy statement,
7 final rule or regulatory licensing requirement exceeds the agency's
8 statutory authority, is not specifically authorized by statute or does not
9 meet the guidelines prescribed in subsection G of this section, or if the
10 council receives an appeal under subsection E of this section, ~~and at~~
11 ~~least three council members request of the chairperson that~~ the matter
12 ~~SHALL~~ be heard in a public meeting ~~AND THE COUNCIL SHALL NOTIFY THE~~
13 ~~AGENCY THAT THE MATTER HAS BEEN PLACED ON THE COUNCIL'S AGENDA. BEFORE~~
14 ~~THE PUBLIC MEETING IS HELD, THE FOLLOWING MUST BE COMPLETED:~~

15 1. Within ninety days after ~~receiving the third council member's~~
16 ~~request~~ ~~RECEIVING THE PETITION~~, the council shall determine whether any of
17 the following applies:

18 (a) The agency practice or substantive policy statement constitutes
19 a rule.

20 (b) The final rule meets the requirements prescribed in section
21 41-1030.

22 (c) An existing agency practice, substantive policy statement,
23 final rule or regulatory licensing requirement exceeds the agency's
24 statutory authority, is not specifically authorized by statute or ~~meets~~
25 ~~DOES NOT MEET~~ the guidelines prescribed in subsection G of this section.

26 ~~2. Within ten days after receiving the third council member's~~
27 ~~request, the council shall notify the agency that the matter has been or~~
28 ~~will be placed on the council's agenda for consideration on the merits.~~

29 ~~3.~~ 2. Not later than thirty days after receiving notice from the
30 council, the agency shall submit a statement of not more than five
31 double-spaced pages to the council that addresses whether any of the
32 following applies:

33 (a) The existing agency practice or substantive policy statement
34 constitutes a rule.

35 (b) The final rule meets the requirements prescribed in section
36 41-1030.

37 (c) An existing agency practice, substantive policy statement,
38 final rule or regulatory licensing requirement exceeds the agency's
39 statutory authority, is not specifically authorized by statute or meets
40 the guidelines prescribed in subsection G of this section.

41 I. At the hearing, the council shall allocate the petitioner and
42 the agency an equal amount of time for oral comments not including any
43 time spent answering questions raised by council members. The council may
44 also allocate time for members of the public who have an interest in the
45 issue to provide oral comments.

1 J. For the purposes of subsection H of this section, the council
2 meeting shall not be scheduled until the expiration of the agency response
3 period prescribed in subsection H, paragraph ~~3~~ 2 of this section.

4 K. An agency practice, substantive policy statement, final rule or
5 regulatory licensing requirement considered by the council pursuant to
6 this section shall remain in effect while under consideration of the
7 council. If the council determines that the agency practice, substantive
8 policy statement or regulatory licensing requirement exceeds the agency's
9 statutory authority, is not authorized by statute or constitutes a rule or
10 that the final rule does not meet the requirements prescribed in section
11 41-1030, the practice, policy statement, rule or regulatory licensing
12 requirement shall be void. If the council determines that the existing
13 agency practice, substantive policy statement, final rule or regulatory
14 licensing requirement is unduly burdensome or is not demonstrated to be
15 necessary to specifically fulfill a public health, safety or welfare
16 concern, the council shall modify, revise or declare void any such
17 existing agency practice, substantive policy statement, final rule or
18 regulatory licensing requirement. If an agency decides to further pursue
19 a practice, substantive policy statement or regulatory licensing
20 requirement that has been declared void or has been modified or revised by
21 the council, the agency may do so only pursuant to a new rulemaking.

22 L. A council decision pursuant to this section shall be made by a
23 majority of the council members who are present and voting on the
24 issue. Notwithstanding any other law, the council may not base any
25 decision concerning an agency's compliance with the requirements of
26 section 41-1030 in issuing a final rule or substantive policy statement on
27 whether any party or person commented on the rulemaking or substantive
28 policy statement.

29 M. A decision by the council pursuant to this section is not
30 subject to judicial review, except that, in addition to the procedure
31 prescribed in this section or in lieu of the procedure prescribed in this
32 section, a person may seek declaratory relief pursuant to section 41-1034.

33 N. Each agency and the secretary of state shall post prominently on
34 their websites notice of an individual's right to petition the council for
35 review pursuant to this section.