

Senate Engrossed
FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
Senate
Forty-ninth Legislature
Second Regular Session
2010

CHAPTER 189

SENATE BILL 1398

AN ACT

AMENDING TITLE 9, CHAPTER 4, ARTICLE 8, ARIZONA REVISED STATUTES, BY ADDING SECTION 9-500.29; AMENDING TITLE 11, CHAPTER 2, ARTICLE 4, ARIZONA REVISED STATUTES, BY ADDING SECTION 11-269.09; AMENDING TITLE 48, CHAPTER 1, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 12; RELATING TO LOCAL COORDINATION WITH THE FEDERAL GOVERNMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 9, chapter 4, article 8, Arizona Revised Statutes, is
3 amended by adding section 9-500.29, to read:

4 9-500.29. Federal and state regulations; local coordination;
5 standing; definitions

6 A. IF A CITY OR TOWN HAS LAWS, REGULATIONS, PLANS OR POLICIES THAT ARE
7 LESS RESTRICTIVE THAN A FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY,
8 THE CITY OR TOWN SHALL DEMAND BY ANY LAWFUL MEANS THAT THE FEDERAL OR STATE
9 GOVERNMENT COORDINATE WITH THE CITY OR TOWN BEFORE THE FEDERAL OR STATE
10 GOVERNMENT IMPLEMENTS, ENFORCES, EXPANDS OR EXTENDS THE FEDERAL OR STATE
11 REGULATION, RULE, PLAN OR POLICY WITHIN THE CITY'S OR TOWN'S JURISDICTIONAL
12 BOUNDARIES. THIS SUBSECTION IS MANDATORY UNLESS THE CITY OR TOWN
13 SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.

14 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
15 FAITH WITH THE CITY OR TOWN, THE CITY OR TOWN SHALL HOLD PUBLIC HEARINGS,
16 CONSIDER THE EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE
17 THE CITY'S OR TOWN'S COORDINATION RIGHTS.

18 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
19 MEMBER OF THE CITY'S OR TOWN'S GOVERNING BODY WITH A WRITTEN DEMAND THAT THE
20 CITY OR TOWN COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF
21 THE WRITTEN DEMAND, THE CITY OR TOWN GOVERNING BODY FAILS TO COMPLY WITH THIS
22 SECTION IN A MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A
23 WRITTEN DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE CITY OR
24 TOWN LAW, REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE
25 GOVERNMENT FAILED TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE
26 WRITTEN DEMAND FOR A RESPONSE, THE CITY OR TOWN SHALL HOLD A PUBLIC HEARING
27 TO PRESENT INFORMATION ON THE DECISION NOT TO DEMAND COORDINATION.

28 D. FOR THE PURPOSES OF THIS SECTION:

29 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

30 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
31 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
32 STATE REGULATION, RULE, PLAN OR POLICY AND A CITY OR TOWN LAW, REGULATION,
33 PLAN OR POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION,
34 RULE, PLAN OR POLICY.

35 3. "LESS RESTRICTIVE" MEANS A CITY OR TOWN LAW, REGULATION, PLAN OR
36 POLICY IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
37 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
38 WITHIN THE CITY'S OR TOWN'S JURISDICTIONAL BOUNDARIES.

39 Sec. 2. Title 11, chapter 2, article 4, Arizona Revised Statutes, is
40 amended by adding section 11-269.09, to read:

41 11-269.09. Federal and state regulations; local coordination;
42 standing; definitions

43 A. IF A COUNTY HAS LAWS, REGULATIONS, PLANS OR POLICIES THAT ARE LESS
44 RESTRICTIVE THAN A FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY, THE
45 COUNTY SHALL DEMAND BY ANY LAWFUL MEANS THAT THE FEDERAL OR STATE GOVERNMENT

1 COORDINATE WITH THE COUNTY BEFORE THE FEDERAL OR STATE GOVERNMENT IMPLEMENTS,
2 ENFORCES, EXPANDS OR EXTENDS THE FEDERAL REGULATION, RULE, PLAN OR POLICY
3 WITHIN THE COUNTY'S JURISDICTIONAL BOUNDARIES. THIS SUBSECTION IS MANDATORY
4 UNLESS THE COUNTY SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.

5 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
6 FAITH WITH THE COUNTY, THE COUNTY SHALL HOLD PUBLIC HEARINGS, CONSIDER THE
7 EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE THE COUNTY'S
8 COORDINATION RIGHTS.

9 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
10 MEMBER OF THE BOARD OF SUPERVISORS WITH A WRITTEN DEMAND THAT THE COUNTY
11 COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF THE WRITTEN
12 DEMAND, THE BOARD OF SUPERVISORS FAILS TO COMPLY WITH THIS SECTION IN A
13 MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A WRITTEN
14 DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE COUNTY LAW,
15 REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE GOVERNMENT FAILED
16 TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE WRITTEN DEMAND FOR A
17 RESPONSE, THE COUNTY SHALL HOLD A PUBLIC HEARING TO PRESENT INFORMATION ON
18 THE DECISION NOT TO DEMAND COORDINATION.

19 D. FOR THE PURPOSES OF THIS SECTION:

20 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

21 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
22 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
23 STATE REGULATION, RULE, PLAN OR POLICY AND A COUNTY LAW, REGULATION, PLAN OR
24 POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION, RULE,
25 PLAN OR POLICY.

26 3. "LESS RESTRICTIVE" MEANS A COUNTY LAW, REGULATION, PLAN OR POLICY
27 IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
28 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
29 WITHIN THE COUNTY'S JURISDICTIONAL BOUNDARIES.

30 Sec. 3. Title 48, chapter 1, Arizona Revised Statutes, is amended by
31 adding article 12, to read:

32 ARTICLE 12. LOCAL COORDINATION WITH
33 THE FEDERAL AND STATE GOVERNMENT

34 48-281. Federal and state regulations; local coordination;
35 standing; definitions

36 A. IF A DISTRICT THAT IS FORMED UNDER THIS TITLE AND THAT HAS LAWS,
37 REGULATIONS, PLANS OR POLICIES THAT ARE LESS RESTRICTIVE THAN A FEDERAL OR
38 STATE REGULATION, RULE, PLAN OR POLICY, THE DISTRICT SHALL DEMAND BY ANY
39 LAWFUL MEANS THAT THE FEDERAL OR STATE GOVERNMENT COORDINATE WITH THE
40 DISTRICT BEFORE THE FEDERAL OR STATE GOVERNMENT IMPLEMENTS, ENFORCES, EXPANDS
41 OR EXTENDS THE FEDERAL OR STATE REGULATION, RULE, PLAN OR POLICY WITHIN THE
42 DISTRICT'S JURISDICTIONAL BOUNDARIES. THIS SUBSECTION IS MANDATORY UNLESS
43 THE DISTRICT SPECIFICALLY VOTES TO NOT DEMAND COORDINATION.

1 B. IF THE FEDERAL OR STATE GOVERNMENT FAILS TO COORDINATE IN GOOD
2 FAITH WITH THE DISTRICT, THE DISTRICT SHALL HOLD PUBLIC HEARINGS, CONSIDER
3 THE EVIDENCE AND VOTE ON WHETHER TO AUTHORIZE LITIGATION TO ENFORCE THE
4 DISTRICT'S COORDINATION RIGHTS.

5 C. IF A PERSON WHO RESIDES OR DOES BUSINESS IN THIS STATE SERVES EACH
6 MEMBER OF THE DISTRICT'S GOVERNING BODY WITH A WRITTEN DEMAND THAT THE
7 DISTRICT COMPLY WITH THIS SECTION AND, WITHIN SIXTY DAYS AFTER SERVICE OF THE
8 WRITTEN DEMAND, THE DISTRICT GOVERNING BODY FAILS TO COMPLY WITH THIS SECTION
9 IN A MANNER THAT CAUSES INJURY TO THE PERSON, THE PERSON MAY SUBMIT A WRITTEN
10 DEMAND FOR A RESPONSE. THE WRITTEN DEMAND MUST SPECIFY THE DISTRICT LAW,
11 REGULATION, PLAN OR POLICY WITH WHICH THE FEDERAL OR STATE GOVERNMENT FAILED
12 TO COORDINATE. WITHIN THIRTY DAYS AFTER RECEIVING THE WRITTEN DEMAND FOR A
13 RESPONSE, THE DISTRICT SHALL HOLD A PUBLIC HEARING TO PRESENT INFORMATION ON
14 THE DECISION NOT TO DEMAND COORDINATION.

15 D. FOR THE PURPOSES OF THIS SECTION:

16 1. "COORDINATE" MEANS THE ACTION NECESSARY TO ACHIEVE COORDINATION.

17 2. "COORDINATION" MEANS THE PROCESS BY WHICH THE FEDERAL OR STATE
18 GOVERNMENT SEEKS IN GOOD FAITH TO REACH CONSISTENCY BETWEEN A FEDERAL OR
19 STATE REGULATION, RULE, PLAN OR POLICY AND A DISTRICT LAW, REGULATION, PLAN
20 OR POLICY THAT IS LESS RESTRICTIVE THAN THE FEDERAL OR STATE REGULATION,
21 RULE, PLAN OR POLICY.

22 3. "LESS RESTRICTIVE" MEANS A DISTRICT LAW, REGULATION, PLAN OR POLICY
23 IMPOSES OR WOULD IMPOSE LESS OF A BURDEN ON THE EXERCISE OF RIGHTS,
24 PRIVILEGES OR IMMUNITIES ENJOYED BY INDIVIDUALS, ORGANIZATIONS AND BUSINESSES
25 WITHIN THE DISTRICT'S JURISDICTIONAL BOUNDARIES.

~~APPROVED BY THE GOVERNOR APRIL 27, 2010.~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 28, 2010.~~

Passed the House April 20, 2010,

by the following vote: 34 Ayes,

23 Nays, 3 Not Voting

[Signature]
Speaker of the House

Cheryl Laube
Chief Clerk of the House

Passed the Senate March 25, 2010,

by the following vote: 20 Ayes,

9 Nays, 1 Not Voting

[Signature]
President of the Senate

[Signature]
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this
21 day of April, 2010,

at 2:00 o'clock P. M.

[Signature]
Secretary to the Governor

Approved this 27th day of

April, 2010,

at 3:29 o'clock P. M.

[Signature]
Governor of Arizona

S.B. 1398

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State
this 28th day of April, 2010,

at 3:37 o'clock a M.

[Signature]
Secretary of State