House Engrossed Senate Bill

FILED
KEN BENNETT
SECRETARY OF STATE

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

CHAPTER 238

SENATE BILL 1100

AN ACT

AMENDING SECTIONS 11-251 AND 11-352, ARIZONA REVISED STATUTES; AMENDING SECTION 12-128, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2010, SEVENTH SPECIAL SESSION, CHAPTER 6, SECTION 2; RELATING TO COUNTY BOARD OF SUPERVISORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 11-251, Arizona Revised Statutes, is amended to read:

11-251. Powers of board

The board of supervisors, under such limitations and restrictions as are prescribed by law, may:

1. Supervise the official conduct of all county officers and officers of all districts and other subdivisions of the county charged with assessing, collecting, safekeeping, managing or disbursing the public revenues, see that such officers faithfully perform their duties and direct prosecutions for delinquencies, and, when necessary, require the officers to renew their official bonds, make reports and present their books and accounts for inspection.

2. Divide the counties into such districts or precincts as required by law, change them and create others as convenience requires.

3. Establish, abolish and change election precincts, appoint inspectors and judges of elections, canvass election returns, declare the result and issue certificates thereof.

4. Lay out, maintain, control and manage public roads, ferries and bridges within the county and levy such tax for that purpose as may be authorized by law.

5. Provide for the care and maintenance of the sick of the county, erect and maintain hospitals for that purpose and, in its discretion, provide a farm in connection with the county hospital and adopt ordinances for working the farm.

6. Provide suitable rooms for county purposes.

7. Purchase, receive by donation or lease real or personal property necessary for the use of the county prison and take care of, manage and control the property, but no purchase of real property shall be made unless the value has been previously estimated by three disinterested citizens of the county, appointed by the board for that purpose, and no more than the appraised value shall be paid for the property.

8. Cause to be erected and furnished a courthouse, jail and hospital and such other buildings as necessary, and construct and establish a branch jail, when necessary, at a point distant from the county seat.

9. Sell at public auction, after thirty days' previous notice given by publication in a newspaper of the county, stating the time and place of the auction, and convey to the highest bidder, for cash or contract of purchase extending not more than ten years from the date of sale and upon such terms and conditions and for such consideration as the board shall prescribe, any property belonging to the county that the board deems advantageous for the county to sell, or that the board deems unnecessary for use by the county, and shall pay the proceeds thereof into the county treasury for use of the county, except that personal property need not be sold but may be used as a trade-in on the purchase of personal property when the board deems this

disposition of the personal property to be in the best interests of the county. When the property for sale is real property, the board shall have such property appraised by a qualified independent fee appraiser who has an office located in this state. The appraiser shall establish a minimum price, which shall not be less than ninety per cent of the appraised value. The notice regarding the sale of real property shall be published in the county where the property is situated and may be published in one or more other counties, and shall contain, among other things, the appraised value, the minimum acceptable sale price, and the common and legal description of the real property. Notwithstanding the requirement for a sale at public auction prescribed in this paragraph, a county~~,~~ AND with unanimous consent of the board, without a public auction, may sell or lease any county property to any other duly constituted governmental entity, including the state, cities, towns and other counties. A county~~,~~ AND with unanimous consent of the board, without public auction, may grant an easement on county property for public purposes to a utility as defined in section 40-491. A county~~,~~ AND with unanimous consent of the board, without public auction, may sell or lease any county property for a specific use to any solely charitable, social or benevolent nonprofit organization incorporated or operating in this state. A county may dispose of surplus equipment and materials that have little or no value or that are unauctionable in any manner authorized by the board.

10. Examine and exhibit the accounts AND PERFORMANCE of all officers having the care, management, collection or disbursement of ~~money~~ MONIES belonging to the county or appropriated by law or otherwise for the use and benefit of the county. THE WORKING PAPERS AND OTHER AUDIT FILES IN AN EXAMINATION AND AUDIT OF THE ACCOUNTS AND PERFORMANCE OF A COUNTY OFFICER ARE NOT PUBLIC RECORDS AND ARE EXEMPT FROM TITLE 39, CHAPTER 1. THE INFORMATION CONTAINED IN THE WORKING PAPERS AND AUDIT FILES PREPARED PURSUANT TO A SPECIFIC EXAMINATION OR AUDIT IS NOT SUBJECT TO DISCLOSURE, EXCEPT TO THE COUNTY ATTORNEY AND THE ATTORNEY GENERAL IN CONNECTION WITH AN INVESTIGATION OR ACTION TAKEN IN THE COURSE OF THEIR OFFICIAL DUTIES.

11. Examine, settle and allow all accounts legally chargeable against the county, order warrants to be drawn on the county treasurer for that purpose and provide for issuing the warrants.

12. Levy such tax annually on the taxable property of the county as may be necessary to defray the general current expenses thereof, including salaries otherwise unprovided for, and levy such other taxes as are required to be levied by law.

13. Equalize assessments.

14. Direct and control the prosecution and defense of all actions to which the county is a party, and compromise them.

15. Insure the county buildings in the name of and for the benefit of the county.

16. Fill by appointment all vacancies occurring in county or precinct offices.

17. Adopt provisions necessary to preserve the health of the county, and provide for the expenses thereof.

18. With the approval of the department of health services, contract with any qualified person to provide all or part of the health services, funded through the department of health services with federal or state monies, that the board in its discretion extends to residents of the county.

19. Contract for county printing and advertising, and provide books and stationery for county officers.

20. Provide for rebinding county records, or, if necessary, the transcribing of county records.

21. Make and enforce necessary rules and regulations for the government of its body, the preservation of order and the transaction of business.

22. Adopt a seal for the board, a description and impression of which shall be filed by the clerk in the office of the county recorder and the secretary of state.

23. Establish, maintain and conduct or aid in establishing, maintaining and conducting public aviation fields, purchase, receive by donation or lease any property necessary for that purpose, lease, at a nominal rental if desired, sell such aviation fields or property to the United States or any department, or sell or lease such aviation fields to a city, exchange lands acquired pursuant to this section for other lands, or act in conjunction with the United States in maintaining, managing and conducting all such property. If any such property or part of that property is not needed for these purposes, it shall be sold by the board and the proceeds shall be paid into the general fund of the county.

24. Acquire and hold property for the use of county fairs, and conduct, take care of and manage them.

25. Authorize the sheriff to offer a reward, not exceeding ten thousand dollars in one case, for information leading to the arrest and conviction of persons charged with crime.

26. Contract for the transportation of insane persons to the state hospital or direct the sheriff to transport such persons. The county is responsible for such expense to the extent the expense is not covered by any third party payor.

27. Provide for the reasonable expenses of burial for deceased indigents as provided in section 36-831 and maintain a permanent register of deceased indigents, including name, age and date of death, and when burial occurs, the board shall mark the grave with a permanent marker giving the name, age, and date of birth, if known.

28. Sell or grant to the United States the title or interest of the county in any toll road or toll train in or partly within a national park, upon such terms and consideration as may be agreed upon by the board and the secretary of the interior of the United States.

29. Enter into agreements for acquiring rights-of-way, construction, reconstruction or maintenance of highways in their respective counties,

including highways that pass through Indian reservations, with the government of the United States, acting through its duly authorized officers or agents pursuant to any act of Congress, except that the governing body of any Indian tribe whose lands are affected must consent to the use of its land, and any such agreements entered into before June 26, 1952 are validated and confirmed.

30. Do and perform all other acts and things necessary to the full discharge of its duties as the legislative authority of the county government, including receiving and accepting payment of monies by credit card or debit card, or both. Any fees or costs incurred by the use of the credit or debit card shall be paid by the person tendering payment unless the charging entity determines that the financial benefits of accepting credit cards or debit cards exceeds the additional processing fees.

31. Make and enforce all local, police, sanitary and other regulations not in conflict with general law.

32. Budget for funds for foster home care during the school week for mentally retarded and otherwise handicapped children who reside within the county and attend a school for the handicapped in a city or town within such county.

33. Do and perform all acts necessary to enable the county to participate in the economic opportunity act of 1964 (P.L. 88-452; 78 Stat. 508), as amended.

34. Provide a plan or plans for its employees that provide tax deferred annuity and deferred compensation plans as authorized pursuant to title 26, United States Code. Such plans shall allow voluntary participation by all employees of the county. Participating employees shall authorize the board to make reductions in their remuneration as provided in an executed deferred compensation agreement.

35. Adopt and enforce standards for shielding and filtration of commercial or public outdoor portable or permanent light fixtures in proximity to astronomical or meteorological laboratories.

36. Subject to the prohibitions, restrictions and limitations as set forth in section 11-830, adopt and enforce standards for excavation, landfill and grading to prevent unnecessary loss from erosion, flooding and landslides.

37. Make and enforce necessary ordinances for the operation and licensing of any establishment not in the limits of an incorporated city or town in which is carried on the business of providing baths, showers or other forms of hydrotherapy or any service of manual massage of the human body.

38. Provide pecuniary compensation as salary or wages for overtime work performed by county employees, including those employees covered by title 23, chapter 2, article 9. In so providing, the board may establish salary and wage plans incorporating classifications and conditions prescribed by the federal fair labor standards act.

39. Establish, maintain and operate facilities that provide for physical evaluation, diagnosis and treatment of patients and that do not keep patients overnight as bed patients or treat patients under general anesthesia.

40. Enact ordinances under its police authority prescribing reasonable curfews in the entire unincorporated area or any area less than the entire unincorporated area of the county for minors and fines not to exceed the fine for a petty offense for violation of such ordinances. Nothing in this paragraph shall be construed to require a request from an association or a majority of the residents of an area before the board may enact an ordinance applicable to the entire or any portion of the unincorporated area. An ordinance enacted pursuant to this paragraph shall provide that a minor is not violating a curfew if the minor is accompanied by a parent, a guardian or an adult having supervisorial custody, is on an emergency errand or has been specifically directed to the location on reasonable, legitimate business or some other activity by the parent, guardian or adult having supervisorial custody. If no curfew ordinance is applicable to a particular unincorporated area of the county, the board may adopt a curfew ordinance on the request or petition of either:

(a) A homeowners' association that represents a majority of the homeowners in the area covered by the association and to which the curfew would apply.

(b) A majority of the residents of the area to which the curfew would apply.

41. Lease or sublease personal property owned by the county to other political subdivisions of this state to be used for a public purpose.

42. In addition to the agreements authorized by section 11-651, enter into long-term agreements for the purchase of personal property, provided that the board may cancel any such agreement at the end of a fiscal year, at which time the seller may repossess the property and the agreement shall be deemed terminated.

43. Make and enforce necessary ordinances not in conflict with the laws of this state to regulate off-road recreational motor vehicles that are operated within the county on public lands without lawful authority or on private lands without the consent of the lawful owner or that generate air pollution. For the purposes of this paragraph, "off-road recreational motor vehicle" means three and four wheel vehicles manufactured for recreational nonhighway all terrain travel.

44. Acquire land for roads, drainage ways and other public purposes by exchange without public auction, except that notice shall be published thirty days before the exchange, listing the property ownership and descriptions.

45. Purchase real property for public purposes, provided that final payment shall be made not later than five years after the date of purchase.

46. Lease-purchase real property and improvements for real property for public purposes, provided that final payment shall be made not later than

twenty-five years after the date of purchase. Any increase in the final payment date from fifteen years up to the maximum of twenty-five years shall be made only on unanimous approval by the board of supervisors.

47. Make and enforce ordinances for the protection and disposition of domestic animals subject to inhumane, unhealthful or dangerous conditions or circumstances provided that nothing in this paragraph limits or restricts the authority granted to incorporated cities and towns or counties pursuant to section 13-2910. An ordinance enacted pursuant to this paragraph shall not restrict or limit the authority of the game and fish commission to regulate the taking of wildlife. For the purposes of this paragraph, "domestic animal" means an animal kept as a pet and not primarily for economic purposes.

48. If a part of a parcel of land is to be taken for roads, drainage, flood control or other public purposes and the board and the affected property owner determine that the remainder will be left in such a condition as to give rise to a claim or litigation concerning severance or other damage, acquire the whole parcel by purchase, donation, dedication, exchange, condemnation or other lawful means, and the remainder may be sold or exchanged for other properties needed for any public purpose.

49. Make and enforce necessary rules providing for the reimbursement of travel and subsistence expenses of members of county boards, commissions and advisory committees when acting in the performance of their duties, if the board, commission or advisory committee is authorized or required by federal or state law or county ordinance, and the members serve without compensation.

50. Provide a plan or plans for county employee benefits that allow for participation in a cafeteria plan that meets the requirements of the United States internal revenue code of 1986.

51. Provide for fringe benefits for county employees, including sick leave, personal leave, vacation and holiday pay and jury duty pay.

52. Make and enforce ordinances that are more restrictive than state requirements to reduce or encourage the reduction of carbon monoxide and ozone levels, provided an ordinance does not establish a standard for vehicular emissions, including ordinances to reduce or encourage the reduction of the commuter use of motor vehicles by employees of the county and employees whose place of employment is in unincorporated areas of the county.

53. Make and enforce ordinances to provide for the reimbursement of up to one hundred per cent of the cost to county employees of public bus or van pool transportation to and from their place of employment.

54. Lease for public purposes any real property, improvements for real property and personal property under the same terms and conditions, to the extent applicable, as are specified in sections 11-651 and 11-653 for lease-purchases.

55. Enact ordinances prescribing regulation of alarm systems and providing for civil penalties to reduce the incidence of false alarms at

business and residential structures relating to burglary, robbery, fire and other emergencies not within the limits of an incorporated city or town.

56. In addition to paragraph 9 of this section, and notwithstanding section 23-504, sell or dispose of, at no less than fair market value, county personal property that the board deems no longer useful or necessary through a retail outlet or to another government entity if the personal property has a fair market value of no more than one thousand dollars, or by retail sale or private bid, if the personal property has a fair market value of no more than fifteen thousand dollars. Notice of sales in excess of one thousand dollars shall include a description and sale price of each item and shall be published in a newspaper of general circulation in the county, and for thirty days after notice other bids may be submitted that exceed the sale price by at least five per cent. The county shall select the highest bid received at the end of the thirty day period.

57. Sell services, souvenirs, sundry items or informational publications that are uniquely prepared for use by the public and by employees and license and sell information systems and intellectual property developed from county resources that the county is not obligated to provide as a public record.

58. On unanimous consent of the board of supervisors, license, lease or sell any county property pursuant to paragraphs 56 and 57 of this section at less than fair market value to any other governmental entity, including this state, cities, towns, public improvement districts or other counties within or outside of this state, or for a specific purpose to any charitable, social or benevolent nonprofit organization incorporated or operating in this state.

59. On unanimous consent of the board of supervisors, provide technical assistance and related services to a fire district pursuant to an intergovernmental agreement.

60. Adopt contracting procedures for the operation of a county health system pursuant to section 11-291. Before the adoption of contracting procedures the board shall hold a public hearing. The board shall publish one notification in a newspaper of general circulation in the county seat at least fifteen days before the hearing.

61. Enter into an intergovernmental agreement pursuant to chapter 7, article 3 of this title for a city or town to provide emergency fire or emergency medical services pursuant to section 9-500.23 to a county island as defined in section 11-251.12. The board may charge the owners of record in the county island a fee to cover the cost of an intergovernmental agreement that provides fire and emergency medical services.

62. In counties that employ or have designated an animal control county enforcement agent pursuant to section 11-1005, enter into agreements with foundations or charitable organizations to solicit donations, property or services, excluding enforcement or inspection services, for use by the county enforcement agent solely to perform nonmandated services and to fund capital improvements for county animal control, subject to annual financial and

performance audits by an independent party as designated by the county board of supervisors. For the purposes of this paragraph, nonmandated services are limited to low cost spay and neuter services, public education and outreach efforts, pet adoption efforts, care for pets that are victims of cruelty or neglect and support for volunteer programs.

63. Adopt and provide for the enforcement of ordinances prohibiting open fires and campfires on designated lands in the unincorporated areas of the county when a determination of emergency is issued by the county emergency management officer and the board deems it necessary to protect public health and safety on those lands.

64. Fix the amount of license fees to be paid by any person, firm, corporation or association for carrying on any game or amusement business in unincorporated areas of the county and prescribe the method of collection or payment of those fees, for a stated period in advance, and fix penalties for failure to comply by fine. Nothing in this article shall be construed as authorizing any county to require an occupational license or fee for any activity if state law precludes requiring such a license or fee.

65. Adopt and enforce ordinances for the prevention, abatement and removal of graffiti, providing that any restrictions on the retail display of potential graffiti tools be limited to any of the following, as determined by the retail business:

(a) In a place that is in the line of sight of a cashier or in the line of sight from a work station normally continuously occupied during business hours.

(b) In a manner that makes the product accessible to a patron of the business establishment only with the assistance of an employee of the establishment.

(c) In an area electronically protected, or viewed by surveillance equipment that is monitored, during business hours.

66. Adopt ordinances and fees related to the implementation of a local stormwater quality program pursuant to title 49, chapter 2, article 11.

Sec. 2. Section 11-352, Arizona Revised Statutes, is amended to read:

11-352. <u>Adoption of limited county employee merit system by resolution; removal of certain administrative positions by resolution</u>

A. Any county may by resolution of the board adopt a limited county employee merit system for ~~any and~~ all county appointive officers and employees. Elected officers shall not be included in such A merit system.

B. Any county may by resolution of the board remove certain administrative positions from the county employee merit system. The positions ~~which~~ THAT may be removed from the county employee merit system are:

1. County manager.
2. Deputy county manager.
3. Assistant county manager.

4. Chief deputies to elected officials.
5. Department directors.
6. Deputy directors, not to exceed three in each department.
7. One position in each department ~~which~~ THAT reports directly to the director or deputy director as designated by the director and deputy director.
8. An administrative position declared exempt after ~~the effective date of this section~~ AUGUST 8, 1985. The number of positions declared exempt under this paragraph shall not exceed ~~five~~ TEN per cent of the total number of county appointive officers and employees.

C. Any employee who was included as a covered employee in the county employee merit system at the time ~~he~~ THE EMPLOYEE assumed ~~his~~ THE EMPLOYEE'S present position and whose position becomes exempt under ~~the provisions of~~ subsection B may elect to remain included under the merit system, but if terminated the employee must be afforded the opportunity to accept another vacant position within the merit system for which the employee is qualified.

Sec. 3. Section 12-128, Arizona Revised Statutes, as amended by Laws 2010, seventh special session, chapter 6, section 2, is amended to read:

12-128. Salary of judges; payment by state and counties

Judges of the superior court shall each receive an annual salary pursuant to section 41-1904, which is payable one-half by this state and one-half by the counties respectively, except that in counties with a population of more than two million persons, BEGINNING IN FISCAL YEAR 2010-2011, the county shall pay one hundred per cent of the annual salary.

Sec. 4. Economic estimates commission; base expenditure limit adjustment

Pursuant to section 41-563, subsection D, Arizona Revised Statutes, the economic estimates commission shall adjust the base expenditure limit of a county with a population of more than two million persons to reflect the transfer of the governmental function prescribed by section 12-128, Arizona Revised Statutes, as amended by Laws 2010, seventh special session, chapter 6, section 2 and this act.

Sec. 5. Retroactivity

Section 3 of this act applies retroactively to from and after June 14, 2010.

APPROVED BY THE GOVERNOR MAY 6, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 6, 2010.

Passed the House April 20, 20 10,

by the following vote: 57 Ayes,

0 Nays, 3 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate February 11, 20 10,

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

President of the Senate

Assistant Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

_____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary to the Governor

Approved this _____ day of

_____, 20_____,

at _____ o'clock _____ M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this _____ day of _____, 20____,

at _____ o'clock _____ M.

Secretary of State

S.B. 1100

SENATE CONCURS IN HOUSE AMENDMENTS AND FINAL PASSAGE

Passed the Senate April 28, 20 10

by the following vote: 24

6 Nays, 0 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

29 day of April, 20 10

at 9:40 o'clock A. M.

Secretary to the Governor

Approved this 6 day of

May

at 10:15 o'clock A. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 6th day of May, 20 10

at 3:08 o'clock P M.

Secretary of State

S.B. 1100