House Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
House of Representatives
Fiftieth Legislature
Second Regular Session
2012

CHAPTER 205

HOUSE BILL 2350

AN ACT

AMENDING SECTIONS 9-461.14, 9-839, 11-809, 11-1609 AND 48-3649, ARIZONA REVISED STATUTES; RELATING TO LOCAL REGULATIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 9-461.14, Arizona Revised Statutes, is amended to read:

9-461.14. Public works project planning; utility input; definitions

A. A city or town in the design phase of a public works project shall provide notice and opportunity for comment to all utilities the city or town believes may be impacted by the public works project for the purposes of:

1. Eliminating or minimizing the need for relocation of aerial, surface and underground facilities of the impacted utilities and, if relocation is unavoidable, minimizing the relocation costs to the extent practicable relative to the cost of the public works project.

2. Minimizing subsequent reconstruction or modification of utility facilities after completion of the public works project.

B. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION, A CITY OR TOWN SHALL ANNUALLY POST ON ITS WEBSITE A CAPITAL IMPROVEMENT PLAN CONTAINING ALL PUBLIC WORKS PROJECTS SCHEDULED TO BE CONSTRUCTED. FOR A CITY OR TOWN WITHOUT A WEBSITE, THE INFORMATION SHALL BE POSTED ON THE WEBSITE OPERATED BY AN ASSOCIATION OF CITIES AND TOWNS IN THIS STATE. A UTILITY MAY ALSO REQUEST THAT THE CITY OR TOWN ANNUALLY PROVIDE A COPY OF THE CITY OR TOWN'S CAPITAL IMPROVEMENT PLAN AND PROVIDE NOTICE OF ANY NEW PROJECTS NOT INCLUDED IN THE PLAN OR CHANGES THAT ADVANCE THE START DATE OF ANY PROJECTS ALREADY IN THE PLAN. THE UTILITY SHALL DESIGNATE THE UTILITY REPRESENTATIVE TO RECEIVE THE PLAN AND ANY NOTICE OF CHANGES THAT WOULD ADD NEW PROJECTS OR ADVANCE THE START DATE OF ANY PROJECTS ALREADY IN THE PLAN.

~~B.~~ C. For the purposes of this section:

1. "Public works project" has the same meaning prescribed in section 12-1141.

2. "Utility" has the same meaning prescribed in section 48-5107.

Sec. 2. Section 9-839, Arizona Revised Statutes, is amended to read:

9-839. Clarification of interpretation

A. ~~A person~~ AN APPLICANT FOR A LICENSE SUBJECT TO THIS ARTICLE may request a municipality to clarify its interpretation or application of a statute, ordinance, code or authorized substantive policy statement affecting the procurement of ~~a~~ THAT license by providing the municipality with a written request that states:

1. The name and address of the ~~person~~ APPLICANT requesting the clarification.

2. The statute, ordinance, code or authorized substantive policy statement or part of the statute, ordinance, code or authorized substantive policy statement that requires clarification.

3. Any facts relevant to the requested ruling.

4. The ~~person's~~ APPLICANT'S proposed interpretation of the applicable statute, ordinance, code or authorized substantive policy statement or part

of the statute, ordinance, code or authorized substantive policy statement that requires clarification.

5. Whether, to the best knowledge of the ~~person~~ APPLICANT, the issues or related issues are being considered by the municipality in connection with an existing license or license application.

B. On receipt of a request that complies with subsection A, the municipality may meet with the ~~person~~ APPLICANT to discuss the written request and shall respond within thirty days of the receipt of the written request with a written explanation of its interpretation or application as raised in the written request. The municipality shall provide the ~~requestor~~ APPLICANT with an opportunity to meet and discuss the municipality's written explanation.

C. The municipality may modify a written explanation provided under subsection B on written notice to the ~~person~~ APPLICANT if required by a change in the law that was applicable at the time the clarification ~~or~~ OF interpretation was issued, including changes caused by legislation, administrative rules formally adopted by the governing body or a court decision.

Sec. 3. Section 11-809, Arizona Revised Statutes, is amended to read:

11-809. Public works project planning; utility input; definitions

A. A county in the design phase of a public works project shall provide notice and opportunity for comment to all utilities the county believes may be impacted by the public works project for the purposes of:

1. Eliminating or minimizing the need for relocation of aerial, surface and underground facilities of the impacted utilities and, if relocation is unavoidable, minimizing the relocation costs to the extent practicable relative to the cost of the public works project.

2. Minimizing subsequent reconstruction or modification of utility facilities after completion of the public works project.

B. IN ADDITION TO THE REQUIREMENTS OF SUBSECTION A OF THIS SECTION, A COUNTY SHALL ANNUALLY POST ON ITS WEBSITE A CAPITAL IMPROVEMENT PLAN CONTAINING ALL PUBLIC WORKS PROJECTS SCHEDULED TO BE CONSTRUCTED. A UTILITY MAY ALSO REQUEST THAT THE COUNTY ANNUALLY PROVIDE A COPY OF A COUNTY'S CAPITAL IMPROVEMENT PLAN AND PROVIDE NOTICE OF ANY NEW PROJECTS NOT INCLUDED IN THE PLAN OR CHANGES THAT ADVANCE THE START DATE OF ANY PROJECTS ALREADY IN THE PLAN. THE UTILITY SHALL DESIGNATE THE UTILITY REPRESENTATIVE TO RECEIVE THE PLAN AND ANY NOTICE OF CHANGES THAT WOULD ADD NEW PROJECTS OR ADVANCE THE START DATE OF ANY PROJECTS ALREADY IN THE PLAN.

~~B.~~ C. For the purposes of this section:

1. "Public works project" has the same meaning prescribed in section 12-1141.

2. "Utility" has the same meaning prescribed in section 48-5107.

Sec. 4. Section 11-1609, Arizona Revised Statutes, is amended to read:

11-1609. Clarification of interpretation

A. ~~A person~~ AN APPLICANT FOR A LICENSE SUBJECT TO THIS ARTICLE may request a county to clarify its interpretation or application of a statute, ordinance, regulation, delegation agreement or authorized substantive policy statement affecting the procurement of ~~a~~ THAT license by providing the county with a written request that states:

1. The name and address of the ~~person~~ APPLICANT requesting the clarification.

2. The statute, ordinance, regulation, delegation agreement or authorized substantive policy statement or part of the statute, ordinance, regulation, delegation agreement or authorized substantive policy statement that requires clarification.

3. Any facts relevant to the requested ruling.

4. The ~~person's~~ APPLICANT'S proposed interpretation of the applicable statute, ordinance, regulation, delegation agreement or authorized substantive policy statement or part of the statute, ordinance, regulation, delegation agreement or authorized substantive policy statement that requires clarification.

5. Whether, to the best knowledge of the ~~person~~ APPLICANT, the issues or related issues are being considered by the county in connection with an existing license or license application.

B. On receipt of a request that complies with subsection A, the county may meet with the ~~person~~ APPLICANT to discuss the written request and shall respond within thirty days of the receipt of the written request with a written explanation of its interpretation or application as raised in the written request. The county shall provide the ~~requestor~~ APPLICANT with an opportunity to meet and discuss the county's written explanation.

C. The county may modify a written explanation provided under subsection B on written notice to the ~~person~~ APPLICANT if required by a change in the law that was applicable at the time the clarification ~~or~~ OF interpretation was issued, including changes caused by legislation, administrative rules formally adopted by the ~~governing body~~ BOARD OF SUPERVISORS or a court decision.

Sec. 5. Section 48-3649, Arizona Revised Statutes, is amended to read:

48-3649. Clarification of interpretation

A. ~~A person~~ AN APPLICANT FOR A LICENSE SUBJECT TO THIS ARTICLE may request a district to clarify its interpretation or application of a statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement affecting the procurement of ~~a~~ THAT license by providing the district with a written request that states:

1. The name and address of the ~~person~~ APPLICANT requesting the clarification.

2. The statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement or part of the statute,

ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement that requires clarification.

3. Any facts relevant to the requested ruling.

4. The ~~person's~~ APPLICANT'S proposed interpretation of the applicable statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement or part of the statute, ordinance, regulation, executive order, delegation agreement or authorized substantive policy statement.

5. Whether, to the best knowledge of the ~~person~~ APPLICANT, the issues or related issues are being considered by the district in connection with an existing license or license application.

B. On receipt of a request that complies with subsection A, the district may meet with the ~~person~~ APPLICANT to discuss the written request and shall respond within thirty days of the receipt of the written request with a written explanation of its interpretation or application as raised in the written request. The district shall provide the ~~requestor~~ APPLICANT with an opportunity to meet and discuss the district's written explanation.

C. A district may modify a written explanation provided under subsection B on written notice to the ~~person~~ APPLICANT if required by a change in the law that was applicable at the time the clarification ~~or~~ OF interpretation was issued, including changes caused by legislation, administrative rules formally adopted by the governing body or a court decision.

APPROVED BY THE GOVERNOR APRIL 5, 2012.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 5, 2012.

Passed the House March 5, 2012

by the following vote: 43 Ayes,

17 Nays, 0 Not Voting

Speaker of the House

Chief Clerk of the House

Passed the Senate April 3, 2012

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

President of the Senate

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

4 day of April, 2012

at 11:25 o'clock A M.

Secretary to the Governor

Approved this 5th day of

April

at 10:10 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 5th day of April, 2012

at 4:20 o'clock P M.

Secretary of State

H.B. 2350