

REFERENCE TITLE: construction standards; open; voluntary; consensus

State of Arizona  
House of Representatives  
Forty-fifth Legislature  
First Regular Session  
2001

## **HB 2407**

Introduced by  
Representatives Chevront, Marsh: Pearce

AN ACT

AMENDING SECTION 41-1081, ARIZONA REVISED STATUTES; RELATING TO DELEGATION AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:  
2 Section 1. Section 41-1081, Arizona Revised Statutes, is amended to  
3 read:  
4 41-1081. Standards for delegation  
5 A. No agency may enter into or amend any delegation agreement unless  
6 the delegation agreement clearly sets forth all of the following:  
7 1. Each function, power or duty being delegated by the agency, the  
8 term of the agreement and the procedures for terminating the agreement.  
9 2. The standards of performance required to fulfill the agreement.  
10 3. The types of fees that will be imposed on regulated parties and the  
11 legal authority for imposing any such fees.  
12 4. The qualifications of the personnel of the political subdivision  
13 responsible for exercising the delegated functions, powers or duties.  
14 5. Record keeping and reporting requirements.  
15 6. Auditing requirements if the delegation agreement includes the  
16 transfer of funds from the delegating agency to the political subdivision.  
17 7. A definition of the enforcement role if enforcement authority is  
18 being delegated.  
19 8. Procedures for resolving conflicts between the parties to the  
20 delegation agreement.  
21 9. Procedures for amending the delegation agreement.  
22 10. The names and addresses of primary contact persons at both the  
23 delegating agency and the political subdivision.  
24 B. AN AGENCY SHALL NOT INCLUDE CONSTRUCTION STANDARDS IN A DELEGATION  
25 AGREEMENT UNLESS THOSE CONSTRUCTION STANDARDS ARE EITHER:  
26 1. OPEN, VOLUNTARY, CONSENSUS STANDARDS. FOR THE PURPOSES OF THIS  
27 PARAGRAPH, "CONSENSUS" MEANS VOTING RIGHTS ARE NOT LIMITED TO OR QUALIFIED BY  
28 A SPECIFIC PROFESSIONAL STATUS OR OCCUPATIONAL ROLE.  
29 2. ADOPTED BY THE AGENCY THROUGH THE RULE MAKING PROCESS PRESCRIBED IN  
30 ARTICLE 3 OF THIS CHAPTER.  
31 ~~B.~~ C. An agency that seeks to delegate functions, powers or duties  
32 shall file with the secretary of state a summary of the proposed delegation  
33 agreement. The summary shall provide the name of a person to contact in the  
34 agency with questions or comments and shall state that a copy of the proposed  
35 delegation agreement may be obtained upon request from the agency. The  
36 secretary of state shall publish the summary in the next register.  
37 ~~C.~~ D. For at least thirty days after publication of the notice of the  
38 proposed delegation agreement in the register, the agency shall provide  
39 persons the opportunity to submit in writing statements, arguments, data and  
40 views on the proposed delegation agreement and shall provide an opportunity  
41 for a public hearing if there is sufficient public interest.  
42 ~~D.~~ E. A public hearing on the delegation agreement shall not be held  
43 earlier than thirty days after the notice of its location and time is  
44 published in the register. The agency shall determine a location and time  
45 for the public hearing that affords a reasonable opportunity for persons to

1 participate. At that public hearing persons may present oral argument, data  
2 and views on the proposed delegation agreement.

3 ~~E~~ F. After the conclusion of the public comment period and hearing,  
4 if any, the agency shall prepare a written summary, responding to the  
5 comments received, whether oral or written. The agency shall consider the  
6 comments received from the public in determining whether to enter into the  
7 proposed delegation agreement. The agency shall give written notice to those  
8 persons who submitted comments of the agency's decision on whether to enter  
9 into the proposed delegation agreement. The delegation agreement is  
10 effective thirty days after written notice of the agency's final decision is  
11 given unless an appeal is filed and pending before the council pursuant to  
12 subsection ~~F~~ G.

13 ~~F~~ G. A person who filed written comments with the delegating agency  
14 objecting to all or part of the proposed delegation agreement may appeal to  
15 the council the delegating agency's decision to enter into the delegation  
16 agreement within thirty days after the agency gives written notice to enter  
17 into the delegation agreement pursuant to subsection ~~E~~ F. The council shall  
18 place the appeal of the delegation agreement on its next meeting agenda if at  
19 least three council members make such a request of the council chairman  
20 within two weeks of the filing of the appeal.

21 ~~G~~ H. Delegation agreements that are appealed to and considered by  
22 the council shall become effective upon council approval of the delegation  
23 agreement. Delegation agreements that are appealed to the council and not  
24 considered by the council are effective either thirty days after written  
25 notice of the agency's final decision is given pursuant to subsection ~~E~~ F,  
26 or two weeks after an appeal is filed if at least three council members do  
27 not request council consideration of the delegation agreement pursuant to  
28 subsection ~~F~~ G, whichever date is later.

29 ~~H~~ I. The council shall not approve the delegation agreement if it  
30 does not ~~meet the provisions set forth in subsection~~ COMPLY WITH SUBSECTIONS  
31 A AND B or if the agency has not provided adequate notice and an opportunity  
32 for comment to the public.