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REFERENCE TITLE: local planning; school facilities; notice

State of Arizona  
Senate  
Forty-fifth Legislature  
Second Regular Session  
2002

## **SB 1105**

Introduced by  
Senator Bundgaard

### **AN ACT**

AMENDING SECTIONS 9-461.06, 9-462.04, 11-806 AND 11-829, ARIZONA REVISED STATUTES; AMENDING SECTION 15-2002, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 11, SECTION 3 AND CHAPTER 23, SECTION 6; REPEALING SECTION 15-2002, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2001, CHAPTER 297, SECTION 2; BLENDING MULTIPLE ENACTMENTS; RELATING TO LOCAL PLANNING AND ZONING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 9-461.06, Arizona Revised Statutes, is amended to  
3 read:

4 9-461.06. Adoption and amendment of general plan; expiration  
5 and readoption

6 A. The general plan and any amendment to such plan shall be adopted or  
7 readopted in the manner provided in this article.

8 B. The governing body shall:

9 1. Adopt written procedures to provide effective, early and continuous  
10 public participation in the development and major amendment of general plans  
11 from all geographic, ethnic and economic areas of the municipality. The  
12 procedures shall provide for:

13 (a) The broad dissemination of proposals and alternatives.

14 (b) The opportunity for written comments.

15 (c) Public hearings after effective notice.

16 (d) Open discussions, communications programs and information  
17 services.

18 (e) Consideration of public comments.

19 2. Consult with, advise and provide an opportunity for official  
20 comment by public officials and agencies, the county, school districts, **THE**  
21 **SCHOOL FACILITIES BOARD**, associations of governments, public land management  
22 agencies, the military airport if the municipality has territory in the  
23 vicinity of a military airport as defined in section 28-8461, other  
24 appropriate government jurisdictions, public utility companies, civic,  
25 educational, professional and other organizations, property owners and  
26 citizens generally to secure maximum coordination of plans and to indicate  
27 properly located sites for all public purposes on the general plan.

28 **3. REVIEW RECOMMENDATIONS OF THE SCHOOL DISTRICT SUPERINTENDENT,**  
29 **SCHOOL DISTRICT BOARD AND THE SCHOOL FACILITIES BOARD REGARDING STUDENT COUNT**  
30 **PROJECTIONS AND THE CURRENT OR FUTURE AVAILABILITY OF CLASSROOM FACILITIES TO**  
31 **SECURE MAXIMUM COORDINATION OF PLANS AND TO INDICATE PROPERLY LOCATED SITES**  
32 **FOR ALL PUBLIC PURPOSES ON THE GENERAL PLAN.**

33 C. At least sixty days before the general plan or a portion, element  
34 or major amendment of a general plan is adopted, the planning agency shall  
35 transmit the proposal to the governing body and submit a copy for review and  
36 further comment to:

37 1. The planning agency of the county in which the municipality is  
38 located.

39 2. Each county or municipality that is contiguous to the corporate  
40 limits of the municipality or its area of extraterritorial jurisdiction.

41 3. The regional planning agency within which the municipality is  
42 located.

43 4. The department of commerce or any other state agency that is  
44 subsequently designated as the general planning agency for this state.

1           5. If the general plan or a portion, element or amendment of the  
2 general plan is applicable to territory in the vicinity of a military airport  
3 as defined in section 28-8461, the military airport.

4           6. THE SUPERINTENDENT OF EACH SCHOOL DISTRICT THAT IS AFFECTED BY THE  
5 PROPOSAL.

6           ~~6-~~ 7. Any person or entity that requests in writing to receive a  
7 review copy of the proposal.

8           D. If the municipality has a planning commission, the planning  
9 commission shall hold at least one public hearing before approving a general  
10 plan or any amendment to such plan. When the general plan or any major  
11 amendment is being adopted, planning commissions in municipalities having  
12 populations over twenty-five thousand persons shall hold two or more public  
13 hearings at different locations within the municipality to promote citizen  
14 participation. Notice of the time and place of a hearing and availability of  
15 studies and summaries related to the hearing shall be given at least fifteen  
16 and not more than thirty calendar days before the hearing by:

17           1. Publication at least once in a newspaper of general circulation  
18 published or circulated in the municipality, or if there is none, the notice  
19 shall be posted in at least ten public places in the municipality.

20           2. Such other manner in addition to publication as the municipality  
21 may deem necessary or desirable.

22           E. Action by the planning commission on the general plan or any  
23 amendment to the plan shall be transmitted to the governing body of the  
24 municipality.

25           F. Before adopting the general plan, or any amendment to it, the  
26 governing body shall hold at least one public hearing. Notice of the time  
27 and place of the hearing shall be given in the time and manner provided for  
28 the giving of notice of the hearing by the planning commission as specified  
29 in subsection D of this section.

30           G. The adoption or readoption of the general plan or any amendment to  
31 such plan shall be by resolution of the governing body of the municipality,  
32 after notice as provided for in subsection D of this section. The adoption  
33 or readoption of or a major amendment to the general plan shall be approved  
34 by affirmative vote of at least two-thirds of the members of the governing  
35 body of the municipality. All major amendments to the general plan proposed  
36 for adoption by the governing body of a municipality shall be presented at a  
37 single public hearing during the calendar year the proposal is made. The  
38 general plan, or any amendment to the plan, shall be endorsed in the manner  
39 provided by the governing body to show that it has been adopted by the  
40 governing body. For purposes of this subsection, "major amendment" means a  
41 substantial alteration of the municipality's land use mixture or balance as  
42 established in the municipality's existing general plan land use  
43 element. The municipality's general plan shall define the criteria to  
44 determine if a proposed amendment to the general plan effects a substantial

1 alteration of the municipality's land use mixture or balance as established  
2 in the municipality's existing general plan land use element.

3 H. If the municipality does not have a planning commission, the only  
4 procedural steps required for the adoption of the general plan, or any  
5 amendment to such plan, shall be those provided in this article for action by  
6 the governing body.

7 I. A copy of the adopted general plan of a municipality shall be sent  
8 to the planning agency of the county within which the municipality is  
9 located, and such plan or any portion of the plan may be adopted as a part of  
10 the county general plan.

11 J. A general plan, with any amendments, is effective for up to ten  
12 years from the date the plan was initially adopted and ratified pursuant to  
13 subsection L of this section, or until the plan is readopted pursuant to this  
14 subsection and ratified pursuant to subsection L of this section or a new  
15 plan is adopted pursuant to this subsection and ratified pursuant to  
16 subsection L of this section, and becomes effective. On or before the tenth  
17 anniversary of the plan's most recent adoption, the governing body of the  
18 municipality shall either readopt the existing plan for an additional term of  
19 up to ten years or shall adopt a new general plan as provided by this  
20 article.

21 K. Except for general plans that are required to be submitted to the  
22 voters for ratification pursuant to subsection L of this section, the  
23 adoption or readoption of a general plan, and any amendment to a general  
24 plan, shall not be enacted as an emergency measure and is subject to  
25 referendum as provided by article IV, part 1, section 1, subsection (8),  
26 Constitution of Arizona, and title 19, chapter 1, article 4.

27 L. The governing body of a city or town having a population of more  
28 than two thousand five hundred persons but less than ten thousand persons and  
29 whose population growth rate exceeded an average of two per cent per year for  
30 the ten year period before the most recent United States decennial census,  
31 and any city or town having a population of ten thousand or more persons,  
32 shall submit each new general plan adopted pursuant to subsection J of this  
33 section to the voters for ratification at an election held pursuant to  
34 section 16-204. The governing body shall include a general description of  
35 the plan and its elements in the municipal election pamphlet and shall  
36 provide public copies of the plan in at least two locations that are easily  
37 accessible to the public and may include posting on a site on a worldwide  
38 public network of interconnected computers. If a majority of the qualified  
39 electors voting on the proposition approves the new plan, it shall become  
40 effective as provided by law. If a majority of the qualified electors voting  
41 on the proposition fails to approve the new plan, the current plan remains in  
42 effect until a new plan is approved by the voters pursuant to this  
43 subsection. The governing body may resubmit the proposed new plan, or revise  
44 the new plan as provided by this section, for subsequent submission to the  
45 voters.

1 M. In applying an open space element or a growth element of a general  
2 plan a municipality shall not designate private land or state trust land as  
3 open space, recreation, conservation or agriculture unless the municipality  
4 receives the written consent of the landowner or provides an alternative,  
5 economically viable designation in the general plan or zoning ordinance,  
6 allowing at least one residential dwelling per acre. If the landowner is the  
7 prevailing party in any action brought to enforce this subsection, a court  
8 shall award fees and other expenses to the landowner.

9 Sec. 2. Section 9-462.04, Arizona Revised Statutes, is amended to  
10 read:

11 9-462.04. Public hearing required

12 A. If the municipality has a planning commission or a hearing officer,  
13 the planning commission or hearing officer shall hold a public hearing on any  
14 zoning ordinance. Notice of the time and place of the hearing including a  
15 general explanation of the matter to be considered and including a general  
16 description of the area affected shall be given at least fifteen days before  
17 the hearing in the following manner:

18 1. The notice shall be published at least once in a newspaper of  
19 general circulation published or circulated in the municipality, or if there  
20 is none, it shall be posted on the affected property in such a manner as to  
21 be legible from the public right-of-way and in at least ten public places in  
22 the municipality. A posted notice shall be printed so that the following are  
23 visible from a distance of one hundred feet: the word "zoning", the present  
24 zoning district classification, the proposed zoning district classification  
25 and the date and time of the hearing.

26 2. In proceedings involving rezoning of land which abuts other  
27 municipalities or unincorporated areas of the county or a combination  
28 thereof, copies of the notice of public hearing shall be transmitted to the  
29 planning agency of such governmental unit abutting such land. In proceedings  
30 involving rezoning of land that is located within the territory in the  
31 vicinity of a military airport as defined in section 28-8461, the  
32 municipality shall send copies of the notice of public hearing by first class  
33 mail to the military airport. **IN PROCEEDINGS INVOLVING REZONING OF LAND THAT  
34 IS LOCATED WITHIN OR ADJACENT TO A SCHOOL DISTRICT, THE MUNICIPALITY SHALL  
35 SEND COPIES OF THE NOTICE OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE  
36 SUPERINTENDENT OF EACH AFFECTED SCHOOL DISTRICT.** In addition to notice by  
37 publication, a municipality may give notice of the hearing in such other  
38 manner as it may deem necessary or desirable.

39 3. In proceedings that are not initiated by the property owner  
40 involving rezoning of land which may change the zoning classification, notice  
41 by first class mail shall be sent to each real property owner, as shown on  
42 the last assessment of the property, of the area to be rezoned and all  
43 property owners, as shown on the last assessment of the property, within  
44 three hundred feet of the property to be rezoned.

1           4. In proceedings involving one or more of the following proposed  
2 changes or related series of changes in the standards governing land uses,  
3 notice shall be provided in the manner prescribed by paragraph 5:

4           (a) A ten per cent or more increase or decrease in the number of  
5 square feet or units that may be developed.

6           (b) A ten per cent or more increase or reduction in the allowable  
7 height of buildings.

8           (c) An increase or reduction in the allowable number of stories of  
9 buildings.

10          (d) A ten per cent or more increase or decrease in setback or open  
11 space requirements.

12          (e) An increase or reduction in permitted uses.

13          5. In proceedings governed by paragraph 4, the municipality shall  
14 provide notice to real property owners pursuant to at least one of the  
15 following notification procedures:

16          (a) Notice shall be sent by first class mail to each real property  
17 owner, as shown on the last assessment, whose real property is directly  
18 governed by the changes.

19          (b) If the municipality issues utility bills or other mass mailings  
20 that periodically include notices or other informational or advertising  
21 materials, the municipality shall include notice of such changes with such  
22 utility bills or other mailings.

23          (c) The municipality shall publish such changes prior to the first  
24 hearing on such changes in a newspaper of general circulation in the  
25 municipality. The changes shall be published in a "display ad" covering not  
26 less than one-eighth of a full page.

27          6. If notice is provided pursuant to paragraph 5, subdivision (b) or  
28 (c), the municipality shall also send notice by first class mail to persons  
29 who register their names and addresses with the municipality as being  
30 interested in receiving such notice. The municipality may charge a fee not  
31 to exceed five dollars per year for providing this service and may adopt  
32 procedures to implement this paragraph.

33          7. Notwithstanding the notice requirements set forth in paragraph 4,  
34 the failure of any person or entity to receive notice shall not constitute  
35 grounds for any court to invalidate the actions of a municipality for which  
36 the notice was given.

37          B. If the matter to be considered applies to territory in a high noise  
38 or accident potential zone as defined in section 28-8461, the notice  
39 prescribed in subsection A of this section shall include a general statement  
40 that the matter applies to property located in the high noise or accident  
41 potential zone.

42          C. After the hearing, the planning commission or hearing officer shall  
43 render a decision in the form of a written recommendation to the governing  
44 body. The recommendation shall include the reasons for the recommendation

1 and be transmitted to the governing body in such form and manner as may be  
2 specified by the governing body.

3 D. If the planning commission or hearing officer has held a public  
4 hearing, the governing body may adopt the recommendations of the planning  
5 commission or hearing officer without holding a second public hearing if  
6 there is no objection, request for public hearing or other protest. The  
7 governing body shall hold a public hearing if requested by the party  
8 aggrieved or any member of the public or of the governing body, or, in any  
9 case, if no public hearing has been held by the planning commission or  
10 hearing officer. In municipalities with territory in the vicinity of a  
11 military airport as defined in section 28-8461, the governing body shall hold  
12 a public hearing if, after notice is transmitted to the military airport  
13 pursuant to subsection A of this section and before the public hearing, the  
14 military airport provides comments or analysis concerning the compatibility  
15 of the proposed rezoning with the high noise or accident potential generated  
16 by military airport operations that may have an adverse impact on public  
17 health and safety, and the governing body shall consider and analyze the  
18 comments or analysis before making a final determination. Notice of the time  
19 and place of the hearing shall be given in the time and manner provided for  
20 the giving of notice of the hearing by the planning commission as specified  
21 in subsection A of this section. In addition a municipality may give notice  
22 of the hearing in such other manner as it may deem necessary or desirable.

23 E. A municipality may enact an ordinance authorizing county zoning to  
24 continue in effect until municipal zoning is applied to land previously zoned  
25 by the county and annexed by the municipality, but in no event for longer  
26 than six months after the annexation.

27 F. A municipality is not required to adopt a general plan prior to the  
28 adoption of a zoning ordinance.

29 G. If there is no planning commission or hearing officer, the  
30 governing body of the municipality shall perform the functions assigned to  
31 the planning commission or hearing officer.

32 H. If the owners of twenty per cent or more either of the area of the  
33 lots included in a proposed change, or of those immediately adjacent in the  
34 rear or any side thereof extending one hundred fifty feet therefrom, or of  
35 those directly opposite thereto extending one hundred fifty feet from the  
36 street frontage of the opposite lots, file a protest in writing against a  
37 proposed amendment, it shall not become effective except by the favorable  
38 vote of three-fourths of all members of the governing body of the  
39 municipality. If any members of the governing body are unable to vote on  
40 such a question because of a conflict of interest, then the required number  
41 of votes for passage of the question shall be three-fourths of the remaining  
42 membership of the governing body, provided that such required number of votes  
43 shall in no event be less than a majority of the full membership of the  
44 legally established governing body.

1 I. In applying an open space element or a growth element of a general  
2 plan, a parcel of land shall not be rezoned for open space, recreation,  
3 conservation or agriculture unless the owner of the land consents to the  
4 rezoning in writing.

5 J. Notwithstanding the provisions of section 19-142, subsection B, a  
6 decision by the governing body involving rezoning of land which is not owned  
7 by the municipality and which changes the zoning classification of such land  
8 may not be enacted as an emergency measure and such change shall not be  
9 effective for at least thirty days after final approval of the change in  
10 classification by the governing body.

11 Sec. 3. Section 11-806, Arizona Revised Statutes, is amended to read:

12 11-806. Powers and duties; comprehensive plan

13 A. The commission shall act in an advisory capacity to the board and  
14 may from time to time, and shall, when requested by the board, make a report  
15 or recommendation in connection with any matter relating to the development  
16 of the county under the jurisdiction of the board. The commission shall make  
17 such investigations, maps, reports and recommendations in connection  
18 therewith as seem desirable within the limits of the funds available.

19 B. The commission shall prepare and recommend to the board a  
20 comprehensive plan of the area of jurisdiction of the county in the manner  
21 prescribed by article 2 of this chapter. The purpose of the plan is to bring  
22 about coordinated physical development in accordance with the present and  
23 future needs of the county. The comprehensive plan shall be developed so as  
24 to conserve the natural resources of the county, to insure efficient  
25 expenditure of public funds, and to promote the health, safety, convenience,  
26 and general welfare of the public. Such comprehensive plan may include but  
27 not be limited to, among other things, studies and recommendations relative  
28 to the location, character and extent of highways, railroads, bus and other  
29 transportation routes, bicycle facilities, bridges, public buildings, public  
30 services, schools, parks, open space, housing quality, variety and  
31 affordability, parkways, hiking and riding trails, airports, forests,  
32 wildlife areas, dams, projects affecting conservation of natural resources,  
33 air quality, water quality and floodplain zoning. For counties with  
34 territory in the vicinity of a military airport as defined in section  
35 28-8461, the commission shall also consider military airport  
36 operations. Such comprehensive plan shall be a public record, but its  
37 purpose and effect shall be primarily as an aid to the county planning and  
38 zoning commission in the performance of its duties.

39 C. The board shall adopt a comprehensive plan and subsequently amend  
40 or extend the adopted plan as provided by article 2 of this chapter. Before  
41 the adoption, amendment or extension of the plan, the board shall hold at  
42 least one public hearing on the plan.

1 D. The board of supervisors shall:

2 1. Adopt written procedures to provide effective, early and continuous  
3 public participation in the development and major amendment of comprehensive  
4 plans from all geographic, ethnic and economic areas of the county. The  
5 procedures shall provide for:

6 (a) The broad dissemination of proposals and alternatives.

7 (b) The opportunity for written comments.

8 (c) Public hearings after effective notice.

9 (d) Open discussions, communications programs and information  
10 services.

11 (e) Consideration of public comments.

12 2. Consult with, advise and provide an opportunity for official  
13 comment by public officials and agencies, municipalities, school districts,  
14 associations of governments, public land management agencies, the military  
15 airport if the county has territory in the vicinity of a military airport as  
16 defined in section 28-8461, other appropriate government jurisdictions,  
17 public utility companies, civic, educational, professional and other  
18 organizations, property owners and citizens generally to secure the maximum  
19 coordination of plans and to indicate properly located sites for all public  
20 purposes on the plan.

21 3. In counties having a population of less than four hundred thousand  
22 persons, receive petitions to form a rural planning area that are signed by  
23 persons who own real property in any specific portion of the county outside  
24 the corporate boundaries of any cities and towns. The petitions must be  
25 signed by owners of a majority of the acres of real property in the proposed  
26 planning area. Participation in the rural planning area is voluntary, and  
27 any person may withdraw real property owned by the person from the planning  
28 area. The board of supervisors shall encourage voluntary participation in  
29 the planning area and shall aid the planning areas in providing a sound  
30 factual and policy basis for planning. The recommendations of rural planning  
31 areas shall emphasize voluntary, nonregulatory incentives for compliance and  
32 accommodation of continuing traditional rural and agricultural enterprises.  
33 Rural planning areas shall transmit their recommendations to the board of  
34 supervisors for its consideration for inclusion in the county comprehensive  
35 plan.

36 E. In any county having a population of less than four hundred  
37 thousand persons, any cities and towns and the county sharing a  
38 multijurisdictional area with a combined population of more than fifty  
39 thousand but less than one hundred thousand persons, according to the most  
40 recent department of economic security estimates, may voluntarily form rural  
41 planning zones to develop coordinated and comprehensive regional plans.

42 F. The commission shall confer with the state land department and the  
43 governing bodies and planning commissions of cities and towns in the county  
44 for the purpose of guiding and accomplishing a coordinated, adjusted and  
45 harmonious development of the county, of zoning districts, of urban growth

1 and of public improvements and utilities which do not begin and terminate  
2 within the boundaries of any single city or town and which will, in  
3 accordance with the present and future needs of the county, best promote with  
4 efficiency and economy the health, safety, morals, order, convenience or  
5 general welfare of the public.

6 G. THE COMMISSION SHALL CONFER WITH THE SCHOOL DISTRICT  
7 SUPERINTENDENT, SCHOOL DISTRICT BOARD AND SCHOOL FACILITIES BOARD REGARDING  
8 STUDENT COUNT PROJECTIONS AND THE CURRENT OR FUTURE AVAILABILITY OF CLASSROOM  
9 FACILITIES TO SECURE MAXIMUM COORDINATION OF PLANS AND TO INDICATE PROPERLY  
10 LOCATED SITES FOR ALL PUBLIC PURPOSES ON THE GENERAL PLAN.

11 ~~G.~~ H. At least sixty days before the comprehensive plan or a portion,  
12 element or major amendment of a comprehensive plan is adopted, the commission  
13 shall transmit the proposal to the board of supervisors and submit a copy for  
14 review and further comment to:

- 15 1. Each municipality in the county.
- 16 2. Each other county that is contiguous to the county.
- 17 3. The regional planning agency in the county.
- 18 4. The department of commerce or any other state agency that is  
19 subsequently designated as the general planning agency for this state.
- 20 5. If the comprehensive plan or a portion, element or amendment of the  
21 comprehensive plan is applicable to territory in the vicinity of a military  
22 airport as defined in section 28-8461, the military airport.

23 6. THE SUPERINTENDENT OF EACH SCHOOL DISTRICT THAT IS AFFECTED BY THE  
24 PROPOSAL.

25 ~~G.~~ 7. Any person or entity that requests in writing to receive a  
26 review copy of the proposal.

27 Sec. 4. Section 11-829, Arizona Revised Statutes, is amended to read:

28 11-829. Amendment of ordinance or change of zoning district  
29 boundaries; definition

30 A. A property owner or authorized agent of a property owner desiring  
31 an amendment or change in the zoning ordinance changing the zoning district  
32 boundaries within an area previously zoned shall file an application for the  
33 amendment or change. All zoning and rezoning ordinances, regulations or  
34 specific plans adopted under this article shall be consistent with and  
35 conform to the adopted county plan. In the case of uncertainty in  
36 constructing or applying the conformity of any part of a proposed rezoning  
37 ordinance to the adopted county plan, the ordinance shall be construed in a  
38 manner that will further the implementation of, and not be contrary to, the  
39 goals, policies and applicable elements of the county plan. A rezoning  
40 ordinance conforms with the county plan if it proposes land uses, densities  
41 or intensities within the range of identified uses, densities and intensities  
42 of the county plan.

43 B. The board of supervisors shall adopt by ordinance, for each  
44 rezoning application that requires a public hearing, a citizen review process  
45 that includes components that identify the procedure through which:

1           1. Adjacent landowners and other potentially affected citizens will be  
2 notified of the application.

3           2. The county will inform adjacent landowners and other potentially  
4 affected citizens of the substance of the proposed rezoning.

5           3. Adjacent landowners and other potentially affected citizens will be  
6 provided an opportunity to express any issues or concerns that they may have  
7 with the proposed rezoning before the public hearing.

8           C. Upon receipt of the application the board shall submit it to the  
9 commission for a report. Prior to reporting to the board, the commission  
10 shall hold at least one public hearing thereon after giving at least fifteen  
11 days' notice thereof by one publication in a newspaper of general circulation  
12 in the county seat and by posting of the area included in the proposed  
13 change. If the matter to be considered applies to territory in a high noise  
14 or accident potential zone as defined in section 28-8461, the notice shall  
15 include a general statement that the matter applies to property located in  
16 the high noise or accident potential zone. In case of a rezoning, the  
17 posting shall be in no less than two places with at least one notice for each  
18 quarter mile of frontage along perimeter public rights-of-way so that the  
19 notices are visible from the nearest public right-of-way. The commission  
20 shall also send notice by first class mail to each real property owner as  
21 shown on the last assessment of the property within three hundred feet of the  
22 proposed amendment or change and each county and municipality which is  
23 contiguous to the area of the amendment or change. In proceedings involving  
24 rezoning of land that is located within territory in the vicinity of a  
25 military airport as defined in section 28-8461, the commission shall send  
26 copies of the notice of public hearing by first class mail to the military  
27 airport. **IN PROCEEDINGS INVOLVING REZONING OF LAND THAT IS LOCATED WITHIN OR**  
28 **ADJACENT TO A SCHOOL DISTRICT, THE COMMISSION SHALL SEND COPIES OF THE NOTICE**  
29 **OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE SUPERINTENDENT OF EACH AFFECTED**  
30 **SCHOOL DISTRICT.** The notice sent by mail shall include, at a minimum, the  
31 date, time and place of the hearing on the proposed amendment or change  
32 including a general explanation of the matter to be considered, a general  
33 description of the area of the proposed amendment or change, how the real  
34 property owners within the zoning area may file approvals or protests of the  
35 proposed rezoning, and notification that if twenty per cent of the property  
36 owners by area and number within the zoning area file protests, an  
37 affirmative vote of three-fourths of all members of the board will be  
38 required to approve the rezoning. The following specific notice provisions  
39 also apply:

40           1. In proceedings that are initiated by the commission involving  
41 rezoning, notice by first class mail shall be sent to each real property  
42 owner, as shown on the last assessment of the property, of the area to be  
43 rezoned and all property owners, as shown on the last assessment of the  
44 property, within three hundred feet of the property to be rezoned.

1           2. In proceedings involving one or more of the following proposed  
2 changes or related series of changes in the standards governing land uses,  
3 notice shall be provided in the manner prescribed by paragraph 3 of this  
4 subsection:

5           (a) A ten per cent or more increase or decrease in the number of  
6 square feet or units that may be developed.

7           (b) A ten per cent or more increase or reduction in the allowable  
8 height of buildings.

9           (c) An increase or reduction in the allowable number of stories of  
10 buildings.

11           (d) A ten per cent or more increase or decrease in setback or open  
12 space requirements.

13           (e) An increase or reduction in permitted uses.

14           3. In proceedings governed by paragraph 2 of this subsection, the  
15 county shall provide notice to real property owners pursuant to at least one  
16 of the following notification procedures:

17           (a) Notice shall be sent by first class mail to each real property  
18 owner, as shown on the last assessment, whose real property is directly  
19 affected by the changes.

20           (b) If the county issues utility bills or other mass mailings that  
21 periodically include notices or other informational or advertising materials,  
22 the county shall include notice of such changes with such utility bills or  
23 other mailings.

24           (c) The county shall publish such changes prior to the first hearing  
25 on such changes in a newspaper of general circulation in the county. The  
26 changes shall be published in a display advertisement covering not less than  
27 one-eighth of a full page.

28           4. If notice is provided pursuant to paragraph 3, subdivision (b) or  
29 (c) of this subsection, the county shall also send notice by first class mail  
30 to persons who register their names and addresses with the county as being  
31 interested in receiving such notice. The county may charge a fee not to  
32 exceed five dollars per year for providing this service and may adopt  
33 procedures to implement this paragraph.

34           5. Notwithstanding the notice requirements set forth in paragraph 2 of  
35 this subsection, the failure of any person or entity to receive notice shall  
36 not constitute grounds for any court to invalidate the actions of a county  
37 for which the notice was given.

38           D. If the planning commission or hearing officer has held a public  
39 hearing, the board may adopt the recommendations of the planning commission  
40 or hearing officer through use of a consent calendar without holding a second  
41 public hearing if there is no objection, request for public hearing or other  
42 protest. If there is an objection, a request for public hearing or a  
43 protest, the board shall hold a public hearing thereon at least fifteen days'  
44 notice of which shall be given by one publication in a newspaper of general  
45 circulation in the county seat and by posting the area included in the

1 proposed change. In counties with territory in the vicinity of a military  
2 airport as defined in section 28-8461, the board shall hold a public hearing  
3 if, after notice is mailed to the military airport pursuant to subsection C  
4 of this section and before the public hearing, the military airport provides  
5 comments or analysis concerning the compatibility of the proposed rezoning  
6 with the high noise or accident potential generated by military airport  
7 operations that may have an adverse impact on public health and safety, and  
8 the board shall consider and analyze the comments or analysis before making a  
9 final determination. After holding the hearing the board may adopt the  
10 amendment, but if twenty per cent of the owners of property by area and  
11 number within the zoning area file a protest to the proposed change, the  
12 change shall not be made except by a three-fourths vote of all members of the  
13 board. If any members of the board are unable to vote on the question  
14 because of a conflict of interest, the required number of votes for the  
15 passage of the question is three-fourths of the remaining membership of the  
16 board, except that the required number of votes in no event shall be less  
17 than a majority of the full membership of the board. In calculating the  
18 owners by area, only that portion of a lot or parcel of record situated  
19 within three hundred feet of the property to be rezoned shall be included. In  
20 calculating the owners by number or area, county property and public  
21 rights-of-way shall not be included.

22 E. The planning commission may on its own motion propose an amendment  
23 to the zoning ordinance and may, after holding a public hearing as required  
24 by this chapter, transmit the proposal to the board which shall thereupon  
25 proceed as set forth in this chapter for any other amendment.

26 F. Notwithstanding the provisions of title 19, chapter 1, article 4, a  
27 decision by the governing body involving rezoning of land which is not owned  
28 by the county and which changes the zoning classification of such land or  
29 which changes the zoning standards of such land as set forth in subsection C,  
30 paragraph 2 may not be enacted as an emergency measure and such a change  
31 shall not be effective for at least thirty days after final approval of the  
32 change in classification by the board. Unless a resident files a written  
33 objection with the board of supervisors, the rezoning may be enacted as an  
34 emergency measure that becomes effective immediately by a four-fifths  
35 majority vote of the board for those counties with five or more supervisors  
36 or a two-thirds majority vote of the board for those counties with less than  
37 five supervisors.

38 G. The legislature finds that a rezoning of land that changes the  
39 zoning classification of the land or that restricts the use or reduces the  
40 value of the land is a matter of statewide concern. Such a change in zoning  
41 that is initiated by the governing body or zoning body shall not be made  
42 without the express written consent of the property owner. In applying an  
43 open space element or a growth element of a county plan, a parcel of land  
44 shall not be rezoned for open space, recreation, conservation or agriculture  
45 unless the owner of the land consents to the rezoning in writing. For the

1 purposes of this subsection, rezoning does not include the creation or  
2 expansion of overlay zones solely for the purpose of implementing airport  
3 safety and protection. Rezoning also does not include the redesignation of  
4 areas of the county to which the residential provisions of the county  
5 building codes or the state plumbing code apply or do not apply. The county  
6 shall not adopt any change in a zoning classification to circumvent the  
7 purpose of this subsection.

8 H. For the purposes of this section "zoning area" means the area  
9 within three hundred feet of the proposed amendment or change.

10 Sec. 5. Section 15-2002, Arizona Revised Statutes, as amended by Laws  
11 2001, chapter 11, section 3 and chapter 23, section 6, is amended to read:

12 15-2002. Powers and duties; executive director; staffing;  
13 report

14 A. The school facilities board shall:

15 1. Make assessments of school facilities and equipment deficiencies  
16 pursuant to section 15-2021 and approve the distribution of grants as  
17 appropriate.

18 2. Develop a database for administering the building renewal formula  
19 prescribed in section 15-2031 and administer the distribution of monies to  
20 school districts for building renewal.

21 3. Inspect school buildings at least once every five years to ensure  
22 compliance with the building adequacy standards prescribed in section 15-2011  
23 with respect to construction of new buildings and maintenance of existing  
24 buildings.

25 4. Review and approve student population projections submitted by  
26 school districts to determine to what extent school districts are entitled to  
27 monies to construct new facilities pursuant to section 15-2041. The board  
28 shall make a final determination within six months of the receipt of an  
29 application by a school district for monies from the new school facilities  
30 fund.

31 5. Certify that plans for new school facilities meet the building  
32 adequacy standards prescribed in section 15-2011.

33 6. Develop prototypical elementary and high school designs. The board  
34 shall review the design differences between the schools with the highest  
35 academic productivity scores and the schools with the lowest academic  
36 productivity scores. The board shall also review the results of a valid and  
37 reliable survey of parent quality rating in the highest performing schools  
38 and the lowest performing schools in this state. The survey of parent  
39 quality rating shall be administered by the department of education. The  
40 board shall consider the design elements of the schools with the highest  
41 academic productivity scores and parent quality ratings in the development of  
42 elementary and high school designs. The board shall develop separate school  
43 designs for elementary, middle and high schools with varying pupil  
44 capacities.

1           7. Develop application forms, reporting forms and procedures to carry  
2 out the requirements of this article.

3           8. Review and approve or reject requests submitted by school districts  
4 to take actions pursuant to section 15-341, subsection F.

5           9. Submit an annual report by December 15 to the speaker of the house  
6 of representatives, the president of the senate, the superintendent of public  
7 instruction, the director of the Arizona state library, archives and public  
8 records and the governor that includes the following information:

9           (a) A detailed description of the amount of monies distributed by the  
10 school facilities board in the previous fiscal year.

11           (b) A list of each capital project that received monies from the  
12 school facilities board during the previous fiscal year, a brief description  
13 of each project that was funded and a summary of the board's reasons for the  
14 distribution of monies for the project.

15           (c) A summary of the findings and conclusions of the building  
16 maintenance inspections conducted pursuant to this article during the  
17 previous fiscal year.

18           (d) A summary of the findings of common design elements and  
19 characteristics of the highest performing schools and the lowest performing  
20 schools based on academic productivity including the results of the parent  
21 quality rating survey.

22 For the purposes of this paragraph, "academic productivity" means academic  
23 year advancement per calendar year as measured with student-level data using  
24 the statewide nationally standardized norm-referenced achievement test.

25           10. By December 1 of each even-numbered year, report to the joint  
26 committee on capital review the estimated amounts necessary to fulfill the  
27 requirements of sections 15-2021, 15-2022, 15-2031 and 15-2041 for the  
28 following two fiscal years. By December 1 of each odd-numbered year, the  
29 board shall provide to the joint committee on capital review an update of the  
30 estimated amounts necessary to fulfill the requirements of sections 15-2021,  
31 15-2022, 15-2031 and 15-2041 for the following fiscal year. No later than  
32 January 1 of each year, the board shall instruct the state treasurer as to  
33 the amounts under the transaction privilege tax to be credited in equal  
34 quarterly installments for the following state fiscal year. The board shall  
35 provide copies of both reports to the president of the senate, the speaker of  
36 the house of representatives and the governor.

37           11. Adopt minimum school facility adequacy guidelines to provide the  
38 minimum quality and quantity of school buildings and the facilities and  
39 equipment necessary and appropriate to enable pupils to achieve the  
40 educational goals of the Arizona state schools for the deaf and the  
41 blind. The school facilities board shall establish minimum school facility  
42 adequacy guidelines applicable to the Arizona state schools for the deaf and  
43 the blind by December 31, 2000.

44           B. The school facilities board may contract for private services in  
45 compliance with the procurement practices prescribed in title 41, chapter 23.

1 C. The governor shall appoint an executive director of the school  
2 facilities board pursuant to section 38-211. The executive director is  
3 eligible to receive compensation as determined pursuant to section 38-611 and  
4 may hire and fire necessary staff as approved by the legislature in the  
5 budget. The executive director shall have demonstrated competency in school  
6 finance, facilities design or facilities management, either in private  
7 business or government service. The executive director serves at the  
8 pleasure of the governor. The staff of the school facilities board is exempt  
9 from title 41, chapter 4, articles 5 and 6. The executive director:

10 1. Shall analyze applications for monies submitted to the board by  
11 school districts.

12 2. Shall assist the board in developing forms and procedures for the  
13 distribution and review of applications and the distribution of monies to  
14 school districts.

15 3. May review or audit, or both, the expenditure of monies by a school  
16 district for deficiencies corrections, building renewal and new school  
17 facilities.

18 4. Shall assist the board in the preparation of the board's annual  
19 report.

20 5. Shall research and provide reports on issues of general interest to  
21 the board.

22 6. May aid school districts in the development of reasonable and  
23 cost-effective school designs in order to avoid statewide duplicated efforts  
24 and unwarranted expenditures in the area of school design.

25 7. May assist school districts in facilitating the development of  
26 multijurisdictional facilities.

27 8. Shall assist the board in any other appropriate matter or method as  
28 directed by the members of the board.

29 9. Shall establish procedures to ensure compliance with the notice and  
30 hearing requirements prescribed in section 15-905 **AND SHALL NOTIFY EACH**  
31 **SCHOOL DISTRICT SUPERINTENDENT BY FIRST CLASS MAIL OF ALL ACTIONS AND**  
32 **HEARINGS OF THE BOARD THAT AFFECT THE SCHOOL DISTRICT.** The notice and  
33 hearing procedures adopted by the board shall include the requirement, with  
34 respect to the board's consideration of any application filed after July 1,  
35 2001 for monies to fund the construction of new school facilities proposed to  
36 be located in territory in the vicinity of a military airport as defined in  
37 section 28-8461, that the military airport receive notification of the  
38 application by first class mail at least thirty days before any hearing  
39 concerning the application.

40 10. May expedite any request for funds in which the local match was not  
41 obtained for a project that received preliminary approval by the state board  
42 for school capital facilities.

43 11. Shall expedite any request for funds in which the school district  
44 governing board submits an application that shows an immediate need for a new  
45 school facility.

1           12. Shall make a determination as to administrative completion within  
2 one month after the receipt of an application by a school district for monies  
3 from the new school facilities fund.

4           13. Shall provide technical support to school districts as requested by  
5 school districts in connection with the construction of new school facilities  
6 and the maintenance of existing school facilities.

7           D. When appropriate, the school facilities board shall review and use  
8 the statewide school facilities inventory and needs assessment conducted by  
9 the joint committee on capital review and issued in July, 1995.

10          E. The school facilities board shall contract with one or more private  
11 building inspectors to complete an initial assessment of school facilities  
12 and equipment provided in section 15-2021 and shall inspect each school  
13 building in this state at least once every five years to ensure compliance  
14 with section 15-2011. A copy of the inspection report, together with any  
15 recommendations for building maintenance, shall be provided to the school  
16 facilities board and the governing board of the school district.

17          F. The school facilities board may consider appropriate combinations  
18 of facilities or uses in making assessments of and curing deficiencies  
19 pursuant to subsection A, paragraph 1 of this section and in certifying plans  
20 for new school facilities pursuant to subsection A, paragraph 5 of this  
21 section.

22          G. The board shall not award any monies to fund new facilities that  
23 are financed by class A bonds that are issued by the school district.

24          H. The board shall not distribute monies to a school district for  
25 replacement or repair of facilities if the costs associated with the  
26 replacement or repair are covered by insurance or a performance or payment  
27 bond.

28          I. The board may contract for construction services and materials that  
29 are necessary to correct existing deficiencies in school district facilities  
30 as determined pursuant to section 15-2021. The board may procure the  
31 construction services necessary pursuant to this subsection by any method  
32 including construction-manager-at-risk, design-build, design-bid-build or  
33 job-order-contracting as provided by title 41, chapter 23. The construction  
34 planning and services performed pursuant to this subsection are exempt from  
35 the provisions of section 41-791.01.

36          J. The school facilities board may enter into agreements with school  
37 districts to allow school facilities board staff and contractors access to  
38 school property for the purposes of performing the construction services  
39 necessary pursuant to subsection I of this section.

40          Sec. 6. Repeal

41          Section 15-2002, Arizona Revised Statutes, as amended by Laws 2001,  
42 chapter 297, section 2, is repealed.