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Senate Engrossed

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

SENATE BILL 1105

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

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

32 1. The planning agency of the county in which the municipality is
33 located.

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

36 3. The regional planning agency within which the municipality is
37 located.

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

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

43 **6. THE SUPERINTENDENT OF EACH SCHOOL DISTRICT THAT IS AFFECTED BY THE**
44 **PROPOSAL.**

1 ~~6.~~ 7. Any person or entity that requests in writing to receive a
2 review copy of the proposal.

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

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

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

17 E. Action by the planning commission on the general plan or any
18 amendment to the plan shall be transmitted to the governing body of the
19 municipality.

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

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

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

1 I. A copy of the adopted general plan of a municipality shall be sent
2 to the planning agency of the county within which the municipality is
3 located, and such plan or any portion of the plan may be adopted as a part of
4 the county general plan.

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

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

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

40 M. In applying an open space element or a growth element of a general
41 plan a municipality shall not designate private land or state trust land as
42 open space, recreation, conservation or agriculture unless the municipality
43 receives the written consent of the landowner or provides an alternative,
44 economically viable designation in the general plan or zoning ordinance,
45 allowing at least one residential dwelling per acre. If the landowner is the

1 prevailing party in any action brought to enforce this subsection, a court
2 shall award fees and other expenses to the landowner.

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

5 9-462.04. Public hearing required

6 A. If the municipality has a planning commission or a hearing officer,
7 the planning commission or hearing officer shall hold a public hearing on any
8 zoning ordinance. Notice of the time and place of the hearing including a
9 general explanation of the matter to be considered and including a general
10 description of the area affected shall be given at least fifteen days before
11 the hearing in the following manner:

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

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

33 3. In proceedings that are not initiated by the property owner
34 involving rezoning of land which may change the zoning classification, notice
35 by first class mail shall be sent to each real property owner, as shown on
36 the last assessment of the property, of the area to be rezoned and all
37 property owners, as shown on the last assessment of the property, within
38 three hundred feet of the property to be rezoned.

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

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

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

1 (c) An increase or reduction in the allowable number of stories of
2 buildings.

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

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

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

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

12 (b) If the municipality issues utility bills or other mass mailings
13 that periodically include notices or other informational or advertising
14 materials, the municipality shall include notice of such changes with such
15 utility bills or other mailings.

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

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

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

30 B. If the matter to be considered applies to territory in a high noise
31 or accident potential zone as defined in section 28-8461, the notice
32 prescribed in subsection A of this section shall include a general statement
33 that the matter applies to property located in the high noise or accident
34 potential zone.

35 C. After the hearing, the planning commission or hearing officer shall
36 render a decision in the form of a written recommendation to the governing
37 body. The recommendation shall include the reasons for the recommendation
38 and be transmitted to the governing body in such form and manner as may be
39 specified by the governing body.

40 D. If the planning commission or hearing officer has held a public
41 hearing, the governing body may adopt the recommendations of the planning
42 commission or hearing officer without holding a second public hearing if
43 there is no objection, request for public hearing or other protest. The
44 governing body shall hold a public hearing if requested by the party
45 aggrieved or any member of the public or of the governing body, or, in any

1 case, if no public hearing has been held by the planning commission or
2 hearing officer. In municipalities with territory in the vicinity of a
3 military airport as defined in section 28-8461, the governing body shall hold
4 a public hearing if, after notice is transmitted to the military airport
5 pursuant to subsection A of this section and before the public hearing, the
6 military airport provides comments or analysis concerning the compatibility
7 of the proposed rezoning with the high noise or accident potential generated
8 by military airport operations that may have an adverse impact on public
9 health and safety, and the governing body shall consider and analyze the
10 comments or analysis before making a final determination. Notice of the time
11 and place of the hearing shall be given in the time and manner provided for
12 the giving of notice of the hearing by the planning commission as specified
13 in subsection A of this section. In addition a municipality may give notice
14 of the hearing in such other manner as it may deem necessary or desirable.

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

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

21 G. If there is no planning commission or hearing officer, the
22 governing body of the municipality shall perform the functions assigned to
23 the planning commission or hearing officer.

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

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

41 J. Notwithstanding the provisions of section 19-142, subsection B, a
42 decision by the governing body involving rezoning of land which is not owned
43 by the municipality and which changes the zoning classification of such land
44 may not be enacted as an emergency measure and such change shall not be

1 effective for at least thirty days after final approval of the change in
2 classification by the governing body.

3 Sec. 3. Section 11-806, Arizona Revised Statutes, is amended to read:
4 11-806. Powers and duties; comprehensive plan

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

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

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

35 D. The board of supervisors shall:

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

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

41 (b) The opportunity for written comments.

42 (c) Public hearings after effective notice.

43 (d) Open discussions, communications programs and information
44 services.

45 (e) Consideration of public comments.

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

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

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

31 F. The commission shall confer with the state land department and the
32 governing bodies and planning commissions of cities and towns in the county
33 for the purpose of guiding and accomplishing a coordinated, adjusted and
34 harmonious development of the county, of zoning districts, of urban growth
35 and of public improvements and utilities which do not begin and terminate
36 within the boundaries of any single city or town and which will, in
37 accordance with the present and future needs of the county, best promote with
38 efficiency and economy the health, safety, morals, order, convenience or
39 general welfare of the public.

40 G. At least sixty days before the comprehensive plan or a portion,
41 element or major amendment of a comprehensive plan is adopted, the commission
42 shall transmit the proposal to the board of supervisors and submit a copy for
43 review and further comment to:

- 44 1. Each municipality in the county.
- 45 2. Each other county that is contiguous to the county.

1 3. The regional planning agency in the county.

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

4 5. If the comprehensive plan or a portion, element or amendment of the
5 comprehensive plan is applicable to territory in the vicinity of a military
6 airport as defined in section 28-8461, the military airport.

7 6. THE SUPERINTENDENT OF EACH SCHOOL DISTRICT THAT IS AFFECTED BY THE
8 PROPOSAL.

9 ~~6-~~ 7. Any person or entity that requests in writing to receive a
10 review copy of the proposal.

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

12 11-829. Amendment of ordinance or change of zoning district
13 boundaries; definition

14 A. A property owner or authorized agent of a property owner desiring
15 an amendment or change in the zoning ordinance changing the zoning district
16 boundaries within an area previously zoned shall file an application for the
17 amendment or change. All zoning and rezoning ordinances, regulations or
18 specific plans adopted under this article shall be consistent with and
19 conform to the adopted county plan. In the case of uncertainty in
20 constructing or applying the conformity of any part of a proposed rezoning
21 ordinance to the adopted county plan, the ordinance shall be construed in a
22 manner that will further the implementation of, and not be contrary to, the
23 goals, policies and applicable elements of the county plan. A rezoning
24 ordinance conforms with the county plan if it proposes land uses, densities
25 or intensities within the range of identified uses, densities and intensities
26 of the county plan.

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

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

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

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

37 C. Upon receipt of the application the board shall submit it to the
38 commission for a report. Prior to reporting to the board, the commission
39 shall hold at least one public hearing thereon after giving at least fifteen
40 days' notice thereof by one publication in a newspaper of general circulation
41 in the county seat and by posting of the area included in the proposed
42 change. If the matter to be considered applies to territory in a high noise
43 or accident potential zone as defined in section 28-8461, the notice shall
44 include a general statement that the matter applies to property located in
45 the high noise or accident potential zone. In case of a rezoning, the

1 posting shall be in no less than two places with at least one notice for each
2 quarter mile of frontage along perimeter public rights-of-way so that the
3 notices are visible from the nearest public right-of-way. The commission
4 shall also send notice by first class mail to each real property owner as
5 shown on the last assessment of the property within three hundred feet of the
6 proposed amendment or change and each county and municipality which is
7 contiguous to the area of the amendment or change. In proceedings involving
8 rezoning of land that is located within territory in the vicinity of a
9 military airport as defined in section 28-8461, the commission shall send
10 copies of the notice of public hearing by first class mail to the military
11 airport. **IN PROCEEDINGS INVOLVING REZONING OF LAND THAT IS LOCATED WITHIN OR**
12 **ADJACENT TO A SCHOOL DISTRICT, THE COMMISSION SHALL SEND COPIES OF THE NOTICE**
13 **OF PUBLIC HEARING BY FIRST CLASS MAIL TO THE SUPERINTENDENT OF EACH AFFECTED**
14 **SCHOOL DISTRICT.** The notice sent by mail shall include, at a minimum, the
15 date, time and place of the hearing on the proposed amendment or change
16 including a general explanation of the matter to be considered, a general
17 description of the area of the proposed amendment or change, how the real
18 property owners within the zoning area may file approvals or protests of the
19 proposed rezoning, and notification that if twenty per cent of the property
20 owners by area and number within the zoning area file protests, an
21 affirmative vote of three-fourths of all members of the board will be
22 required to approve the rezoning. The following specific notice provisions
23 also apply:

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

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

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

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

37 (c) An increase or reduction in the allowable number of stories of
38 buildings.

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

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

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

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

4 (b) If the county issues utility bills or other mass mailings that
5 periodically include notices or other informational or advertising materials,
6 the county shall include notice of such changes with such utility bills or
7 other mailings.

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

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

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

22 D. If the planning commission or hearing officer has held a public
23 hearing, the board may adopt the recommendations of the planning commission
24 or hearing officer through use of a consent calendar without holding a second
25 public hearing if there is no objection, request for public hearing or other
26 protest. If there is an objection, a request for public hearing or a
27 protest, the board shall hold a public hearing thereon at least fifteen days'
28 notice of which shall be given by one publication in a newspaper of general
29 circulation in the county seat and by posting the area included in the
30 proposed change. In counties with territory in the vicinity of a military
31 airport as defined in section 28-8461, the board shall hold a public hearing
32 if, after notice is mailed to the military airport pursuant to subsection C
33 of this section and before the public hearing, the military airport provides
34 comments or analysis concerning the compatibility of the proposed rezoning
35 with the high noise or accident potential generated by military airport
36 operations that may have an adverse impact on public health and safety, and
37 the board shall consider and analyze the comments or analysis before making a
38 final determination. After holding the hearing the board may adopt the
39 amendment, but if twenty per cent of the owners of property by area and
40 number within the zoning area file a protest to the proposed change, the
41 change shall not be made except by a three-fourths vote of all members of the
42 board. If any members of the board are unable to vote on the question
43 because of a conflict of interest, the required number of votes for the
44 passage of the question is three-fourths of the remaining membership of the
45 board, except that the required number of votes in no event shall be less

1 than a majority of the full membership of the board. In calculating the
2 owners by area, only that portion of a lot or parcel of record situated
3 within three hundred feet of the property to be rezoned shall be included. In
4 calculating the owners by number or area, county property and public
5 rights-of-way shall not be included.

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

10 F. Notwithstanding the provisions of title 19, chapter 1, article 4, a
11 decision by the governing body involving rezoning of land which is not owned
12 by the county and which changes the zoning classification of such land or
13 which changes the zoning standards of such land as set forth in subsection C,
14 paragraph 2 may not be enacted as an emergency measure and such a change
15 shall not be effective for at least thirty days after final approval of the
16 change in classification by the board. Unless a resident files a written
17 objection with the board of supervisors, the rezoning may be enacted as an
18 emergency measure that becomes effective immediately by a four-fifths
19 majority vote of the board for those counties with five or more supervisors
20 or a two-thirds majority vote of the board for those counties with less than
21 five supervisors.

22 G. The legislature finds that a rezoning of land that changes the
23 zoning classification of the land or that restricts the use or reduces the
24 value of the land is a matter of statewide concern. Such a change in zoning
25 that is initiated by the governing body or zoning body shall not be made
26 without the express written consent of the property owner. In applying an
27 open space element or a growth element of a county plan, a parcel of land
28 shall not be rezoned for open space, recreation, conservation or agriculture
29 unless the owner of the land consents to the rezoning in writing. For the
30 purposes of this subsection, rezoning does not include the creation or
31 expansion of overlay zones solely for the purpose of implementing airport
32 safety and protection. Rezoning also does not include the redesignation of
33 areas of the county to which the residential provisions of the county
34 building codes or the state plumbing code apply or do not apply. The county
35 shall not adopt any change in a zoning classification to circumvent the
36 purpose of this subsection.

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

39 Sec. 5. Section 15-2002, Arizona Revised Statutes, as amended by Laws
40 2001, chapter 11, section 3 and chapter 23, section 6, is amended to read:

41 15-2002. Powers and duties; executive director; staffing;
42 report

43 A. The school facilities board shall:

- 1 1. Make assessments of school facilities and equipment deficiencies
2 pursuant to section 15-2021 and approve the distribution of grants as
3 appropriate.
- 4 2. Develop a database for administering the building renewal formula
5 prescribed in section 15-2031 and administer the distribution of monies to
6 school districts for building renewal.
- 7 3. Inspect school buildings at least once every five years to ensure
8 compliance with the building adequacy standards prescribed in section 15-2011
9 with respect to construction of new buildings and maintenance of existing
10 buildings.
- 11 4. Review and approve student population projections submitted by
12 school districts to determine to what extent school districts are entitled to
13 monies to construct new facilities pursuant to section 15-2041. The board
14 shall make a final determination within six months of the receipt of an
15 application by a school district for monies from the new school facilities
16 fund.
- 17 5. Certify that plans for new school facilities meet the building
18 adequacy standards prescribed in section 15-2011.
- 19 6. Develop prototypical elementary and high school designs. The board
20 shall review the design differences between the schools with the highest
21 academic productivity scores and the schools with the lowest academic
22 productivity scores. The board shall also review the results of a valid and
23 reliable survey of parent quality rating in the highest performing schools
24 and the lowest performing schools in this state. The survey of parent
25 quality rating shall be administered by the department of education. The
26 board shall consider the design elements of the schools with the highest
27 academic productivity scores and parent quality ratings in the development of
28 elementary and high school designs. The board shall develop separate school
29 designs for elementary, middle and high schools with varying pupil
30 capacities.
- 31 7. Develop application forms, reporting forms and procedures to carry
32 out the requirements of this article.
- 33 8. Review and approve or reject requests submitted by school districts
34 to take actions pursuant to section 15-341, subsection F.
- 35 9. Submit an annual report by December 15 to the speaker of the house
36 of representatives, the president of the senate, the superintendent of public
37 instruction, the director of the Arizona state library, archives and public
38 records and the governor that includes the following information:
39 (a) A detailed description of the amount of monies distributed by the
40 school facilities board in the previous fiscal year.
41 (b) A list of each capital project that received monies from the
42 school facilities board during the previous fiscal year, a brief description
43 of each project that was funded and a summary of the board's reasons for the
44 distribution of monies for the project.

1 (c) A summary of the findings and conclusions of the building
2 maintenance inspections conducted pursuant to this article during the
3 previous fiscal year.

4 (d) A summary of the findings of common design elements and
5 characteristics of the highest performing schools and the lowest performing
6 schools based on academic productivity including the results of the parent
7 quality rating survey.

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

11 10. By December 1 of each even-numbered year, report to the joint
12 committee on capital review the estimated amounts necessary to fulfill the
13 requirements of sections 15-2021, 15-2022, 15-2031 and 15-2041 for the
14 following two fiscal years. By December 1 of each odd-numbered year, the
15 board shall provide to the joint committee on capital review an update of the
16 estimated amounts necessary to fulfill the requirements of sections 15-2021,
17 15-2022, 15-2031 and 15-2041 for the following fiscal year. No later than
18 January 1 of each year, the board shall instruct the state treasurer as to
19 the amounts under the transaction privilege tax to be credited in equal
20 quarterly installments for the following state fiscal year. The board shall
21 provide copies of both reports to the president of the senate, the speaker of
22 the house of representatives and the governor.

23 11. Adopt minimum school facility adequacy guidelines to provide the
24 minimum quality and quantity of school buildings and the facilities and
25 equipment necessary and appropriate to enable pupils to achieve the
26 educational goals of the Arizona state schools for the deaf and the
27 blind. The school facilities board shall establish minimum school facility
28 adequacy guidelines applicable to the Arizona state schools for the deaf and
29 the blind by December 31, 2000.

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

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

41 1. Shall analyze applications for monies submitted to the board by
42 school districts.

43 2. Shall assist the board in developing forms and procedures for the
44 distribution and review of applications and the distribution of monies to
45 school districts.

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

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

6 5. Shall research and provide reports on issues of general interest to
7 the board.

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

11 7. May assist school districts in facilitating the development of
12 multijurisdictional facilities.

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

15 9. Shall establish procedures to ensure compliance with the notice and
16 hearing requirements prescribed in section 15-905 **AND SHALL NOTIFY EACH**
17 **SCHOOL DISTRICT SUPERINTENDENT BY FIRST CLASS MAIL OF ALL ACTIONS AND**
18 **HEARINGS OF THE BOARD THAT AFFECT THE SCHOOL DISTRICT.** The notice and
19 hearing procedures adopted by the board shall include the requirement, with
20 respect to the board's consideration of any application filed after July 1,
21 2001 for monies to fund the construction of new school facilities proposed to
22 be located in territory in the vicinity of a military airport as defined in
23 section 28-8461, that the military airport receive notification of the
24 application by first class mail at least thirty days before any hearing
25 concerning the application.

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

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

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

35 13. Shall provide technical support to school districts as requested by
36 school districts in connection with the construction of new school facilities
37 and the maintenance of existing school facilities.

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

41 E. The school facilities board shall contract with one or more private
42 building inspectors to complete an initial assessment of school facilities
43 and equipment provided in section 15-2021 and shall inspect each school
44 building in this state at least once every five years to ensure compliance
45 with section 15-2011. A copy of the inspection report, together with any

1 recommendations for building maintenance, shall be provided to the school
2 facilities board and the governing board of the school district.

3 F. The school facilities board may consider appropriate combinations
4 of facilities or uses in making assessments of and curing deficiencies
5 pursuant to subsection A, paragraph 1 of this section and in certifying plans
6 for new school facilities pursuant to subsection A, paragraph 5 of this
7 section.

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

10 H. The board shall not distribute monies to a school district for
11 replacement or repair of facilities if the costs associated with the
12 replacement or repair are covered by insurance or a performance or payment
13 bond.

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

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

26 Sec. 6. Repeal

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