

House Engrossed

board of supervisors; powers; water

State of Arizona
House of Representatives
Fifty-sixth Legislature
First Regular Session
2023

HOUSE BILL 2438

AN ACT

AMENDING SECTION 11-251, ARIZONA REVISED STATUTES; RELATING TO BOARD OF SUPERVISORS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

4 11-251. Powers of board

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

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

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

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

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

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

27 6. Provide suitable rooms for county purposes.

28 7. Purchase, receive by donation or lease real or personal property
29 necessary for the use of the county prison and take care of, manage and
30 control the property, but a purchase of real property shall not be made
31 unless the value has been previously estimated by three disinterested
32 citizens of the county, appointed by the board for that purpose, and not
33 more than the appraised value shall be paid for the property.

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

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

1 as a trade-in on the purchase of personal property when the board deems
2 this disposition of the personal property to be in the best interests of
3 the county. If the property for sale is real property, the board shall
4 have the property appraised by an appraiser who is licensed or certified
5 pursuant to title 32, chapter 36. The appraiser shall establish a market
6 value as defined in section 28-7091 for the property. The minimum
7 acceptable bid for the purchase of the property shall be at least ninety
8 percent of the market value, except that if the property has no market
9 value or a net value as defined in section 28-7095, subsection F of
10 \$10,000 or less, the value of the property may be justified by a market
11 analysis that is based on comparable sales. The notice regarding the sale
12 of real property shall be published in the county where the property is
13 situated and may be published in one or more other counties, and shall
14 contain, among other things, the ~~appraised~~ MARKET value, the minimum
15 acceptable sale price, and the common and legal description of the real
16 property. Notwithstanding the requirement for a sale at public auction
17 prescribed in this paragraph, a county, with unanimous consent of the
18 board and without a public auction, may sell or lease any county property
19 to any other duly constituted governmental entity, including the state,
20 cities, towns and other counties. A county, with unanimous consent of the
21 board and without public auction, may grant an easement on county property
22 for public purposes to a utility as defined in section 40-491. A county,
23 with unanimous consent of the board and without public auction, may sell
24 or lease any county property for a specific use to any solely charitable,
25 social or benevolent nonprofit organization incorporated or operating in
26 this state. A county may dispose of surplus equipment and materials that
27 have little or no value or that are unauctionable in any manner authorized
28 by the board.

29 10. Examine and exhibit the accounts and performance of all
30 officers having the care, management, collection or disbursement of monies
31 belonging to the county or appropriated by law or otherwise for the use
32 and benefit of the county. The working papers and other audit files in an
33 examination and audit of the accounts and performance of a county officer
34 are not public records and are exempt from title 39, chapter 1. The
35 information contained in the working papers and audit files prepared
36 pursuant to a specific examination or audit is not subject to disclosure,
37 except to the county attorney and the attorney general in connection with
38 an investigation or action taken in the course of their official duties.

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

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

- 1 13. Equalize assessments.
- 2 14. Direct and control the prosecution and defense of all actions
- 3 to which the county is a party, and compromise them.
- 4 15. Insure the county buildings in the name of and for the benefit
- 5 of the county.
- 6 16. Fill by appointment all vacancies occurring in county or
- 7 precinct offices.
- 8 17. Adopt provisions necessary to preserve the health of the
- 9 county, and provide for the expenses thereof.
- 10 18. With the approval of the department of health services,
- 11 contract with any qualified person to provide all or part of the health
- 12 services, funded through the department of health services with federal or
- 13 state monies, that the board in its discretion extends to residents of the
- 14 county.
- 15 19. Contract for county printing and advertising, and provide books
- 16 and stationery for county officers.
- 17 20. Provide for rebinding county records, or, if necessary, the
- 18 transcribing of county records.
- 19 21. Make and enforce necessary rules and regulations for the
- 20 government of its body, the preservation of order and the transaction of
- 21 business.
- 22 22. Adopt a seal for the board, a description and impression of
- 23 which shall be filed by the clerk in the office of the county recorder and
- 24 the secretary of state.
- 25 23. Establish, maintain and conduct or aid in establishing,
- 26 maintaining and conducting public aviation fields, purchase, receive by
- 27 donation or lease any property necessary for that purpose, lease, at a
- 28 nominal rental if desired, sell such aviation fields or property to the
- 29 United States or any department, or sell or lease such aviation fields to
- 30 a city, exchange lands acquired pursuant to this section for other lands,
- 31 or act in conjunction with the United States in maintaining, managing and
- 32 conducting all such property. If any such property or part of that
- 33 property is not needed for these purposes, it shall be sold by the board
- 34 and the proceeds shall be paid into the general fund of the county.
- 35 24. Acquire and hold property for the use of county fairs and
- 36 conduct, take care of and manage them.
- 37 25. Authorize the sheriff to offer a reward, not exceeding \$10,000
- 38 in one case, for information leading to the arrest and conviction of
- 39 persons charged with crime.
- 40 26. Contract for the transportation of insane persons to the state
- 41 hospital or direct the sheriff to transport such persons. The county is
- 42 responsible for such expense to the extent the expense is not covered by
- 43 any third-party payor.
- 44 27. Provide for the reasonable expenses of burial for deceased
- 45 indigents as provided in section 36-831 and maintain a permanent register

1 of deceased indigents, including name, age and date of death, and when
2 burial occurs, the board shall mark the grave with a permanent marker
3 giving the name, age and date of birth, if known.

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

8 29. Enter into agreements for acquiring rights-of-way,
9 construction, reconstruction or maintenance of highways in their
10 respective counties, including highways that pass through Indian
11 reservations, with the government of the United States, acting through its
12 duly authorized officers or agents pursuant to any act of Congress, except
13 that the governing body of any Indian tribe whose lands are affected must
14 consent to the use of its land, and any such agreements entered into
15 before June 26, 1952 are validated and confirmed.

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

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

25 32. Budget for funds for foster home care during the school week
26 for children with intellectual disabilities and children with other
27 disabilities who reside within the county and attend a school for students
28 with disabilities in a city or town within the county.

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

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

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

41 36. Subject to the prohibitions, restrictions and limitations as
42 set forth in section 11-812, adopt and enforce standards for excavation,
43 landfill and grading to prevent unnecessary loss from erosion, flooding
44 and landslides.

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

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

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

15 40. Enact ordinances under its police authority prescribing
16 reasonable curfews in the entire unincorporated area or any area less than
17 the entire unincorporated area of the county for minors and fines not to
18 exceed the fine for a petty offense for violation of such ordinances.
19 This paragraph does not require a request from an association or a
20 majority of the residents of an area before the board may enact an
21 ordinance applicable to the entire or any portion of the unincorporated
22 area. An ordinance enacted pursuant to this paragraph shall provide that
23 a minor is not violating a curfew if the minor is accompanied by a parent,
24 a guardian or an adult having supervisory custody, is on an emergency
25 errand or has been specifically directed to the location on reasonable,
26 legitimate business or some other activity by the parent, guardian or
27 adult having supervisory custody. If no curfew ordinance is applicable
28 to a particular unincorporated area of the county, the board may adopt a
29 curfew ordinance on the request or petition of either:

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

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

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

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

43 43. Make and enforce necessary ordinances not in conflict with the
44 laws of this state to regulate off-road recreational motor vehicles that
45 are operated within the county on public lands without lawful authority or

1 on private lands without the consent of the lawful owner or that generate
2 air pollution. For the purposes of this paragraph, "off-road recreational
3 motor vehicle" means three and four wheel vehicles manufactured for
4 recreational nonhighway all-terrain travel.

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

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

11 46. Lease-purchase real property and improvements for real property
12 for public purposes, provided that final payment is made not later than
13 twenty-five years after the date of purchase. Any increase in the final
14 payment date from fifteen years up to the maximum of twenty-five years
15 shall be made only on unanimous approval by the board of supervisors.

16 47. Make and enforce ordinances for the protection and disposition
17 of domestic animals subject to inhumane, unhealthful or dangerous
18 conditions or circumstances. An ordinance enacted pursuant to this
19 paragraph shall not restrict or limit the authority of the game and fish
20 commission to regulate the taking of wildlife. This paragraph does not
21 limit or restrict the authority granted to cities, towns or counties
22 pursuant to section 13-2910. For the purposes of this paragraph, "domestic
23 animal" means an animal kept as a pet and not primarily for economic
24 purposes.

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

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

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

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

44 52. Make and enforce ordinances that are more restrictive than
45 state requirements to reduce or encourage the reduction of carbon monoxide

1 and ozone levels, provided an ordinance does not establish a standard for
2 vehicular emissions, including ordinances to reduce or encourage the
3 reduction of the commuter use of motor vehicles by employees of the county
4 and employees whose place of employment is in unincorporated areas of the
5 county.

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

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

13 55. Enact ordinances prescribing regulation of alarm systems and
14 providing for civil penalties to reduce the incidence of false alarms at
15 business and residential structures relating to burglary, robbery, fire
16 and other emergencies not within the limits of an incorporated city or
17 town.

18 56. In addition to paragraph 9 of this section, and notwithstanding
19 section 23-504, sell or dispose of, at no less than market value, county
20 personal property that the board deems no longer useful or necessary
21 through a retail outlet or to another government entity if the personal
22 property has a market value of not more than \$1,000, or by retail sale or
23 private bid, if the personal property has a market value of not more than
24 \$15,000. Notice of sales in excess of \$1,000 shall include a description
25 and sale price of each item and shall be published in a newspaper of
26 general circulation in the county, and for thirty days after notice other
27 bids may be submitted that exceed the sale price by at least five percent.
28 The county shall select the highest bid received at the end of the
29 thirty-day period.

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

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

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

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

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

13 62. In counties that employ or have designated an animal control
14 county enforcement agent pursuant to section 11-1005, enter into
15 agreements with foundations or charitable organizations to solicit
16 donations, property or services, excluding enforcement or inspection
17 services, for use by the county enforcement agent solely to perform
18 nonmandated services and to fund capital improvements for county animal
19 control, subject to annual financial and performance audits by an
20 independent party as designated by the county board of supervisors. For
21 the purposes of this paragraph, nonmandated services are limited to low
22 cost spay and neuter services, public education and outreach efforts, pet
23 adoption efforts, care for pets that are victims of cruelty or neglect and
24 support for volunteer programs.

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

30 64. Fix the amount of license fees to be paid by any person, firm,
31 corporation or association for carrying on any game or amusement business
32 in unincorporated areas of the county and prescribe the method of
33 collection or payment of those fees, for a stated period in advance, and
34 fix penalties for failure to comply by fine. This article does not
35 authorize any county to require an occupational license or fee for any
36 activity if state law precludes requiring such a license or fee.

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

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

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

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

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

9 67. Enter into agreements with federal, state and local governments
10 for the acceptance, management and distribution of federal funds related
11 to projects to increase water supply and availability to any of the
12 following:

13 (a) A municipal water provider as defined ~~by~~ IN section 48-5901.

14 (b) An irrigation district for agricultural use within the county.

15 (c) A county flood control district for aquifer recharge within the
16 county.

17 68. PARTICIPATE IN WATER REUSE AND RECYCLING PROGRAMS AND REGIONAL
18 WASTEWATER RECHARGE PROJECTS AND RELATED INFRASTRUCTURE.