

REFERENCE TITLE: county water adequacy standards; vote

State of Arizona
Senate
Forty-eighth Legislature
Second Regular Session
2008

SB 1403

Introduced by
Senator O'Halleran

AN ACT

AMENDING SECTION 11-806.01, ARIZONA REVISED STATUTES; RELATING TO COUNTY
SUBDIVISION REGULATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-806.01, Arizona Revised Statutes, is amended to
3 read:

4 11-806.01. Subdivision regulation; platting regulations;
5 violation; classification; easement vesting

6 A. The county board of supervisors shall regulate the subdivision of
7 all lands within its corporate limits, except subdivisions which are
8 regulated by municipalities.

9 B. No plat of a subdivision of land within the area of jurisdiction of
10 such county shall be accepted for recording or recorded until it has been
11 approved by the board. The approval of the board shall be endorsed in
12 writing on the plat and shall also include specific identification and
13 approval of the assurances, except those for hiking and equestrian trails
14 required by this section. If a county planning and zoning commission exists,
15 the plat may be referred to such commission for its consideration and the
16 board may receive the recommendation of the commission. If the subdivision
17 is comprised of subdivided land, as defined in section 32-2101, and is within
18 an active management area, as defined in section 45-402, the plat shall not
19 be approved unless it is accompanied by a certificate of assured water supply
20 issued by the director of water resources, or unless the subdivider has
21 obtained a written commitment of water service for the subdivision from a
22 city, town or private water company designated as having an assured water
23 supply by the director of water resources pursuant to section 45-576 or is
24 exempt from such requirement pursuant to section 45-576. The board shall note
25 on the face of the plat that a certificate of assured water supply has been
26 submitted with the plat or that the subdivider has obtained a commitment of
27 water service for the proposed subdivision from a city, town or private water
28 company designated as having an assured water supply, pursuant to section
29 45-576.

30 C. Any person causing a final plat to be recorded without first
31 submitting the plat and obtaining approval of the board is guilty of a class
32 2 misdemeanor. No county recorder shall accept for recording or record any
33 plat which has not been approved as provided by this article.

34 D. The ground of refusal or approval of any plat submitted, including
35 citation of or reference to the rule or regulation violated by the plat,
36 shall be stated upon the record of the board.

37 E. The commission shall recommend to the board and the board shall
38 adopt general regulations of uniform application governing plats and
39 subdivisions of land within its area of jurisdiction. The regulations
40 adopted shall secure and provide for the proper arrangement of streets or
41 other highways in relation to existing or planned streets, highways or
42 bicycle facilities or to the official map for adequate and convenient open
43 spaces for traffic, utilities, drainage, access of fire fighting apparatus,
44 recreation, light and air. The board may adopt general regulations to
45 provide for the proper arrangement of hiking and equestrian trails in

1 relation to existing or planned streets or highways, and if adopted, such
2 hiking and equestrian trails shall conform to the official map for adequate
3 and convenient open spaces for traffic, utilities, drainage, access of fire
4 fighting apparatus, recreation, light and air. The general regulations may
5 provide for modification by the commission in planned area development or
6 specific cases where unusual topographical or other exceptional conditions
7 may require such action. The regulations shall include provisions as to the
8 extent to which streets and other highways shall be graded and improved and
9 to which water, sewer or other utility mains, piping or other facilities
10 shall be installed or provided for on the plat as a condition precedent to
11 the approval of the final plat.

12 F. To protect the public health and safety, the general regulations
13 adopted by the board pursuant to subsection E of this section, ~~if approved by~~
14 ~~unanimous vote of the board of supervisors,~~ may provide that, except as
15 provided in subsection G, paragraph 1 and subsection H of this section, the
16 board shall not approve a final plat for a subdivision composed of subdivided
17 lands, as defined in section 32-2101, located outside of an active management
18 area, as defined in section 45-402, unless one of the following applies:

19 1. The director of water resources has determined that there is an
20 adequate water supply for the subdivision pursuant to section 45-108 and the
21 subdivider has included the report with the plat.

22 2. The subdivider has obtained a written commitment of water service
23 for the subdivision from a city, town or private water company designated as
24 having an adequate water supply by the director of water resources pursuant
25 to section 45-108.

26 G. If the board ~~unanimously~~ adopts the provision authorized by
27 subsection F of this section:

28 1. The board may include in the general regulations an exemption from
29 the provision for a subdivision that the director of water resources has
30 determined will have an inadequate water supply because the water supply will
31 be transported to the subdivision by motor vehicle or train if all of the
32 following apply:

33 (a) The board determines that there is no feasible alternative water
34 supply for the subdivision and that the transportation of water to the
35 subdivision will not constitute a significant risk to the health and safety
36 of the residents of the subdivision.

37 (b) If the water to be transported to the subdivision will be
38 withdrawn or diverted in the service area of a municipal provider as defined
39 in section 45-561, the municipal provider has consented to the withdrawal or
40 diversion.

41 (c) If the water to be transported is groundwater, the transportation
42 complies with the provisions governing the transportation of groundwater in
43 title 45, chapter 2, article 8.

44 (d) The transportation of water to the subdivision meets any
45 additional conditions imposed by the county.

1 2. The board shall promptly give written notice of the adoption of the
2 provision to the director of water resources, the director of environmental
3 quality and the state real estate commissioner. The notice shall include a
4 certified copy of the provision and any exemptions adopted pursuant to
5 paragraph 1 of this subsection. Water providers may be eligible to receive
6 monies in a water supply development fund, as otherwise provided by law.

7 3. The board shall not rescind the provision or amend it in a manner
8 that is inconsistent with subsection F of this section. If the board amends
9 the provision, it shall give written notice of the amendment to the director
10 of water resources, the director of environmental quality and the state real
11 estate commissioner. The board may rescind an exemption adopted pursuant to
12 paragraph 1 of this subsection. If the board rescinds the exemption, it
13 shall give written notice of the rescission to the director of water
14 resources, the director of environmental quality and the state real estate
15 commissioner, and the board shall not readopt the exemption for at least five
16 years after the rescission becomes effective.

17 4. If the board approves a subdivision plat pursuant to subsection F,
18 paragraph 1 or 2 of this section, the board shall note on the face of the
19 plat that the director of water resources has reported that the subdivision
20 has an adequate water supply or that the subdivider has obtained a commitment
21 of water service for the proposed subdivision from a city, town or private
22 water company designated as having an adequate water supply pursuant to
23 section 45-108.

24 5. If the board approves a subdivision plat pursuant to an exemption
25 authorized by paragraph 1 of this subsection or granted by the director of
26 water resources pursuant to section 45-108.02 or 45-108.03:

27 (a) The board shall give written notice of the approval to the
28 director of water resources and the director of environmental quality.

29 (b) The board shall include on the face of the plat a statement that
30 the director of water resources has determined that the water supply for the
31 subdivision is inadequate and a statement describing the exemption under
32 which the plat was approved, including a statement that the board or the
33 director of water resources, whichever applies, has determined that the
34 specific conditions of the exemption were met. If the director of water
35 resources subsequently informs the board that the subdivision is being served
36 by a water provider that has been designated by the director as having an
37 adequate water supply pursuant to section 45-108, the board shall record in
38 the county recorder's office a statement disclosing that fact.

39 H. Subsection F of this section does not apply to:

40 1. A proposed subdivision that the director of water resources has
41 determined will have an inadequate water supply pursuant to section 45-108 if
42 the director grants an exemption for the subdivision pursuant to section
43 45-108.02 and the exemption has not expired or the director grants an
44 exemption pursuant to section 45-108.03.

1 2. A proposed subdivision that received final plat approval from the
2 county before the requirement for an adequate water supply became effective
3 in the county if the plat has not been materially changed since it received
4 the final plat approval. If changes were made to the plat after the plat
5 received the final plat approval, the director of water resources shall
6 determine whether the changes are material pursuant to the rules adopted by
7 the director to implement section 45-108. If the county approves a plat
8 pursuant to this paragraph and the director of water resources has determined
9 that there is an inadequate water supply for the subdivision pursuant to
10 section 45-108, the county shall note this on the face of the plat.

11 I. If the subdivision is composed of subdivided lands as defined in
12 section 32-2101 outside of an active management area and the board ~~and~~ has
13 not adopted a provision pursuant to subsection F of this section:

14 1. If the director of water resources has determined that there is an
15 adequate water supply for the subdivision pursuant to section 45-108 or if
16 the subdivider has obtained a written commitment of water service for the
17 subdivision from a city, town or private water company designated as having
18 an adequate water supply by the director of water resources pursuant to
19 section 45-108, the board shall note this on the face of the plat if the plat
20 is approved.

21 2. If the director of water resources has determined that there is an
22 inadequate water supply for the subdivision pursuant to section 45-108, the
23 board shall note this on the face of the plat if the plat is approved.

24 J. On recording of a plat, the fee of the streets, alleys, avenues,
25 highways, easements, parks and other parcels of ground reserved to the use of
26 the public vests in trust in the county for the uses and to the extent
27 depicted on the plat including, but not limited to, ingress and egress
28 easements depicted on such plat. On annexation by any city or town such fee
29 automatically vests in the city or town.

30 K. Boards of supervisors of counties shall prepare specifications and
31 make orders, inspections, examinations and certificates as may be necessary
32 to protect and complete the provisions and make them effective. The
33 regulations shall require the posting of performance bonds, assurances or
34 such other security as may be appropriate and necessary to assure the
35 installation of required street, sewer, electric and water utilities,
36 drainage, flood control and improvements meeting established minimum
37 standards of design and construction.

38 L. Before adoption of regulations by the board or any amendment as
39 provided in this article, a public hearing shall be held by the commission.
40 A copy of the regulations shall be certified by the commission to the county
41 board of supervisors, which shall hold a public hearing after notice of the
42 time and place has been given by one publication fifteen days prior to the
43 public hearing in a newspaper of general circulation in the county.

1 M. Approval of a plat shall not be deemed to constitute or effect an
2 acceptance by the county for designation of any street, highway, bicycle
3 facility or other way or open space shown upon the plat into the county
4 maintenance system except for hiking and equestrian trails which shall be
5 constructed and maintained by the county. However, at such time as the
6 streets, highways, bicycle facilities or other ways are fully completed in
7 accordance with the approved plat and written specifications made by the
8 county board, the county shall accept such streets, highways, bicycle
9 facilities and other ways into the county maintenance system within one year
10 of completion.

11 N. For any subdivision that consists of lots, tracts or parcels, each
12 of which is of a size as prescribed by the board of supervisors, the board
13 may waive the requirement to prepare, submit and receive approval of a
14 preliminary plat as a condition precedent to submitting a final plat and may
15 waive or reduce infrastructure standards or requirements except for improved
16 dust-controlled access and minimum drainage improvements.