

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2154

AN ACT

AMENDING SECTIONS 11-823 AND 11-824, ARIZONA REVISED STATUTES; RELATING TO COUNTY PLANS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-823, Arizona Revised Statutes, is amended to
3 read:

4 11-823. Submission of county plan to board; hearing; notice

5 A. After the commission recommends the county plan or any section of
6 the plan, the plan shall be submitted to the board of supervisors for its
7 consideration and official action.

8 B. After the board considers the commission's recommendation and any
9 recommendations from the review required under section 11-806, subsection H,
10 the board shall hold at least one public hearing at which residents of the
11 county shall be heard concerning the matters contained in the plan. At least
12 fifteen days notice of the hearing shall be given by one publication in a
13 newspaper of general circulation in the county seat. The board shall
14 consider protests and objections to the plan and may change or alter any
15 portion of the county plan including the zoning regulations. However, before
16 any change is made, **EXCEPT FOR MAJOR PLAN AMENDMENTS**, that portion of the
17 plan proposed to be changed shall be re-referred to the commission for their
18 recommendation, which may be accepted or rejected by the board.

19 Sec. 2. Section 11-824, Arizona Revised Statutes, is amended to read:

20 11-824. Adoption and amendment of county plan by board of
21 supervisors; expiration and readoption

22 A. The board of supervisors may adopt the county comprehensive plan as
23 a whole, or by successive actions adopt separate parts of the plan. The
24 adoption or readoption of the comprehensive plan or any amendment to the plan
25 shall be by resolution of the board. If the motion to adopt or readopt the
26 plan or an amendment to the plan fails to pass, the board may reconsider the
27 motion in any manner allowed by the board's rules of procedure, but any
28 subsequent motion for the adoption or readoption of the plan or a major
29 amendment to the plan must be approved by an affirmative vote of at least
30 two-thirds of the members of the board.

31 B. A county comprehensive plan, with any amendments, is effective for
32 up to ten years from the date the plan was initially adopted or until the
33 plan is readopted or a new plan is adopted pursuant to this subsection and
34 becomes effective. On or before the tenth anniversary of the plan's most
35 recent adoption, the board shall either readopt the existing plan for an
36 additional term of up to ten years or shall adopt a new county plan as
37 provided by this article.

38 C. The adoption or readoption of, or a major amendment to, the county
39 comprehensive plan shall be approved by the affirmative vote of at least
40 two-thirds of the members of the board. All major amendments proposed for
41 adoption to the comprehensive plan by the board shall be presented at a
42 single public hearing during the calendar year the proposal is made. **AT THE**
43 **PUBLIC HEARING, THE BOARD MAY REFER A MAJOR AMENDMENT BACK TO THE PLANNING**
44 **AND ZONING COMMISSION FOR CONSIDERATION AT A PUBLIC HEARING AND**
45 **RECOMMENDATION OF ANY NEW PROPOSED CHANGES.** The adoption or readoption of a

1 county plan, and any major amendment to a county plan, shall not be enacted
2 as an emergency measure and is subject to referendum as provided by article
3 IV, part 1, section 1, subsection (8), Constitution of Arizona, and title 19,
4 chapter 1, article 4. If the county's area of jurisdiction includes property
5 in the high noise or accident potential zone of a military airport or
6 ancillary military facility as defined in section 28-8461, the board shall
7 send notice of the approval, adoption or readoption of the comprehensive plan
8 or major amendment to the comprehensive plan to the attorney general by
9 certified mail, return receipt requested, within three business days after
10 the approval, adoption or readoption. If the attorney general determines the
11 approval, adoption or readoption of the comprehensive plan or major amendment
12 to the comprehensive plan is not in compliance with section 28-8481,
13 subsection J, the attorney general shall notify the county by certified mail,
14 return receipt requested, of the determination of noncompliance. The board
15 shall receive the notice from the attorney general within twenty-five days
16 after the notice from the board to the attorney general is mailed pursuant to
17 this subsection. The effective date of any approval, adoption or readoption
18 of, or major amendment to, the comprehensive plan shall be thirty days after
19 the board's receipt of the attorney general's determination of noncompliance.
20 Within thirty days after the receipt of a determination of noncompliance by
21 the attorney general as prescribed by this section, the board shall
22 reconsider any approval, adoption or readoption of, or major amendment to,
23 the comprehensive plan that impacts property in the high noise or accident
24 potential zone of a military airport or ancillary military facility as
25 defined in section 28-8461. If the board reaffirms a prior action subject to
26 an attorney general's determination of noncompliance pursuant to this
27 section, the attorney general may institute a civil action pursuant to
28 section 28-8481, subsection L. If the board timely sends notice pursuant to
29 this subsection and the attorney general fails to timely notify the board of
30 a determination of noncompliance, the comprehensive plan or major amendment
31 to the comprehensive plan shall be deemed to comply with section 28-8481,
32 subsection J. If the board fails to adopt or readopt the plan, the current
33 plan remains in effect until a new plan is adopted. The board shall either
34 reconsider the proposed plan or consider a revised plan within one year and
35 shall continue to do so until one is adopted. All subsequent considerations
36 of a new or revised plan must comply with the procedures prescribed by this
37 article. For the purposes of this subsection, "major amendment" means a
38 substantial alteration of the county's land use mixture or balance as
39 established in the county's existing comprehensive plan land use element for
40 that area of the county. The county's comprehensive plan shall define the
41 criteria to determine if a proposed amendment to the comprehensive plan
42 effects a substantial alteration of the county's land use mixture or balance
43 as established in the county's existing comprehensive plan land use element
44 for that area of the county.

1 D. ~~Upon~~ ON adoption or readoption, the plan, or any part of the plan,
2 shall be the official guide for the development of the area of jurisdiction.
3 E. Any change, amendment, extension or addition of the county plan may
4 be made only in accordance with ~~the provisions of~~ this chapter.
5 F. In applying an open space element or a growth element of a
6 comprehensive plan a county shall not designate private or state land as open
7 space, recreation, conservation or agriculture unless the county receives the
8 written consent of the landowner or provides an alternative, economically
9 viable designation in the comprehensive plan or zoning ordinance, allowing at
10 least one residential dwelling per acre. If the landowner is the prevailing
11 party in any action brought to enforce this subsection, a court shall award
12 fees and other expenses to the landowner. Each county shall incorporate this
13 subsection into its comprehensive plan and provide a process for a landowner
14 to resolve discrepancies relating to this subsection.