

State of Arizona
Senate
Forty-seventh Legislature
Second Regular Session
2006

SENATE BILL 1551

AN ACT

AMENDING SECTION 11-830, ARIZONA REVISED STATUTES; RELATING TO MINED LAND RECLAMATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Section 11-830, Arizona Revised Statutes, is amended to
3 read:

4 11-830. Restriction on regulation; exceptions; aggregate mining
5 regulation; definitions

6 A. Nothing contained in any ordinance authorized by this chapter
7 shall:

8 1. Affect existing uses of property or the right to its continued use
9 or the reasonable repair or alteration thereof for the purpose for which used
10 at the time the ordinance affecting the property takes effect.

11 2. Prevent, restrict or otherwise regulate the use or occupation of
12 land or improvements for railroad, mining, metallurgical, grazing or general
13 agricultural purposes, if the tract concerned is five or more contiguous
14 commercial acres. For the purposes of this paragraph, "mining" has the same
15 meaning prescribed in section 27-301.

16 3. Prevent, restrict or otherwise regulate the use or occupation of
17 land or improvements for agricultural composting, if the tract is five or
18 more contiguous commercial acres. An agricultural composting operation shall
19 notify in writing the board of supervisors and the nearest fire department of
20 the location of the composting operation. If the nearest fire department is
21 located in a city, town or fire district where the agricultural composting is
22 not located, the agricultural composting operation shall also notify in
23 writing the fire district in which the operation is located. Agricultural
24 composting is subject to ~~the provisions of~~ sections 3-112 and 49-141. For
25 the purposes of this paragraph, "agricultural composting" has the same
26 meaning prescribed in section 9-462.01, subsection G.

27 B. A nonconforming business use within a district may expand if such
28 expansion does not exceed one hundred per cent of the area of the original
29 business.

30 C. For the purposes of subsection A, paragraph 2 of this section,
31 mining does not include aggregate mining operations in an aggregate mining
32 operations zoning district established pursuant to this section. The board
33 of supervisors of any county with a population of more than two million
34 persons shall designate and establish the boundaries of an aggregate mining
35 operations zoning district on the petition of at least one hundred persons
36 who reside within one-half mile of an existing aggregate mining
37 operation. In addition, the board of supervisors of any county may
38 establish, in its discretion and on the board's initiative, one or more
39 aggregate mining operations zoning districts. Aggregate mining operations
40 zoning districts may only be located in areas that are inventoried and mapped
41 as areas of known reserves or in areas with existing aggregate mining
42 operations. Subject to subsections E and F of this section, a county and the
43 state mine inspector may jointly adopt, as internal administrative
44 regulations, reasonable aggregate mining operations zoning district standards
45 limited to permitted uses, procedures for approval of property development
46 plans and site development standards for dust control, height regulations,

1 setbacks, days and hours of operation, off-street parking, screening, noise,
2 vibration and air pollution control, signs, roadway access lanes, arterial
3 highway protection and property reclamation for which aggregate mining
4 operations are not otherwise subject to federal, state or local regulation or
5 a governmental contractual obligation. Regulations jointly adopted pursuant
6 to this subsection by the county and the state mine inspector shall not
7 prohibit the activities included in the definition of mine pursuant to
8 section 27-301, paragraph 8 or duplicate, conflict with or be more stringent
9 than applicable federal, state or local laws.

10 D. The board of supervisors of any county that establishes an
11 aggregate mining operations zoning district shall appoint an aggregate mining
12 operations recommendation committee for the district. The committee shall
13 consist of not more than seven operators, or representatives of operators, of
14 active aggregate mining operations in any district within the county and an
15 equal number of property owners, who are not operators, who are not employed
16 by operators and who do not represent operators, residing within one mile of
17 the boundaries of aggregate mining operations or a proposed aggregate mining
18 operation in the district for which the committee is established. An
19 aggregate mining operator may serve on more than one committee in the same
20 county. The board of supervisors shall determine the length of terms of
21 members of the committee and shall stagger the initial appointments so that
22 not all members' terms expire at the same time. Members of the committee who
23 no longer qualify for membership as provided by this subsection are subject
24 to removal and replacement by the board of supervisors. The committee shall
25 elect a member who is an aggregate mining operator to serve as chairman for
26 the first year in which the committee is created. For each year thereafter,
27 the chairman shall be elected by the members of the committee, with a member
28 who is a property owner and a member who is an aggregate mining operator
29 serving as chairman in alternate years. The committee is subject to the open
30 meeting requirements of title 38, chapter 3, article 3.1.

31 E. Within ninety days after an aggregate mining operations
32 recommendation committee is established, it shall notify all existing
33 aggregate mining operators in the district of the application of this section
34 and title 27, chapter 3, article 6 to the aggregate mining operation. In
35 addition, the committee shall:

36 1. By a majority vote of all members, make recommendations to the
37 board of supervisors for aggregate mining zoning districts and administrative
38 regulations as provided in this section. The board of supervisors may adopt
39 or reject such recommendations but may not make any modifications to the
40 recommendations unless such modification is approved by a majority of the
41 members of the recommendation committee.

42 2. Serve as a forum for mediation of disputes between members of the
43 public and aggregate mining owners or operators. If the committee is unable
44 to resolve a dispute, the committee shall transmit the matter to the state
45 mine inspector, with written findings and recommendations, for further
46 action.

1 3. Hear written complaints filed with the state mine inspector
2 regarding alleged material deviations from approved community notices for
3 aggregate mining operations and make written recommendations to the state
4 mine inspector pursuant to section 27-446.

5 F. Any administrative regulations adopted by a board of supervisors
6 pursuant to this section shall not be effective until they are approved by
7 the state mine inspector. The inspector may disapprove the administrative
8 regulations adopted by the board of supervisors only if they duplicate,
9 conflict with or are more stringent than applicable federal, state or local
10 laws, rules or regulations. If the inspector disapproves the administrative
11 regulations, the inspector must provide written reasons for the
12 disapproval. The inspector shall not make any modification to the
13 administrative regulations as adopted by the board of supervisors unless the
14 modification is approved by a majority of the members of the board of
15 supervisors.

16 G. A person or entity is subject to ~~the provisions of~~ this chapter if
17 the use or occupation of land or improvements by the person or entity
18 consists of or includes changing, remanufacturing or treating human sewage or
19 sludge for distribution or resale. These activities are not exempt from this
20 chapter under subsection A, paragraph 2 of this section.

21 H. A county shall not require as a condition for a permit or for any
22 approval, or otherwise cause, an owner or possessor of property to waive the
23 right to continue an existing nonconforming outdoor advertising use or
24 structure without acquiring the use or structure by purchase or condemnation
25 and paying just compensation unless the county, at its option, allows the use
26 or structure to be relocated to a comparable site in the county with the same
27 or a similar zoning classification, or to another site in the county
28 acceptable to both the county and the owner of the use or structure, and the
29 use or structure is relocated to the other site. The county shall pay for
30 relocating the outdoor advertising use or structure including the cost of
31 removing and constructing the new use or structure that is at least the same
32 size and height. This subsection does not apply to county rezoning of
33 property at the request of the property owner to a more intensive zoning
34 district.

35 I. For **THE** purposes of this section:

36 1. "Aggregate" has the same meaning prescribed in section 27-441.

37 2. "Aggregate mining" has the same meaning prescribed in section
38 27-441.

39 3. "Aggregate mining operation" means property that is owned, operated
40 or managed by the same person for aggregate mining.

41 4. **"MINING" INCLUDES ANY MINED LAND RECLAMATION ACTIVITIES.**

42 ~~4.~~ 5. "Operators" means persons who are actively engaged in aggregate
43 mining operations within the zoning district or proposed zoning district and
44 who have given notice to the state mine inspector pursuant to section 27-303.