

State of Arizona
House of Representatives
Forty-seventh Legislature
Second Regular Session
2006

HCR 2045

Introduced by
Representatives Nelson, Boone, Brown, Groe, Jones, Pearce, Pierce,
Quelland, Tully, Senators Allen, Bee, Bennett, Blendu, Flake:
Representatives Allen J, Burns J, Gorman, Konopnicki, McComish, Murphy,
Nichols, Paton, Weiers JP, Senator Verschoor

A CONCURRENT RESOLUTION

PROPOSING AN AMENDMENT TO THE CONSTITUTION OF ARIZONA; AMENDING ARTICLE X,
SECTIONS 3 AND 4, CONSTITUTION OF ARIZONA; AMENDING ARTICLE X, CONSTITUTION
OF ARIZONA, BY ADDING SECTIONS 4.1 AND 4.2; RELATING TO STATE TRUST LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Whereas, the purpose of this proposition is to preserve the mission of
2 the state land trust by ensuring and increasing the economic value of the
3 trust for the benefit of public schools and the other beneficiaries through
4 prudent planning while providing opportunities for conservation consistent
5 with the mission of the state land trust.

6 Therefore

7 Be it resolved by the House of Representatives of the State of Arizona, the
8 Senate concurring:

9 1. Article X, section 3, Constitution of Arizona, is proposed to be
10 amended as follows if approved by the voters and on proclamation of the
11 Governor:

12 3. Mortgage or other encumbrance; sale or lease at
13 public auction

14 Section 3. A. No mortgage or other encumbrance of the
15 said lands, or any part thereof, shall be valid in favor of any
16 person or for any purpose or under any circumstances whatsoever.

17 B. Said lands shall not be sold or leased, in whole or in
18 part, except to the highest and best bidder at a public auction
19 to be held at the county seat of the county wherein the lands to
20 be affected, or the major portion thereof, shall lie. ~~;~~ Notice
21 of ~~which public~~ THE auction ~~shall first have been duly given by~~
22 ~~advertisement, which~~ shall set forth the nature, time and place
23 of the transaction to be had, with a full description of the
24 lands to be offered. ~~;~~ ~~and~~ THE NOTICE SHALL be:

25 1. POSTED ON THE OFFICIAL WEB SITE FOR AT LEAST
26 THIRTY-FIVE DAYS BEFORE THE AUCTION.

27 2. Published AT LEAST once each week for not less than
28 ~~ten~~ FIVE successive weeks BEFORE THE AUCTION in a newspaper of
29 general circulation published regularly at the state capital;
30 and in ~~that~~ A newspaper of ~~like~~ GENERAL circulation ~~which shall~~
31 ~~then be~~ regularly published ~~nearest to the location~~ IN THE
32 VICINITY of the lands so offered. ~~;~~ ~~nor shall any~~

33 C. NO sale or contract for the sale of any timber or
34 other natural product of such lands MAY be made, save at the
35 place, in the manner, and after the notice by publication
36 provided for sales and leases of the lands themselves.

37 D. Nothing ~~herein~~ IN THIS SECTION, or elsewhere in THIS
38 article ~~X-contained~~, shall prevent:

39 1. The leasing of any of the lands referred to in this
40 article in such manner as the legislature may prescribe, for
41 grazing, agricultural, commercial and homesite purposes, for a
42 term of ten years or less, without advertisement OR AUCTION. ~~;~~

43 2. The leasing of any of said lands, in such manner as
44 the legislature may prescribe, whether or not also leased for
45 grazing and agricultural purposes, for mineral purposes, other

1 than for the exploration, development,~~—~~ and production of oil,
2 gas and other hydrocarbon substances, for a term of twenty years
3 or less, without advertisement,~~—~~ or AUCTION. ~~—~~

4 3. The leasing of any of said lands, whether or not also
5 leased for other purposes, for the exploration, development, and
6 production of oil, gas and other hydrocarbon substances on, in
7 or under said lands for an initial term of twenty ~~(20)~~ years or
8 less and as long thereafter as oil, gas or other hydrocarbon
9 substance may be procured therefrom in paying quantities, the
10 leases to be made in any manner, with or without advertisement,
11 bidding,~~—~~ or appraisal, and under such terms and provisions,
12 as the legislature may prescribe, the terms and provisions to
13 include a reservation of a royalty to the state of not less than
14 twelve and one-half per cent of production.

15 4. GRANTING PUBLIC RIGHTS-OF-WAY AND EASEMENTS TO A
16 FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY WITHOUT
17 ADVERTISEMENT OR AUCTION IN A MANNER PRESCRIBED BY LAW.

18 5. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF
19 LANDS THAT ARE DESIGNATED AS SUITABLE FOR CONSERVATION IN A PLAN
20 PREPARED AND APPROVED PURSUANT TO SECTION 4.1 OF THIS ARTICLE.

21 6. THE DISPOSITION WITHOUT ADVERTISEMENT OR AUCTION OF
22 CONSERVATION LANDS AS PROVIDED BY SECTION 4.2 OF THIS ARTICLE.

23 2. Article X, section 4, Constitution of Arizona, is proposed to be
24 amended as follows if approved by the voters and on proclamation of the
25 Governor:

26 4. Sale or other disposal; appraisal; consideration
27 and value

28 Section 4. A. All lands, ~~lease-holds~~ LEASEHOLDS,
29 timber,~~—~~ and other products of land, before being offered, shall
30 be appraised at their true value. ~~—and~~ EXCEPT AS PROVIDED IN
31 THIS ARTICLE, no sale or other disposal thereof shall be made:

32 1. For a consideration less than the value so
33 ascertained. ~~—nor~~

34 2. In any case less than the minimum price hereinafter
35 fixed. ~~—nor~~

36 3. Upon credit unless accompanied by ample security.
37 ~~—and~~

38 B. The legal title shall not be deemed to have passed
39 until the consideration shall have been paid.

40 C. EASEMENTS FOR FLOOD CONTROL PURPOSES SHALL BE GRANTED
41 TO A FEDERAL, STATE OR LOCAL GOVERNMENTAL ENTITY WITHOUT FURTHER
42 CONSIDERATION IN A MANNER PRESCRIBED BY LAW IF THE GOVERNMENTAL
43 ENTITY RECEIVED AN EASEMENT OF THE SAME AREA FOR FLOOD CONTROL
44 PURPOSES EXECUTED BEFORE JANUARY 1, 1968.

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D. RIGHTS-OF-WAY FOR PUBLIC ROADWAYS THAT WERE ESTABLISHED OR MAINTAINED BEFORE JANUARY 1, 1968 AND USED OR MAINTAINED SINCE JANUARY 1, 1968 SHALL BE GRANTED WITHOUT FURTHER CONSIDERATION IN A MANNER PRESCRIBED BY LAW.

3. Article X, Constitution of Arizona, is proposed to be amended by adding sections 4.1 and 4.2 as follows if approved by the voters and on proclamation of the Governor:

4.1. Planning

SECTION 4.1. A. LAND HELD IN TRUST UNDER THIS ARTICLE MAY BE SUBJECT TO A PLAN FOR THE USE OF THE LAND FOR COMMERCIAL PURPOSES, PREPARED IN CONSULTATION WITH A COUNTY, CITY OR TOWN IN A MANNER PRESCRIBED BY LAW AND PURSUANT TO ORDINANCES, RULES AND REGULATIONS OF THE COUNTY, CITY OR TOWN, IF THOSE ORDINANCES, RULES AND REGULATIONS ARE NOT DISCRIMINATORY AS WRITTEN OR APPLIED TO THE LAND HELD IN TRUST AS COMPARED TO THE TREATMENT OF PRIVATELY OWNED LAND LOCATED IN THE COUNTY, CITY OR TOWN. IF THE PLAN PREPARED FOR THE USE OF THE LAND IS INCOMPATIBLE WITH THE PLAN PREPARED BY THE COUNTY, CITY OR TOWN, THE ELEMENTS OF THE PLANS THAT ARE IN DISPUTE ARE SUBJECT TO RESOLUTION IN A MANNER PRESCRIBED BY LAW.

B. THE PLAN MAY DESIGNATE ANY PART OF THE LAND AS SUITABLE FOR CONSERVATION, AND THAT PART IS SUBJECT TO DISPOSITION, IN A MANNER PRESCRIBED BY LAW, FOR CONSIDERATION OTHER THAN THE TRUE COMMERCIAL VALUE IF:

1. THE DISPOSITION WILL BRING BENEFIT TO OTHER LAND THAT IS HELD IN TRUST AND SUBJECT TO THE PLAN. THE AGGREGATE MARKET VALUATION OF ALL LAND THAT IS HELD IN TRUST AND SUBJECT TO THE PLAN MUST NOT BE DIMINISHED DUE TO THE DESIGNATION AND DISPOSITION OF THE LAND AS SUITABLE FOR CONSERVATION.

2. ALL LAND THAT IS DESIGNATED AS SUITABLE FOR CONSERVATION IS HELD IN TRUST FOR THE SAME PUBLIC BENEFICIARY.

3. IT IS A PERMANENT CONDITION OF ANY DISPOSITION OF LAND DESIGNATED AS SUITABLE FOR CONSERVATION PURSUANT TO THIS SECTION THAT THE LAND WILL BE:

(a) RESTRICTED AGAINST DEVELOPMENT, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE.

(b) MANAGED AND USED IN A MANNER CONSISTENT WITH CONSERVATION, AS DEFINED IN SECTION 4.2 OF THIS ARTICLE.

(c) SUBJECT TO REASONABLE PUBLIC ACCESS.

4.2. Conservation lands; definitions

SECTION 4.2. A. IN AN URBAN AREA, LANDS THAT, PURSUANT TO LAW, WERE CLASSIFIED BEFORE JANUARY 1, 2005 AND THAT WERE SUBJECT TO PERMANENT RESTRICTIONS AS SUITABLE FOR CONSERVATION PURPOSES MAY BE CONVEYED AS CONSERVATION LANDS WITHOUT ADVERTISEMENT OR AUCTION TO THE CITY, TOWN OR COUNTY IN WHICH

1 THEY ARE LOCATED, BUT ONLY IF COMPENSATION IS PROVIDED TO THE
2 RESPECTIVE PERMANENT FUND IN A MANNER PRESCRIBED BY LAW.

3 B. THE LEGISLATURE MAY PRESCRIBE A PROCESS BY LAW FOR
4 DESIGNATING FOR CONSERVATION PURPOSES UP TO TWO HUNDRED
5 TWENTY-FIVE THOUSAND ACRES OF LAND THAT IS NOT LOCATED IN AN
6 URBAN AREA. THESE LANDS MAY BE CONVEYED WITHOUT ADVERTISEMENT,
7 AUCTION OR CONSIDERATION TO THE COUNTY IN WHICH THEY ARE
8 LOCATED, BUT ONLY IF THE CONVEYANCE IS NOT DETRIMENTAL TO THE
9 BEST LONG-TERM INTEREST OF THE TRUST. NOTWITHSTANDING ARTICLE
10 IV, PART 2, SECTION 19, ANY DESIGNATION OF LANDS PURSUANT TO
11 THIS SUBSECTION MUST BE APPROVED INDIVIDUALLY BY LAW. A LAW TO
12 APPROVE THE DESIGNATION OF CONSERVATION LANDS PURSUANT TO THIS
13 SUBSECTION IS SUBJECT TO THE POWER OF THE REFERENDUM AND IS NOT
14 CONSIDERED TO BE IMMEDIATELY NECESSARY FOR THE PRESERVATION OF
15 THE PUBLIC PEACE, HEALTH OR SAFETY OR FOR THE SUPPORT AND
16 MAINTENANCE OF THE DEPARTMENTS OF STATE GOVERNMENT AND STATE
17 INSTITUTIONS.

18 C. IT IS A PERMANENT CONDITION OF ANY CONVEYANCE OR
19 DISPOSITION OF CONSERVATION LAND PURSUANT TO SUBSECTION A OR B
20 OF THIS SECTION THAT THE LAND WILL BE:

- 21 1. RESTRICTED AGAINST DEVELOPMENT.
22 2. MANAGED AND USED IN A MANNER CONSISTENT WITH
23 CONSERVATION.
24 3. SUBJECT TO REASONABLE PUBLIC ACCESS.

25 D. ANY CONVEYANCE OR OTHER DISPOSITION OF LANDS PURSUANT
26 TO THIS SECTION IS SUBJECT TO THE RESERVATION THAT ALL OIL, GAS,
27 OTHER HYDROCARBON SUBSTANCES, HELIUM OR OTHER SUBSTANCES OF A
28 GASEOUS NATURE, GEOTHERMAL RESOURCES, COAL, METALS, MINERALS,
29 FOSSILS, FERTILIZER OF EVERY DESCRIPTION, URANIUM, THORIUM OR
30 ANY OTHER MATERIAL THAT IS OR MAY BE PECULIARLY ESSENTIAL TO THE
31 PRODUCTION OF FISSIONABLE MATERIALS, WHETHER OR NOT OF
32 COMMERCIAL VALUE, AND THE EXCLUSIVE RIGHT THERETO, ON, IN OR
33 UNDER THE LAND, IS RESERVED IN AND RETAINED BY THE STATE,
34 REGARDLESS OF THE CONVEYANCE AND THE ISSUANCE OF ANY EVIDENCE OF
35 CONVEYANCE. A MINERAL RESERVATION UNDER THIS SUBSECTION SHALL
36 NOT INCLUDE COMMON VARIETY MINERALS SUCH AS SAND, GRAVEL OR
37 OTHER AGGREGATE, ROAD BASE MATERIAL, LIMESTONE OR GYPSUM.

38 E. NOTHING IN THIS SECTION PREVENTS THE CONTINUATION OR
39 RENEWAL OF ANY LEASE, RIGHT-OF-WAY OR OTHER USE OF THE LAND THAT
40 WAS IN EXISTENCE AS OF THE DATE OF CONVEYANCE OR DISPOSITION OF
41 CONSERVATION LAND.

- 42 F. FOR THE PURPOSES OF THIS SECTION:
43 1. "CONSERVATION" MEANS RESTRICTING THE USE OF THE LAND
44 AGAINST DEVELOPMENT.

1 2. "DEVELOPMENT" MEANS BUILDINGS AND OTHER STRUCTURES FOR
2 RESIDENTIAL, AGRICULTURAL, COMMERCIAL OR PUBLIC USE BUT DOES NOT
3 INCLUDE BUILDINGS, STRUCTURES OR OTHER IMPROVEMENTS EXISTING
4 BEFORE JANUARY 1, 2009 OR FENCES, PATHS, TRAILS, TRAILHEADS,
5 ROADWAYS, UTILITY LINES AND ASSOCIATED FACILITIES, CANALS,
6 DRAINAGE IMPROVEMENTS, WELLS, SIGNAGE, RANGE IMPROVEMENTS,
7 COMMUNICATIONS FACILITIES, RESEARCH OR MONITORING STATIONS AND
8 ASSOCIATED EQUIPMENT OR, IN ORDER TO FACILITATE REASONABLE
9 PUBLIC ACCESS, PICNIC, CAMPING, PARKING, SECURITY, COMFORT,
10 MAINTENANCE AND SIMILAR FACILITIES THAT ARE COMPATIBLE WITH
11 CONSERVATION.

12 3. "URBAN AREA" MEANS:

13 (a) WITHIN OR ADJACENT TO THE EXTERIOR CORPORATE
14 BOUNDARIES OF A CITY OR TOWN.

15 (b) WITHIN THREE MILES OUTSIDE THE CORPORATE BOUNDARY OF
16 A CITY OR TOWN HAVING A POPULATION OF LESS THAN TEN THOUSAND
17 PERSONS.

18 (c) WITHIN FIVE MILES OUTSIDE THE CORPORATE BOUNDARY OF A
19 CITY OR TOWN HAVING A POPULATION OF TEN THOUSAND PERSONS OR
20 MORE.

21 4. Conditional repeal

22 Sections 1, 2 and 3 of this proposition are repealed if the initiative
23 styled "Conserving Arizona's Future" and designated by the Secretary of State
24 as C-03-2006 is approved by the voters at the general election held
25 November 7, 2006 and becomes effective pursuant to article XXI, Constitution
26 of Arizona.

27 5. Submission to voters: conditional enactment

28 A. The Secretary of State shall submit this proposition to the voters
29 at the next general election as provided by article XXI, Constitution of
30 Arizona.

31 B. Sections 1, 2 and 3 of this proposition are not effective unless
32 both of the following occur:

33 1. This proposition is approved and ratified by the voters pursuant to
34 subsection A of this section and the conditional repeal described in section
35 4 of this proposition does not occur.

36 2. On or before December 31, 2008, the Arizona-New Mexico Enabling Act
37 (Act of June 20, 1910; 36 Stat. 557) is amended by Congress and signed into
38 law to authorize the amendment of the Constitution of Arizona as proposed by
39 sections 1 and 2 of this proposition. On or before December 31, 2008, the
40 state land commissioner shall notify the director of the legislative council
41 in writing whether or not this condition occurred and the date the enabling
42 act was amended.