Senate Engrossed House Bill

**FILED**

**JANICE K. BREWER**
**SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHPATER 83

# HOUSE BILL 2626

AN ACT

AMENDING SECTION 11-830, ARIZONA REVISED STATUTES; RELATING TO AGGREGATE MINING OPERATIONS RECOMMENDATION COMMITTEES.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

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

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

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

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

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

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

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

C. For the purposes of subsection A, paragraph 2 of this section, mining does not include aggregate mining operations in an aggregate mining operations zoning district established pursuant to this section. The board of supervisors of any county with a population of more than two million persons shall designate and establish the boundaries of an aggregate mining operations zoning district on the petition of at least one hundred persons who reside within one-half mile of an existing aggregate mining operation. In addition, the board of supervisors of any county may establish, in its discretion and on the board's initiative, one or more aggregate mining operations zoning districts. Aggregate mining operations zoning districts may only be located in areas that are inventoried and mapped as areas of known reserves or in areas with existing aggregate mining operations. Subject to subsections E and F of this section, a county and the state mine inspector may jointly adopt, as internal administrative regulations, reasonable aggregate mining operations zoning district standards limited to

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

D. The board of supervisors of any county that establishes an aggregate mining operations zoning district shall appoint an aggregate mining operations recommendation committee for the district. The committee shall consist of not more than seven operators, or representatives of operators, of active aggregate mining operations in any district within the county and an equal number of ~~property owners~~ PRIVATE CITIZENS, who are not operators, who are not employed by operators and who do not represent operators, residing within ~~one mile~~ THREE MILES of the boundaries of aggregate mining operations or a proposed aggregate mining operation in the district for which the committee is established. THE INITIAL MEMBERS APPOINTED TO THE COMMITTEE SHALL BE DEEMED THE PRIMARY MEMBERS AND THE BOARD OF SUPERVISORS SHALL APPOINT NO MORE THAN FIVE ALTERNATE MEMBERS WHO REPRESENT OPERATORS AND SHALL APPOINT NO MORE THAN FIVE ALTERNATE MEMBERS WHO ARE PRIVATE CITIZENS. ALTERNATE MEMBERS MAY SERVE AT MEETINGS OF THE COMMITTEE WHEN A PRIMARY MEMBER IS UNABLE TO ATTEND. An aggregate mining operator may serve on more than one committee in the same county. The board of supervisors shall determine the length of terms of members of the committee and shall stagger the initial appointments so that not all members' terms expire at the same time. Members of the committee who no longer qualify for membership as provided by this subsection are subject to removal and replacement by the board of supervisors. The committee shall elect a member who is an aggregate mining operator to serve as chairman for the first year in which the committee is created. For each year thereafter, the chairman shall be elected by the members of the committee with a member who is a ~~property owner~~ PRIVATE CITIZEN and a member who is an aggregate mining operator serving as chairman in alternate years. The committee is subject to the open meeting requirements of title 38, chapter 3, article 3.1.

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

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

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

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

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

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

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

I. For THE purposes of this section:

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

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

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

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

APPROVED BY THE GOVERNOR APRIL 16, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 16, 2007.

Passed the House February 19, 20 07

by the following vote: 55 Ayes,

0 Nays, 5 Not Voting

Speaker of the House

Norman L. Moore

Chief Clerk of the House

Passed the Senate April 4, 20 07

by the following vote: 28 Ayes,

1 Nays, 1 Not Voting

Timothy S. Bee

President of the Senate

Charmin Bellington

Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

_____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary to the Governor

Approved this _____day of

_____

at _____o'clock _____M.

_____

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this _____ day of _____, 20_____

at _____ o'clock _____M.

_____

Secretary of State

H.B. 2626

HOUSE CONCURS IN SENATE
AMENDMENTS AND FINAL PASSAGE

April 10, 2007,

by the following vote: 58 Ayes,

0 Nays, 2 Not Voting

Speaker of the House

Thomas L. Moore
Chief Clerk of the House

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor this

10th day of April, 2007

at 11:25 o'clock a. M.

Jennifer Ybarra
Secretary to the Governor

Approved this 16 day of

April, 2007,

at 2:30 o'clock P. M.

Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 16 day of April, 2007,

at 4:56 o'clock P. M.

Janice K. Brewer
Secretary of State

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