

REFERENCE TITLE: state land; oversight board

State of Arizona
House of Representatives
Fifty-sixth Legislature
Second Regular Session
2024

HB 2572

Introduced by
Representative Biasiucci

AN ACT

AMENDING SECTION 37-213, ARIZONA REVISED STATUTES; AMENDING TITLE 37, CHAPTER 2, ARIZONA REVISED STATUTES, BY ADDING ARTICLE 2.2; RELATING TO STATE LAND.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:
2 Section 1. Section 37-213, Arizona Revised Statutes, is amended to
3 read:
4 37-213. Board of appeals
5 A. ~~There is established a~~ THE board of appeals IS ESTABLISHED
6 consisting of ~~five~~ SEVEN members. MEMBERS appointed by the governor SHALL
7 BE APPOINTED pursuant to section 38-211. ~~No~~ NOT more than ~~three~~ FOUR
8 members shall be appointed from the same political party. Members shall
9 be appointed as follows:
10 1. One member from each of ~~three~~ FIVE districts into which the
11 state is divided as follows:
12 (a) First district: MARICOPA, Pima, ~~Santa Cruz, Cochise, Graham~~
13 ~~and Greenlee~~ PINAL AND GILA counties.
14 (b) Second district: ~~Maricopa, Yuma, La Paz, Pinal and Gila~~
15 ~~counties~~ COUNTY.
16 (c) Third district: Mohave, ~~Yavapai, Coconino, Apache~~ and Navajo
17 LA PAZ counties.
18 (d) FOURTH DISTRICT: YAVAPAI AND COCONINO COUNTIES.
19 (e) FIFTH DISTRICT: GRAHAM, GREENLEE, COCHISE, SANTA CRUZ, NAVAJO
20 AND APACHE COUNTIES.
21 2. THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF
22 REPRESENTATIVES SHALL JOINTLY APPOINT THE MEMBERS FROM DISTRICTS TWO,
23 THREE, FOUR AND FIVE. THE GOVERNOR SHALL APPOINT THE MEMBER FROM DISTRICT
24 ONE. The remaining two members of the board of appeals shall be appointed
25 at large by the governor.
26 B. To be eligible for appointment as a member of the board, a
27 person shall be experienced in the SALE, LEASE, classification ~~and~~ OR
28 appraisal of ONE OR MORE OF THE FOLLOWING:
29 1. ALL TYPES OF REAL ESTATE.
30 2. SUBSURFACE ESTATES.
31 3. GRAZING LEASES.
32 4. AGRICULTURAL LEASES.
33 5. COMMERCIAL LEASES.
34 6. WATER AND WATER RIGHTS.
35 7. RIGHTS-OF-WAY AND EASEMENTS.
36 8. NATURAL PRODUCTS OF THE LAND.
37 C. THE BOARD MEMBERS SHALL REPRESENT THE FOLLOWING GROUPS OR
38 INTERESTS, AND A MEMBER MAY NOT SERVE AS THE REPRESENTATIVE FOR MORE THAN
39 ONE INTEREST OR GROUP:
40 1. THE NATURAL RESOURCES INDUSTRY, INCLUDING TIMBER, MINING, OIL OR
41 NATURAL GAS.
42 2. THE AGRICULTURE INDUSTRY, INCLUDING FARMING OR RANCHING.
43 3. THE COMMERCIAL DEVELOPMENT INDUSTRY, INCLUDING HOUSING, THE
44 COMMERCIAL OFFICE DEVELOPMENT INDUSTRY OR THE TRANSPORTATION INDUSTRY.
45 4. THE ENERGY INDUSTRY, INCLUDING ELECTRIC ENERGY GENERATION OR
46 TRANSMISSION.

1 5. THE LAND OR WILDLIFE CONSERVATION INDUSTRY, INCLUDING MEMBERS OF
2 A WATER, SOIL OR WILDLIFE CONSERVATION ORGANIZATION OR A GROUP THAT
3 PROMOTES HUNTING AND ANGLING.

4 ~~C.~~ D. The term of office of each member is ~~six~~ FOUR years, ending
5 on the third Monday in January of the ~~sixth~~ FOURTH year after ~~his~~ THE
6 MEMBER'S appointment. Appointments to fill vacancies resulting other than
7 from expiration of term ~~shall be~~ ARE for the unexpired portion of the term
8 only.

9 ~~D.~~ E. Each member of the board is eligible to receive compensation
10 as determined pursuant to section 38-611.

11 F. MEMBERS OF THE BOARD MAY NOT PARTICIPATE IN ANY MATTER IN WHICH
12 THE MEMBER HAS A DIRECT FINANCIAL INTEREST. FOR THE PURPOSES OF THIS
13 SUBSECTION, "DIRECT FINANCIAL INTEREST" INCLUDES BEING AN EMPLOYEE OF, OR
14 HOLDING STOCKS OR BONDS IN, EXCEPT THROUGH A MUTUAL OR EXCHANGE FUNDS, AN
15 ENTITY THAT HAS A PROPOSED SALE, LEASE OR REIMBURSABLE IMPROVEMENT PENDING
16 BEFORE THE BOARD.

17 ~~E.~~ G. The board may adopt administrative rules necessary to
18 perform its duties prescribed by law.

19 Sec. 2. Title 37, chapter 2, Arizona Revised Statutes, is amended
20 by adding article 2.2, to read:

21 ARTICLE 2.2. STATE LAND OVERSIGHT BOARD

22 37-225. State land oversight board; membership; appeals

23 A. THE STATE LAND OVERSIGHT BOARD IS ESTABLISHED. THE MEMBERS OF
24 THE BOARD SHALL BE THE SAME MEMBERS OF THE BOARD OF APPEALS ESTABLISHED BY
25 SECTION 37-213. THE STATE LAND DEPARTMENT SHALL MAINTAIN ALL RECORDS OF
26 THE OVERSIGHT BOARD.

27 B. OVERSIGHT BOARD MEETING SHALL BE OPEN TO THE PUBLIC. THE
28 OVERSIGHT BOARD MAY MEET AT ANY TIME OR PLACE EXPEDIENT TO THE PERFORMANCE
29 OF ITS DUTIES. THE MEMBERS OF THE OVERSIGHT BOARD SHALL SELECT A
30 CHAIRPERSON AND VICE CHAIRPERSON FROM THE MEMBERSHIP OF THE OVERSIGHT
31 BOARD.

32 C. THE CHAIRPERSON SHALL:

33 1. SCHEDULE THE TIME, DATE AND LOCATION OF MEETINGS OF THE
34 OVERSIGHT BOARD.

35 2. SET THE AGENDA FOR ANY OVERSIGHT BOARD MEETINGS.

36 3. ISSUE WRITTEN DECISIONS OF THE OVERSIGHT BOARD PURSUANT TO
37 SECTIONS 37-226 AND 37-227.

38 D. THE VICE CHAIRPERSON SHALL FULFILL ALL DUTIES OF THE CHAIRPERSON
39 IF A VACANCY OCCURS FOR THE POSITION OF CHAIRPERSON.

40 E. A MEMBER OF THE OVERSIGHT BOARD MAY NOT PARTICIPATE IN ANY
41 MATTER IN WHICH THE MEMBER HAS A DIRECT FINANCIAL INTEREST. FOR THE
42 PURPOSES OF THIS SUBSECTION, "DIRECT FINANCIAL INTEREST" INCLUDES BEING AN
43 EMPLOYEE OF, OR HOLDING STOCKS OR BONDS IN, EXCEPT THROUGH A MUTUAL OR
44 EXCHANGE FUNDS, AN ENTITY THAT HAS A PROPOSED SALE, LEASE OR REIMBURSABLE
45 IMPROVEMENT PENDING BEFORE THE OVERSIGHT BOARD.

1 F. ANY PERSON, INCLUDING THE COMMISSIONER, THE ATTORNEY GENERAL OR
2 ANY PERSON WHO IS ADVERSELY AFFECTED BY A FINAL DECISION OF THE OVERSIGHT
3 BOARD, MAY:

4 1. HAVE A HEARING PURSUANT TO TITLE 41, CHAPTER 6, ARTICLE 10.

5 2. SEEK JUDICIAL RELIEF PURSUANT TO TITLE 12, CHAPTER 7, ARTICLE 6.

6 G. ANY DECISION THAT HAS EXHAUSTED ITS APPEAL OR IN WHICH AN APPEAL
7 IS NOT PURSUED WITH THE ALLOTTED TIME FRAME SHALL BE DECLARED A FINAL
8 DECISION.

9 37-226. State land oversight board; power and duties;
10 approval of sales and leases; rules

11 A. THE STATE LAND OVERSIGHT BOARD SHALL REVIEW AND MAKE A
12 DETERMINATION TO APPROVE THE SALE OR LEASE OF STATE LAND OR NATURAL
13 PRODUCT THAT INVOLVES ANY OF THE FOLLOWING:

14 1. THE SALE OR LEASE OF STATE LAND THAT INVOLVES MORE THAN ONE
15 THOUSAND ACRES OR IS VALUED AT GREATER THAN \$500,000.

16 2. THE SALE OR LEASE OF NATURAL PRODUCT THAT INCLUDES MORE THAN ONE
17 MILLION ACRE-FEET OF WATER OR INCLUDES MORE THAN \$10,000,000 OF NET
18 PRESENT VALUE.

19 B. A SALE OR LEASE THAT REQUIRES A DETERMINATION OF THE OVERSIGHT
20 BOARD MAY NOT BE EXECUTED UNTIL APPROVED BY THE MAJORITY OF THE OVERSIGHT
21 BOARD PRESENT AT AN OFFICIAL MEETING AND EITHER:

22 1. THE VOTE OF THE MEMBER OF THE OVERSIGHT BOARD WHOSE DISTRICT AS
23 PRESCRIBED IN SECTION 37-213 INCLUDES THE COUNTY WHERE THE SALE OR LEASE
24 IS TO TAKE PLACE.

25 2. THE AFFIRMATIVE VOTE OF A MAJORITY OF MEMBERS REPRESENTING THE
26 DISTRICTS AS PRESCRIBED IN SECTION 37-213 AND THE TWO MEMBERS AT LARGE.

27 C. IF THE COMMISSIONER CONDUCTS AN AUCTION THAT MEETS THE CRITERIA
28 PRESCRIBED IN SUBSECTION A OF THIS SECTION, THE COMMISSIONER SHALL FORWARD
29 ALL AUCTION MATERIAL AND ALL BIDS RECEIVED TO THE OVERSIGHT BOARD WITHIN
30 FIVE DAYS AFTER THE CLOSE OF THE AUCTION. THE OVERSIGHT BOARD SHALL MAKE
31 A DETERMINATION WITHIN ONE HUNDRED TWENTY DAYS AFTER RECEIVING THE AUCTION
32 MATERIAL FROM THE COMMISSIONER.

33 D. DURING THE REVIEW OF A SALE OR LEASE, THE OVERSIGHT BOARD MAY
34 CONSIDER COMPLIANCE WITH SECTION 28 OF THE ENABLING ACT AND ARTICLE X,
35 SECTIONS 1 AND 8, CONSTITUTION OF ARIZONA.

36 E. ON APPROVAL OF THE OVERSIGHT BOARD, THE COMMISSIONER SHALL
37 EXECUTE AND ISSUE THE PROPOSED SALE OR LEASE.

38 F. IF THE PROPOSED TRANSACTION IS NOT APPROVED PURSUANT TO THIS
39 SECTION, THE CHAIRPERSON SHALL NOTIFY THE COMMISSIONER AS TO THE REASON
40 FOR DENIAL AND PROVIDE A WRITTEN EXPLANATION OF THE DENIAL. THE OVERSIGHT
41 BOARD MAY DENY A TRANSACTION BASED ONLY ON NONCOMPLIANCE WITH SUBSECTION D
42 OF THIS SECTION. ON RECEIPT OF THE DENIAL, THE COMMISSIONER SHALL NOTIFY
43 THE APPLICANT AND SHALL PROPOSE OR RECOMMEND AN ALTERNATIVE SALE OR LEASE
44 FOR THE OVERSIGHT BOARD'S REVIEW AND APPROVAL IF THE DEPARTMENT RECEIVED
45 MULTIPLE BIDS FOR THE TRANSACTION. IF THE DEPARTMENT RECEIVED ONLY ONE

1 BID THAT WAS DENIED BY THE OVERSIGHT BOARD, THE DEPARTMENT SHALL HOLD A
2 NEW AUCTION PURSUANT TO THIS CHAPTER.

3 G. IF A NEW AUCTION IS HELD, THE PREVIOUS APPLICANT MAY PLACE A NEW
4 BID. IF THE PREVIOUS APPLICANT IS AGAIN THE ONLY APPLICANT, THE OVERSIGHT
5 BOARD SHALL APPROVE THE TRANSACTION.

6 H. THE OVERSIGHT BOARD MAY ADOPT RULES TO IMPLEMENT AND PERFORM ITS
7 DUTIES PURSUANT TO THIS ARTICLE.

8 37-227. State land oversight board; approval of improvements

9 A. THE STATE LAND OVERSIGHT BOARD SHALL REVIEW AND MAKE A
10 DETERMINATION TO APPROVE AN IMPROVEMENT SUBJECT TO REIMBURSEMENT GREATER
11 THAN \$1,000,000 OR ANY SERIES OF IMPROVEMENTS FOR ONE APPLICANT THAT
12 EXCEEDS \$5,000,000.

13 B. AN IMPROVEMENT THAT REQUIRES A DETERMINATION OF THE OVERSIGHT
14 BOARD MAY NOT BE EXECUTED UNTIL APPROVED BY THE MAJORITY OF THE OVERSIGHT
15 BOARD PRESENT AT AN OFFICIAL MEETING AND EITHER:

16 1. THE VOTE OF THE MEMBER OF THE BOARD WHOSE DISTRICT AS PRESCRIBED
17 BY SECTION 37-213 INCLUDES THE COUNTY WHERE THE SALE OR LEASE IS TO TAKE
18 PLACE.

19 2. THE AFFIRMATIVE VOTE OF A MAJORITY OF MEMBERS REPRESENTING THE
20 DISTRICTS AS PRESCRIBED IN SECTION 37-213 AND THE TWO MEMBERS AT LARGE.

21 C. IF THE COMMISSIONER RECEIVES AN APPLICATION THAT MEETS THE
22 CRITERIA PRESCRIBED IN SUBSECTION A OF THIS SECTION, THE COMMISSIONER
23 SHALL FORWARD ALL MATERIAL RECEIVED TO THE OVERSIGHT BOARD WITHIN FIVE
24 DAYS. THE OVERSIGHT BOARD SHALL MAKE A DETERMINATION WITHIN ONE HUNDRED
25 TWENTY DAYS AFTER RECEIVING THE MATERIAL FROM THE COMMISSIONER.

26 D. DURING THE REVIEW OF THE DETERMINATION OF APPROVAL OF
27 IMPROVEMENTS, THE OVERSIGHT BOARD MAY CONSIDER COMPLIANCE WITH SECTION 28
28 OF THE ENABLING ACT AND ARTICLE X, SECTIONS 1 AND 8, CONSTITUTION OF
29 ARIZONA.

30 E. IF THE PROPOSED IMPROVEMENT IS NOT APPROVED PURSUANT TO THIS
31 SECTION, THE CHAIRPERSON SHALL NOTIFY THE COMMISSIONER AS TO THE REASON
32 FOR DENIAL AND PROVIDE A WRITTEN EXPLANATION OF THE DENIAL. THE BOARD MAY
33 DENY A TRANSACTION BASED ONLY ON NONCOMPLIANCE WITH SUBSECTION D OF THIS
34 SECTION. ON RECEIPT OF THE DENIAL, THE COMMISSIONER SHALL NOTIFY THE
35 APPLICANT AND PROHIBIT THE APPLICANT FROM MAKING THE REQUESTED
36 IMPROVEMENT.

37 37-228. State land oversight board; public meetings; public
38 communication

39 A. ALL MEETINGS OF THE STATE LAND OVERSIGHT BOARD ARE PUBLIC
40 MEETINGS.

41 B. THE CHAIRPERSON SHALL ALLOW MEMBERS OF THE PUBLIC TO PROVIDE
42 COMMENTS AT A DULY NOTICED PUBLIC MEETING.

43 C. THE CHAIRPERSON SHALL LIMIT THE AMOUNT OF TIME ANY MEMBER OF THE
44 PUBLIC MAY PROVIDE COMMENTS TO THE OVERSIGHT BOARD. THE CHAIRPERSON SHALL
45 ENFORCE THE LIMIT EQUALLY FOR ALL MEMBERS OF THE PUBLIC.

1 D. COMMENTS PROVIDED PURSUANT TO THIS SECTION SHALL BE NARROWLY
2 TAILORED TO ITEMS NOTICED ON THE AGENDA AND MUST PERTAIN TO THE
3 CONSIDERATIONS THE OVERSIGHT BOARD MAY CONSIDER PURSUANT TO THIS ARTICLE.
4 ANY PERSON WHO PROVIDES COMMENT MUST STATE THE FOLLOWING IN THE PERSON'S
5 PUBLIC TESTIMONY:

6 1. THE PERSON'S NAME AND COUNTY IN WHICH THE PERSON RESIDES.

7 2. THE PERSON'S OPINION IF THE OVERSIGHT BOARD SHOULD APPROVE OR
8 DENY THE TRANSACTION.

9 3. ANY INTEREST THE PERSON HAS IN THE TRANSACTION.

10 4. THE PERSON'S OPINION IF THE TRANSACTION SHOULD BE APPROVED OR
11 DENIED AND THE IMPACT OF THE DETERMINATION TO THE TRUST BENEFICIARIES.

12 5. IF THE PERSON'S OPINION IS DENIAL, THE PERSON'S PREFERRED
13 ALTERNATIVE THAT HAS AN EQUAL OR GREATER BENEFIT TO THE TRUST
14 BENEFICIARIES.

15 E. THE COMMISSIONER AND ANY PERSON WITH A DIRECT FINANCIAL INTEREST
16 IN A MATTER THAT REQUIRES A DETERMINATION OF THE OVERSIGHT BOARD MAY NOT
17 MAKE ANY ORAL OR WRITTEN COMMENT TO A BOARD MEMBER REGARDING THE
18 TRANSACTION THAT REQUIRES APPROVAL OUTSIDE OF A PUBLIC MEETING OF THE
19 OVERSIGHT BOARD UNTIL A FINAL DETERMINATION IS MADE. A BOARD MEMBER MAY
20 NOT SOLICIT COMMENTS FROM A PROHIBITED PERSON. A PERSON THAT MAKES A
21 PROHIBITED COMMUNICATION SHALL EXPLAIN AT A PUBLIC MEETING WHY THE MATTER
22 SHOULD BE DISMISSED, DENIED OR ADVERSELY AFFECTED AS A SANCTION FOR THE
23 COMMUNICATION. FOR THE PURPOSES OF THIS SUBSECTION, "DIRECT FINANCIAL
24 INTEREST" INCLUDES BEING AN EMPLOYEE OF, OR HOLDING STOCKS OR BONDS IN,
25 EXCEPT THROUGH A MUTUAL OR EXCHANGE FUNDS, AN ENTITY THAT HAS A PROPOSED
26 SALE, LEASE OR REIMBURSABLE IMPROVEMENT PENDING BEFORE THE OVERSIGHT
27 BOARD.

28 F. IF AN OVERSIGHT BOARD MEMBER RECEIVES COMMUNICATION FROM A
29 PROHIBITED PERSON, THE OVERSIGHT BOARD MEMBER SHALL ADVISE THE PERSON THAT
30 THOSE COMMUNICATIONS WILL NOT BE CONSIDERED AND SHALL ISSUE A PUBLIC
31 STATEMENT AT A PUBLIC MEETING CONTAINING THE FOLLOWING INFORMATION:

32 1. THE NAME OF THE PERSON WHO MADE THE COMMENTS AND ANY
33 ORGANIZATION THE PERSON REPRESENTS IN THE TRANSACTION.

34 2. THE SUBSTANCE OF THE COMMENTS MADE TO THE BOARD MEMBER.

35 G. IN ADDITION TO THE TIME THE CHAIRPERSON ALLOTS TO A PERSON FOR
36 PUBLIC COMMENT, THE CHAIRPERSON SHALL ALLOW A PERSON AFFECTED BY A
37 COMMUNICATION MADE IN A PROHIBITED MANNER PURSUANT TO SUBSECTION E OF THIS
38 SECTION, A CHANCE TO REBUT ANY OF THE FACTS OR CONTENTIONS MADE IN THE
39 PROHIBITED COMMUNICATION.

40 Sec. 3. Retention of members

41 Notwithstanding section 37-213, Arizona Revised Statutes, as amended
42 by this act, all persons serving as members of board of appeals on the
43 effective date of this act may continue to serve until the expiration of
44 their normal terms. All subsequent appointments shall be prescribed by
45 statute.