



Bill Number: H.B. 2617

Allen S Floor Amendment

Reference to: House engrossed bill

Amendment drafted by: Marge Ray – Leg Council

FLOOR AMENDMENT EXPLANATION

Among its provisions, H.B. 2617 makes various changes to groundwater and environmental law relating to the cleanup of hazardous and nonhazardous substances and mitigation practices conducted by a metal mining operation. The bill also makes changes to the statutes relating to permits and other authorizations that are issued by the Arizona Department of Water Resources (ADWR) and the Arizona Department of Environmental Quality (ADEQ), and establishes a Mining Advisory Council to assist state agencies in formulating rules that affect mining.

The Sylvia Allen Floor Amendment incorporates the NRIPD amendment and makes the following changes to H.B. 2617:

1. Removes the authority of the State Mine Inspector and the Director of the Arizona Department of Mines and Mineral Resources in the bill to intervene in federal court action on behalf of the state.
2. Modifies the Mining Advisory Council's membership in the following manner:
 - a) Adds two public members who have natural resources experience and are appointed by the Governor.
 - b) Removes the specification that the Speaker of the House of Representatives and President of the Senate appoint members from a list of names presented by the Arizona Mining Association.
 - c) Specifies the President of the Senate, not the Governor, will appoint a member representing a mining supplier company.
3. Modifies the Mining Advisory Council's responsibilities to specify the following:
 - a) The prescribed duties of the Mining Advisory Council are functions of the Council rather than requirements.
 - b) State agencies, in adopting rules and budgets, may include the comments of the Mining Advisory Council and recommendations, rather than requiring an agency to accept such input.

Amendment explanation prepared by Tony DeMarco

4/21/2010

- 4. Removes from the bill the authority of the Mining Advisory Council to assist state agencies in formulating rules and examine the annual report prepared by the Office of Administrative Hearings.**
- 5. Clarifies the requirement that ADEQ ensure state laws, rules, standards, permits, variances and orders issued by the department are construed to be consistent and are not more stringent than federal law, unless specifically authorized by the Legislature. Specifies that the provision cannot be construed to adversely affect standards adopted by an Indian tribe under federal law.**
- 6. Modifies language relating to the state's regulatory bill of rights to specify that a person may expect, rather than is entitled, to have state agencies avoid duplication of other laws that do not enhance regulatory clarity and dual permitting, as practicable.**
- 7. Modifies the provision relating to early review petitions on a proposed rule to the Governor's Regulatory Review Council (GRRC). Specifies that GRRC can determine in the early review whether the proposed rule violates certain criteria prescribed by current law (A.R.S. § 41-1052, Subsection D).**
- 8. Increases the time period, from 90 days to 120 days upon receipt of a proposed rule, preamble and economic, small business and consumer impact statement, that GRRC has to review, approve or return the rule, preamble or impact statement.**
- 9. Incorporates the NRIPD Amendment.**
- 10. Makes other technical and clarifying changes.**

ALLEN S FLOOR AMENDMENT
SENATE AMENDMENTS TO H.B. 2617
(Reference to House engrossed bill)

1 Page 1, strike lines 26 through 45
2 Strike pages 2, 3 and 4
3 Renumber to conform
4 Page 6, line 34, strike "IS ENTITLED TO HAVE" insert "MAY EXPECT"
5 Line 35, after "AGENCIES" insert "TO"; after "LAWS" insert "THAT DO NOT ENHANCE
6 REGULATORY CLARITY"; after "AND" insert "TO AVOID"
7 Line 36, strike "MAXIMUM"
8 Page 7, line 10, after "LAWS" insert "THAT DO NOT ENHANCE REGULATORY CLARITY";
9 after "AND" insert "SHALL AVOID"; strike "MAXIMUM"
10 Line 23, after the period insert "THE COUNCIL MAY DETERMINE WHETHER THE PROPOSED
11 RULE, IN WHOLE OR IN PART, VIOLATES ANY OF THE CRITERIA PRESCRIBED IN
12 SUBSECTION D OF THIS SECTION."
13 Line 24, strike "ninety" insert "ONE HUNDRED TWENTY"
14 Page 9, line 30, after the period strike remainder of line
15 Strike line 31
16 Line 34, after the period strike remainder of line
17 Strike line 35
18 Strike lines 38 and 39
19 Line 41, strike "GOVERNOR" insert "PRESIDENT OF THE SENATE"
20 Strike lines 42 and 43, insert:
21 "6. TWO MEMBERS OF THE PUBLIC WHO HAVE NATURAL RESOURCES EXPERIENCE
22 AND WHO ARE APPOINTED BY THE GOVERNOR."
23 Page 10, line 2, strike "5" insert "6"
24 Line 19, strike "SHALL" insert "FUNCTIONS INCLUDE"
25 Line 20, strike "SELECT" insert "SELECTING"
26 Line 21, after "2." strike remainder of line insert "HOLDING"
27 Line 23, strike "REVIEW" insert "REVIEWING"
28 Strike lines 25 through 28
29 Renumber to conform

1 Page 10, line 29, strike "REVIEW, ADVISE AND MAKE" insert "REVIEWING, ADVISING AND
2 MAKING"

3 Line 30, after "RULES" insert "AND BUDGET ALLOCATIONS"

4 Strike lines 31 through 34

5 Line 39, strike "SHALL" insert "MAY"

6 Line 40, strike "SHALL ACCEPT" insert "MAY CONSIDER"

7 Line 41, after "COUNCIL" insert a period strike remainder of line

8 Strike lines 42, 43 and 44, insert:

9 "Sec. 8. Section 45-104, Arizona Revised Statutes, is amended to read:

10 45-104. Department organization; deputy directors; employees;
11 legal counsel; branch offices; consultants

12 A. The director may establish and organize divisions within the
13 department and otherwise organize the department in the manner the director
14 deems necessary to make the operation of the department efficient and
15 effective.

16 B. The director may appoint a deputy director to each division or
17 organizational unit that the director may establish. Deputy directors are
18 exempt from the state personnel system, shall serve at the pleasure of the
19 director and are entitled to receive compensation pursuant to section 38-611.

20 C. The director, within the classification and pay scales adopted by
21 the state personnel board, may employ, define the duties of and prescribe the
22 terms and conditions of employment of such clerical, technical, professional
23 and administrative personnel as necessary to efficiently perform the
24 responsibilities of the department. Compensation for all employees shall be
25 pursuant to section 38-611.

26 D. The director may employ on a contract basis geologists,
27 hydrologists, consulting engineers, other expert consultants and engineering
28 and other assistants as the director deems advisable, who are not subject to
29 the classification provided for in title 41, chapter 4, article 5.

30 E. The director may utilize the services of accounting, legal or
31 engineering personnel made available by any department or agency of this
32 state, who shall serve without additional compensation.

1 F. The director may employ legal counsel to advise and represent the
2 department in connection with legal matters before other departments and
3 agencies of this state, and represent the department and this state in
4 litigation concerning affairs of the department. Legal counsel is not
5 subject to the classification provided for in title 41, chapter 4, article 5.

6 G. The director shall maintain the director's office in Phoenix and
7 may establish a branch office of the department in each active management
8 area established pursuant to chapter 2, article 2 of this title.

9 H. THE DIRECTOR ON BEHALF OF THE DEPARTMENT MAY CONTRACT WITH PRIVATE
10 CONSULTANTS FOR THE PURPOSES OF ASSISTING THE DEPARTMENT IN REVIEWING
11 APPLICATIONS FOR LICENSES, PERMITS OR OTHER AUTHORIZATIONS TO DETERMINE
12 WHETHER AN APPLICANT MEETS THE CRITERIA FOR ISSUANCE OF THE LICENSE, PERMIT
13 OR OTHER AUTHORIZATION. IF THE DEPARTMENT CONTRACTS WITH A CONSULTANT UNDER
14 THIS SUBSECTION, AN APPLICANT MAY REQUEST THAT THE DEPARTMENT EXPEDITE THE
15 APPLICATION REVIEW BY REQUESTING THAT THE DEPARTMENT USE THE SERVICES OF THE
16 CONSULTANT AND BY AGREEING TO PAY THE DEPARTMENT THE COSTS OF THE
17 CONSULTANT'S SERVICES. NOTWITHSTANDING ANY OTHER LAW, MONIES PAID BY
18 APPLICANTS FOR EXPEDITED REVIEWS PURSUANT TO THIS SUBSECTION ARE APPROPRIATED
19 TO THE DEPARTMENT FOR USE IN PAYING CONSULTANTS FOR SERVICES."

20 Renumber to conform

21 Page 13, line 23, after the first and second "TO" insert "METAL"

22 Line 35, after "THE" insert "METAL"

23 Page 24, line 12, after "17." insert "UNLESS SPECIFICALLY AUTHORIZED BY THE
24 LEGISLATURE,"; after "LAWS" insert ", RULES, STANDARDS, PERMITS, VARIANCES
25 AND ORDERS"; after "ARE" insert "ADOPTED AND"

26 Line 14, after the period strike remainder of line

27 Strike lines 15 through 19, insert "THIS PROVISION SHALL NOT BE CONSTRUED TO
28 ADVERSELY AFFECT STANDARDS ADOPTED BY AN INDIAN TRIBE UNDER FEDERAL LAW."

29 Page 26, line 38, after "REVIEWING" insert "APPLICATIONS FOR"

30 Line 39, after "CRITERIA" insert "FOR ISSUANCE OF THE LICENSE, PERMIT OR OTHER
31 AUTHORIZATION"

32 Line 40, strike "SECTION" insert "PARAGRAPH"

Senate Amendments to H.B. 2617

- 1 Page 26, line 43, after the period insert "NOTWITHSTANDING ANY OTHER LAW, MONIES
- 2 PAID BY APPLICANTS FOR EXPEDITED REVIEWS PURSUANT TO THIS PARAGRAPH ARE
- 3 APPROPRIATED TO THE DEPARTMENT FOR USE IN PAYING CONSULTANTS FOR SERVICES."
- 4 Amend title to conform

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