



ARIZONA STATE SENATE

Fiftieth Legislature, Second Regular Session

FINAL AMENDED FACT SHEET FOR S.B. 1040

constables; ethics; training board; members
(NOW: county highways; county engineer recommendations)

Purpose

Modifies the process for a county to establish or alter a public road. Prohibits a county from abandoning or vacating a road without approval from the property owners who are affected by the action.

Background

Arizona law authorizes a county board of supervisors (BOS) to establish, alter or abandon public streets and roads that are located in the county or legal subdivision. To establish or alter (e.g. maintain) a public road, the BOS must receive a petition that is signed by 10 or more of the resident taxpayers of the county or legal subdivision (A.R.S. § 28-6701). Upon receipt of the petition, the BOS is required to take the following actions: a) direct the county engineer to survey the proposed road and prepare a map based on the survey that shows the legal subdivision of lands traversed by the survey; b) set a date for a public hearing on the petition; and c) notify the public through newspaper advertisement.

As part of the Mining Act of 1866, Revised Statute 2477 (R.S. 2477) was adopted by Congress, which granted rights-of-way for the construction of highways across public lands. R.S. 2477 stated, “The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted.” The law was originally used by miners and homesteaders on federal land. R.S. 2477 was repealed in 1976 as part of the Federal Land Policy and Management Act, but existing rights-of-way established under R.S. 2477 were exempted from the repeal.

There is no anticipated fiscal impact to the state General Fund associated with this legislation.

Provisions

1. Allows a county engineer to recommend establishing or altering a public road or street to the BOS.
2. Requires the BOS, upon receipt of the county engineer’s recommendation, to take the following actions:
 - a) set a date for a public hearing; and

FACT SHEET - Amended

S.B. 1040

Page 2

- b) provide public notice of the hearing.
- 3. Allows the BOS to reject or act on the county engineer's recommendation.
- 4. Specifies the county engineer recommendation process cannot be used to abandon a public road that was granted by R.S. 2477.
- 5. Requires the BOS to provide at least 60 days' written notice before filing a resolution to abandon or vacate a public road to the property owners who are affected by the abandonment.
- 6. Prohibits the BOS from abandoning or vacating a public road without the approval of a majority of the affected property owners.
- 7. Makes a conforming change.
- 8. Becomes effective on the general effective date.

Amendments Adopted by the House of Representatives

- 1. Removes all provisions relating to the Constable Ethics Standards and Training Board.
- 2. Adds the provisions relating to county public roads.

Senate Action

PSHS	1/25/12	DPA/SE	6-0-0-0
3 rd Read	2/2/12		29-0-1-0
Final Read	4/12/12		29-1-0-0

House Action

MAPS	3/14/12	DPA/SE	5-3-0-1-0
3 rd Read	4/10/12		33-24-3-0-0

Signed by the Governor 4/18/12
Chapter 285

Prepared by Senate Research
May 8, 2012
TD/Iy