Senate Engrossed

FILED
KEN BENNETT
SECRETARY OF STATE

State of Arizona
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Second Regular Session
2010

CHAPTER 222

SENATE BILL 1410

AN ACT

AMENDING SECTION 37-604, ARIZONA REVISED STATUTES; RELATING TO STATE TRUST LAND EXCHANGES; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

Section 1. Section 37-604, Arizona Revised Statutes, is amended to read:

37-604. Exchange of state land; procedure; limitation and exceptions; definition

A. ~~The state land department and selection board,~~ STATE LAND MAY BE EXCHANGED FOR PUBLIC LAND IN THIS STATE for proper management, ~~control,~~ protection or CONVERSION TO public use of state lands~~, may exchange state lands managed by the department for any other land within the state. The state land department and selection board, to encourage compatible use of lands near military airports, may exchange state lands managed by the department for private lands near military airports~~ OR TO ASSIST IN PRESERVING AND PROTECTING MILITARY FACILITIES IN THIS STATE. Exchanges may be made for land owned or administered by other state agencies, counties, municipalities ~~and private parties~~ OR THE UNITED STATES OR ITS AGENCIES. Exchanges with the United States or its agencies shall be in conformance with section 37-722, but the department shall also follow the procedures ~~for notifying interested parties~~ AND REQUIREMENTS prescribed by ARTICLE X, SECTION 12, CONSTITUTION OF ARIZONA, subsection C, paragraph ~~5~~ 6 of this section and the classification procedures in section 37-212.

B. The department shall adopt rules governing the application and procedure for the exchange of state land. Such rules shall include the following requirements:

1. The application shall include:

(a) The name~~, age and residence~~, MAILING ADDRESS, TELEPHONE NUMBER AND RELEVANT AFFILIATION, IF ANY, of the applicant.

(b) A legal description of all lands to be considered for exchange.

(c) A list of permanent improvements on the state lands to be considered for exchange.

(d) A list of the leasehold interest in the state land to be considered for exchange.

(e) Accompanying agreements, if any, with the leaseholder or owner of improvements on the state land to be considered for exchange.

2. Payment of the fee prescribed by section 37-108.

3. Such additional requirements as the department determines to be necessary. ~~Upon~~ ON DETERMINING THAT THE APPLICATION IS COMPLETE AND CORRECT, INCLUDING PAYMENT OF THE REQUIRED FEES, AND ON completion of processing and analyzing the application, and on determining that the proposed exchange would benefit the applicable trust, the department shall notify and deliver a report containing details of the proposed exchange to ~~members of the selection board. At the same time the department shall also notify and provide the report to~~ THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND the state legislators from the legislative districts in which the lands proposed to be exchanged are located.

C. Exchanges of state lands are subject to the following requirements:

1. The commissioner shall determine by at least two independent appraisals that the state lands being considered for exchange are of substantially equal value or of lesser value than the land offered by the applicant. ~~However, the commissioner may determine that rural lands being exchanged to consolidate land ownership for management purposes require only one independent appraisal. The commissioner may require the applicant to pay the cost of appraisals.~~

2. AT LEAST TWO INDEPENDENT ANALYSES OF THE PROPOSED EXCHANGE MUST BE CONDUCTED TO DETERMINE:

(a) THE INCOME TO THE TRUST FROM THE LANDS BEFORE THE EXCHANGE AND THE PROJECTED INCOME TO THE TRUST AFTER THE EXCHANGE.

(b) THE FISCAL IMPACT OF THE EXCHANGE ON EACH COUNTY, CITY OR TOWN AND SCHOOL DISTRICT IN WHICH ALL THE LANDS INVOLVED IN THE EXCHANGE ARE LOCATED.

(c) THE PHYSICAL, ECONOMIC AND NATURAL RESOURCE IMPACTS OF THE PROPOSED EXCHANGE ON THE SURROUNDING OR DIRECTLY ADJACENT COMMUNITIES AND THE IMPACTS ON MILITARY FACILITIES, LOCAL LAND USES AND LAND USE PLANS.

3. THE COMMISSIONER MAY REQUIRE THE APPLICANT TO PAY THE COST OF THE INDEPENDENT APPRAISALS AND ANALYSES REQUIRED BY THIS SUBSECTION.

~~2.~~ 4. No county or municipality may be permitted to select lands in another county or municipality.

~~3.~~ 5. State lands known to contain oil, gases and other hydrocarbon substances, coal or stone, metals, minerals, fossils and fertilizer, in paying quantities, and state lands adjoining lands ~~upon~~ ON which there are producing oil or gas wells, or adjoining lands known to contain any of such substances in paying quantities shall not be exchanged. These prohibitions against exchange shall not prevent the exchange of lands where the state does not own such substances, minerals or metals in the lands to be considered for exchange.

~~4.~~ 6. All state lands offered for trade pursuant to this section must be located in the same county as the lands offered to the state~~. However,~~, EXCEPT THAT lands in adjoining counties more than three miles outside the corporate boundaries of incorporated cities and towns having a population of ten thousand people or less and lands in adjoining counties but more than five miles outside the corporate boundaries of incorporated cities and towns having a population in excess of ten thousand people may be exchanged to facilitate consolidating land ownership if the boards of supervisors of the counties in which lands are to be exchanged give their prior approval.

~~5.~~ 7. Prior to public notice of a proposed exchange of state lands for other lands, the department ~~and selection board~~ shall give thirty days' notice in writing to other interested state agencies, counties, municipalities, THE MILITARY AFFAIRS COMMISSION ESTABLISHED BY SECTION 41-1512, EACH MILITARY FACILITY AT THE ADDRESS ON RECORD AT THE DEPARTMENT and TO leaseholders on state lands that are ~~or may be affected by the~~

~~exchange~~ TO BE EXCHANGED AND ON STATE LANDS THAT ARE ADJACENT TO THE LANDS TO BE EXCHANGED.

~~6.~~ 8. Before any state land may be considered for exchange under ~~the provisions of~~ this article, the land shall be classified as suitable for such purposes in accordance with ~~the provisions of~~ section 37-212. Any person adversely affected by such classification may appeal from the decision as provided in section 37-215.

~~7.~~ 9. AFTER DETERMINING THAT THE APPLICATION IS COMPLETE AND CORRECT AND ALL REQUIRED PAYMENTS, APPRAISALS AND ANALYSES HAVE BEEN COMPLETED, the department shall publish notice of ~~all~~ THE proposed ~~exchanges~~ EXCHANGE in the same manner and places as is required for the sale of state lands pursuant to section 37-237, except that the notice shall be published once each week for ~~four~~ SIX consecutive weeks. The notice shall contain a legal description of the properties involved and other pertinent terms and conditions of the exchange. The department shall also schedule ~~a~~ AT LEAST TWO public ~~hearing~~ HEARINGS on the exchange contemplated in the notice. ~~The hearing shall be held at the county seat of the county in which the state lands proposed to be exchanged are located or in the county in which the majority of the state lands is located.~~ ONE HEARING MUST BE HELD AT THE STATE CAPITAL AND ANOTHER HEARING MUST BE HELD IN A LOCATION OF GENERAL ACCESSIBILITY IN THE PROXIMATE VICINITY OF THE STATE LANDS BEING EXCHANGED. ~~The hearing shall be held not less than fifteen days prior to the date of the selection board's consideration of the proposed exchange, and~~ Any person may appear and ~~protest~~ COMMENT ON the proposed exchange at that time.

10. WITHIN SIXTY DAYS AFTER THE CONCLUSION OF THE LAST HEARING THE COMMISSIONER SHALL DETERMINE AND ISSUE A WRITTEN FINDING RECOMMENDING EITHER THAT THE EXCHANGE BE DENIED OR APPROVED AND TRANSMIT THE FINDING TO THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES AND THE SECRETARY OF STATE.

D. EACH EXCHANGE TRANSACTION MUST BE APPROVED BY THE QUALIFIED ELECTORS OF THIS STATE IN THE FORM OF A REFERENDUM SUBMITTED AND CONDUCTED PURSUANT TO ARTICLE IV, PART 1, SECTION 1, CONSTITUTION OF ARIZONA, AT THE NEXT REGULAR GENERAL ELECTION. TO BE APPROVED, THE PROPOSITION MUST RECEIVE AN AFFIRMATIVE VOTE OF A MAJORITY OF THE QUALIFIED ELECTORS VOTING ON THE MEASURE.

~~D.~~ E. Lands conveyed to the state under this article shall, ~~upon~~ ON acceptance of title and recording, be dedicated to the same purpose and administered under the same laws to which the lands conveyed were subject, but may be reclassified as provided in section 37-212.

F. THIS SECTION APPLIES WITH RESPECT TO THE EXCHANGE OF LANDS HELD IN TRUST BY THIS STATE PURSUANT TO THE ENABLING ACT AND THE CONSTITUTION OF ARIZONA AND DOES NOT APPLY WITH RESPECT TO ANY OTHER STATE LAND UNDER THE JURISDICTION OF THE DEPARTMENT OR THE COMMISSIONER.

G. THE PROVISIONS OF THIS SECTION DO NOT DIMINISH OR OTHERWISE AFFECT THE COMMISSIONER'S FIDUCIARY RESPONSIBILITIES WITH RESPECT TO LANDS HELD IN TRUST BY THIS STATE AS PROVIDED BY THE ENABLING ACT AND THE CONSTITUTION OF ARIZONA.

H. FOR THE PURPOSES OF THIS SECTION, "MILITARY FACILITIES" INCLUDE:

1. MILITARY AIRPORTS, ANCILLARY MILITARY FACILITIES, MILITARY TRAINING ROUTES, HIGH NOISE OR ACCIDENT POTENTIAL ZONES AND TERRITORY IN THE VICINITY AS DEFINED IN SECTION 28-8461.

2. MILITARY RESERVATIONS OR OTHER REAL PROPERTY OWNED BY, LEASED TO, DESIGNATED FOR, RESERVED TO OR UNDER THE JURISDICTION OF AN ACTIVE UNIT OF THE UNIFORMED SERVICES OF THE UNITED STATES OR ANY RESERVE OR NATIONAL GUARD COMPONENT OF THE UNIFORMED SERVICES OF THE UNITED STATES.

3. MILITARY ELECTRONICS RANGES AS DEFINED IN SECTION 9-500.28.

4. MILITARY RESTRICTED AIRSPACE IDENTIFIED PURSUANT TO SECTION 37-102.

5. THE BARRY M. GOLDWATER RANGE AS DESCRIBED IN SECTION 37-620, SUBSECTION D, PARAGRAPH 3.

Sec. 2. Conditional enactment

This act does not become effective unless the Constitution of Arizona is amended by vote of the people at the next general election to authorize exchanges of state trust land for other public lands.

APPROVED BY THE GOVERNOR MAY 3, 2010.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MAY 3, 2010.