

PROPOSED AMENDMENT  
SENATE AMENDMENTS TO S.B. 1223  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Title 37, chapter 5, Arizona Revised Statutes, is amended  
3 by adding article 2, to read:

4 ARTICLE 2. RIGHTS-OF-WAY OVER PUBLIC LANDS

5 37-931. Claims of right-of-way under revised statute 2477

6 A. THIS STATE, ON BEHALF OF ITSELF AND ITS POLITICAL SUBDIVISIONS,  
7 ASSERTS AND CLAIMS RIGHTS-OF-WAY ACROSS PUBLIC LANDS UNDER SECTION 8 OF THE  
8 MINING ACT OF 1866, REENACTED AND RECODIFIED AS REVISED STATUTE 2477; 43  
9 UNITED STATES CODE SECTION 932, ACQUIRED FROM AND AFTER ITS EFFECTIVE DATE  
10 THROUGH OCTOBER 21, 1976, THE DATE OF ITS REPEAL. THESE RIGHTS-OF-WAY MAY  
11 HAVE BEEN ACQUIRED IN ANY MANNER AUTHORIZED BY THE LAW OF THE UNITED STATES,  
12 THE TERRITORY OF ARIZONA OR THIS STATE, INCLUDING:

13 1. THE USE BY THIS STATE OR A POLITICAL SUBDIVISION OF THIS STATE WITH  
14 THE INTENTION OF ESTABLISHING A PUBLIC HIGHWAY OVER PUBLIC LANDS.

15 2. THE CONSTRUCTION OR MAINTENANCE OF A PUBLIC HIGHWAY OVER PUBLIC  
16 LANDS.

17 3. THE INCLUSION OF THE RIGHT-OF-WAY IN A STATE, COUNTY OR MUNICIPAL  
18 ROAD SYSTEM, PLAT, DESCRIPTION OR MAP OF PUBLIC ROADS.

19 4. THE EXPENDITURE OF PUBLIC MONIES ON THE HIGHWAY.

20 5. THE EXECUTION OF A MEMORANDUM OF UNDERSTANDING OR OTHER AGREEMENT  
21 WITH ANY AGENCY OF THE UNITED STATES GOVERNMENT THAT RECOGNIZES THE RIGHT OR  
22 OBLIGATION OF THIS STATE OR A COUNTY, CITY OR TOWN TO CONSTRUCT OR MAINTAIN A  
23 HIGHWAY OR A PORTION OF A HIGHWAY.

1           6. ANY OTHER AFFIRMATIVE ACT BY THIS STATE OR A COUNTY, CITY OR TOWN,  
2           CONSISTENT WITH FEDERAL, TERRITORIAL OR STATE LAW INDICATING ACCEPTANCE OF A  
3           RIGHT-OF-WAY.

4           7. THE USE BY THE PUBLIC FOR A PERIOD REQUIRED BY LAW.

5           B. THIS STATE DOES NOT RECOGNIZE OR CONSENT, AND HAS NOT CONSENTED, TO  
6           THE EXCHANGE, WAIVER OR ABANDONMENT OF ANY REVISED STATUTE 2477 RIGHT-OF-WAY  
7           ACROSS PUBLIC LANDS UNLESS BY FORMAL, WRITTEN OFFICIAL ACTION BY THE STATE,  
8           COUNTY OR MUNICIPAL AGENCY OR INSTRUMENTALITY THAT HELD THE RIGHT-OF-WAY, AND  
9           RECORDED IN THE OFFICE OF THE COUNTY RECORDER OF THE COUNTY IN WHICH THE  
10          PUBLIC LANDS ARE LOCATED. NO OFFICER, EMPLOYEE OR AGENT OF THIS STATE OR A  
11          COUNTY, CITY OR TOWN HAS OR HAD AUTHORITY TO EXCHANGE, WAIVE OR ABANDON A  
12          REVISED STATUTE 2477 RIGHT-OF-WAY IN VIOLATION OF THIS SUBSECTION, AND ANY  
13          SUCH PURPORTED ACTION WAS VOID WHEN TAKEN UNLESS LATER RATIFIED BY OFFICIAL  
14          ACTION IN COMPLIANCE WITH THIS SUBSECTION.

15          C. THE FAILURE TO CONDUCT MECHANICAL MAINTENANCE OF A REVISED STATUTE  
16          2477 RIGHT-OF-WAY DOES NOT AFFECT THE STATUS OF THE RIGHT-OF-WAY AS A HIGHWAY  
17          FOR ANY PURPOSE OF REVISED STATUTE 2477.

18          D. THE OMISSION OF A REVISED STATUTE 2477 RIGHT-OF-WAY FROM ANY PLAT,  
19          DESCRIPTION OR MAP OF PUBLIC ROADS DOES NOT WAIVE OR CONSTITUTE A FAILURE TO  
20          ACQUIRE A RIGHT-OF-WAY UNDER REVISED STATUTE 2477.

21          E. FOR THE PURPOSES OF THIS SECTION:

22           1. THE EXTENT OF A REVISED STATUTE 2477 RIGHT-OF-WAY IS THE DIMENSION  
23           THAT IS REASONABLE UNDER THE CIRCUMSTANCE.

24           2. A REVISED STATUTE 2477 RIGHT-OF-WAY INCLUDES THE RIGHT TO:

25           (a) WIDEN THE HIGHWAY AS NECESSARY TO ACCOMMODATE INCREASED PUBLIC  
26           TRAVEL AND TRAFFIC ASSOCIATED WITH ALL ACCEPTED USES.

27           (b) CHANGE OR MODIFY THE HORIZONTAL ALIGNMENT OR VERTICAL PROFILES AS  
28           REQUIRED FOR PUBLIC SAFETY AND CONTEMPORARY DESIGN STANDARDS.

1 F. THIS SECTION DOES NOT AFFECT THE INCLUSION OR EXCLUSION OF, OR THE  
2 OBLIGATION OF MAINTAINING, ANY HIGHWAY, ROAD, STREET OR ROUTE IN ANY SYSTEM  
3 OF STATE, COUNTY OR MUNICIPAL STREETS, ROADS OR HIGHWAYS. THE INCLUSION OF  
4 ANY HIGHWAY, ROAD, STREET OR ROUTE IN THE STATE, COUNTY OR MUNICIPAL SYSTEM  
5 SHALL BE SOLELY IN ACCORDANCE WITH OTHER LAW."

6 Amend title to conform

SYLVIA ALLEN

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08:32 AM  
C: dmt