

REFERENCE TITLE: Arizona geological survey; powers; duties

State of Arizona  
Senate  
Fiftieth Legislature  
Second Regular Session  
2012

# SB 1171

Introduced by  
Senator Nelson

## AN ACT

CHANGING THE DESIGNATION OF TITLE 27, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, TO "ARIZONA GEOLOGICAL SURVEY"; AMENDING SECTION 27-101, ARIZONA REVISED STATUTES; RENUMBERING SECTION 27-101.01, ARIZONA REVISED STATUTES, AS SECTION 27-105; REPEALING SECTION 27-102, ARIZONA REVISED STATUTES; RENUMBERING SECTION 27-112, ARIZONA REVISED STATUTES, AS SECTION 27-110; TRANSFERRING AND RENUMBERING SECTIONS 27-151, 27-151.01, 27-152, 27-152.01, 27-152.02, 27-153 AND 27-155, ARIZONA REVISED STATUTES, FOR PLACEMENT IN TITLE 27, CHAPTER 1, ARTICLE 1, ARIZONA REVISED STATUTES, AS SECTIONS 27-102, 27-104, 27-103, 27-106, 27-107, 27-108 AND 27-109, RESPECTIVELY; AMENDING SECTIONS 27-102, 27-103, 27-106, 27-107 AND 27-108, ARIZONA REVISED STATUTES, AS TRANSFERRED AND RENUMBERED; AMENDING SECTIONS 27-105 AND 27-110, ARIZONA REVISED STATUTES, AS RENUMBERED; REPEALING THE HEADING OF TITLE 27, CHAPTER 1, ARTICLE 4, ARIZONA REVISED STATUTES; AMENDING SECTIONS 27-515, 32-2117, 33-423 AND 37-173, ARIZONA REVISED STATUTES; PROVIDING FOR CONDITIONAL ENACTMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Heading change

3 The article heading of title 27, chapter 1, article 1, Arizona Revised  
4 Statutes, is changed from "MINES AND MINERAL RESOURCES" to "ARIZONA  
5 GEOLOGICAL SURVEY".

6 Sec. 2. Section 27-101, Arizona Revised Statutes, is amended to read:

7 27-101. Definitions

8 In this article, unless the context otherwise requires:

9 ~~1. "Department" means the Arizona geological survey.~~

10 ~~2. "Director" means the state geologist.~~

11 1. "AGGREGATE" MEANS CINDER, CRUSHED ROCK OR STONE, DECOMPOSED  
12 GRANITE, GRAVEL, PUMICE, PUMICITE AND SAND.

13 2. "MINERAL RESOURCES" MEANS ALL METALLIC, NONMETALLIC AND ENERGY  
14 RESOURCES, INCLUDING AGGREGATE, COAL, OIL, NATURAL GAS, GEOTHERMAL RESOURCES,  
15 CARBON DIOXIDE AND HELIUM.

16 3. "Minerals" includes metals and metallic and nonmetallic minerals,  
17 except oil and gas.

18 Sec. 3. Renumber

19 Section 27-101.01, Arizona Revised Statutes, is renumbered as section  
20 27-105.

21 Sec. 4. Repeal

22 Section 27-102, Arizona Revised Statutes, is repealed.

23 Sec. 5. Transfer and renumber

24 A. Section 27-112, Arizona Revised Statutes, is renumbered as section  
25 27-110.

26 B. Sections 27-151, 27-151.01, 27-152, 27-152.01, 27-152.02, 27-153  
27 and 27-155, Arizona Revised Statutes, are transferred and renumbered for  
28 placement in title 27, chapter 1, article 1, Arizona Revised Statutes, as  
29 sections 27-102, 27-104, 27-103, 27-106, 27-107, 27-108 and 27-109,  
30 respectively.

31 Sec. 6. Section 27-102, Arizona Revised Statutes, as transferred and  
32 renumbered by this act, is amended to read:

33 27-102. Arizona geological survey; state geologist; powers

34 A. The Arizona geological survey is established with offices located  
35 in proximity to the university of Arizona in Tucson. The governor shall  
36 appoint a state geologist, pursuant to section 38-211, to be the  
37 administrative head of the Arizona geological survey and to serve at the  
38 pleasure of the governor. The state geologist shall be registered as a  
39 geologist by the state board of technical registration, a graduate of an  
40 accredited institution and otherwise qualified by education and experience to  
41 direct the research and information functions of the Arizona geological  
42 survey.

43 B. The state geologist may organize the Arizona geological survey into  
44 such administrative units, and employ such permanent, temporary, part-time  
45 and volunteer professional and support staff, as necessary to achieve the  
46 objectives and promote the policies prescribed by this article.

1 C. The state geologist may:

2 1. Retain the services of faculty members or students, and shall have  
3 reasonable access to the data and other resources, of the university of  
4 Arizona or any other state university in this state to conduct or supervise  
5 research, experimentation or other related work of the Arizona geological  
6 survey.

7 2. Organize field expeditions to perform work for the Arizona  
8 geological survey using university students who are sufficiently advanced in  
9 their study of geology to be able to perform satisfactory work.

10 3. Establish and appoint an advisory board consisting of independent  
11 practicing geologists, university or college faculty, mining geologists and  
12 others who use and rely on data, information and other services of the  
13 Arizona geological survey.

14 D. The expenses of the Arizona geological survey shall be paid by  
15 annual appropriation from the state general fund and as otherwise provided by  
16 this article ~~and article 1 of this chapter.~~

17 ~~E. For the purposes of this article, "mineral resources" means all~~  
18 ~~metallic, nonmetallic and energy resources, including coal, oil, natural gas,~~  
19 ~~geothermal resources, carbon dioxide and helium.~~

20 Sec. 7. Section 27-103, Arizona Revised Statutes, as transferred and  
21 renumbered by this act, is amended to read:

22 27-103. Objectives of Arizona geological survey

23 The objectives of the Arizona geological survey are to:

24 1. Serve as a primary source of geologic information in this state to  
25 enhance public understanding of the state's geologic character, geologic  
26 hazards and limitations and **MINING AND** mineral resources.

27 2. Inform, advise and assist the public in matters concerning the  
28 geological processes, materials and landscapes and the development and use of  
29 the mineral resources of this state.

30 3. Encourage the wise use of the lands and mineral resources of this  
31 state toward its development.

32 4. Provide technical advice and assistance in geology to other state  
33 and local governmental agencies engaged in projects in which the geologic  
34 setting, character or mineral resources of the state are involved.

35 5. Provide technical advice and assistance in geology to industry  
36 toward the wise development and use of the mineral and land resources of this  
37 state.

38 Sec. 8. Section 27-105, Arizona Revised Statutes, as renumbered by  
39 this act, is amended to read:

40 27-105. Immunity

41 Any claim or action against the ~~department, the director~~ **ARIZONA**  
42 **GEOLOGICAL SURVEY, THE STATE GEOLOGIST** or any other officer, employee or  
43 volunteer of the ~~department~~ **GEOLOGICAL SURVEY** in the person's official  
44 capacity must be brought against the state of Arizona and not against the  
45 ~~department, director~~ **GEOLOGICAL SURVEY, STATE GEOLOGIST** or officer, employee  
46 or volunteer individually.



1 accuracy. The map supplements, and is not a substitute for, a  
2 professional inspection of property for defects and conditions.

3 4. Operate and maintain a central repository and a computerized  
4 database for reports, books, maps and other publications regarding the  
5 geology, MINING AND mineral resources and associated technologies. Such  
6 repository and database shall be available for the use of the public and may  
7 be located at or connected with the university of Arizona or another state  
8 university or agency of this state. ALL DATABASES AND OTHER ARCHIVAL  
9 MATERIALS SHALL BE MAINTAINED IN A SECURE AND RETRIEVABLE FORMAT AND AT A  
10 LOCATION PRESCRIBED BY THE STATE GEOLOGIST TO PROTECT AND PRESERVE  
11 INFORMATION FROM DAMAGE OR DESTRUCTION.

12 5. Operate and maintain a central repository for rock cores, well  
13 cuttings and ~~related subsurface~~ samples and all associated supplemental data  
14 consistent with the laws of this state requiring the deposit of such material  
15 and information. Such repository shall be available for the use of the  
16 public.

17 6. Receive and expend any monies arising from grants, contracts,  
18 contributions, gratuities or reimbursements payable or distributable to this  
19 state from the United States, or from state, county, municipal or other  
20 governmental sources. The Arizona geological survey shall also receive and  
21 expend any monies arising from grants, contracts, contributions, gratuities  
22 or reimbursements donated by private persons or corporations. Monies  
23 received pursuant to this paragraph shall be deposited in the geological  
24 survey fund and handled pursuant to section ~~27-152.02~~ 27-107.

25 7. Contract and be contracted with.

26 8. Utilize the services and expertise of the universities of the state  
27 at the discretion of the state geologist.

28 9. Cooperate with local, county, state and federal agencies.

29 10. Provide administrative and staff support for the Arizona oil and  
30 gas conservation commission.

31 11. PROVIDE QUALITY MINING DATA, EVALUATION AND ASSISTANCE RELATING TO  
32 MINING AND MINERAL DEVELOPMENT TO THE LEGISLATURE, FEDERAL, STATE AND LOCAL  
33 GOVERNMENTAL AGENCIES AND THE PUBLIC.

34 12. SERVE AS A SOURCE OF MINING INFORMATION AND DATA NECESSARY OR  
35 ADVISABLE TO ATTAIN ITS OBJECTIVES. THE STATE GEOLOGIST MAY ESTABLISH  
36 REASONABLE FEES FOR PUBLICATIONS.

37 13. COOPERATE WITH THE ARIZONA CORPORATION COMMISSION IN ITS  
38 INVESTIGATIONS AND ADMINISTRATION OF LAWS, RELATING TO THE SALE OF MINING  
39 SECURITIES.

40 Sec. 10. Section 27-107, Arizona Revised Statutes, as transferred and  
41 renumbered by this act, is amended to read:

42 27-107. Powers and duties of state geologist; fund

43 A. The state geologist shall:

44 1. Establish such administrative functions and offices as necessary to  
45 achieve the purposes of this article.

1           2. Prescribe the number and professional disciplines of the technical  
2 staff and their office and laboratory associates.

3           3. Direct the work of the Arizona geological survey and the  
4 formulation of its program and policies.

5           4. Adopt such rules as are necessary to carry out the purposes of this  
6 article.

7           5. Purchase or lease necessary office and laboratory equipment and  
8 acquire facilities from the state or lease necessary office and laboratory  
9 space.

10          6. Apply for and accept gifts, bequests or legacies of real or  
11 personal property or any other contribution, financial or otherwise, for use  
12 pursuant to the direction of the donor or, in the absence of an express  
13 direction, to be disposed of for the best interests of this state. The state  
14 geologist shall honor any restriction imposed by the donor on divulging  
15 contributed information or tangible personal property.

16          7. Accept from the federal, state and local governments or their  
17 agencies monies made available to this state for the purposes of this  
18 article.

19          8. Enter into cooperative agreements with federal, county or municipal  
20 governments or their agencies or with any agency or governmental unit  
21 established by the law of this or any other state for the purpose of carrying  
22 out the provisions of this article.

23          9. Contract with persons and organizations, public or private, to  
24 provide services for the Arizona geological survey.

25          10. Appoint a person with a background in oil and gas conservation to  
26 act on behalf of the oil and gas conservation commission and administer and  
27 enforce the applicable provisions of chapter 4 of this title relating to the  
28 oil and gas conservation commission.

29          B. The state geologist or the geologist's designee, at any time, may  
30 enter the property and inspect wells drilled for oil, gas, geothermal  
31 resources, helium or carbon dioxide and shall control property, machinery and  
32 appliances necessary to gauge the wells.

33          C. A geological survey fund is established for the purposes provided  
34 in this article consisting of appropriations and all monies received pursuant  
35 to ~~article 1 of this chapter, this section and sections 27-152.01, 27-153~~  
36 **THIS ARTICLE** and **SECTION 27-515**. Monies shall be separately accounted for  
37 and used as a continuing appropriation by the state geologist for the  
38 purposes provided from each source. Monies in the fund are exempt from the  
39 provisions of section 35-190 relating to lapsing of appropriations.

40          Sec. 11. Section 27-108, Arizona Revised Statutes, as transferred and  
41 renumbered by this act, is amended to read:

42           27-108. Publications; deposit

43          A. The state geologist may publish, in the form of bulletins,  
44 circulars, maps and other related series, or otherwise make available to  
45 state agencies, government officials, industry and the public the results of  
46 geological and related research and investigation undertaken by the Arizona

1 geological survey. A publication shall not include any confidential  
2 information pursuant to section 27-522. The state geologist shall consult  
3 with the operator and obtain the approval of the scope of work for the  
4 publication before the state geologist releases any proposed publication  
5 pertaining to a project regulated by the oil and gas conservation commission.

6 B. The publications of the Arizona geological survey shall be printed  
7 as the state geologist determines and distributed or sold as the interests of  
8 this state or science demand. Money obtained by the sale of publications  
9 shall be deposited in the geological survey fund established by section  
10 ~~27-152.02~~ 27-107 for printing further publications.

11 C. All materials collected, after having served the purpose of the  
12 Arizona geological survey, shall be made available to the universities,  
13 community colleges and high schools of this state.

14 Sec. 12. Section 27-110, Arizona Revised Statutes, as renumbered by  
15 this act, is amended to read:

16 27-110. Trade secrets; confidentiality; definition

17 A. The ~~director~~ STATE GEOLOGIST may receive and accept geologic,  
18 engineering and feasibility studies and other economic and technical  
19 information that is considered a trade secret in the mineral industry.

20 B. Trade secret information obtained under this section is  
21 confidential and not subject to public disclosure.

22 C. For the purposes of this section, "trade secret" means information  
23 to which all of the following apply:

24 1. A person has taken reasonable measures to protect the information  
25 from disclosure and the person intends to continue to take those measures.

26 2. The information is not and has not been reasonably obtainable by  
27 legitimate means by other persons without the person's consent, other than by  
28 governmental entities and other than in discovery based on a showing of  
29 special need in a judicial or quasi-judicial proceeding.

30 3. A statute does not specifically require disclosure of the  
31 information to the public.

32 4. The person has satisfactorily shown that disclosing the information  
33 is likely to cause substantial harm to the person's competitive position.

34 Sec. 13. Repeal

35 The article heading of title 27, chapter 1, article 4, Arizona Revised  
36 Statutes, is repealed.

37 Sec. 14. Section 27-515, Arizona Revised Statutes, is amended to read:

38 27-515. Administration; powers of the commission; fees

39 A. The commission shall administer and enforce the provisions of this  
40 article and other laws relating to conservation of oil and gas. The  
41 commission and administrative staff ~~may~~, at any time, MAY enter upon property  
42 and inspect wells drilled for oil or gas, and well records, and shall control  
43 property, machinery and appliances necessary to gauge the wells. The Arizona  
44 geological survey shall provide staff support to the commission to administer  
45 the provisions of this chapter.

1 B. The commission may:

2 1. Administer oaths to a witness in any hearing, investigation or  
3 proceeding held under this article or other law relating to conservation of  
4 oil and gas.

5 2. Issue subpoenas requiring attendance and testimony of witnesses and  
6 production of books, papers and records deemed material or necessary, and  
7 direct service of subpoenas by a sheriff or other officer authorized by law  
8 to serve process.

9 3. Prescribe rules and do all acts necessary or advisable to carry out  
10 the provisions of this article.

11 4. Collect such fees as will cover the costs of such services as, but  
12 not limited to, reproduction of records or any portion thereof and copies of  
13 rules. The monies so collected shall not be subject to the provisions of  
14 section 27-523 but shall be deposited, pursuant to sections 35-146 and  
15 35-147, by the commission in the fund from which the expenditure was  
16 originally made.

17 5. Publish technical maps, cross sections and reports and sell these  
18 materials for such fees as will cover the costs incurred in their  
19 preparation, reproduction and distribution.

20 C. The commission may enter into cooperative agreements with agencies  
21 of the United States government, with agencies of state or local government  
22 or with Indian tribes for the purpose of protection of the fresh water  
23 supplies of the state from contamination or pollution brought about by the  
24 drilling of any well or for any other purpose of this article.

25 D. The commission may apply for and accept gifts, devises and  
26 donations of books, well records, maps or other materials. All donated  
27 materials shall become public records.

28 E. Monies collected under subsection B, paragraph 5 of this section  
29 shall be deposited, pursuant to sections 35-146 and 35-147, in the geological  
30 survey fund established by section ~~27-152.02~~ 27-107 and shall be used to  
31 prepare, reproduce and distribute further publications. Monies in the fund  
32 are not subject to section 27-523.

33 Sec. 15. Section 32-2117, Arizona Revised Statutes, is amended to  
34 read:

35 ~~32-2117.~~ Earth fissure maps; posting; immunity

36 A. On receipt of maps from the ~~state land department~~ ARIZONA  
37 GEOLOGICAL SURVEY, the ~~department of~~ STATE real estate DEPARTMENT shall  
38 provide any earth fissure map to any member of the public in printed or  
39 electronic format on request and provide access on its ~~web site~~ WEBSITE to  
40 the earth fissure maps prepared by the ~~state land department~~ ARIZONA  
41 GEOLOGICAL SURVEY pursuant to section ~~37-173, paragraph 11~~ 27-106,  
42 PARAGRAPH 3. The following notice shall be displayed below each map:

43 Notice

44 The state of Arizona has made a reasonable effort to ensure the  
45 accuracy of this map when it was produced, but errors may be  
46 present and the state of Arizona does not guarantee its

1 accuracy. The map supplements, and is not a substitute for, a  
2 professional inspection of property for defects and conditions.

3 B. Nothing in this section shall be construed as denying a person  
4 rights guaranteed by the Arizona Constitution, and notwithstanding any other  
5 law, a subdivider, owner or licensee is not liable to any person or  
6 governmental entity for any act or failure to act in connection with:

7 1. The disclosure of real estate subject to earth fissures if the  
8 subdivider, owner or licensee provides a written disclosure or includes  
9 notice in a public report, issued pursuant to section 32-2183 or 32-2195.03,  
10 with respect to real estate subject to earth fissures, of the map and ~~web~~  
11 ~~site~~ WEBSITE described in subsection A of this section. The written  
12 disclosure or notice in a public report, issued pursuant to section 32-2183  
13 or 32-2195.03, of the map and ~~web-site~~ WEBSITE does not create an independent  
14 cause of action.

15 2. Any disclosure that occurred before the date the map described in  
16 subsection A of this section is posted on the ~~web-site~~ WEBSITE if the  
17 subdivider, owner or licensee had no actual knowledge that the land was  
18 subject to earth fissures before the map was posted.

19 Sec. 16. Section 33-423, Arizona Revised Statutes, is amended to read:  
20 33-423. Disclosure; reports; indemnity; applicability;  
21 violation; classification

22 A. A disclosure report pursuant to this section may be provided to the  
23 buyer or seller of real property by a third party as authorized by the buyer  
24 or seller and shall be based on officially adopted and electronically posted  
25 or otherwise readily available governmental maps or information that  
26 discloses whether the real property is subject to one or more of the  
27 following:

28 1. Special flood hazard areas designated by the federal emergency  
29 management agency pursuant to 42 United States Code chapter 50.

30 2. Military airports and ancillary military facilities as defined in  
31 section 28-8461 or as disclosed pursuant to section 28-8484 or 32-2113.

32 3. Military training routes as shown in the map produced pursuant to  
33 section 37-102 and military restricted airspace as shown in the map produced  
34 pursuant to section 37-102.

35 4. Public and private airports that are approved by the federal  
36 aviation administration.

37 5. Expansive soils as shown on maps issued by the natural resource  
38 conservation service or on other officially adopted and readily available  
39 governmental maps.

40 6. Fissures as shown on earth fissure maps issued by the Arizona  
41 geological survey ~~or~~ pursuant to section ~~27-152.01~~ 27-106, paragraph 3.

42 7. Special tax assessment areas or taxing authority and amount of  
43 special assessments in addition to ad valorem taxes as shown in the current  
44 tax records of the applicable county assessor.

45 8. Radon gas potential zones as shown on current maps issued by the  
46 United States environmental protection agency.

1           9. Environmental hazard superfund sites including the sites listed in  
2 the Arizona superfund program list and the water quality assurance revolving  
3 fund registry, or listed by the United States environmental protection agency  
4 including the national priorities list, the comprehensive environmental  
5 response compensation and liability information system database or on maps  
6 issued by the department of environmental quality or equivalent databases of  
7 those sites.

8           10. Any other condition that affects the real property that the buyer  
9 or seller authorizes and the third party provider agrees to provide in a  
10 third party provider disclosure report.

11           B. For any third party provider of information as prescribed by this  
12 section, the following apply:

13           1. A seller or buyer shall not be required to provide the written  
14 disclosure provided by this section to an insurance company, a lender or a  
15 governmental agency.

16           2. The third party provider shall carry errors and omissions insurance  
17 coverage with limits of at least one million dollars per occurrence and in an  
18 aggregate of at least ten million dollars. A person who violates this  
19 paragraph is guilty of a class 1 misdemeanor.

20           C. If an action is brought as a result of an error, inaccuracy or  
21 omission in the disclosure made only by a third party provider who provides  
22 information pursuant to subsection A of this section, the third party  
23 provider shall provide a defense against the action, shall indemnify the  
24 buyer or seller who authorized the disclosure report and persons licensed  
25 pursuant to title 32, chapter 20 who represent the buyer or seller for any  
26 judgment rendered and shall reimburse reasonable attorney fees and costs  
27 incurred in defending the action, unless the buyer, seller or agent for the  
28 buyer or seller had knowledge of the error, inaccuracy or omission or the  
29 buyer, seller or agent for the buyer or seller modified the disclosure and  
30 the modification resulted in the error, inaccuracy or omission. Nothing in  
31 this section shall be construed to prohibit a third party provider of  
32 information from agreeing by contract that the third party provider shall  
33 indemnify a person to a greater extent than is required by this section.

34           D. If information that is disclosed pursuant to this section is  
35 subsequently rendered inaccurate as a result of any governmental action, map  
36 revision, changed information or other act or occurrence after the delivery  
37 of the disclosure, no person is liable for the information that was disclosed  
38 unless the person had knowledge of the error, inaccuracy or omission.

39           E. This section shall not be construed to create a cause of action for  
40 the use of maps or other information pursuant to this section. This section  
41 does not apply to the sale of real property by any person pursuant to section  
42 32-2183 or section 32-2195.03, or any affiliate of that person.

43           F. This section does not obligate any person to provide or purchase a  
44 disclosure report that is the subject of this section.

45           G. The listing of a condition in subsection A of this section or in a  
46 third party provider disclosure report does not by itself make that condition

1 material or immaterial to a particular real estate transaction. The  
2 materiality of any disclosure is governed as otherwise provided by law.

3 Sec. 17. Section 37-173, Arizona Revised Statutes, is amended to read:

4 37-173. Duties

5 The division shall:

6 1. Establish a clearinghouse of information and a central repository  
7 for geospatial data and statewide geographic information system services.

8 2. Provide geographic information system services and geospatial data  
9 for the state land department and other public agencies in this state.

10 3. Facilitate the sharing of geospatial data and geographic  
11 information system services among all public agencies to address the needs of  
12 this state.

13 4. Prepare standards and specifications for developing, maintaining  
14 and sharing geospatial data and geographic information system services.

15 5. Function as the Arizona affiliate office for national geographic  
16 information systems and geospatial data coordination initiatives.

17 6. Establish a liaison relationship with the United States geological  
18 survey, federal geospatial organizations and other state and local government  
19 organizations in order to facilitate and coordinate sharing geospatial data,  
20 providing geographic information system services and using a clearinghouse.

21 7. Identify federal, state, regional, tribal and local government and  
22 private sector geospatial data and geographic information system services to  
23 include in the clearinghouse.

24 8. Coordinate the development and maintenance of a geospatial public  
25 land survey system and cadastral database with responsible federal, state and  
26 local agencies.

27 ~~9. Within ninety days after receiving data files of known areas of  
28 earth fissures from the Arizona geological survey pursuant to section  
29 27-152.01, paragraph 3, produce maps of those areas with overlays showing  
30 affected counties, cities, towns, highways and streets. The division shall  
31 transmit the maps in printed and electronic format to the Arizona geological  
32 survey and the state real estate department for purposes of providing public  
33 access to the earth fissure maps pursuant to sections 27-152.01 and 32-2117.~~

34 Sec. 18. Conditional enactment

35 This act does not become effective unless Senate Bill \_\_\_\_\_, fiftieth  
36 legislature, second regular session, relating to sunset extension of the  
37 Arizona geological survey, becomes law.