

House Engrossed

State of Arizona
House of Representatives
Fifty-first Legislature
Second Regular Session
2014

HOUSE BILL 2700

AN ACT

AMENDING TITLE 37, CHAPTER 2, ARTICLE 17, ARIZONA REVISED STATUTES, BY ADDING
SECTION 37-620.03; RELATING TO PUBLIC LANDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

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

2 Section 1. Title 37, chapter 2, article 17, Arizona Revised Statutes,
3 is amended by adding section 37-620.03, to read:

4 37-620.03. State lands acquired by federal government:
5 monitoring by state land department: report:
6 recovery of state lands: documentation of federal
7 authority

8 A. THE STATE LAND DEPARTMENT SHALL:

9 1. IDENTIFY THE STATE LANDS THAT HAVE BEEN ACQUIRED OR RECLASSIFIED BY
10 THE FEDERAL GOVERNMENT AFTER STATEHOOD, INCLUDING STATE LANDS THAT ARE
11 LOCATED WITHIN NATIONAL MONUMENTS DESIGNATED PURSUANT TO THE ANTIQUITIES ACT
12 OF 1906 (34 STAT. 225; 16 UNITED STATES CODE SECTION 431) OR WILDERNESS AREAS
13 AND THE IMPACT THAT THE ACQUISITION OR RECLASSIFICATION OF STATE LANDS BY THE
14 FEDERAL GOVERNMENT HAS ON THE TRUST BENEFICIARIES.

15 2. COORDINATE WITH THE GOVERNOR'S OFFICE TO SELECT A THIRD PARTY TO
16 ASSESS THE SHORT-TERM AND LONG-TERM FINANCIAL IMPACTS THAT THE CURRENT AND
17 ANY FUTURE ACQUISITION OF STATE LANDS BY THE FEDERAL GOVERNMENT HAS ON THE
18 STATE AND THE TRUST BENEFICIARIES, INCLUDING ANY LOSS OF REVENUE. THE THIRD
19 PARTY SHALL NOTIFY THE ATTORNEY GENERAL OF ITS FINDINGS.

20 3. MONITOR FEDERAL ACTIVITY FOR PROPOSALS TO SELL OR TRANSFER FEDERAL
21 LAND TO A PRIVATE GROUP OR INDIVIDUAL OR TO DESIGNATE NATIONAL MONUMENTS IN
22 THIS STATE.

23 4. SUBMIT ANY COMMENTS OR FEEDBACK NECESSARY TO THE FEDERAL GOVERNMENT
24 REGARDING THE ACQUISITION OF STATE LANDS BY THE FEDERAL GOVERNMENT.

25 5. PROVIDE INFORMATION REGARDING THE IMPACT OF THE ACQUISITION OF
26 STATE LANDS BY THE FEDERAL GOVERNMENT IN THIS STATE TO THE STATE, COUNTY,
27 CITY OR TOWN, INCLUDING ANY TAX IMPLICATIONS.

28 6. NOTIFY THE ATTORNEY GENERAL WHEN STATE LANDS OR PRIVATE LANDS ARE
29 ACQUIRED BY THE FEDERAL GOVERNMENT. THE ATTORNEY GENERAL SHALL DETERMINE
30 WHETHER THERE HAS BEEN A VIOLATION OF FEDERAL LAW AND IF LEGAL ACTION IS
31 REASONABLY NECESSARY TO RECOVER THE LAND AND TO PROTECT THE TRUST
32 BENEFICIARIES AND THE PRIVATE PROPERTY RIGHTS OF THE PEOPLE OF THIS STATE.

33 7. INFORM THE GOVERNOR, THE PRESIDENT OF THE SENATE, THE SPEAKER OF
34 THE HOUSE OF REPRESENTATIVES AND THE CHAIRPERSONS OF THE SENATE NATURAL
35 RESOURCES AND RURAL AFFAIRS COMMITTEE AND THE HOUSE OF REPRESENTATIVES
36 ENERGY, ENVIRONMENT AND NATURAL RESOURCES COMMITTEE, OR THEIR SUCCESSOR
37 COMMITTEES, IF STATE LAND IS ACQUIRED BY THE FEDERAL GOVERNMENT AND OF ISSUES
38 RELATING TO THE DESIGNATION OF NATIONAL MONUMENTS IN THIS STATE, INCLUDING
39 THE IMPACT ON STATE TRUST LANDS AND THE TRUST BENEFICIARIES.

40 8. SUBMIT A REPORT OF ITS FINDINGS AND RECOMMENDATIONS RELATING TO THE
41 ACQUISITION OF STATE LANDS BY THE FEDERAL GOVERNMENT TO THE GOVERNOR, THE
42 PRESIDENT OF THE SENATE AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES ON OR
43 BEFORE DECEMBER 31 OF EACH YEAR AND PROVIDE A COPY OF THIS REPORT TO THE
44 SECRETARY OF STATE.

45 B. THE LEGISLATURE AND THE ATTORNEY GENERAL SHALL TAKE ALL STEPS, IF
46 DEEMED NECESSARY, TO RECOVER AND ACQUIRE ALL STATE LANDS WITHIN THIS STATE

1 THAT HAVE BEEN ACQUIRED BY THE FEDERAL GOVERNMENT, ESPECIALLY STATE LANDS
2 THAT HAVE BEEN ACQUIRED IN A MANNER THAT IS INCONSISTENT WITH THE LIMITED
3 ENUMERATED POWERS AND FUNCTIONS OF THE FEDERAL GOVERNMENT AS PRESCRIBED IN
4 THE CONSTITUTION OF THE UNITED STATES. STATE LANDS MAY BE RECOVERED OR
5 ACQUIRED FROM THE FEDERAL GOVERNMENT IN ANY APPROPRIATE MANNER, INCLUDING IN
6 LIEU LAND EXCHANGES BASED ON LAND VALUE AND NOT ACREAGE.

7 C. BEGINNING IN 2014 AND EVERY EVEN-NUMBERED YEAR THEREAFTER, THE
8 ATTORNEY GENERAL SHALL CONTACT THE PRESIDENT OF THE UNITED STATES, THE
9 SPEAKER OF THE UNITED STATES HOUSE OF REPRESENTATIVES, THE PRESIDENT OF THE
10 UNITED STATES SENATE AND THE CHIEF JUSTICE OF THE UNITED STATES SUPREME COURT
11 AND DEMAND DETAILED WRITTEN JUSTIFICATIONS THAT DOCUMENT THE SPECIFIC
12 CONSTITUTIONAL AUTHORITY THAT ALLOWS THE FEDERAL GOVERNMENT TO HOLD, TAKE OR
13 ACQUIRE LAND IN THIS SOVEREIGN STATE. THE ATTORNEY GENERAL SHALL REPORT TO
14 THE LEGISLATURE ANY RESPONSE OR LACK OF RESPONSE.

15 Sec. 2. Findings

16 The legislature finds, determines and declares that:

17 1. A large percentage of lands in this state are currently held by the
18 federal government. This is an attack on the sovereignty of this state and
19 has a negative impact on the taxing ability of the counties, cities and towns
20 located in this state. The negative impact on the counties, cities and towns
21 located in this state becomes even greater as the federal government reduces
22 its payment in lieu of taxes to local governments. The amount of federal
23 land in this state must be reduced, and the federal government should not be
24 able to increase the amount of land it controls in this state.

25 2. The Third and Fifth Amendments of the Constitution of the United
26 States establish essential constitutional rights and protections of property.
27 Contrary to the Enabling Act of 1912, the federal withholding of over fifty
28 per cent of the sovereign lands in this state is further exacerbated by the
29 taking of hundreds of thousands of additional acres under the Antiquities Act
30 of 1906 (34 Stat. 225; 16 United States Code section 431) in stark
31 contradiction to the defined limitations of the Antiquities Act that state
32 "of land, the limits of which in all cases shall be confined to the smallest
33 area." In direct violation of article 1, section 8, clause 17 of the
34 Constitution of the United States, state lands have been taken for
35 nonenumerated federal purposes, without legislative approval and without the
36 constitutionally required just compensation paid to the state land trust for
37 the education of Arizona children as required by the Enabling Act. The
38 unique, coveted nature of these lands indicates that these lands are far more
39 valuable than typical lands, and so the state must receive higher than normal
40 just compensation for these lands, whether in a purchase price or by means of
41 an exchange for significantly more federally controlled lands located within
42 this state.

43 Sec. 3. Transmittal of this act

44 The Secretary of State of the State of Arizona shall transmit a copy of
45 this act to the President of the United States and each Member of Congress
46 from this state.