



County Supervisors A S S O C I A T I O N o f a r i z o n a

2017 Legislative Policy Statement **12th Annual CSA Legislative Summit** **Coconino County, Arizona** **October 25-27, 2016**

A. What is the legislative proposal?

Allow counties to designate substandard roads as “Primitive Roads” for roads opened prior to June 13, 1990.

Allow counties to maintain roads laid out, opened and constructed to adopted county standards and without cost to the county, regardless of whether or not the road is part of a platted subdivision.

Suggested deleted language is shown in ~~red-strikethrough~~ and added language is shown in **red bold italicized**.

28-6705. Public road and street maintenance

A. The board of supervisors may spend public monies for maintenance of public roads and streets other than legally designated state and county highways located without the limits of an incorporated city or town. Before spending public monies under this section, the roads or streets shall be both:

1. Laid out, opened and constructed without cost to the county, ***including roads completed pursuant to a plat approved pursuant to sections 11-802 and 11-822.***
2. Completed ~~pursuant to a plat approved pursuant to sections 11-802 and 11-822~~ ***and*** in accordance with standard engineering road specifications adopted by the board of supervisors to ensure uniform compliance.

B. The board of supervisors may spend public monies for maintenance of public roads and streets that were laid out, constructed and opened before June 13, 1990, ~~or that have been designated as primitive roads pursuant to section 28-6706, subsection D,~~ even if the roads and streets were not constructed in accordance with subsection A of this section.

C. Maintenance of a public road or street does not include purchasing or laying cement. To reduce long-term maintenance costs for maintenance authorized by this section, the board of supervisors may spend monies to add rock products, gravel and processed materials to the base of the roads and streets. Petroleum based or nonpetroleum based products may be used in the maintenance and repair of unpaved roads, alleys and shoulders identified pursuant to section 9-500.04 or 49-474.01 or unpaved roads, alleys and shoulders in any county where the control officer as defined in section 49-471 certifies to the board of supervisors that emissions from such roads, alleys or shoulders may endanger compliance with the national ambient air quality standard as defined in section 49-401.01.

28-6706. Primitive roads

A. The board of supervisors or the governing body of a city or town may designate a public road within its jurisdiction as a primitive road as prescribed in this section.

B. Neither a county, city or town nor its employees are liable for damages or injuries resulting from the use of a primitive road designated under this section except for



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intentional injuries or gross negligence caused by an employee acting within the scope of the employee's employment.

C. ~~Except as provided in subsection D, †~~The board of supervisors or the governing body of a city or town shall not designate a road as a primitive road unless it was opened before June 13, ~~1975~~ **1990** and was not constructed in accordance with county standards.

~~D. The board of supervisors or the governing body of a city or town may designate a road as a primitive road if all of the following apply:~~

~~1. The road was opened after June 13, 1975.~~

~~2. The road was accepted for maintenance by the board of supervisors or the governing body of a city or town before June 13, 1985.~~

~~3. The road was not constructed in accordance with county standards.~~

~~E. D.~~ The county, city or town shall place signs on every road designated as a primitive road in locations adequate to warn the public. These signs shall state "Primitive road, caution, use at your own risk. This surface is not regularly maintained."

~~F. E.~~ A board of supervisors or the governing body of a city or town shall not designate a state or county highway as a primitive road.

B. Describe the problem and explain how the proposal solves it.

Two separate potential problems exist under the current versions of 28-6705 and 28-6706.

The first potential problem is that there are certain types of substandard road which counties can maintain but are not authorized to designate as "Primitive". These two types of substandard roads are:

1. Roads previously not accepted for maintenance, open after June 13, 1975 and prior to June 13, 1990.
2. Roads accepted for maintenance after June 13, 1985 and open prior to June 13, 1990.

The "Primitive" road designation is important as it requires counties to install signage to warn the traveling public of the substandard nature of the road and reduces county liability. It is our opinion that the eligibility for substandard road maintenance should always be in harmony with the ability to designate the substandard road as "Primitive". The proposal solves the disharmony by changing the statute to designate a road as "Primitive" (28-6706) and the statute that authorizes substandard road maintenance (28-6705) to be congruent.

A secondary potential problem is that there is a certain type of road built to standard that is not eligible for maintenance under 28-6705. Currently if an entity builds a road to adopted county standards at no cost to the county, the road must also be part of a platted subdivision. The proposal solves this potential problem so that any road built to county standard, at no cost to the county, is eligible for maintenance.

C. What is the fiscal impact to the state or county budgets of the proposal?

No impact.



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D. What is the preliminary analysis of the political environment and stakeholders' and affiliates' comments?

E. Who is the primary county contact information for the proposal (name, phone, email and other relevant information)?

Name: Terry Couchenour

Phone: 520-432-9323

E-mail: tcouchenour@cochise.az.gov