



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

A. What is the legislative proposal?

Restore management of public roads through abandoning Federal patent easements.

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

11-251.16 Federal patent easements; county abandonment; ~~exception~~

- A. A county, at the request of a property owner, may abandon a Federal patent easement established by the Small Tract Act of 1938 that the county determines, after notifying ~~and obtaining the consent of~~ all affected utilities, is not being used by the public or is no longer necessary.
- B. At least sixty days before the consideration of an abandonment resolution, the board of supervisors shall give written notice of the abandonment proposal and the date and time of its consideration by certified mail at the address shown in the records of the county assessor to the owners of land abutting the easement to be abandoned. The notice shall inform recipients of the opportunity and deadline to object in writing or in person on the date of the board's scheduled consideration of the abandonment proposal. ~~The board of supervisors shall not resolve to abandon an easement unless a majority of the owners of the land abutting the easement approves the action.~~ An owner who does not object in writing to the abandonment proposal on or before the date of the board's scheduled consideration of the proposal or in person on the date of the board's scheduled consideration of the proposal shall be deemed to have consented to the abandonment proposal. The board shall post a copy of the notice at or in the immediate vicinity of the proposed abandonment.
- ~~C. This section does not apply to the abandonment of a roadway that was granted under revised statute 2477 (43 United States Code section 932) that was enacted by the United States Congress in 1866.~~

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

Historically the board of supervisors, the elected public representatives, had the power to lay out, maintain, control and manage public roads within their jurisdiction pursuant to 11-251(4). One process for managing public roads is provided through abandonment and is utilized for public safety considerations such as road re-alignment or when the use of the route no longer serves its original purpose. The current language of 11-251.16 requires the consent of all utility providers and the consent of the majority of adjoining land owners if the public road easement is to be abandoned. This change effectively stripped a power from the public and gave control to utility providers and adjoining property owners. Further, regarding utility interests, when a public easement is no longer necessary for road purposes, existing utility interests are retained pursuant to 28-7210.

The proposal solves this problem by restoring appropriate authority to the board of supervisors. Utility providers' and property owner's input will remain part of the decision making process through notice posting and a public Board meeting. However the final determination as to the greater public's need will be transferred from utility providers and a minority of constituents, back to the elected representatives of the greater public.



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

Finally 11-251.16 pertains to easements granted by the Small Tract Act of 1938 which is separate to rights-of-way granted by the Mining Act of 1866. By eliminating reference to the 1866 Act we can prevent unnecessary confusion and inappropriate interpretations.

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

No impact.

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)?

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