

PROPOSED  
HOUSE OF REPRESENTATIVES AMENDMENTS TO H.B. 2774  
(Reference to printed bill)

1 Strike everything after the enacting clause and insert:

2 "Section 1. Section 11-812, Arizona Revised Statutes, is amended to  
3 read:

4 11-812. Restriction on regulation; exceptions; aggregate  
5 mining regulation; definitions

6 A. ~~Nothing contained in~~ Any ordinance authorized by this chapter  
7 ~~shall~~ MAY NOT:

8 1. Affect existing uses of property or the right to its continued  
9 use or the reasonable repair or alteration of the property for the purpose  
10 for which used at the time the ordinance affecting the property takes  
11 effect.

12 2. Prevent, restrict or otherwise regulate the use or occupation of  
13 land or improvements for railroad, mining, metallurgical, grazing or  
14 general agricultural purposes, if the tract concerned is five or more  
15 contiguous commercial acres. For the purposes of this paragraph:

16 (a) "General agricultural purposes" includes agritourism as defined  
17 in section 3-111, but does not include any of the following:

18 (i) Food establishments THAT ARE under the authority of the  
19 department of health services pursuant to section 36-136, subsection I AND  
20 that are associated with an agritourism business.

21 (ii) Rodeo events that are open to the general public and that sell  
22 tickets for admission. For the purposes of this item, rodeo events do not  
23 include generally accepted agricultural practices associated with livestock  
24 and equine operations.

1 (iii) The cultivation of cannabis as defined in section 13-3401 or  
2 marijuana as defined in section 13-3401 or 36-2801.

3 (b) "Mining" has the same meaning prescribed in section 27-301.

4 3. Prevent, restrict or otherwise regulate the use or occupation of  
5 land or improvements for agricultural composting, if the tract is five or  
6 more contiguous commercial acres. An agricultural composting operation  
7 shall notify in writing the board of supervisors and the nearest fire  
8 department of the location of the composting operation. If the nearest  
9 fire department is located in a city, town or fire district where the  
10 agricultural composting is not located, the agricultural composting  
11 operation shall also notify in writing the fire district in which the  
12 operation is located. Agricultural composting is subject to sections 3-112  
13 and 49-141. For the purposes of this paragraph, "agricultural composting"  
14 has the same meaning prescribed in section 9-462.01, subsection G.

15 4. Prevent, restrict or otherwise regulate the otherwise lawful  
16 discharge of a firearm or air gun or use of archery equipment on a private  
17 lot or parcel of land that is not open to the public on a commercial or  
18 membership basis.

19 5. EXCEPT IN A COUNTY WITH FIVE HUNDRED THOUSAND PERSONS OR MORE,  
20 PREVENT, RESTRICT OR OTHERWISE REGULATE THE USE OR OCCUPATION OF LAND OR  
21 IMPROVEMENTS FOR THE CONSTRUCTION AND OPERATION OF A SMALL MODULAR NUCLEAR  
22 REACTOR, IF THE SMALL MODULAR NUCLEAR REACTOR IS COLOCATED WITH A LARGE  
23 INDUSTRIAL ENERGY USER THAT RECEIVED ALL APPLICABLE ZONING ENTITLEMENTS.  
24 FOR THE PURPOSES OF THIS PARAGRAPH, "COLOCATED WITH", "LARGE INDUSTRIAL  
25 ENERGY USER" AND "SMALL MODULAR NUCLEAR REACTOR" HAVE THE SAME MEANINGS  
26 ADOPTED BY THE CORPORATION COMMISSION PURSUANT TO SECTION 40-360.14.

27 B. A nonconforming business use within a district may expand if the  
28 expansion does not exceed one hundred ~~per cent~~ PERCENT of the area of the  
29 original business.

30 C. For the purposes of subsection A, paragraph 2 of this section,  
31 mining does not include aggregate mining operations in an aggregate mining  
32 operations zoning district established pursuant to this section. The board  
33 of supervisors of any county with a population of more than two million

1 persons shall designate and establish the boundaries of an aggregate mining  
2 operations zoning district on the petition of at least one hundred persons  
3 who reside within one-half mile of an existing aggregate mining operation.  
4 In addition, the board of supervisors of any county may establish, in its  
5 discretion and on the board's initiative, one or more aggregate mining  
6 operations zoning districts. Aggregate mining operations zoning districts  
7 may only be located in areas that are inventoried and mapped as areas of  
8 known reserves or in areas with existing aggregate mining operations.  
9 Subject to subsections E and F of this section, a county and the state mine  
10 inspector may jointly adopt, as internal administrative regulations,  
11 reasonable aggregate mining operations zoning district standards limited to  
12 permitted uses, procedures for approval of property development plans and  
13 site development standards for dust control, height regulations, setbacks,  
14 days and hours of operation, off-street parking, screening, noise,  
15 vibration and air pollution control, signs, roadway access lanes, arterial  
16 highway protection and property reclamation for which aggregate mining  
17 operations are not otherwise subject to federal, state or local regulation  
18 or a governmental contractual obligation. Regulations **THAT ARE** jointly  
19 adopted pursuant to this subsection by the county and the state mine  
20 inspector shall not prohibit the activities included in the definition of  
21 mine pursuant to section 27-301, paragraph 8 or duplicate, conflict with or  
22 be more stringent than applicable federal, state or local laws.

23 D. The board of supervisors of any county that establishes an  
24 aggregate mining operations zoning district shall appoint an aggregate  
25 mining operations recommendation committee for the district. The committee  
26 consists of not more than seven operators, or representatives of operators,  
27 of active aggregate mining operations in any district within the county and  
28 an equal number of private citizens, who are not operators, who are not  
29 employed by operators and who do not represent operators, residing within  
30 three miles of the boundaries of aggregate mining operations or a proposed  
31 aggregate mining operation in the district for which the committee is  
32 established. The initial members appointed to the committee shall be  
33 deemed the primary members, and the board of supervisors shall appoint not

1 more than five alternate members who represent operators and shall appoint  
2 not more than five alternate members who are private citizens. Alternate  
3 members may serve at meetings of the committee when a primary member is  
4 unable to attend. An aggregate mining operator may serve on more than one  
5 committee in the same county. The board of supervisors shall determine the  
6 length of terms of members of the committee and shall stagger the initial  
7 appointments so that not all members' terms expire at the same time.  
8 Members of the committee who no longer qualify for membership as provided  
9 by this subsection are subject to removal and replacement by the board of  
10 supervisors. The committee shall elect a member who is an aggregate mining  
11 operator to serve as chairperson for the first year in which the committee  
12 is created. For each year thereafter, the chairperson shall be elected by  
13 the members of the committee with a member who is a private citizen and a  
14 member who is an aggregate mining operator serving as chairperson in  
15 alternate years. The committee is subject to the open meeting requirements  
16 of title 38, chapter 3, article 3.1.

17 E. Within ninety days after an aggregate mining operations  
18 recommendation committee is established, the committee shall notify all  
19 existing aggregate mining operators in the district of the application of  
20 this section and title 27, chapter 3, article 6 to the aggregate mining  
21 operation. In addition, the committee shall:

22 1. By a majority vote of all members make recommendations to the  
23 board of supervisors for aggregate mining zoning districts and  
24 administrative regulations as provided in this section. The board of  
25 supervisors may adopt or reject the recommendations but may not make any  
26 modifications to the recommendations unless the modification is approved by  
27 a majority of the members of the recommendation committee.

28 2. Serve as a forum for mediation of disputes between members of the  
29 public and aggregate mining owners or operators. If the committee is  
30 unable to resolve a dispute, the committee shall transmit the matter to the  
31 state mine inspector, with written findings and recommendations, for  
32 further action.

1           3. Hear written complaints filed with the state mine inspector  
2 regarding alleged material deviations from approved community notices for  
3 aggregate mining operations and make written recommendations to the state  
4 mine inspector pursuant to section 27-446.

5           F. Any administrative regulations adopted by a board of supervisors  
6 pursuant to this section are not effective until the regulations are  
7 approved by the state mine inspector. The STATE MINE inspector may  
8 disapprove the administrative regulations adopted by the board of  
9 supervisors only if they duplicate, conflict with or are more stringent  
10 than applicable federal, state or local laws, rules or regulations. If the  
11 STATE MINE inspector disapproves the administrative regulations, the STATE  
12 MINE inspector must provide written reasons for the disapproval. The STATE  
13 MINE inspector shall not make any modification to the administrative  
14 regulations as adopted by the board of supervisors unless the modification  
15 is approved by a majority of the members of the board of supervisors.

16           G. A person or entity is subject to this chapter if the use or  
17 occupation of land or improvements by the person or entity consists of or  
18 includes changing, remanufacturing or treating human sewage or sludge for  
19 distribution or resale. These activities are not exempt from this chapter  
20 under subsection A, paragraph 2 of this section.

21           H. A county shall not require as a condition for a permit or for any  
22 approval, or otherwise cause, an owner or possessor of property to waive  
23 the right to continue an existing nonconforming outdoor advertising use or  
24 structure without acquiring the use or structure by purchase or  
25 condemnation and paying just compensation unless the county, at its option,  
26 allows the use or structure to be relocated to a comparable site in the  
27 county with the same or a similar zoning classification, or to another site  
28 in the county acceptable to both the county and the owner of the use or  
29 structure, and the use or structure is relocated to the other site. The  
30 county shall pay for relocating the outdoor advertising use or structure  
31 including the cost of removing and constructing the new use or structure  
32 that is at least the same size and height. This subsection does not apply

1 to county rezoning of property at the request of the property owner to a  
2 more intensive zoning district.

3 I. For the purposes of this section:

4 1. "Aggregate" has the same meaning prescribed in section 27-441.

5 2. "Aggregate mining" has the same meaning prescribed in section  
6 27-441.

7 3. "Aggregate mining operation" means property that is owned,  
8 operated or managed by the same person for aggregate mining.

9 4. "Operators" means persons who are actively engaged in aggregate  
10 mining operations within the zoning district or proposed zoning district  
11 and who have given notice to the state mine inspector pursuant to section  
12 27-303.

13 Sec. 2. Section 40-360.03, Arizona Revised Statutes, is amended to  
14 read:

15 40-360.03. Application for certificate of environmental  
16 compatibility before construction of facilities:  
17 electronic format; rules; exception

18 A. Except as provided in ~~subsection~~ SUBSECTIONS B AND C of this  
19 section, every utility that plans to construct a plant or transmission  
20 line, or both, in this state shall first file with the commission an  
21 application for a certificate of environmental compatibility. The  
22 application shall be in a form prescribed by the commission and shall be  
23 accompanied by information with respect to the proposed type of facilities  
24 and description of the site, including the areas of jurisdiction affected  
25 and the estimated cost of the proposed facilities and site. The  
26 application shall also be accompanied by a receipt that evidences payment  
27 of the appropriate fee required by section 40-360.09. The commission shall  
28 promptly refer the application and accompanying information to the chairman  
29 of the committee for the committee's review and decision. The application  
30 and accompanying information may be submitted to the commission in an  
31 electronic format. The commission may adopt rules to accept electronic  
32 filings under this section and to ensure that proper notice is provided  
33 electronically to interested parties.

1           B. A utility may replace a conductor or wire on a transmission line  
2 or may replace an existing transmission line structure or structures with a  
3 new transmission line structure or structures without seeking a new  
4 certificate of environmental compatibility and without holding a hearing  
5 under this article if the replacement is on a transmission line that  
6 previously received a certificate of environmental compatibility or that  
7 was in use or authorized before August 13, 1971. All replacement  
8 conductors or structures shall comply with the terms and conditions of the  
9 applicable existing certificate of environmental compatibility.

10           C. A UTILITY, AFTER PROVIDING THIRTY DAYS' WRITTEN NOTICE TO THE  
11 COMMISSION, MAY REPLACE AN EXISTING THERMAL ELECTRIC GENERATING UNIT WITH A  
12 REPLACEMENT SMALL MODULAR NUCLEAR REACTOR OR CONSTRUCT A NEW SMALL MODULAR  
13 NUCLEAR REACTOR WITHOUT SEEKING A NEW CERTIFICATE OF ENVIRONMENTAL  
14 COMPATIBILITY AND WITHOUT HOLDING A HEARING UNDER THIS ARTICLE IF THE NEW  
15 OR REPLACEMENT SMALL MODULAR NUCLEAR REACTOR IS LOCATED ON OR IMMEDIATELY  
16 ADJACENT TO THE SITE OF A PLANT THAT PREVIOUSLY RECEIVED A CERTIFICATE OF  
17 ENVIRONMENTAL COMPATIBILITY OR THAT WAS IN USE OR AUTHORIZED BEFORE AUGUST  
18 13, 1971.

19           Sec. 3. Section 40-360.07, Arizona Revised Statutes, is amended to  
20 read:

21           40-360.07. Compliance by utility; commission order

22           A. ~~NO~~ EXCEPT AS PROVIDED IN SECTION 40-360.14, SUBSECTIONS B AND C,  
23 A utility may NOT construct a plant or transmission line within this state  
24 until it has received a certificate of environmental compatibility from the  
25 committee with respect to the proposed site, affirmed and approved by an  
26 order of the commission which shall be issued not less than thirty days nor  
27 more than sixty days after the certificate is issued by the committee,  
28 except that within fifteen days after the committee has rendered its  
29 written decision any party to a certification proceeding may request a  
30 review of the committee's decision by the commission.

31           B. The grounds for review shall be stated in a written notice filed  
32 with the commission with a copy thereof served on the chairman of the  
33 committee. The committee shall transmit to the commission the complete

1 record, including a certified transcript, and the review shall be conducted  
2 on the basis of the record. The commission ~~may~~, at the request of any  
3 party, ~~MAY~~ require written briefs or oral argument and shall within sixty  
4 days ~~from~~ AFTER the date the notice is filed either confirm, deny or modify  
5 any certificate granted by the committee, or ~~in the event~~ IF the committee  
6 refused to grant a certificate, the commission may issue a certificate to  
7 the applicant. In arriving at its decision, the commission shall comply  
8 with ~~the provisions of~~ section 40-360.06 and shall balance, in the broad  
9 public interest, the need for an adequate, economical and reliable supply  
10 of electric power with the desire to minimize the effect thereof on the  
11 environment and ecology of this state.

12 C. The committee or any party to a decision by the commission  
13 pursuant to subsection B of this section may request the commission to  
14 reconsider its decision within thirty days after the decision is issued. A  
15 request for reconsideration made pursuant to this subsection shall set  
16 forth the grounds ~~upon~~ ON which it is based and state the manner in which  
17 the party believes the commission unreasonably or unlawfully applied or  
18 failed to apply the criteria set forth in section 40-360.06. The decision  
19 of the commission is final with respect to all issues, subject only to  
20 judicial review as provided by law in the event of an appeal by a person  
21 having a legal right or interest that will be injuriously affected by the  
22 decision.

23 Sec. 4. Title 40, chapter 2, article 6.2, Arizona Revised Statutes,  
24 is amended by adding section 40-360.14, to read:

25 40-360.14. Exemption; modular reactors colocated with large  
26 industrial energy user; rules; applicability

27 A. NOTWITHSTANDING SECTIONS 40-360.03 AND 40-360.07, A UTILITY,  
28 AFTER PROVIDING THIRTY DAYS' WRITTEN NOTICE TO THE COMMISSION, MAY  
29 CONSTRUCT A NEW SMALL MODULAR NUCLEAR REACTOR IN THIS STATE WITHOUT FILING  
30 AN APPLICATION FOR OR RECEIVING A CERTIFICATE OF ENVIRONMENTAL  
31 COMPATIBILITY IF THE NEW SMALL MODULAR NUCLEAR REACTOR IS COLOCATED WITH A  
32 LARGE INDUSTRIAL ENERGY USER.



1           B. A NEW SMALL MODULAR REACTOR THAT IS CONSTRUCTED PURSUANT TO THIS  
2 SECTION SHALL COMPLY WITH ALL APPLICABLE FEDERAL, STATE AND LOCAL LAWS AND  
3 REQUIREMENTS.

4           C. THE COMMISSION SHALL ADOPT RULES TO IMPLEMENT THIS SECTION, WHICH  
5 SHALL INCLUDE THE COMMISSION'S DEFINITION FOR EACH OF THE FOLLOWING TERMS:

6           1. COLOCATED WITH. THE COMMISSION'S DEFINITION SHALL SPECIFY ONE OR  
7 BOTH OF THE FOLLOWING:

8           (a) THE DISTANCE IN FEET OR PARCELS BETWEEN THE SITE OF A LARGE  
9 INDUSTRIAL ENERGY USER AND THE SITE OF A SMALL MODULAR NUCLEAR REACTOR.

10           (b) THE QUALITY OR NATURE OF THE ELECTRICAL INTERCONNECTION BETWEEN  
11 THE LARGE INDUSTRIAL ENERGY USER AND THE SMALL MODULAR NUCLEAR REACTOR.

12           2. LARGE INDUSTRIAL ENERGY USER. THE COMMISSION'S DEFINITION:

13           (a) SHALL SPECIFY THE PEAK OR AVERAGE ANNUAL OR MONTHLY ENERGY  
14 DEMAND OF THE USER THAT IS MEASURED IN MEGAWATTS OR MEGAWATT HOURS.

15           (b) MAY NOT DISCRIMINATE BETWEEN DIFFERENT:

16           (i) INDUSTRIES, SECTORS OR END USERS, THE OWNERS OR OPERATORS OF  
17 SUCH END USERS OR THE PROPOSED LOCATIONS OF END USERS.

18           (ii) END USERS IN ANY OTHER CAPACITY BEYOND THE USE OF ENERGY DEMAND  
19 AND OTHER ELECTRICAL-RELATED OPERATING NEEDS OR CHARACTERISTICS.

20           3. SMALL MODULAR NUCLEAR REACTOR. THE COMMISSION'S DEFINITION:

21           (a) SHALL ESTABLISH A MAXIMUM ELIGIBLE NAMEPLATE RATING FOR EACH  
22 SMALL MODULAR NUCLEAR REACTOR. FOR THE PURPOSES OF THIS SUBDIVISION, THE  
23 COMMISSION SHALL TREAT EACH SEPARATE NUCLEAR GENERATING UNIT AND THE  
24 NAMEPLATE RATING ASSOCIATED WITH EACH SEPARATE NUCLEAR GENERATING UNIT AS A  
25 SEPARATE SMALL MODULAR NUCLEAR REACTOR, CONSISTENT WITH THE DEFINITION OF  
26 PLANT AS DEFINED IN SECTION 40-360. THE MAXIMUM ELIGIBLE NAMEPLATE RATING  
27 THE COMMISSION ESTABLISHES PURSUANT TO THIS SUBDIVISION MAY NOT BE LESS  
28 THAN ONE HUNDRED MEGAWATTS.

29           (b) MAY DISCRIMINATE BETWEEN DIFFERENT NUCLEAR REACTOR TYPES OR  
30 CLASSIFICATIONS OR REACTORS THAT INCLUDE OR ARE OTHERWISE MANUFACTURED WITH  
31 CERTAIN MINIMUM BUILT-IN SAFETY FEATURES OR REDUNDANCIES, IF SUCH  
32 DISCRIMINATION IS REASONABLE AND CONSISTENT WITH THE TYPES OR

1 CLASSIFICATIONS THAT ARE ADOPTED OR RECOGNIZED BY THE UNITED STATES NUCLEAR  
2 REGULATORY COMMISSION.

3 D. THE COMMISSION MAY ADOPT DEFINITIONS FOR ANY OTHER TERMS THE  
4 COMMISSION DEEMS REASONABLE OR NECESSARY TO CARRY OUT THIS SECTION.

5 E. THIS SECTION APPLIES ONLY IN A COUNTY WITH A POPULATION OF LESS  
6 THAN FIVE HUNDRED THOUSAND PERSONS."

7 Amend title to conform

GAIL GRIFFIN

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