

Ariz. leaders look anew at land reform

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Voters may get another chance this year to make preservation of large swaths of the state's unspoiled desert and mountains more affordable for taxpayers.

Gov. Janet Napolitano has gathered key players to hammer out legislation that would change the way Arizona conserves - or develops - its open desert.

Ever since Congress made Arizona a state in 1912, the only way to sell state trust land to raise money for schools has been to sell parcels to the highest bidders at or above appraised values.

Thousands of the state's remaining 9.2 million acres of undeveloped trust land abut municipalities all over Arizona.

"In my viewpoint, that's 9.2 million acres of state trust land that we're not making the highest and best use of because we're stuck in dealing with it as we would in the early 19th century as opposed to the early 21st century," Napolitano said when she issued a call for a 2008 referendum on state trust land reform.

Fast-growing cities see the pristine land as a prime lure for tourism and recreation. They and many conservationists want to save some of it from development.

But the public frequently is outgunned, outfunded and overwhelmed when forced to compete with private developers at land auctions.

Negotiations slow going

Cities and environmental groups have plans to conserve land in Pima County, Phoenix, Scottsdale, Tucson, Flagstaff and smaller communities.

A defeated 2006 ballot measure would have made 700,000 acres available for cities and other agencies to acquire either free or off the auction

block for potentially less than open bidding would bring.

Trust land was granted to Arizona at statehood, with the federal government reasoning that sales would fund schools and other public agencies. Trust-land auctions continue to help fund classrooms. The State Land Department decides when it can get a good price for land and then puts it up for auction.

But that builds in a conflict - one not foreseen in the 19th century - with conservationists and cities saying it is also a priority to preserve open land for future generations.

Although the governor and legislators are still haggling over details of a new proposal to present to voters this year, the new measure would allow cities and conservationists to buy some of the acres without facing developers at auction.

Sen. Jake Flake, R-Snowflake, said that from his seat at the negotiating table, current talks started off not doing much better than past trust-land reform measures.

"I think it's bogged down just like the rest of them have," Flake said. "The environmentalists want too much land, and the owners of the trust (primarily the schools) don't want to conserve that much land."

Flake said the group hopes to find some middle ground this week.

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The measure is expected to include trust lands designated as suitable for preservation in a 1996 law known as the Arizona Preserve Initiative, which was shelved about six years ago because of a constitutional challenge that never reached a court.

A new bill, if passed by the Legislature, would place a measure on the ballot asking voters to change the state Constitution. If voters approve, Congress, which originally mandated the auctions, would have to agree.

The outcome would be felt from the smallest Arizona town to the largest cities.

Road to agreement

Conservationists say they know a new measure must be palatable to powerful interests who could overwhelm the Nov. 4 election. Arizona cattle growers, who enjoy low-cost leases on much of the land, and home builders, who see the land as raw material for new houses, helped take down the 2006 initiative with a competing ballot measure of their own. Both failed at the polls.

Key to the effort this time could be Napolitano's leadership.

The last initiative was negotiated over many months with leaders from education, conservation and developers. But it may have suffered from complexity.

"We've seen various Christmas-tree approaches," said Sandy Bahr, conservation-outreach director of the Sierra Club's Grand Canyon Chapter. "Our message is to keep it as simple as possible in order to make it clear to the Legislature what is happening, to make it clear to the public and to Congress, because ultimately, at least some of the things would require an enabling act change."

The governor's efforts may be more appealing to traditional opponents this time around.

Those who have seen early drafts said that Napolitano is standing firm on some key points: She wants more funding for the State Land Department, and she wants lands to be sold for their appraised values.

Details of the referendum are still being worked out in a working group, but legislators are consulting key constituencies as the bill takes shape.

"As long as it protects the trust and protects the cattlemen, we're all for it," said C.B. "Doc" Lane, executive vice president of the Arizona Cattle Growers Association. "We're working with them."

Lane said the group would not oppose selling urban lands for appraised value - in general.

"It may sound good in generic language," Lane said. "We need to see the legislative language."

Phoenix builds preserve

The issue of trust-land reform is felt most acutely by cities that want to preserve open land before suburban sprawl takes over.

Phoenix, which has been building the Sonoran Preserve for years, has its officials talk weekly with the State Land Department to negotiate complex plans. The city still must acquire more than 18,000 acres of state trust before the 22,000-acre preserve is complete.

Dave Richert, senior executive assistant to Phoenix's city manager, works closely with the State Land Department. He informally advises groups

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and cities in Pima County, Flagstaff and other areas that may have the money but lack the expertise of pushing through the state-land process.

The reform could lift a lot of weight.

"It would make a lot of things go quicker and easier," Richert said. "We don't want to get in a situation where our purchases are (legally) challenged."

Richert said the best deals conserve land but increase value for surrounding property - enriching the trust's beneficiaries, schools and other agencies, while saving Arizona's unspoiled desert.

"Nobody anticipated this back when Arizona became a state," Richert said. "Somebody was forward-thinking in terms of those beneficiaries. I just think this whole process has to be melded so we can start planning for those beneficiaries."

Scottsdale case

A recent Scottsdale trust-land case may help motivate cooperation, some conservation proponents said.

With voter approval, the city has been working to acquire 36,600 acres for its McDowell Sonoran Preserve. The city already has spent more than \$361 million and has yet to bid on 19,000 acres of state trust land to help fill it out.

One piece, 383 acres, luxury-home builder Toll Brothers acquired in 2004 as part of a larger state-land auction.

The city hoped to pay the builder less than \$44 million, nearly \$115,000 an acre, for the piece it wanted. But the two sides couldn't come to terms. The city condemned the land and met Toll Brothers in court.

On Jan. 25, a jury set the price for the 383 acres at \$81.9 million, or nearly \$214,000 an acre. The Scottsdale City Council will decide Tuesday whether to appeal.

"If this is a bitter pill to swallow, it may be a wake-up call," said Len Marcisz, chairman of the McDowell Sonoran Conservancy.

Everybody needs to work together if reform for state trust land is to pass, he said. Rural and small-town Arizonans may feel the lack of reform more five or 10 years from now.

"You can't make more land," said Carla, the one-named Scottsdale conservation activist who helped spearhead the 2006 campaign.

"The key is for the major players involved to swallow hard and say, 'I can live with this,' " Carla said.

"A lot of communities have open space plans," Carla said. "The one thing we can all agree on is that without state-land reform, we're not going to get there."

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