

ARIZONA STATE SENATE

45TH LEGISLATURE
SECOND REGULAR SESSION

MINUTES OF COMMITTEE ON NATURAL RESOURCES, AGRICULTURE AND ENVIRONMENT

DATE: April 25, 2002 **TIME:** 8:30 a.m. **ROOM:** SHR 1

CHAIRMAN: Senator Herb Guenther **VICE CHAIRMAN:** Senator Darden Hamilton

ANALYST: Kerri Morey **COMMITTEE SECRETARY:** Debbee Kennedy

INTERNS: Jocelyn Winz
Adam Van Buskirk

ATTENDANCE

BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Arzberger	X			HB 2033	DPA/SE
Senator Brown	X			HB 2063	DPA/SE
Senator Bundgaard	X			HB 2106	FAILED
Senator Jarrett		X		HB 2130	DPA/SE
Senator Richardson		X		HB 2655	HELD
Senator Smith	X			HB 2411	DPA/SE
Senator Hamilton, Vice-Chairman	X				
Senator Guenther, Chairman		X			

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
-------------	-----------------	-----------------------

Tape 1, Side A

Senator Hamilton called the meeting to order at 8:40 a.m., and attendance was noted. For additional attendees, please see attached sign-in sheet (Attachment A).

CONSIDERATION OF BILLS

H.B. 2655 – ~~aggregate mining community notice act~~ (now: aggregate mining; operation; zoning; fund) – HELD

Senator Hamilton announced that the following bill would be held: H.B. 2655 – ~~aggregate mining community notice act~~ (now: aggregate mining; operation; zoning; fund).

H.B. 2063 - water resources; annual report

Denisse Gee, Senate Finance Research Analyst, stated that the strike-everything amendment dated 4/23/02 at 2:30 p.m. freezes valuations for existing electric generation properties for tax year 2003 and creates an allocation method to distribute the values to the taxing jurisdictions. A Joint Legislative Budget Committee (JLBC) fiscal note has been requested.

Mark Killian, Director, Department of Revenue (DOR), stated that he was there on behalf of Governor Hull to express her concern about a particular part of the bill as it relates to the allocation language. She has instructed Mr. Killian to work with Senator Brown and the industry to come up with language that everyone can agree to. The concern is that they want to be able to solve a number of problems that impact a number of counties on the allocation of the values across the statewide allocation.

Senator Smith asked if this bill had to do with deregulation. Mr. Killian stated that they had assumed that by now they would be fully matured in deregulation and it has not quite occurred yet. He further stated that industry has a different view as to how the allocation should occur.

Russell Smoldon, Salt River Project (SRP), stated that when the deregulation bill passed in 1998, it changed how DOR looks at utility property. It was no longer just utilities. The utilities were facing some issues associated with their formulas that had to do with decommissioning costs and regulated assets versus non-regulated assets. They now had wholesalers that were not utilities. They had to figure out how to tax the wholesalers. They worked on a compromise with everyone that was pushed through the Legislature two years ago. This bill states that the values will be frozen for this year as were the values last year so there will be some stability. The utilities are responsible for backfill. They pay the difference of what is lost in value because of electrical generation changes and allocation and what they would have had. This year they are faced with the same thing. They recommend that the Legislature pass a full-time fix to this allocation problem.

In response to Senator Hamilton asking how this would affect assessments at the county level, **David Brown, County Supervisor, Apache County Board of Supervisors**, stated that the amendment would shift some of the allocation evaluation from Maricopa County to those counties

mentioned by Mr. Smoldon, Coconino, Navajo and Apache. The shift is going back to what it should have been. He stated that they support this amendment.

Senator Hamilton announced the following individuals were present in support of the bill: **Jim Norton, Lobbyist, El Paso Electric Company; Gretchen Kitchel, Senior Public Affairs Representative, Pinnacle West and Arizona Public Service (APS); Tom Jones, CEO, Grand Canyon State Electric Cooperative Association; Larry Lucero, Manager Governmental Affairs, Tucson Electric Power Company; Clarence Bigelow, County Manager, Apache County; and Martin Shultz, VP Pinnacle West Capital Corporation-APS.**

Senator Hamilton announced that they did not have a quorum and would be voting on the bills later when they have a quorum.

H.B. 2033 - small water systems fund

Jocelyn Winz, Senate Intern, stated that the strike-everything amendment clarifies that the Arizona Department of Environmental Quality (ADEQ) retains the ability to take enforcement actions to address violations of water quality standards and permit conditions.

Senator Hamilton announced the following individuals were present in support of the bill: **Jim Buster, Legislative Liaison, ADEQ; Richard Alan Bark, Attorney, Gallagher & Kennedy, Greater Phoenix Chamber of Commerce; and Yvonne Hunter, Lobbyist, Pinnacle West Capital Corporation/APS.**

H.B. 2106 - property tax classification; conservation easement

Tamara Mulembo, Finance Research Intern, stated that this bill reclassified, as class six property, real property subject to a conservation easement beginning in the 2003 valuation year. According to JLBC, this bill will cost the State general fund \$862,500 in fiscal years 2004-2005 and 2005-2006.

Michael Racy, Lobbyist, Pima County, stated that this bill proposes that if a property owner voluntarily establishes a conservation easement on their property pursuant to the Uniform Conservation Easement Act and that easement is accepted and administered by a recognized conservation entity land trust governmental organization. The property owner may qualify for the five percent historical property assessment ratio rather than the assessment ratio that would otherwise apply to that property which would generally be either the vacant and or the residential property classification. This is an incentive for property owners to establish conservation easements on properties that have significant riparian or other assets and are worthy of preservation. They do not, however, agree with the JLBC analysis of fiscal impact while the reduction in the assessment ratio will have some fiscal impact. As the fiscal note indicated, their conservation easements that exist in Pima County would exist in all other counties. The value would be less than what is projected and less than the routine increases in value that take place every year.

In response to Senator Smith, Mr. Racy stated that the property has to be accepted by one of the recognized conservation entities and it has to follow a number of steps and requirements that are set forth in the State's adopted Uniform Conservation Easement Act.

Kevin McCarthy, President, Arizona Tax Research Association, stated that they are in opposition to this bill. The problem in that tax system is that there is a classification system that discriminates from one property to the next. This has resulted in business property taxes in Arizona now being some of the highest in the United States. The new class of property would not have a tax burden equal to homeowners. The new class of property, which is now class 6, receives for business property taxes an 80 percent reduction in tax liability. The system is clearly broken. The problem is that it is a lot easier to make decisions in isolation and allow taxpayers to evacuate either the business class at 25 percent or the vacant land and agricultural Class at 16 percent and get into the classification with 5 percent. It is a lot easier to do that rather than to fix this system that is broke and needs to maintain equity. The only resolution is to stop providing tax breaks to businesses and vacant property that complicate the long term goal of fixing the tax system. When they voluntarily put their property in a conservation easement that has a huge impact on the value of the property, they want it twice. They want an evaluation break and then be taken out of the agricultural class and put in the class 6 for a double reduction.

Senator Arzberger asked if there were any businesses from Cochise County on his list. Mr. McCarthy stated in the near future there will be more businesses in rural Arizona taking advantage of the tax break.

Senator Hamilton announced the following individuals were present in support of the bill: **James Walsh, Consultant, Grand Canyon Trust; Lori Faeth, Director of Government Relations, The Nature Conservancy of Arizona; and Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter.**

H.B. 2130 - hazardous waste facility; notice; hearing – DO PASS AMENDED/STRIKE EVERYTHING

Kerri Morey, Senate Research Analyst, stated that the strike-everything amendment exempts certain permits that are reviewed by the U.S. Environmental Protection Agency (EPA) from the overall licensing timeframe for that permit. The licensing timeframes exemption applies only to Arizona pollutant discharge elimination system permits and air permits for major sources that are subject to Title V of the Federal Clean Air Act.

Senator Smith asked about the necessity for this bill. Ms. Morey stated that part of the regulatory reform effort over the past two years has been implementation of licensing timeframes. This sets a time limit on how long an agency has to make a final decision on a permit. These two particular permits are always reviewed by the EPA who is not subject to the same timeframes. This bill exempts the permits once they go to the EPA for review from the State licensing timeframes.

Senator Hamilton announced the following individuals were present in support of the bill: **Jim Buster, Legislative Liaison, ADEQ; Richard Alan Bark, Attorney, Gallagher & Kennedy,**

Greater Phoenix Chamber of Commerce; and Yvonne Hunter, Lobbyist, Pinnacle West Capital Corporation/APS.

Senator Brown moved H.B. 2130 be returned with a DO PASS recommendation.

Senator Brown moved the Guenther strike-everything amendment dated 4/23/02 at 10:55 a.m. ADOPTED (Attachment A). The motion CARRIED by a voice vote.

Senator Brown moved H.B. 2130 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-0-3 (Attachment 1).

APPROVAL OF MINUTES

Senator Smith moved the Natural Resources, Agriculture and Environment minutes from April 11, 2002 be approved as distributed. The motion CARRIED by a voice vote.

H.B. 2063 - water resources; annual report – DO PASS AMENDED/STRIKE EVERYTHING

Senator Brown moved H.B. 2063 be returned with a DO PASS recommendation.

Senator Brown moved the Brown strike-everything amendment dated 4/23/02 at 2:30 p.m. be ADOPTED (Attachment C). The motion CARRIED by a voice vote.

Senator Brown moved H.B. 2063 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-0-3 (Attachment 2).

H.B. 2033 - small water systems fund – DO PASS AMENDED/STRIKE EVERYTHING

Senator Brown moved H.B. 2033 be returned with a DO PASS recommendation.

Senator Brown moved the Guenther strike-everything amendment dated 4/23/02 at 4:19 p.m. be ADOPTED (Attachment D). The motion CARRIED by a voice vote.

Senator Brown moved H.B. 2033 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-0-3 (Attachment 3).

H.B. 2106 - property tax classification; conservation easement – FAILED

Senator Brown moved H.B. 2106 be returned with a DO PASS recommendation. The motion FAILED by a roll call vote of 2-3-3 (Attachment 4).

H.B. 2411 - auditor general; flood control districts – DO PASS AMENDED/STRIKE EVERYTHING

Adam Van Buskirk, Senate Intern, stated that in 2000, the Legislature passed a set of performance objectives for the ADEQ as part of the agency's continuation bill. One of the objectives is that the Department take final action on Title V air quality permits by June 30, 2002. The amendment exempts Title V sources from the performance objectives, if the sources waive issuance of the permit or if the EPA objects to a final proposed permit.

Jim Buster, Legislative Liaison, ADEQ, stated that if the EPA holds up the process, it will not count against them getting a license out in a timely fashion.

Senator Hamilton announced the following individuals were present in support of the bill: **Richard Alan Bark, Attorney, Gallagher & Kennedy, Greater Phoenix Chamber of Commerce; and Yvonne Hunter, Lobbyist, Pinnacle West Capital Corporation/APS.**

Senator Brown moved H.B. 2411 be returned with a DO PASS recommendation.

Senator Brown moved the Guenther strike-everything amendment dated 4/23/02 at 10:32 a.m. be ADOPTED (Attachment E). The motion CARRIED by a voice vote.

Senator Brown moved H.B. 2411 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 5-0-3 (Attachment 5).

There being no further business, the meeting adjourned at 9:45 a.m.

Respectfully submitted,

Debbie Kennedy
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room, 115.)