

ARIZONA HOUSE OF REPRESENTATIVES
Forty-ninth Legislature – Second Regular Session

COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY

Minutes of Meeting
Wednesday, January 20, 2010
House Hearing Room 3 -- 9:00 a.m.

Chairman Weiers called the meeting to order at 9:00 a.m. and the secretary called the roll.

Members Present

Mr. Crump
Ms. Fleming

Mr. Seel
Mr. Stevens

Mr. Gowan, Vice-Chairman
Mr. Weiers JP, Chairman

Members Absent

Mrs. McGuire (excused)

Mr. Patterson (excused)

Committee Action

HB2131 – DP (6-0-0-2)
HB2188 – DP (6-0-0-2)

HB2197 – DP (6-0-0-2)
HCR2007 – DP (6-0-0-2)

Chairman Weiers introduced Representative David Stevens and welcomed him to the Committee.

CONSIDERATION OF BILLS:

HB2131 – department of juvenile corrections; continuation – DO PASS

Vice-Chairman Gowan moved that HB2131 do pass.

Nicholas Calderon, Majority Intern, stated that HB2131 continues the Arizona Department of Juvenile Corrections (ADJC) for five years (Attachment 1). The bill contains a purpose section, a retroactivity date of July 1, 2010 and makes a technical and conforming change.

Mr. Seel questioned the five-year extension. Chairman Weiers explained that with the situation the state is in now, the Committee of Reference on the Department of Juvenile Corrections recommended a five-year rather than a ten-year extension, not knowing what the future would bring and that things change so rapidly when dealing with juveniles. He commended the Department for the incredible job it does and what has been accomplished.

Vice-Chairman Gowan announced the names of those who signed up in support of HB2131 but did not speak:

James Mann, Arizona Fraternal Order of Police

Mary Marshall, Public Information Officer/Legislative Liaison, Arizona Criminal Justice Commission

Beth Rosenberg, Children's Action Alliance, testified in support of the continuation of the Department of Juvenile Corrections as opposed to taking youth away from secured confinement. The Alliance believes the Department has done a good job in terms of trying to change the programming and provide rehabilitative services to children. She concurs with the Governor's proposal that juveniles need to be in their community, close to home, with evidence-based programs that support them. She does not believe there should be a policy shift without a great deal of study and planning. She asked Members to support this proposal.

Luis Ebratt, President, Arizona Probation Officers Association (AZPOA) and Arizona Conference of Police and Sheriffs (AZCOPS), in support of HB2131, stated that there is a lot of information available that says the Department is successful. The Department deals with the top ten percent of the most violent offenders that are adjudicated. He said he believes it would be a fatal mistake to release that type of individual into the communities because of the public safety involved.

John Stair, Vice President, Arizona Conference of Police and Sheriffs (AZCOPS), expressed support for the Department of Juvenile Corrections. AZCOPS believe they are doing a good job of providing rehabilitative services as well as community protection.

Question was called on the motion that HB2131 do pass. The motion carried by a roll call vote of 6-0-0-2 (attachment 2).

HB2188 – state trust lands; veterans' cemeteries – DO PASS

Vice-Chairman Gowan moved that HB2188 do pass.

Thomas Adkins, Majority Research Analyst, explained that HB2188, upon approval by the voters, requires the Legislature to provide for the use of State Trust Lands as veterans' cemeteries (Attachment 3).

Ms. Fleming expressed concern for the use of these lands. She pointed out that no limitations are included in the bill and wondered if there are any restrictions that define limits on the state over these Trust Lands. Mr. Adkins advised that the language in the bill leaves that discretion to the Department of Veterans' Services according to need. The only limit is based on need.

Ms. Fleming asked for the Department's position on this. Chairman Weiers stated that the Department has to be neutral on the bill. In response to the query on limits, he advised that the limits are parcels of 250 acres of land. He related that the federal government is willing to pay for 100 percent of the project; the state has to pay 10 percent initially and that 10 percent will then be reimbursed when the project is finished. In a meeting with the Director of Veterans' Cemeteries in Washington, D.C., he learned that the number one place in the nation that needs a

Veterans' cemetery is Tucson, Arizona, and this bill addresses that need. The families of people who have served their country should not have to travel a hundred plus miles to visit their loved ones. The intent of the bill is to pay respect that is due to these veterans who have served their country. He revealed that the teachers' unions oppose this bill because it might open State Trust Lands up to other uses; however, he pointed out that this would involve a maximum of four cemeteries in Arizona of parcels of up to 250 acres. He pointed out that this proposal has to go before Congress as well.

Vice-Chairman Gowan announced the names of those who signed up in opposition to HB2188 but did not speak:

Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

Vanessa Hickman, Arizona State Land Department, testified as neutral on HB2188. She related that the mission of the State Land Department is to manage the land and to maximize the revenue for the current beneficiaries of the Trust. She said that each acre is currently designated for an existing beneficiary and that this is a combination of the Enabling Act, the Constitution and current statutory authority. The Land Department would like to see what acreage is contemplated to identify some Trust Lands that would be viable. She reiterated that it would take an act of Congress to make this happen. If it is the will of the voters to designate State Land for a cemetery, the Department will be supportive of that effort.

Mr. Seel asked whether it is the best and proper use to use a portion of State Land for this purpose. Chairman Weiers stated that Ms. Hickman, being neutral, cannot answer that question. Mr. Seel questioned whether it is legal to use State Trust Lands for this purpose. Ms. Hickman said that her understanding is that the way the law is written, it probably would not be permissible to give away State Trust Lands. If there was compensation and an evaluation as to whether that is the highest and best use, it might be permissible. She said she would leave that to Legislative Council to determine whether it is legal.

In response to Vice-Chairman Gowan, Ms. Hickman said that *best use* means maximizing the revenue. She said she believes the founders envisioned that the use of the land would be for the common schools. She said she will research to see if there were any other arguments made that the best use would be for a purpose such as a veterans' cemetery. She understands that one of the purposes of the Enabling Act was for the benefit of the common schools.

Jennifer Loreda, Arizona Education Association (AEA), stated strong opposition to HB2188. She revealed that 87 percent of all State Trust Lands benefits school children. *Best use* means the land is sold at auction, the money put into the Trust and the beneficiaries receive interest from the Trust earnings. One of the Association's concerns is that the language is open-ended; it talks about parcels of land of up to 250 acres; however, it does not specify the number of parcels. She stated that one thing that can be done is to lease the land but said the value of the land for the Trust would be lost because once it is used for a cemetery, it could never be leased for another purpose. She said that a veterans' cemetery is a noble cause but wondered what would happen if other noble causes come up in the future. When other states changed the Enabling Act and the Constitution, they started using Trust Lands for other purposes. AEA is very protective of this land and wants to ensure that the beneficiaries are protected.

In response to Mr. Stevens' query about the amount the Trust received from leasing, Ms. Loredo relayed that currently the Trust account is \$2.1 billion; the proceeds go to schools and other entities that receive a small portion of the earnings. Mr. Stevens asked which leased parcels bring in the most money and which bring in the least, and how much of the land is not leased. Ms. Loredo deferred to the Land Department to answer those questions.

Ms. Hickman advised that the majority of the land is leased for agricultural purposes. Land that is designated as residential is generally sold while commercial land is leased for 99 years. Parcels at the edge of urban areas generally have a higher value. She said she will follow up on the receipts that were grossed last year for commercial purposes.

In answer to Chairman Weiers, Ms Hickman related that when disposing of property, an analysis is done on the best use of the property and a determination is made on whether it makes sense to sell the property.

Mr. Seel asked about trading land. Ms. Hickman advised that the Land Department is currently prohibited by law from trading land. Vice-Chairman Gowan questioned whether that is because of the Constitution or statute. Ms. Hickman said she believes it is statutory but will look into that.

Discussion ensued on the intent of the bill and leasing of land.

Vice-Chairman Gowan queried whether leasing is in the Enabling Act or whether it is case law. Ms. Hickman said she does not believe the Act specifically says lease or sale; instead it specifies *best use*.

Question was called on the motion that HB2188 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 4).

HCR2007 – state trust lands; veterans' cemeteries – DO PASS

Vice-Chairman Gowan moved that HCR2007 do pass.

Thomas Adkins, Majority Research Analyst, stated that HCR2007, upon approval by the voters, requires the Legislature to provide for the use of State Trust Lands as veterans' cemeteries (Attachment 5).

Chairman Weiers advised that this legislation allows the issue to go to the ballot. He related that the Director of Veterans' Cemeteries in Washington, D.C. made it very clear that Arizona is tops in priority as far as needing veterans' cemeteries because of the number of people who retire here.

Vice-Chairman Gowan announced the names of those who signed up in opposition to HCR2007 but did not speak:

Jennifer Loredo, Arizona Education Association

Janice Palmer, Government Relations Analyst, Arizona School Boards Association

Question was called on the motion that HCR2007 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 6).

HB2197 – school bus inspections; rules – DO PASS

Vice-Chairman Gowan moved that HB2197 do pass.

Nicholas Calderon, Majority Intern, said that HB2197 allows the inspection of school buses to be conducted according to rule (Attachment 7). The bill removes the responsibility of annually inspecting all registered school buses from the Department of Public Safety (DPS) and makes technical and conforming changes.

In answer to Mr. Seel, Chairman Weiers explained that this proposal is the same bill that was heard last year. This legislation saves the state money by giving schools the opportunity to do their own inspections and to have repairs made by someone who repairs buses. He maintained that a school bus mechanic is the best person to repair and inspect the buses.

Vice-Chairman Gown announced the names of those who signed up as neutral on HB2197 but did not speak:

Lynn Ideus, Department of Public Safety (DPS)

Question was called on the motion that HB2197 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 8).

Without objection, the meeting adjourned at 9:50 a.m.

Joanne Bell, Committee Secretary
January 25, 2010

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at <http://www.azleg.gov>)