

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

COMMITTEE ON ENVIRONMENT

Minutes of Meeting
Tuesday, February 2, 2010
House Hearing Room 5 -- 2:00 p.m.

Chairman Barnes called the meeting to order at 2:36 p.m. and attendance was noted by the secretary.

Members Present

Mr. Ableser
Ms. Garcia M
Mr. Jones

Mrs. McGuire
Mr. Quelland

Mr. Pratt, Vice-Chairman
Mr. Barnes, Chairman

Members Absent

Mrs. Mason (excused)

Committee Action

HB2165 – Held One Week
HB2248 – ~~DP~~ FAILED (3-3-0-2)

HB2442 – DPA (5-2-0-1)

CONSIDERATION OF BILLS:

HB2165 – vehicle emissions testing; onboard diagnostics – HELD ONE WEEK

Chairman Barnes announced that HB2165 will be held one week.

HB2442 – greenhouse gas emissions; regulations – DO PASS AMENDED

Justin Riches, Majority Research Analyst, advised that HB2442 prohibits a state agency from adopting or enforcing a state or regional program to regulate greenhouse gas emissions without express legislative authorization (Attachment 1).

Mr. Riches explained that the Barnes 13-line amendment dated 1/29/10 to HB2442 requires that the state fiscal, economic, consumer and business impact of any state or regional cap-and-trade program addressing greenhouse gases must first be examined and receive legislative authorization prior to implementation (Attachment 2).

Mr. Riches explained that the Barnes 18-line amendment dated 2/1/10 to HB2442 requires that a supplemental environmental project initiated or accepted by the Department of Environmental Quality (DEQ) shall comply with this section, shall advance at least one of the objectives of the environmental statutes that are the basis of the enforcement action and shall have an adequate nexus (Attachment 3). He said that a nexus exists only if any of the following apply:

- The proposed project is designed to reduce the likelihood that similar violations will occur in the future.
- The proposed project reduces the adverse impact to public health or the environment to which the violation contributes.
- The proposed project reduces the overall risk to public health or the environment potentially affected by the violation.

Chairman Barnes stated that the Western Climate Initiative (WCI) is synonymous with a cap-and-trade program. He believes that WCI is trying to force cap-and-trade throughout the states it represents. He brought up the DEQ/Honeywell settlement where Honeywell was required to pay \$1 million to WCI without the Legislature knowing anything about it. He said the issue for him is how to maintain a relationship with WCI without becoming involved with that organization.

Jim Buster, Legislative Liaison, Arizona Department of Environmental Quality (ADEQ), advised that ADEQ supports the proposed amendments.

In response to Mr. Ableser, Mr. Buster related that the Department also supports the bill which requires consultation with the Legislature. ADEQ believes that is an important part of the process.

Ben Grumbles, Director, Arizona Department of Environmental Quality (ADEQ), advised that the Governor's position is that it is very important to stay engaged with WCI and to participate in discussions. ADEQ is supportive of HB2442 which clarifies that even though the state wants to continue to participate in discussions, it is not supportive of moving forward with the cap-and-trade proposal. He expressed support of the amendments to the bill.

In reply to Mr. Ableser, Mr. Grumbles said that the agency's view, as well as the Governor's view, is to look for cost-effective ways to reduce greenhouse gas emissions. The bill states that if a cap-and-trade approach is used, the Legislature must be involved and give express approval. He stated that this legislation, with the amendments, is not intended to prevent ADEQ from regulating potential threats to public health. The intent of the 13-line amendment is to clarify that if some new cap-and-trade system is being developed, the Legislature needs to provide legislative authority for that kind of system.

Mr. Ableser noted that the underlying bill prohibits ADEQ from adopting and enforcing programs to reduce greenhouse gases. Mr. Grumbles said he believes the bill provides that a state agency may not adopt or enforce a state or regional greenhouse gas reduction regulatory approach unless the Legislature provides express approval. Mr. Ableser stated that there are other ways to regulate greenhouse gases and that cap-and-trade systems do not have to be used. He again related that the bill prohibits ADEQ regulation. Mr. Grumbles said the intent of the bill is to remove one specific way to regulate greenhouse gas regulation unless the Legislature has

expressly authorized that approach. Cap-and-trade is one approach to regulate. This legislation says it is still possible to do that but legislative approval is needed.

Chairman Barnes stated that cap-and-trade has to be addressed in order to address what WCI intends to do. He said the only reason the state does not want to do business with WCI is that their mandate is to move forward with cap-and-trade, and in spite of that, the state wants to stay in contact with them.

Mr. Ableser again asked whether there are other ways for ADEQ to regulate emissions other than cap-and-trade. He said he is trying to understand why this legislation only references cap-and-trade.

Mr. Grumbles noted that the primary purpose of WCI, not the sole purpose, is to develop a regional cap-and-trade regulatory system, and he again stated that this bill provides that such a system cannot be adopted or enforced unless there is legislative authorization. It is important to stay engaged in discussions with WCI because additional knowledge can be learned that can help the state in a competitive way in promoting and providing incentives for clean and renewable energy and energy efficiency.

Discussion ensued on whether a cap-and-trade regulatory system is the only way to reduce greenhouse gas emissions. Mr. Grumbles acknowledged that there are a variety of other programs the state can utilize to address greenhouse gas emissions.

Chairman Barnes said the focus of the bill is on cap-and-trade. He said the issue is whether the state is going to take direction from WCI on cap-and-trade.

Mr. Ableser claimed that this bill handicaps ADEQ and other state agencies in the regulation of air quality and utilizing other programs to regulate air quality.

Gary Yaquinto, President, Arizona Investment Council, in support of HB2442, spoke about the economic impacts that could result with a cap-and-trade system. He distributed a handout on "Pricing Emissions Presents Challenges" (Attachment 4) and said research has shown that economic impacts to the state would be negative with fewer jobs, lowered retail trade, less household income, lower population and rise in utility prices. He urged that there be a thorough understanding of the consequences that could result if these kinds of programs go forward.

Sandy Bahr, Conservation Director, Sierra Club – Grand Canyon Chapter, testified in opposition to HB2442. She stated that her understanding of this bill is to limit the state's ability to implement market-based programs relative to greenhouse gas emissions. The Sierra Club thinks that is a bad idea because it supports using all the tools in the toolbox to limit greenhouse gas emissions. Climate change is a challenge that should be addressed now for future generations. She opined that this bill limits looking at other options, such as market-based programs, in trying to address the problem.

Mr. Ableser asked that if this limits regional market-based programs, whether this also limits what the Environmental Protection Agency (EPA) implements for the state. Ms. Bahr replied in the negative because EPA is governed by Congress, not by the Legislature. With passage of this legislation, if EPA passes a regulation relating to greenhouse gas emissions and a state agency

tries to implement that regulation without getting legislative authority, she assumes there would be a challenge.

Vice-Chairman Pratt moved that HB2442 do pass.

Vice-Chairman Pratt moved that the Barnes 13-line amendment dated 1/29/10 to HB2442 be adopted (Attachment 2). The motion carried.

Vice-Chairman Pratt moved that the Barnes 18-line amendment dated 2/1/10 to HB2442 be adopted (Attachment 3). The motion carried.

Vice-Chairman Pratt moved that HB2442 as amended to pass.

Vice-Chairman Pratt announced the names of those who signed up in support of HB2442 but did not speak:

Allison Bell, Arizona Chamber of Commerce & Industry

Molly Greene, Lobbyist, SRP

Knox Kimberly, Lobbyist, Alliance of Automobile Manufacturers

Heather Bernacki, Government Relations Associate, East Valley Chambers of Commerce Alliance

Tom Dorn, Lobbyist, American Coalition for Clean Coal Electricity/Peabody Energy

Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce

Tom Jones, CEO, Grand Canyon State Electric Cooperative Association

Barbara Stockwell, Director, Trico Electric Cooperative

Penny Allee Taylor, Specialist/Government Affairs, Southwest Gas Corporation

Yvonne Hunter, Pinnacle West Capital Corp/APS

Bobbi Sparrow, Government Relations Director, Arizona Auto Dealers Association

Susie Stevens, Lobbyist, Western States Petroleum Association

Vice-Chairman Pratt announced the names of those who signed up in opposition to HB2442 but did not speak:

Peter Bengtson, representing self

Greg Stanton, Director of Legislative Affairs, Attorney General's Office

Gini McGirr, Legislative Chair, League of Women Voters of Arizona

Pat Vanmaanen, representing self

Daniel Patterson, State Representative, District 29, representing self

Question was called on the motion that HB2442 as amended do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 5).

HB2248, western climate initiative; prohibition – DO-PASS FAILED

Justin Riches, Majority Research Analyst, stated that HB2248 prohibits a state officer or state employee from participating in the Western Climate Initiative (WCI) (Attachment 6).

In response to Mr. Ableser, Mr. Riches advised that *state officer* is defined in statute. Mr. Ableser read the definition in statute: any person who is duly elected, appointed or retained

through election to any state office or any state board, commission, council or member of the Legislature.

Representative Andy Biggs, sponsor, explained that the Western Climate Initiative (WCI) was formed in 2007 to address global warming and the purpose was to form a regional cap-and-trade program. He referred to Mr. Grumbles' comment that Arizona should stay engaged with WCI to keep up with discussions on policies that WCI wants to implement:

- California Clean Car Standards - require all new vehicles sold to have 30 percent less emissions, phased in over seven years.
- Reduce the total amount of vehicle miles traveled by two percent by 2020.
- Energy policy – achieve a one percent reduction in the annual rate of electricity and natural gas demand growth.

Representative Biggs said that implementation of WCI's policies will result in a loss of at least 5,000 jobs and a reduction in Arizona's net worth of \$750 million. He submitted that if Arizona wants to make a statement, it needs to pull out of WCI. He said that Arizona does not have to be a partner in the WCI to obtain information because all the information is available on the Internet. He opined that to be formally part of an organization whose purpose is not just to reduce greenhouse gasses but to implement a regional cap-and-trade program is reckless. He said he believes that the state needs to make a strong statement; prohibiting the state from participating in the Western Climate Initiative is the way to do that.

Mr. Ableser asked what would happen if a state officer or employee participates in WCI. Representative Biggs replied that there is no penalty for participation. There is nothing in the bill that prohibits a person from participating as a private citizen; the bill prohibits a state officer or employee from participating as an official representative of the state of Arizona.

Mr. Ableser said the bill will prohibit him from representing his district. Representative Biggs reiterated that Mr. Ableser can participate as a private citizen.

Sandy Bahr, Conservation Director, Sierra Club – Grand Canyon Chapter, testified in opposition to HB2248 for many of the same reasons the Sierra club opposes HB2442. She opined that the bill sends a bad message: that Arizona does not take climate change and reducing greenhouse gas emissions seriously. The Sierra Club believes that if it is done right, reduction of greenhouse gas emissions can help keep energy costs under control, boost the economy and create new jobs. She encouraged Members to reject this bill.

Jim Buster, Legislative Liaison, Arizona Department of Environmental Quality (ADEQ), advised that the Director of ADEQ wants to go on record as opposing HB2248. He said he understands that if this bill passes, Arizona would be the only state in the Union precluded from even observing, in an official capacity, a regional climate association. ADEQ believes it needs to participate to protect Arizona's interests. Even though the Governor does not want to implement a cap-and-trade program, the state should be at the table to influence WCI in the right way should a cap-and-trade program occur.

In response to Chairman Barnes, Mr. Buster mentioned some of the positive things that the state has received from attendance at WCI. He again stated that Arizona wants to ensure it is

represented to make sure that California does not totally control the situation, since Arizona has a different agenda than California.

Vice-Chairman Pratt announced the names of those who signed up in support of HB2248 but did not speak:

Heather Bernacki, Government Relations Associate, East Valley Chambers of Commerce Alliance

Tom Dorn, Lobbyist, American Coalition for Clean Coal Electricity/Peabody Energy

Steve Voeller, President, Arizona Free Enterprise Club

Bobbi Sparrow, Government Relations Director, Arizona Auto Dealers Association

Vice-Chairman Pratt announced the names of those who signed up in opposition to HB2248 but did not speak:

Peter Bengtson, representing self

Magill Weber, Government Relations Association, The Nature Conservancy

Gini McGirr, Legislative Chair, League of Women Voters of Arizona

Rob Lane, Vice President of Legislative Affairs, representing self

Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce

Pat Vanmaanen, representing self

Chairman Barnes advised Members that voting for this legislation will take precedence over HB2442 because both bills cannot co-exist.

Vice-Chairman Pratt moved that HB2248 do pass. The motion failed by a roll call vote of 3-3-0-2 (Attachment7).

Without objection, the meeting adjourned at 4:01 p.m.

Joanne Bell, Committee Secretary
February 9, 2010

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