

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

COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY

Minutes of Meeting
Wednesday, February 3, 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

Ms. Fleming
Mr. Montenegro
Mr. Patterson

Mr. Seel
Mr. Stevens

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

Members Absent

Mrs. McGuire

Committee Action

HB2199 – DP (7-0-0-1)
HB2347 – DPA S/E (5-2-0-1)
HB2444 – DP (6-1-0-1)

HB2539 – DP (7-0-0-1)
HB2541 – DP (7-0-0-1)
HB2601 – DPA (7-0-0-1)

Chairman Weiers recognized Mr. Montenegro as the new Member of the Committee, replacing Mr. Crump.

CONSIDERATION OF BILLS:

HB2601 – eagle scouts; complimentary fishing license – DO PASS AMENDED

Vice-Chairman Gowan moved that HB2601 do pass.

Vice-Chairman Gowan moved that the Gowan five-line amendment dated 2/2/10 to HB2601 be adopted (Attachment 1).

Thomas Adkins, Majority Research Analyst, related that HB2601 requires the Game and Fish Commission to issue a lifetime complimentary Class A fishing license and trout stamp to all Eagle Scouts residing in Arizona (Attachment 2). The amendment removes this requirement and instead allows the Commission to issue a youth combination hunting and fishing license for a reduced fee to all Arizona Eagle Scouts (Attachment 1).

Chairman Weiers announced the names of those who signed up in support of HB2601 with the amendment but did not speak:

Jennifer Martin, Commissioner, Arizona Game and Fish Commission

Question was called on the motion that the Gowan five-line amendment dated 2/2/10 to HB2601 be adopted (Attachment 1). The motion carried.

Vice-Chairman Gowan moved that HB2601 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 3).

HB2541 – military duty; unemployment insurance – DO PASS

Vice-Chairman Gowan moved that HB2541 do pass.

Thomas Adkins, Majority Research Analyst, explained that HB2541 establishes guidelines for determining employers' Unemployment Insurance (UI) contributions following the active duty military service of employees and employers (Attachment 4).

Mr. Stevens asked whether the unemployment insurance is actually paid in the employee's name. Mr. Adkins said he is not sure but he will find out.

Mr. Seel queried whether there are costs associated with this change. Mr. Adkins replied that he has not been in touch with anyone on that issue.

Mr. Gowan, sponsor, explained that this legislation relates to an employee's unemployment insurance which increases when he goes on active-duty status as a Guardsman or Reservist. He asked Daren Venters to explain the situation.

Daren Venters, representing self, in support of HB2541, advised that Arizona has approximately 14,000 individuals who are in the National Guard or the Reserve; about 2,040 are currently on active-duty status. When a Guardsman or Reservist returns to his job from active duty, the temporary employee who was hired to take his place while he was gone is then terminated, and that would be charged against the unemployment insurance account. This bill addresses that situation; it protects small businessmen from that undue expense through no fault of their own.

In response to Chairman Weiers, Mr. Venters said he does not know anyone in Arizona this has happened to.

Question was called on the motion that HB2541 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 5).

HB2444 – department of liquor; transfer; DPS – DO PASS

Vice-Chairman Gowan moved that HB2444 do pass.

Thomas Adkins, Majority Research Analyst, explained that this is the same bill Members heard last week. The bill repeals the Department of Liquor Licenses and Control (DLLC) and transfers the State Liquor Board to the Department of Public Safety (DPS) (Attachment 6).

Steve Barclay, representing Beer and Wine Distributors of Arizona, in opposition to HB2444, told Members that in a meeting yesterday consisting of the Chairman, representatives from the beverage and hospitality industries and the Director of DLLC, everyone was in agreement with keeping the role of the DLLC intact. He advised that this legislation is a work in progress and said the Chairman voiced his intent to keep the bill moving and continuing to work to make the bill acceptable to all stakeholders. He said his organization is opposed to the bill in its current form but he hopes that the final bill will preserve the role of DLLC and provide the needed resources for DLLC to accomplish its mission.

Question was called on the motion that HB2444 do pass. The motion carried by a roll call of 6-1-0-1 (Attachment 7).

Chairman Weiers announced that he will allow Director Oliver to speak to the Committee even though the vote has been taken.

Jerry Oliver, Director, Department of Liquor Licenses and Control (DLLC), in ~~support of~~ **opposition to** HB2444, distributed a copy of a letter to Chairman Weiers responding to questions that arose at last week's meeting (Attachment 8). He said he would like to pursue an intergovernmental agreement with DPS that will identify a number of police officers who will be trained and will be available to work with DLLC officers. He said he believes DLLC can work with DPS and other law enforcement agencies and have the resources available to the investigators to do their work. He asked the Chairman to give Nick Gutilla and Jerry Lewkowitz the opportunity to speak.

Nick Guttilla, representing self, testified in opposition to HB2444. He advised that he has been representing liquor clients since 1972. He said the Liquor Department is more than just the enforcement arm with regard to the investigators; it also involves administration. His concern is that if DLLC is transferred to DPS, it will be one of several larger departments and its mission will be diminished.

Jerry Lewkowitz, representing self, in opposition to HB2444, testified that he also specializes in liquor law. He concurred with statements made by Mr. Guttilla.

Names of those who signed up in opposition to HB2444 but did not speak:

Don Isaacson, Arizona Licensed Beverage Association

Gregory Harris, Lobbyist, Southern Wine and Spirits

Sherry Gillespie, Government Relations Manager, Arizona Restaurant Association

Todd Baughman, Wine Institute

Norman Moore, Attorney, Arizona Licensed Beverage Association

William Weigele, President, Arizona Licensed Beverage Association

Mike Williams, representing Distilled Spirits Council of US

John Mangum, Arizona Food Marketing Alliance

Names of those who signed up as neutral on HB2444 but did not speak:

Brian Livingston, Executive Director, Arizona Police Association

Levi Bolton, Vice President, Phoenix Law Enforcement Association, representing self

HB2199 – state contracts; participation goals; veterans – DO PASS

Vice-Chairman Gowan moved that HB2199 do pass.

Nicholas Calderon, Majority Intern, stated that HB2199 requires the Director of the Arizona Department of Administration (ADOA) to establish a veteran-owned business participation goal of awarding three percent of procurement and disposal contracts to veteran-owned businesses (Attachment 8).

Mr. Stevens asked if there are guidelines as to how long a company has been in business.

Thomas Adkins, Majority Research Analyst, in answer to Mr. Stevens' question, said that the bill does not address that particular aspect.

Paul Smiley, CEO, Sonoran Technology, representing self, spoke in support of HB2199. He advised that this bill is his second-year effort to get this legislation passed and is modeled after federal legislation that sets aside three percent of contracts for disabled veterans. It does not ask the Department of Administration to change any of its procurement requirements. The veteran-owned businesses have to meet the same requirements as nonveteran-owned businesses. He noted that a number of contracts are awarded to businesses outside of Arizona. Awarding contracts to Arizona veteran-owned businesses keeps tax dollars within the state.

Mr. Patterson agreed that the state should be helping veterans. He questioned why the bill does not specify *disabled* veterans. Mr. Smiley said the bill was crafted to include all veterans, unlike the federal version which is limited to disabled veterans. Chairman Weiers advised that issue was discussed last year. He said he does not want to limit this to disabled veterans.

In response to Mr. Stevens' questions, Mr. Smiley said a provision might be included to specify that it must be a veteran-owned business in order to compete for those jobs. With respect to the composition of businesses, he said that the federal government lists classification codes to identify types of businesses.

Mr. Stevens queried whether the bill includes language that this will apply to Arizona businesses. Mr. Smiley answered that this applies to qualified Arizona veterans. It will allow veterans to compete at the same level as all business owners if they are qualified to do the job.

Mr. Seel questioned the number of veteran-owned businesses that might be eligible. Mr. Smiley advised that there are 350 veteran-owned businesses in Arizona.

Alan Ecker, Legislative Liaison, Arizona Department of Administration (ADOA), neutral on HB2199, pointed out that this legislation could potentially limit competition which can lead to increased prices. The state awards approximately \$4 billion in contracts, so three percent would

equate to \$120 million a year. He expressed concern with compiling a registry of veteran-owned businesses and said that could be a resource issue for the procurement staff because of specific requirements. He noted that the procurement staff has been reduced from 32 to 16 in the last two years. He referred to Mr. Smiley's comment on the federal classification codes listing veteran-owned businesses and said if that is required, he hopes the federal listing can be used which will be a savings to the state. He said he is willing to look into that.

Mr. Seel asked the number of other states that do something similar to this. Mr. Eckert said he does not know the number but knows that other states set aside awards for veterans. He pointed out that some states have procurement preference policies.

In response to Mr. Stevens, Mr. Ecker said the three percent threshold is based on a dollar amount, not on the number of contracts awarded.

Mr. Patterson noticed that the bill specifies that the home office has to be located in Arizona, not that the veteran has to be an Arizona veteran. Mr. Ecker stated that being an Arizona veteran meets the criteria of an Arizona business.

Mr. Seel asked whether the three percent will significantly reduce competition. Mr. Ecker said that is hard to say. If a list of businesses can be provided, it would make it easier to determine. He stated that any time percentages are carved out, it eventually impacts competition.

Mr. Montenegro queried whether the three percent threshold could be a backlash on veterans. Mr. Smiley related that the federal law has been in place for ten years and only one organization has met the threshold. Chairman Weiers commented that even if the three percent threshold is met, the veteran-owned business still has the opportunity to participate in the contract bidding process.

Question was called on the motion that HB2199 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).

HB2539 - employment; absence for military duties – DO PASS

Vice-Chairman Gowan moved that HB2539 do pass.

Nicholas Calderon, Majority Intern, explained that HB2539 grants members of the United States Armed Forces Reserves the same employment protections afforded to members of the Arizona National Guard (Attachment 10). In addition, the bill increases the penalty for breaking this law from a Class 3 misdemeanor to a Class 1 misdemeanor.

Daren Venters, representing self, in support of HB2539, stated that this legislation extends the same employment protections to members of the Reserves that it does to Guardsmen and increases the penalty for violations from a Class 3 misdemeanor to a Class 1 misdemeanor. The current statute is silent on who prosecutes a violator; this bill states that it is the county prosecutors.

In response to Mr. Seel, Mr. Calderon advised that a Class 3 misdemeanor carries a penalty of up to 30 days in jail with a fine of up to \$500 per person and \$2,000 per enterprise; a Class 1 misdemeanor is up to six months in jail and a fine of up to \$2,500 per person and \$20,000 per enterprise.

Mr. Patterson expressed concern about the requirement to shift the prosecution responsibility down to the local level and the effect it may have on county prosecutors. He asked whether there are any other options. Vice-Chairman Gowan stated that currently the statute is silent on prosecution. He said he does not believe this will place a burden on the counties because of the small number of prosecutions. Mr. Venters said that most of these cases are dealt with in the federal jurisdiction. The Department of Labor handles investigations and turns cases over to the Department of Justice. This bill states that if someone is ordered to active duty by the Governor, this would be a violation within the state. He pointed out that the bill has a narrow focus.

Mr. Patterson reiterated his concern that costs or responsibilities continue to be shifted down to the county level without providing resources. To that point, Vice-Chairman Gowan stated that this is narrowly crafted. He does not see it drawing off the resources of the county.

Vice-Chairman Gowan announced the names of those who signed up in support of HB2539 but did not speak:

Ramon Garcia, representing self

Vice-Chairman Gowan announced the names of those who signed up in opposition to HB2539 but did not speak:

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office

Question was called on the motion that HB2539 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 11).

HB2347 – concealed weapons; permit; justification – DO PASS AMENDED S/E

S/E: same subject

Vice-Chairman Gowan moved that HB2347 do pass.

Vice-Chairman Gowan moved that the Weiers 20-page strike-everything amendment dated 2/01/10 to HB2347 be adopted (Attachment 12).

Daniel Gonzalez-Plumhoff, Assistant Majority Research Analyst, Appropriations Committee, explained that the strike-everything amendment to HB2347 modifies both current classifications involving misconduct with a concealed deadly weapon, and various statutes relating to concealed carry weapons (CCW) permit, the defensive display of a firearm, and the forfeiture of weapons under court order (Attachment 13). He pointed out that the defense clause relating to military personnel has been removed from page 4 of the strike-everything summary because there is an exemption in the bill that offsets the removal of that clause.

Chairman Weiers announced the names of those who signed up in support of HB2347 but did not speak:

Fred Streeter, representing self
Richard Davis, Modified Motorcycle Association, representing self
Buffalo Rick Galeener, representing self
Gary Brite, representing self

Chairman Weiers announced the names of those who signed up in opposition to HB2347 but did not speak:

Kathleen Mayer, Deputy Pima County Attorney, Pima County Attorney's Office
Rick Hovden, Police Lieutenant, Tucson Police Department
Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Council
Geraldine Hills, founder and board member, Arizona for Gun Safety, representing self
Stephanie Mayer, Systems Advocate, Arizona Coalition Against Domestic Violence
Terrie Gent, Colonel, USAF-Retired, representing self

Chairman Weiers announced the names of those who signed up as neutral on HB2347 but did not speak:

Brian Livingston, Executive Director, Arizona Police Association
Levi Bolton, Vice President, Phoenix Law Enforcement Association
Pearlette Ramos, Assistant Director of Administration, Arizona Department of Liquor Licenses & Control

John Thomas, representing Arizona Association of Chiefs of Police, testified in opposition to HB2347. He advised that this proposal is a change in state law pertaining to carrying a concealed weapon and dissolution of the current CCW requirements. He noted that a similar bill is going through the Senate and said this bill is not going to be the final bill; amendments are being prepared. He submitted that the bill needs further discussion. He expressed hope that when the final amendments are offered, there will be an opportunity to come back to Committee to discuss them. He said he is not aware of any law enforcement agency in the state that supports the bill currently. He read Section 13-3102.A.1 of the strike-everything amendment which allows a person to carry a concealed weapon in the state of Arizona without a permit which translates to no training, no classes and not knowing the rules or regulations.

Mr. Montenegro said that if a person carries a weapon openly, the person does not have to take classes but if a person wants to carry a weapon concealed, classes are required. Mr. Thomas concurred. He explained that carrying a weapon openly puts the public on notice that a weapon is being carried. When a weapon is concealed, law enforcement and the public are not given notice of the weapon.

Mr. Thomas further read the section pertaining to a person committing misconduct involving weapons in the commission of a serious or violent offense. He noted that the new language is already covered in statute. Vice-Chairman Gowan brought up the definition of *serious* crime and wondered whether a minor act would be included. Mr. Thomas said he would have to look at the definition because each of the statutes spell out what the crimes are in those areas.

Mr. Thomas reviewed the Alaska statute which was discussed in the Senate Judiciary Committee last year. He revealed that law enforcement agreed to the provisions of the Alaska law but pointed out that last year's Senate bill was not the Alaska law, nor is this year's.

John Wentling, Arizona Citizens Defense League, Inc., in support of HB2347, stated that the bill removes the requirement for a concealed weapons permit. He said that the definition of *concealed* needs to be clarified because it is interpreted in different ways throughout the state and the only way to clarify it is to eliminate the requirement. He said the bill contains protections for law enforcement but individual rights also need to be protected. He related that 99 percent of people who carry weapons carry them openly. This bill increases the penalty on the *bad guy* while eliminating the penalty on the *good guy*.

In reply to Chairman Weiers, Mr. Wentling answered that this bill does nothing to remove personal rights.

Matthew Dogali, State Lobbyist, The National Rifle Association (NRA), testified in support of HB2347. He said the intent of the bill is to bring the concealed-carry statute in line with the open-carry statute.

Mr. Patterson expressed concern with people being properly trained. Mr. Dogali said that NRA believes in training and offers many training classes but does not believe it is a requirement to purchase and possess a firearm. He pointed out that training classes differ greatly.

Chairman Weiers commented that CCW training classes are a joke.

Discussion ensued on the requirements to obtain a CCW permit and the value of firearms training.

Dave Kopp, President, Arizona Citizens Defense League, Inc., in support of HB2347, stated that he is a CCW certified instructor and advised Members what the requirements are to obtain a CCW permit.

Chairman Weiers opined that if an individual can already carry open, he does not see the need for training.

Ms. Fleming expressed concern about the risk to law enforcement personnel with passage of this bill.

Question was called on the motion that the Weiers 20-page strike-everything amendment dated 2/1/10 to HB2347 be adopted (Attachment 12). The motion carried.

Vice-Chairman Gowan moved that HB2347 as amended do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 14).

Without objection, the meeting adjourned at 11:17 a.m.

Joanne Bell, Committee Secretary
February 11, 2010

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