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

COMMITTEE ON WAYS AND MEANS

Minutes of Meeting
Monday, February 8, 2010
House Hearing Room 1 -- 2:00 p.m.

Chairman Murphy called the meeting to order at 2:45 p.m. and attendance was noted by the secretary.

Members Present

Mr. Biggs
Mr. Brown
Mr. Chabin
Mr. Farley
Ms. Reagan
Mr. Yarbrough
Mrs. Lesko, Vice-Chairman
Mr. Murphy, Chairman

Members Absent

None

Committee Action

HB2160 – DPA (8-0-0-0)
HB2496 – HELD
HB2512 – DPA (6-2-0-0)
HB2663 – HELD
HB2664 – DPA (4-3-0-1)

CONSIDERATION OF BILLS

HB2160 – tax credit review committee recommendations – DO PASS AMENDED

Vice-Chairman Lesko moved that HB2160 do pass.

Vice-Chairman Lesko moved that the 11-line Murphy amendment dated 2/5/10 be adopted (Attachment 1).

Jennifer Anderson, Majority Research Analyst, explained that HB2160 repeals the income tax credits for agricultural pollution control equipment and agricultural water conservation systems, prescribes additional performance measures for the Healthy Forest Enterprise income tax credits, and requires all taxpayers who claim the Healthy Forest Enterprise credit to waive their confidentiality rights for the purpose of compiling statistical information relating to the credit (Attachment 2). Ms. Anderson went on to explain the amendment.

Chairman Murphy, sponsor, explained the bill and amendments represent the interests of all parties who came forward with recommendations.

Question was called on the moton that the 11-line Murphy amendment dated 2/5/10 be adopted (Attachment 1). The motion carried.

Vice-Chairman Lesko moved that the nine-page Murphy amendment dated 2/8/10 be adopted (Attachment 3). The motion carried.

Robert Shuler, Western Growers, testified in opposition to HB2160. Mr. Schuler stated that his opposition is based on the original bill and thanked the Committee for adopting the amendment.

Vice-Chairman Lesko announced the names of those who signed up in opposition to HB2160, but did not speak:
Bryan Ginter, representing self

Vice-Chairman Lesko moved that HB2160 as amended do pass. The motion carried by a roll-call vote of 8-0-0-0 (Attachment 4).

HB2512 – municipal taxes; auditors, and collectors – DO PASS AMENDED

Vice-Chairman Lesko moved that HB2512 do pass.

Vice-Chairman Lesko moved that the 13-line Murphy amendment dated 2/8/10 be adopted (Attachment 5).

Jennifer Anderson, Majority Research Analyst, explained that HB2512 prohibits municipalities from contracting with a third party for the collection of transaction privilege tax (TPT) and employing TPT auditors on a contingent fee basis (Attachment 6).

Chairman Murphy announced that HB2512 will be heard later in the meeting.

Vice-Chairman Lesko withdrew her motion that the 13-line Murphy amendment be adopted.

Vice-Chairman Lesko withdrew her motion that HB2512 do pass.

HB2664 – STOs; tax credit requirements – DO PASS AMENDED

Vice-Chairman Lesko moved that HB2664 do pass

Jennifer Anderson, Majority Research Analyst, explained that HB2664 modifies the requirement of the individual income tax credit for donations to school tuition organizations (STOs), increases the maximum amount of the credit allowed to be claimed and annually adjusts the amount for inflation, and implements additional regulatory measures for STOs based on the recommendations of the Ad Hoc Committee on Private School Tuition Tax Credit Review (Attachment 7).

Amy Peek, representing self, testified in support of HB2664. Ms. Peek testified that prior domestic violence issues left her son displaced and unable to perform in public school. Ms. Peek

went on to explain how the tax credit allows her son to attend a private school with better teacher/student interaction and has allowed her son to be successful in school.

Susan Schaffer, representing self, testified in support of HB2664. Ms. Schaffer testified that the tuition assistance tax credit allows her daughter who has an anxiety disorder to attend a private school with smaller class sizes where she receives more individual attention from teachers.

Scott Collins, representing self, testified in support of HB2664. Mr. Collins described his family, the disabilities some of his children have, and the death of his wife. Mr. Collins went on to describe how the tax credit helps his children attend a school that suits their needs.

Adriana Moerkerken, representing self, testified in support of HB2664. Ms. Moerkerken read a letter from a mother who wanted her children to attend a school that provides religious education and protects her kids from allergens.

Susan Knickerbocker, representing self, testified in support of HB2664. Ms. Knickerbocker explained how she moved from New York and was excited about the amount of school choice in Arizona. Ms. Knickerbocker went on to say how her daughter has disabilities and the tax credit makes it possible for her to attend a local private school and get more social interaction than she would being home schooled.

Jan Webb, representing self, testified in support of HB2664. Ms. Webb explained how she works with young mothers to choose a school that properly suits their needs due to being from a low-income broken home. Ms. Webb went on to explain how well the children do in private school.

Jeff Smith, representing self, testified in opposition to HB2664. Mr. Smith stated that HB2664 is misusing tax revenue by siphoning public school funds and shifting them to private schools.

Chairman Murphy announced that HB2664 will be continued later in the meeting

Vice-Chairman Lesko withdrew her motion that HB2664 do pass.

HB2512 – municipal taxes; auditors and collectors – DO PASS AMENDED (Continued)

Vice-Chairman Lesko moved that HB2512 do pass.

Vice-Chairman Lesko moved that the 13-line Murphy amendment dated 2/8/10 be adopted (Attachment 5).

Jennifer Anderson, Majority Research Analyst, re-explained that HB2512 prohibits municipalities from contracting with a third party for the collection of transaction privilege tax and employing TPT auditors on a contingent fee basis (Attachment 6). Ms. Anderson went on to explain the amendment.

Kevin McCarthy, President, Arizona Tax Research Association, testified in support of HB2512. Mr. McCarthy stated that the state sales tax system is complex, administratively difficult for

businesses to comply with, and reduces economic growth. Mr. McCarthy went on to explain the history of sales tax in Arizona, auditing issues, and administration issues.

Mr. Biggs asked if the amendment improves clarity for business tax liabilities. Mr. McCarthy responded that the amendment will help improve collection of delinquent taxes and auditing.

Mr. Chabin asked what the difference is between cities using private companies to collect funds for fraud in food stamps, and using private companies to audit taxes. Mr. McCarthy responded that tax collection is a proper role of government for confidentiality. Discussion ensued regarding confidentiality issues, compliance, auditing, and the effect on smaller municipalities.

Vice-Chairman Lesko asked what the Arizona taxpayer bill of rights says when it comes to auditing. Mr. McCarthy responded that the Arizona taxpayer bill of rights only focuses on state tax collection.

John Kelly, Principal, Revenue Discovery Systems, testified in opposition to the bill. Mr. Kelly explained the work of Revenue Discovery Systems (RDS), stated that RDS does not use contingent fee auditing, and discussed problems that could arise with processing, transparency, and administration.

Vice-Chairman Lesko asked if RDS uses contingent fee auditing in any location. Mr. Kelly responded that to his knowledge RDS only charges on an hourly basis. Discussion ensued regarding contingent fee auditing, benefits to cities, and issues with auditing.

Jeffrey Kros, Legislative Director, League of Cities and Towns, testified in opposition to the bill. Mr. Kros stated that the League supports a prohibition of contingent fee auditing, but that the bill as written will force cities to form their own tax departments at substantial cost or go through the Department of Revenue for collections.

Sean Laux, Legislative Liaison, Department of Revenue (DOR), was called to the podium for questions.

Mr. Chabin asked how many people have been laid off from DOR. Mr. Laux responded that DOR laid off 300 employees, but it did not diminish auditing capacity.

Vice-Chairman Lesko announced the names of those signed up in support of HB2512, but did not speak.
Gretchen Kitchel, Senior Public Affairs Representative, Pinnacle West Capitol Corp.
Farrell Quinlan, State Director
Russell Smoldon, Lobbyist, SRP
Larry Lucero, Manager Governmental Affairs, Tucson Electric Power
Bryan Ginter, representing self
Michelle Ahlmer, Executive Director, Arizona Retailers Association
Lori Lustig, Tucson Metropolitan Chamber of Commerce
Allison Bell, Arizona Chamber of Commerce & Industry
Penny Allee Taylor, Specialist/Government Affairs, Southest Gas Corporation

Vice-Chairman Lesko announced the names of those who signed up in opposition to HB2512, but did not speak:
Rob Heimbuch, Regional Account Manager, Revenue Discovery Systems
Rob Lafontaine, Administrative Analyst, City of Bullhead City
Katie Decker, Legislative Liaison, Town of Fountain Hills
David Johnson, Intergovernmental Affairs Analyst, Town of Buckeye
Ryan Peters, Intergovernmental Programs Administrator, City of Glendale
Mike Conner, President / CEO, Bullhead Area Chamber of Commerce

Question was called on the motion that the 13-line Murphy amendment dated 2/8/10 be adopted (Attachment 5). The motion carried.

Vice-Chairman Lesko moved that HB2512 as amended do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 8).

HB2664 – STOs; tax credit requirements – DO PASS AMENDED (Continued)

Vice-Chairman Lesko moved that HB2664 do pass.

Jennifer Anderson, Majority Research Analyst, returned to the podium for questions.

Mr. Chabin asked if the bill is based on recommendations of an Ad-Hoc Committee. Ms. Anderson confirmed that is correct. Discussion ensued regarding the tax exempt status of different non-profit organizations.

David Wells, Faculty, Arizona State University & Board Member AZ Citizen Action, representing self, testified as neutral to the bill. Mr. Wells stated that he was concerned about enrollment and impacts to the General Fund. Mr. Wells went on to explain how many students are in private school because of the scholarships, compared Arizona's system with other states, and analyzed public statistics.

Dr. Lawrence Mohrweis, representing self, testified as neutral to the bill. Mr. Mohrweis testified that financial reviews will improve oversight, and there should be a provision that prohibits an Student Tuition Organization (STO), from operating if they receive a negative auditing opinion. Mr. Mohrweis went on to give other recommendations to the Committee.

Mr. Chabin read a refund letter from an STO and asked if following such practices could void their non-profit status. Mr. Mohrweis responded that as long as the STO is not acting as a conduit for funds they should not run into problems with the Internal Revenue Service. Discussion ensued regarding awarding scholarships, requirements for non-profits, and earmarks.

Sean Laux, Legislative Liaison, Department of Revenue, testified as neutral on the bill. Mr. Laux testified that both STO bills increase the responsibilities of DOR, but do not allocate any additional funds.

Vice-Chairman Lesko announced the names of those who signed up in support of HB2664, but did not speak:
Sydney Hay, Advocates for School Choice

Deborah Sheasby, Legal Counsel, Center for Arizona Policy
Ron Johnson, Arizona Catholic Conference
Tim Keller, Executive Director, Institute for Justice
Bryan Ginter, representing self
Harry Miller, Executive Director, Tuition Organization for Private Schools

Vice-Chairman Lesko announced the names of those who signed up in opposition to HB2664, but did not speak:
Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association
Jen Darland, Arizona Education Network
Seth Apfel, Volunteer, representing self
Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials
Sam Polito, Tucson Area School Districts
Alessandra Meetze, Executive Director, ACLU of Arizona
Doris N. Flax, Education Director, League of Women Voters of Arizona
Gini McGirr, Legislative Chair, League of Women Voters of Arizona
Jennifer Loredo, Arizona Education Association
Dana Naimark, President/CEO, Children's Action Alliance

Vice-Chairman Lesko moved that the nine-line Murphy amendment dated 2/8/10 be adopted (Attachment 9).

Mr. Murphy explained that the amendment conforms to the Ad-Hoc Committee recommendations.

Question was called on the motion that the nine-line Murphy amendment dated 2/8/10 be adopted (Attachment 9). The motion carried.

Mr. Chabin moved that the four-line Chabin amendment dated 2/8/10 be adopted (Attachment 10).

Mr. Chabin explained that the amendment mirrors the corporate STO law. Discussion ensued regarding the effect of the amendment on STOs.

Question was called on the motion that the four-line Chabin amendment dated 2/8/10 be adopted (Attachment 10). The motion failed.

Mr. Chabin moved that the 14-line Chabin amendment dated 2/5/10 be adopted (Attachment 11).

Mr. Chabin explained that the amendment requires that only families with children that earn less than 185% of the income limit are eligible for scholarships. Discussion ensued regarding the number of students that would fit that constraint and the original intent of the tax credit.

Question was called on the motion that the 14-line Chabin amendment dated 2/5/10 be adopted (Attachment 11). The motion failed.

Mr. Farley moved that the 10-Line Farley amendment dated 2/8/10 be adopted (Attachment 12).

Mr. Farley stated that the amendment reimburses the Department of Revenue for any additional costs of enforcement. Discussion ensued regarding fee setting and whether or not HB2664 needs to include that at this time.

Question was called on the motion that the 10-Line Farley amendment dated 2/8/10 be adopted (Attachment 12). The motion failed.

Mr. Farley moved that the 14-line Farley amendment dated 2/8/10 be adopted (Attachment 13).

Mr. Farley stated that the amendment removes the increase currently included in HB2664. Discussion ensued regarding cost savings to the state.

Question was called on the motion that the 14-line Farley amendment dated 2/8/10 be adopted (Attachment 13). The motion failed.

Vice-Chairman Lesko moved that HB2664 as amended do pass. The motion carried by a roll call vote of 4-3-0-1 (Attachment 14).

HB2496 – school tuition credit; contribution date – HELD

Chairman Murphy announced that HB2496 will be held.

HB2663 – STOs; corporate tax credit requirements – HELD

Chairman Murphy announced that HB2664 will be held.

Without objection, the meeting adjourned at 5:40 p.m.

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Emilio Bascunan, Committee Secretary
March 10, 2010

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