

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

COMMITTEE ON COMMERCE

Minutes of Meeting
Wednesday, February 10, 2010
House Hearing Room 5 -- 9:00 a.m.

Vice-Chairman Hendrix called the meeting to order at 9:05 a.m. and attendance was noted by the secretary.

Members Present

Ms. Cajero Bedford
Mr. Campbell CH
Mr. Crandall

Mr. Konopnicki
Mr. Meza
Mr. Pratt

Mr. Hendrix, Vice-Chairman
Ms. Reagan, Chairman

Members Absent

None

Committee Action

HB2002 – NOT ASSIGNED
HB2058 – DPA S/E (7-0-0-1)
HB2123 – WITHDRAWN
HB2302 – DPA (7-0-0-1)
HB2337 – DP (5-1-0-2)
HB2371 – DPA (7-0-0-1)
HB2446 – DP (7-1-0-0)

HB2473 – DPA (7-0-0-1)
HB2540 – DP (6-0-0-2)
HB2568 – DP (6-0-1-1)
HB2607 – HELD
HB2620 - HELD
HB2643 – NOT ASSIGNED
HB2644 – DP (7-0-0-1)

CONSIDERATION OF BILLS

HB2002 - technical correction; corporation commission; powers – NOT ASSIGNED

Vice-Chairman Hendrix announced that HB2002 was not assigned.

HB2123 - physical therapy services; business entities - WITHDRAWN

Vice-Chairman Hendrix announced that HB2123 has been withdrawn.

HB2607 - auto loans; late payments - HELD

Vice-Chairman Hendrix announced that HB2607 will be held.

HB2620 - withheld wages; written authorization; revocation - HELD

Vice-Chairman Hendrix announced that HB2620 will be held.

HB2643 - self-storage liens; enforcement – NOT ASSIGNED

Vice-Chairman Hendrix announced that HB2643 was not assigned.

HB2540 - national disaster medical system; leave – DO PASS

Chairman Reagan moved that HB2540 do pass.

Kieren Smyers, House Majority Intern, explained that HB2540 mandates that state officials and employees deployed with the National Disaster Medical System (NDMS) receive differential salary reimbursement (Attachment 1).

Mr. Crandall asked what mathematical formula will be used to determine pay. Ms. Smyers replied that a state employee working for NDMS will be paid as a part-time federal employee and the state will make up the difference so that the employee receives the same salary.

Representative David Gowan, sponsor, explained that this bill is to ensure compensation for state employees who are deployed to national disasters.

Chairman Reagan announced the names of those who signed up in support of HB2540 but did not speak:

Bryan Ginter, representing self

Daren Venters, representing self

Question was called on the motion that HB2540 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 2).

HB2568 - enterprise zone credits; qualifying employees – DO PASS

Chairman Reagan moved that HB2568 do pass.

Diana O'Dell, House Deputy Research Staff Director, explained that HB2568 is retroactive to taxable year 2006 and qualifies employees for the Arizona Enterprise Zone Tax Credit Program if the employees did not work in-state for the qualifying business during the prior twelve months. The provisions will be effective January 1, 2012 (Attachment 3).

Ms. Cajero Bedford asked if there was an identical bill last year that did not pass. Ms. O'Dell replied in the affirmative, with the exception of the delayed enactment date.

Ms. Cajero Bedford stated that this bill seems specific to a certain business and asked what businesses will be affected. Ms. O'Dell replied that the Department of Commerce does not know exactly how many businesses would qualify, but Lockheed Martin is an example of one which probably would qualify.

Chairman Reagan announced the names of those who signed up in opposition to HB2568 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2568 do pass. The motion carried by a roll call vote of 6-0-1-1 (Attachment 4).

HB2644 - contractors; mediation and arbitration – DO PASS

Chairman Reagan moved that HB2644 do pass.

Diana O’Dell, House Deputy Research Staff Director, explained that HB2644 authorizes the Arizona Registrar of Contractors (ROC) to offer an alternative complaint resolution process through binding arbitration and mediation (Attachment 5).

Chairman Reagan, sponsor, explained that this bill is to assist the ROC in processing complaints, which will benefit the consumer as well.

Tyler Palmer, Registrar of Contractors (ROC), testified as neutral on HB2644. He stated that complaints below \$2,500 will be required to be arbitrated; for those above that amount the parties can “opt in” or choose to arbitrate. He explained that complaints can take up to three years to resolve and that this measure should make the process more efficient and provide better service to homeowners and contractors.

Mr. Crandall asked if arbitration will be binding in cases where it is chosen. Mr. Palmer replied in the affirmative.

Scot Mussi, Home Builders Association of Central Arizona, stated that his organization is neutral on this measure, is supportive of the concept, although it is interested to know who the arbitrator(s) will be and whether they have construction expertise. He stated that he prefers that inspectors not be arbitrators. He added that binding arbitration should not deal with license suspension or revocation, but only with dollar amounts. He stated that timeframes should be clarified further.

Chairman Reagan stated that a floor amendment can be prepared to specify that information.

Chairman Reagan announced the names of those who signed up in support of HB2644 but did not speak:

Bryan Ginter, representing self

David Jones, Arizona Contractors Association

Question was called on the motion that HB2644 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 6).

HB2058 - mobile home parks; landlord maintenance – DO PASS AMENDED S/E
S/E: residential landlord; maintenance and repair

Chairman Reagan moved that HB2058 do pass.

Chairman Reagan moved that the Konopnicki 22-line strike-everything amendment to HB2058 dated 2/5/10 (Attachment 7) be adopted.

Jason Horton, House Majority Intern, explained that the strike-everything amendment to HB2058 allows the landlord or property manager of a mobile home park to perform routine maintenance without using a licensed contractor and stipulates that a violation of the provisions is subject to a civil penalty (Attachment 8).

Barry Aarons, Construction Trades Coalition, stated his support for the strike-everything amendment and provided background for the Members about this legislation.

Mr. Crandall asked if a \$250 civil penalty fine is so little that it will not deter a landlord who can save large amounts by avoiding using licensed contractors. Mr. Aarons replied that this is a start on the concept and that various penalties, including a felony, were considered.

Discussion ensued about the implications for plumbing and sewer lines, or natural gas lines and other public safety issues.

Mr. Pratt asked about permitting issues. Mr. Aarons replied that permitting responsibilities are not affected by this measure.

Penny Allee Taylor, Southwest Gas Corporation, stated that her company is neutral on this measure, but expressed concern about repairs to natural gas lines by inexperienced workers. She stated that this aspect of the bill should be strengthened to protect public safety.

Mr. Konopnicki, sponsor, concurred that these issues must be examined.

Tyler Palmer, Registrar of Contractors (ROC), stated his agency's neutrality on the strike-everything amendment. He added that civil penalties for licensed and unlicensed contractors should be considered as well.

Mr. Campbell asked if this exemption could cover potentially significant or structural repairs. Mr. Palmer concurred with his point, saying that there are issues that might be safety-related.

Mr. Konopnicki reiterated that the intent is to allow an owner to do basic maintenance on a building without always having to use a registered contractor. He stated that work will be done to fix the bill to address the issues raised. He added that significant changes would require permitting and licensed contractors.

Chairman Reagan announced the names of those who signed up in support of HB2058 but did not speak:

Michael Preston Green, Manufactured Housing Communities

Chairman Reagan announced the names of those who signed up in opposition to HB2058 but did not speak:

Bryan Ginter, representing self

David Jones, Arizona Contractors Association

Chairman Reagan announced the names of those who signed up as neutral on HB2058 but did not speak:

Courtney Gilstrap Levinus, Arizona Multihousing Association

Question was called on the motion that the Konopnicki 22-line strike-everything amendment to HB2058 dated 2/5/10 (Attachment 7) be adopted. The motion carried.

Chairman Reagan moved that HB2058 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).

HB2302 - publication of notices; committee – DO PASS AMENDED

Chairman Reagan moved that HB2302 do pass.

Chris Stapely, House Majority Assistant Research Analyst, explained that HB2302 establishes the Committee on Published Public Legal Notices for the purpose of examining existing statutes requiring newspaper publication of legal or public notices applicable to cities, towns, and counties (Attachment 10).

Chairman Reagan moved that the Pratt two-line amendment to HB2302 dated 2/9/10 (Attachment 11) be adopted.

Mr. Stapely explained that the amendment changes the repeal date.

Representative Russ Jones, sponsor, stated that this measure creates a study committee to review the requirement for publication of public notices, which have traditionally been published in print media, and to address the new electronic media. He stressed the importance of government transparency and the widest possible dissemination of information.

Ginger Lamb, Arizona Capitol Times, stated her support for HB2302, citing the public's right to know and to be informed. She added that the study committee will look at issues of accessibility and cost.

Brian Tassinari, Lake Havasu City, expressed opposition to this bill for two reasons:

1. this is premature as there is another bill, HB2244, dealing with this issue
2. the duration of the study committee is three years, which is quite long

Mr. Tassinari agreed that the transparency issue is quite important, but that cost issues must be considered as well.

Mr. Jones agreed that further delay is not good, but that HB2244 is a good companion bill that can run concurrently. He stated that he will discuss the duration with the stakeholders.

Michael Preston Green, Arizona News Service, testified in support of the bill and stated he would also support shortening the timeframe for the study. He added that an amendment is needed to address interim period reporting.

Chairman Reagan announced the names of those who signed up in support of HB2302 but did not speak:

Leona Gibson, representing self
Laura Kaminski, representing self
Joe Liston, Phoenix Newspapers, Inc.
Ondrea Sheppard, Arizona Business Gazette, Arizona Republic
Bryan Ginter, representing self
Allison Bell, Arizona Chamber of Commerce & Industry
Heather Bernacki, East Valley Chambers of Commerce Alliance
Wendy Briggs, Wick Communications
John Moody, Arizona Newspapers Association
Paula Casey, Arizona Newspapers Association
Todd Madeksza, County Supervisors Association
Greg Tock, representing self

Chairman Reagan announced the names of those who signed up as neutral on HB2058 but did not speak:

Jeffrey Kros, Legislative Director, League of Cities and Towns

Question was called on the motion that the Pratt two-line amendment to HB2302 dated 2/9/10 (Attachment 11) be adopted. The motion carried.

Chairman Reagan moved that HB2302 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 12).

HB2371 - home inspections – DO PASS AMENDED

Chairman Reagan moved that HB2371 do pass.

Jason Horton, House Majority Intern, explained that HB2371 adds swimming pools and spas to the required inspections by home inspectors (Attachment 13).

Chairman Reagan moved that the Reagan two-line amendment to HB2371 dated 2/5/10 (Attachment 14) be adopted.

Mr. Horton explained that the amendment adds swimming pools and spas to the list of components that must be inspected pursuant to the rules adopted by the Board of Technical Registration.

David Swartz, Arizona Home Inspectors Coalition, stated his support for HB2371, stressing that there will be no additional cost to implement these changes.

Chairman Reagan announced the names of those who signed up in support of HB2371 but did not speak:

Bryan Ginter, representing self
Tom Farley, Arizona Association of Realtors
Ronald Dalrymple, Board of Technical Registration

Jason Isaak, Arizona Home Inspectors Coalition

Question was called on the motion that the Reagan two-line amendment to HB2371 dated 2/5/10 (Attachment 14) be adopted. The motion carried.

Chairman Reagan moved that HB2371 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 15).

HB2446 - alarm businesses and agents – DO PASS

Chairman Reagan moved that HB2446 do pass.

Brooke Olguin, House Majority Assistant Research Analyst, explained that HB2446 requires alarm business controllers and agents to obtain a fingerprint clearance card from the Department of Public Safety (DPS) and licensure from the Department of Fire, Building and Life Safety (DPBLS). HB2446 outlines application procedures, duties of an alarm business and required training for an alarm business agent (Attachment 16).

Ms. Cajero Bedford asked if there would be a cost associated with this bill; Ms. Olguin answered in the negative.

Mr. Pratt, sponsor, explained the intent of HB2446 is to simplify licensing restrictions and to place licensing under the jurisdiction of one agency. He added that there have been concerns from locksmiths about the restrictions.

Chairman Reagan stated that there is the possibility of a Floor amendment to exempt locksmiths.

Susan Brenton, Arizona Alarm Association, stated her support for HB2446 and that she will address the locksmith's concerns. She explained that this bill will address issues of public safety, will make it easier to do business in Arizona, and will save DPS resources. Currently an alarm company must apply to each city for licensing; this bill will create one statewide licensure and one background check through DPS.

John Jennings, Safeguard Security, addressed the Committee in support of HB2446, explaining that now it is difficult to keep track of all licensing and to ensure that all agents are licensed.

Tom Eggebrecht, Arizona Alarm System, stated his support for the bill, adding that companies all over the area worked on this and that one license for the entire State will be very helpful to the industry.

Roger Score, Tucson Alarm Company, expressed his opposition to HB2446, explaining that it will block small business from competing in the marketplace. He added that there is no assurance that cities will discontinue their license procedures.

Discussion ensued about whether this bill will supersede all the city licenses and if cities will object to lost revenue from individual licensing.

Mr. Score reiterated that this bill will protect large national companies with large client bases.

Ms. Brenton stated that currently only five cities have licensure and that city licensure is pre-empted by the State. She added not all alarm companies have to be licensed by the Registrar of Contractors (ROC). ROC only licenses the company; it does not conduct background checks on individuals.

Chairman Reagan announced the names of those who signed up in support of HB2446 but did not speak:

Bryan Ginter, representing self
Mark Bolton, Arizona Alarm Association

Chairman Reagan announced the names of those who signed up as neutral on HB2446 but did not speak:

Dennis Seavers, Arizona Board of Fingerprinting

Question was called on the motion that HB2446 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 17).

HB2473 - manufactured housing; escrow account – DO PASS AMENDED

Chairman Reagan moved that HB2473 do pass.

Brooke Olguin, House Majority Assistant Research Analyst, explained that HB2473 requires dealers of new manufactured homes to maintain an escrow account with a financial institution or authorized escrow agent, beginning July 1, 2011 (Attachment 18). It also repeals the Consumer Recovery Fund.

Chairman Reagan moved that the Reagan four-page amendment to HB2473 dated 02/09/10 (Attachment 19) be adopted.

Ms. Olguin explained that the amendment allows independent escrows to be established.

Chairman Reagan moved that the Reagan four-page amendment dated 02/09/10 (Attachment 19) be amended as follows:

Page 4, line 14, strike “5”, insert “6”

Ms. Olguin explained that the verbal amendment makes a technical correction to page numbering on the Reagan four-page amendment.

Question was called on the verbal amendment to the Reagan amendment. The motion carried.

Chairman Reagan moved that the Reagan four-page amendment to HB2473 dated 02/09/10 (Attachment 19) as amended be adopted. The motion carried.

Chairman Reagan moved that HB2473 as amended do pass.

Scot Butler, Attorney, Arizona Housing Association, testified in support of HB2473, stating that it will replace dealer trust accounts, which are held in a dealer's bank account. Mandatory independent escrow accounts provide a much better system.

Chairman Reagan explained that the manufactured home industry has evolved significantly over the last 50 years, but their regulatory financial protection has not and this bill addresses that.

Kara Holt, Moms and Pops of America, stated her opposition to HB2473, explaining that she represents resale brokers of lower-cost homes (typically less than \$50,000) and that her group has not been represented in the stakeholders' meetings nor on the Board of Manufactured Housing.

She stated that she agrees with the concept and the motive behind the bill, and has seen people harmed by dealers, and not just through the transactional process. Ms. Holt made the following points to be considered:

- language of the bill repeals the recovery fund which would be totally depleted by current claims and will have no funds in any event
- who takes the role of the dismantled agencies
- drafters of this bill retain the current focus on the manufacturers and there are no checks and balances to protect the resale market, i.e. what will be the "scope of escrow requirements"
- intent of excluding homes of "less than \$50,000"
- concern that possible consequences are viewed from all perspectives

Chairman Reagan thanked Ms. Holt for her good ideas and suggested that she work with Mr. Butler on this bill as it goes forward. Mr. Butler stated that his group does have resalers and he will be happy to work with her organization.

Chairman Reagan announced the names of those who signed up in support of HB2473 but did not speak:

Jean Creagan, AAMHO

Chairman Reagan announced the names of those who signed up in opposition to HB2473 but did not speak:

Bryan Ginter, representing self

Question was called on the motion that HB2473 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 20).

HB2337 - Arizona manufactured incandescent lightbulbs; regulation – DO PASS

Chairman Reagan moved that HB2337 do pass.

Jason Horton, House Majority Intern, explained that HB2337 states that an incandescent light bulb produced in Arizona and not exported to any other state does not qualify as interstate commerce and is not subject to federal laws or regulation by the United States Congress (Attachment 21).

Representative Frank Antenori, sponsor, distributed information (Attachment 22) about the federal light bulb mandate and the quality problems of these light bulbs. He stated that there has been huge encroachment at the federal level to trample on states' rights and individual liberties. He added that this bill can be a job creation bill by encouraging companies that manufacture incandescent light bulbs to relocate to Arizona.

Ms. Cajero Bedford asked if there is a company which will locate in Arizona to manufacture these bulbs. Mr. Antenori answered in the negative, but stated he will try to encourage companies to relocate to Arizona.

Mr. Campbell expressed concern about the legality of this bill and asked if Arizona can pre-empt itself from federal law. Mr. Antenori replied that the intent is to challenge the federal government's Commerce clause.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, testified in opposition to HB2337, adding that this will not have a real-world impact if trying to make it a test case. She stated that the purpose of federal standards is to avoid having fifty different standards, one in each state, for manufactured products. There are federal standards for refrigerators, air conditioners, and a vast array of appliances. The reason for this is so manufacturers know that they can sell things throughout the country, and as consumers move from state to state, they are confident that their appliances will work in another state. Federal standards ensure practicality, spur innovation and provide beneficial economic, environmental, efficiency, and energy effects.

Chairman Reagan announced the names of those who signed up in support of HB2337 but did not speak:

Fred Streeter, representing self

Chairman Reagan announced the names of those who signed up in opposition to HB2337 but did not speak:

Bryan Ginter, representing self

Jeff Schlegel, SWEEP - Southwest Energy Efficiency Project

Diane Brown, Arizona PIRG (Public Interest Research Group)

Question was called on the motion that HB2337 do pass. The motion carried by a roll call vote of 5-1-0-2 (Attachment 23).

Without objection, the meeting adjourned at 11:22 a.m.

Jane Dooley, Committee Secretary

February 15, 2010

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