

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

**COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY**

Minutes of Meeting  
Wednesday, February 17, 2010  
House Hearing Room 3 -- 2:00 p.m. or on Rec/Adj of Floor

Chairman Weiers called the meeting to order at 2:53 p.m. and the secretary called the roll.

**Members Present**

Ms. Fleming  
Mrs. McGuire  
Mr. Patterson

Ms. Reeve  
Mr. Seel  
Mr. Stevens

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

**Members Absent**

None

**Committee Action**

HB2543 – DPA (7-1-0-0)  
HB2615 – DP (6-1-1-0)  
HB2666 – DPA (8-0-0-0)

HB2683 – DP (8-0-0-0)  
HB2684 – DP (8-0-0-0)

Chairman Weiers recognized Ms. Amanda Reeve as the new Member of the Committee, replacing Mr. Montenegro.

**CONSIDERATION OF BILLS:**

**HB2615 – emergency communications; antennae; accommodation – DO PASS**

**Vice-Chairman Gowan moved that HB2615 do pass.**

Nicholas Calderon, Majority Intern, advised that HB2615 requires municipalities, counties and community organizations to provide reasonable accommodation for amateur radio station emergency service communications antennae (Attachment 1).

Representative Nancy McLain, sponsor, related that a similar bill was heard in Committee last year, but time ran out while it was being worked on in the Senate. She read an e-mail from William J. Hosking, Emergency Coordinator for Maricopa County Department of Emergency Management, who expressed support for amateur emergency radio communications (Attachment 2).

Vice-Chairman Gowan announced the names of those who signed up in support of HB2615 but did not speak:

William Maynard, representing self  
Brian Bierer, representing self  
Jessica Brown, representing self  
Paul Fimreite, representing self  
Bob Bingham, representing self  
Laura Bingham, representing self  
Paul Playford, representing self  
Bryan Ginter, representing self  
James Moor, representing self  
John Cline, representing self  
Steve Thompson, representing self  
Thomas Liska, representing self  
John Stevens, representing self  
Ingrid Geissler, representing self  
Sarah Crank, representing self  
Michael Floyd, Public Information Coordinator, representing self

Vice-Chairman Gowan announced the names of those who signed up in opposition to HB2615 but did not speak:

Kevin DeMenna, representing Community Associations Institute

Ryan Anderson, representing Community Associations Institute, in opposition to HB2615, advised that similar legislation passed out of this Committee last year and ultimately failed in the Senate because time ran out. He agreed that technology has changed; many of these towers are much smaller than they previously were. Many of the associations he represents do allow for ham radio towers and are able to set rules and regulations. He distributed a photo of an antenna located at 12<sup>th</sup> Street and Missouri and said that these are the kinds of antennae most feared by associations (Attachment 3). When individuals move into homeowners association (HOA) communities, they agree to abide by the rules set by the HOA. If this bill passes out of Committee today, his membership would like support for an amendment allowing an association to adopt reasonable rules regarding the placement and size of amateur radio station emergency communications antennae and structures, thereby giving associations the ability to set local rules.

Chairman Weiers asked whether the referenced house is in an HOA. Mr. Anderson replied that it is not. He noted that these towers are an example of a worst-case scenario. If this bill passes in its current form, an association will have no ability to prevent the installation of these types of towers.

Michael Leboeuf, representing self, testified that he has been a licensed amateur radio operator since 1957. In addition to being a hobby, amateur radio is an enormous asset in times of disaster because it provides emergency communication when normal channels of communication are out. This service is provided free of charge to the public and does not cost the taxpayer anything. There are over 16,000 licensed amateur radio operators in the state; however, unreasonable restrictions on antennae have made many operators become inactive and they will be unable to

provide emergency communication when needed. Other operators have tried to put up antennae within HOA communities, only to be threatened with fines and lawsuits. He related that he has spent about \$4,000 defending himself because he has a flagpole flying an American flag in his backyard and his association has ruled that it is an antenna (Attachment 4). He maintained that it is time to put this irrational prejudice against amateur radio antennae to rest. He asked Members to pass this bill so more amateur radio operators can be of service when emergencies and disasters strike.

Chairman Weiers asked Mr. Leboeuf whether his association has rules against lightening rods. Mr. Leboeuf replied in the negative.

Mr. Stevens said he believes flagpoles are federally protected.

In reply to Mr. Seel's question about the transmission range of an antenna, Mr. Leboeuf said it depends on the antenna system; there are lots of variables involved.

John Obradovich, representing self, testified in favor of HB2615. He advised that several HOAs in Sun City West do support amateur radio operations and the area has many amateur radio support structures and huge antennae without problems or complaints. He believes this bill is an excellent and important guide for governmental entities. He related that approximately 27 states have implemented legislation similar to HB2615.

Mr. Seel asked whether it is commonplace for HOAs to allow antennae. Mr. Obradovich said that Sun City and Sun City West do allow amateur radio support structures. There are no restrictions on size; however, a building permit is required from the county and there is a height restriction.

**Question was called on the motion that HB2615 do pass. The motion carried by a roll call vote of 6-1-1-0 (Attachment 5).**

### **HB2683 - corrections employees; secondary employment – DO PASS**

**Vice-Chairman Gowan moved that HB2683 do pass.**

Thomas Adkins, Majority Research Analyst, stated that HB2683 allows officers and employees of the Arizona Department of Corrections (ADC) to maintain secondary employment in any non-ADC correctional facility and institutions of higher learning (Attachment 6).

Charles Ryan, Director, Arizona Department of Corrections (ADC), advised that the statutes currently prohibit employees from obtaining secondary employment with any of the contractors with whom the Department does business. The Department's policy currently allows secondary employment as long as there is no conflict of interest. This bill allows employees to work for contractors with the Director's approval. To prevent a potential conflict of interest, the bill prohibits an employee from having a monetary interest in any contract with ADC, and again they must seek authorization from the Director. He asked Members for support of this bill.

In response to Mr. Patterson, Mr. Ryan explained that if an employee is a decision-maker in the contractual arrangement with ADC, that would constitute a conflict and, therefore; secondary employment would not be appropriate. He related that some ADC employees have secondary employment with private prison operators, with the food service contractor as a food service handler, as well as teaching at a community college.

Mr. Seel asked how this bill helps the Department better deal with the current budget situation. Mr. Ryan said that secondary employment allows those employees to earn additional income.

Vice-Chairman Gowan said he assumes this helps keep overtime down. Mr. Ryan said that is correct.

Vice-Chairman Gowan announced the names of those who signed up in support of HB2683 but did not speak:

Jennifer Bowser, Arizona Department of Corrections  
Chuck Foy, Executive Director, Arizona Correctional Peace Officers Association  
Bryan Soller, State Vice President, Arizona State Fraternal Order of Police  
Norman Moore, Attorney, Fraternal Order of Police  
Don Isaacson, Attorney, Fraternal Order of Police

Vice-Chairman Gowan announced the names of those who signed up in support of HB2683 but did not speak:

Bryan Ginter, representing self

**Question was called on the motion that HB2683 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 7).**

### **HB2684 – POW/MIA flag; display – DO PASS**

**Vice-Chairman Gowan moved that HB2684 do pass.**

Nicholas Calderon, Majority Intern, said that HB2684 requires that the POW/MIA flag be flown at designated government locations on days when the U.S. flag is displayed (Attachment 8).

Vice-Chairman Gowan announced the names of those who signed up in support of HB2684 but did not speak:

John Wentling, Vice President, representing self  
Richard Davis, Modified Motorcycle Association, representing self  
Bryan Ginter, representing self  
Dennis Dole, Senior Vice Commander, Veterans of Foreign Wars (VFW), representing self

Lindsey Botkin, Senior Vice Commander - District, Veterans of Foreign Wars (VFW), representing self, in support of HB2684, stated that on August 10, 1990, Congress passed U.S. Public Law 101-355 which recognized the POW/MIA flag. The bottom of the flag bears the motto “You Are Not Forgotten.” He said he does not want any American citizen to forget the sacrifices made by POWs/MIAs. Initially the flag represented Vietnam military personnel missing in action, but has since been designated to represent all military personnel missing from

all of the wars in which the U.S. has been involved. He asked Members to pass this bill to allow the POW/MIA flag to be flown every day with honor and respect.

Vice-Chairman Gowan read a letter from Francis H.J. McDonald, Sr., Arizona Veterans of Foreign Wars, in support of Mr. Botkins' quest to seek Arizona's authorization to allow the POW/MIA flag flown in honor of our nation's military who are missing in action from serving this country in times of war.

**Question was called on the motion that HB2684 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 9).**

**Chairman Weiers recessed the meeting to the call of the Chair. THE MEETING RECESSED AT 3:46 p.m.**

**THE MEETING RECONVENED AT 3:50 P.M. All members were present.**

**HB2543 – firearms; regulation; state preemption. – DO PASS AMENDED**

**Vice-Chairman Gowan moved that HB2543 do pass.**

Thomas Adkins, Majority Research Analyst, reviewed the provisions of HB2543 which modify current statutory prohibitions pertaining to the firearms-related ordinances, rules or taxes that may be enacted or enforced by a political subdivision of the state (Attachment 10).

**Vice-Chairman Gowan moved that the Gowan 24-line amendment dated 2/16/10 to HB2543 be adopted (Attachment 11).**

Mr. Adkins explained that the amendment prohibits political subdivisions from regulating the discharge of firearms, changes the term *reloader components* to *related accessories*, clarifies that all firearms rules and ordinances, including those adopted before the effective date of this act, are null and void if they are inconsistent with or more restrictive than state law, and specifies that the term *political subdivision* includes a political subdivision acting in any capacity, including under police power, in a proprietary capacity or otherwise (Attachment 11).

Mrs. McGuire asked whether the National Rifle Association (NRA) assisted in preparing this amendment. Vice-Chairman Gowan answered that this is the NRA's amendment.

Chairman Weiers announced the names of those who signed up in support of HB2543 but did not speak:

Matthew Dogali, State Lobbyist, The National Rifle Association (NRA)

Buffalo Rick Galeener, representing self

Lyle Tuttle, Chairman, Legislative District 4, representing self

Richard Davis, Modified Motorcycle Association, representing self

Richard Hanson, representing self

Gary Brite, representing self

Chairman Weiers announced the names of those who signed up in opposition to HB2543 but did not speak:

Bryan Ginter, representing self

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns, spoke in opposition to HB2543. He expressed concern with the amendment which prohibits cities and towns from regulating the discharge of weapons. He referred to “Shannon’s Law” where a little girl was killed by a bullet which was discharged into the air.

To that point, Vice-Chairman Gowan stated there are state laws forbidding that.

John Wentling, Vice Chairman, Arizona Citizens Defense League, in support of HB2543, answered questions posed by Mr. Patterson.

In answer to Mr. Patterson’s request to address the League’s concern, Mr. Wentling related that the bill stipulates that city ordinances cannot be any greater than state laws. Shannon’s Law provides for a Class 6 felony for discharging a weapon into the air. It also covers occupied structures: one mile within city limits and one-quarter mile outside city limits.

**Question was called on the motion that the Gowan 24-line amendment dated 2/16/10 to HB2543 be adopted (Attachment 11). The motion carried.**

**Vice-Chairman Gowan moved that HB2543 as amended do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 12).**

**HB2666 – small fire districts; board members – DO PASS AMENDED**

**Vice-Chairman Gowan moved that HB2666 do pass.**

Thomas Adkins, Majority Research Analyst, stated that HB2666 requires fire districts administered by an elected chief and secretary-treasurer to convert to administration by an elected three-member board of directors (Attachment 13).

**Vice-Chairman Gowan moved that the Stevens six-line amendment dated 2/15/10 to HB2666 be adopted (Attachment 14).**

Mr. Adkins explained that the amendment specifies that fire districts currently administered by an elected chief and secretary-treasurer have the option to switch to either a three-member or a five-member board of directors (Attachment 14).

Lester Babnew, representing self, testified in support of HB2666 to correct and improve an antiquated law that has the potential to cause great financial injury to the taxpayers of certain fire districts of Arizona. He stated that he knows of no government or business organization that would consider allowing a two-member management team without a division of authority. A two-member volunteer team was necessary when fire districts were first started because of the difficulty of getting volunteers. He said there is no consistency in the current fire district statutes

because of the way some board members are paid. On behalf of many taxpayers and residents of fire districts throughout the state, he asked for Members' approval of this legislation.

Chairman Weiers announced the names of those who signed up in opposition to HB2666 but did not speak:

Bryan Ginter, representing self

Chairman Weiers announced the names of those who signed up as neutral on HB2666 but did not speak:

John Flynn, Arizona Fire District Association

Lee Miller, Lobbyist, Arizona Fire District Association

**Question was called on the motion that the Stevens six-line amendment dated 2/16/10 to HB2666 be adopted (Attachment 14).**

**Vice-Chairman Gowan moved that HB2666 as amended to pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 15).**

Without objection, the meeting adjourned at 4:00 p.m.

---

Joanne Bell, Committee Secretary  
March 3, 2010

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