

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

**COMMITTEE ON NATURAL RESOURCES
AND RURAL AFFAIRS**

Minutes of Special Meeting
Thursday, February 25, 2010
House Hearing Room 5 -- 8:00 a.m.

Chairman Konopnicki called the meeting to order at 8:02 a.m. and attendance was noted by the secretary.

Members Present

Mr. Deschene
Ms. Fleming
Mr. McComish

Mrs. Pancrazi
Mr. Pratt
Mr. Weiers JP

Mr. Jones, Vice-Chairman
Mr. Konopnicki, Chairman

Members Absent

None

Committee Action

HB2251 – DPA S/E (6-0-0-2)
HB2394 – DPA S/E (6-0-1-1)
HB2449 – DPA S/E (7-0-0-1)
HB2617 – DPA (6-0-0-2)

HB2786 – HELD
HCM2004 – DP (6-0-0-2)
HCR2040 – DPA (5-1-0-2)

CONSIDERATION OF BILLS

HB2786 - lease of state parks. – HELD

Chairman Konopnicki announced that HB2786 will be held.

**HB2251 - technical correction; firefighters; military duty – DO PASS AMENDED S/E
S/E: closed facility; definition**

Vice-Chairman Jones moved that HB2251 do pass.

Vice-Chairman Jones moved that the Konopnicki nine-page strike-everything amendment dated 2/23/10 (Attachment 1) be adopted.

Diane Lenkowsky, House Majority Intern, explained that the strike-everything amendment to HB2251 broadens the definition of the term *closed facility* (Attachment 2).

Ms. Fleming asked for a definition. Ms. Lenkowsky explained that currently a *closed facility* is one that has ceased operation before January 1, 1986, and has no intention of resuming operations.

Henry Darwin, Arizona Department of Environmental Quality (ADEQ), stated his support for the strike-everything amendment to HB2251. He explained that the term *closed facility* relates to facilities for the purposes of the aquifer protection permit program: facilities that might discharge in a way that would affect an aquifer such as mining facilities, wastewater treatment plants, or surface impoundments.

Mr. Darwin explained that ADEQ has been working with the mining community on this change in the definition and hoped to avoid legislative action.

Nancy Freeman, representing self, stated that she lives in Green Valley, a mining area, and is concerned that the mines are polluting the water. She is in favor of anything that will enforce aquifer protection.

Vice-Chairman Jones announced the names of those who signed up in opposition to HB2251 but did not speak:

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter

Vice-Chairman Jones announced the names of those who signed up as neutral on HB2251 but did not speak:

Jim Buster, Legislative Liaison, Arizona Department of Environmental Quality

Question was called on the motion that the Konopnicki nine-page strike-everything amendment dated 2/23/10 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Jones moved that HB2251 as amended do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 3).

HB2394 - technical correction; expenditure limitation – DO PASS AMENDED S/E
S/E: expenditure limitation; Pinal County

Vice-Chairman Jones moved that HB2394 do pass.

Diane Lenkowsky, House Majority Intern, explained that the strike-everything amendment to HB2394 reduces the penalties for exceeding expenditure limitations for the Town of Superior (Attachment 4).

Vice-Chairman Jones moved that the Pratt eleven-line strike-everything amendment dated 2/23/10 (Attachment 5) be adopted.

Michael Hing, Mayor, Town of Superior, spoke in support of HB2394. He explained that there is a possibility of the mine reopening, which will provide many new jobs, but that is in the future

and right now the town is in financial straits. This legislation will allow Superior to avoid a large penalty for exceeding state expenditure limitations.

Representative Barbara McGuire, sponsor, urged the Legislators to pass this bill, assuring them that this is necessary legislation to help this community.

Question was called on the motion that the Pratt eleven-line strike-everything amendment dated 2/23/10 (Attachment 5) be adopted. The motion carried.

Vice-Chairman Jones moved that HB2394 as amended do pass. The motion carried by a roll call vote of 6-0-1-1 (Attachment 6).

HB2449 - pest management; department of agriculture – DO PASS AMENDED S/E
S/E: same subject

Vice-Chairman Jones moved that HB2449 do pass.

Vice-Chairman Jones moved that the Jones forty-three-page strike-everything amendment dated 2/18/10 (Attachment 7) be adopted.

Thomas Adkins, Majority Research Analyst, explained that the strike-everything amendment to HB2449 transfers the Office of Pest Management (OPM) to the Department of Agriculture and makes numerous conforming statutory changes (Attachment 8).

Ken Fredrick, Arizona Pest Professionals Organization, stated his support for the legislation.

Vice-Chairman Jones explained that there has been much discussion about this, and the stakeholders will be involved to make a smooth transition as OPM moves from one culture and nomenclature to another.

Vice-Chairman Jones announced the names of those who signed up in favor of HB2449 but did not speak:

Shelly Tunis, Attorney, Yuma Fresh Vegetable Association
Gavin Gallifant, National Environmental Solutions
Nathan Tamialis, Regional Manager, SOS Exterminating
Kevin Etheridge, Contractors Termite and Pest Control Inc.
Jack Peterson, Arizona Department of Agriculture
Fred Willey, Invader Pest Management
Stuart Goodman, Lobbyist, Office of Pest Management

Vice-Chairman Jones announced the names of those who signed up in opposition to HB2449 but did not speak:

Rick Lavis, Arizona Cotton Growers Association
Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter

Vice-Chairman Jones announced the names of those who signed up as neutral on HB2449 but did not speak:

Joe Sigg, Lobbyist, Arizona Farm Bureau

Question was called on the motion that the Jones forty-three-page strike-everything amendment dated 2/18/10 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Jones moved that HB2449 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 9).

HB2617 - mining amendments; water; permits; rules - DO PASS AMENDED

Vice-Chairman Jones moved that HB2617 do pass.

Vice-Chairman Jones moved that the Jones twenty-two-page amendment dated 2/19/10 (Attachment 10) be adopted.

Diane Lenkowsky, House Majority Intern, explained that HB2617 makes multiple changes to statutes related to mining (Attachment 11).

Mrs. Pancrazi asked why the word “lease” was removed from the definition of “license”. Vice-Chairman Jones replied that it was a request from the State Land Department and has to do with constitutional issues.

Vice-Chairman Jones, sponsor, explained that this legislation was recommended by a joint Ad Hoc committee whose purpose is to create a regulatory environment which will encourage the growth of mining and mining jobs in the state.

Mrs. Pancrazi expressed concern about the broad language of the bill which does not address specific guidelines for each agency. Vice-Chairman Jones explained that the wording has been changed to pertain only to mining agencies.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, stated her opposition to HB2617. She stated that no one from the environment community was included in the development of this bill and there is concern that it will result in less protection for Arizona’s waters. She acknowledged the importance of mining in Arizona, but argued that protecting water is of greater importance.

Lyle Mann, Peace Officer Standards and Training Board, appeared in opposition to HB2617, stating that it will impact all self-regulated boards.

Jason Baran, Arizona Municipal Water Users Association, stated his opposition to HB2617 for the following provisions, which should be removed or reworked:

- fees provisions for Arizona Department of Water Resources and Arizona Department of Environmental Quality
- administrative law procedures, particularly with respect to the water provisions

- water management issues

Bas Aja, Arizona Cattlemen's Association, appeared in opposition to this legislation. He explained that HB2617 removes the power of the elected officials to govern agencies by allowing an unelected, unaffiliated Joint Legislative Budget Committee (JLBC) to raise fees.

Chairman Konopnicki stated that sweeping the fees has been very detrimental to agencies. Mr. Aja replied that the mining community states that it will pay fees, but it has not had the recent experience of having \$4.5 million in fees swept from them; he concurred that sweeping fees devastates programs and that this bill will allow sweeps to continue.

Chairman Konopnicki clarified that the fees being talked about are self-imposed fees that the agencies collect for a purpose, and that sweeping them causes Arizona to lose the benefits of those fees. Mr. Aja agreed.

Chairman Konopnicki informed the Committee that he will call a recess in a few minutes.

Nancy Freeman, Groundwater Awareness League, stated her opposition to HB2617, explaining that this is an economic issue in that mines will make billions of dollars and do not need water exemptions in order to operate.

Lyn White, Freeport McMoRan, Arizona Mining Association, appeared in favor of this legislation. She distributed an economic analysis report about the impact of mining in Arizona (Attachment 12), which she will discuss when the Committee reconvenes.

Ms. White stated that her Association is not trying to loosen environmental laws, but wishes to look at how regulations impact the mining industry's ability to move forward. She added that mining is a commodity business that cannot control costs and that it takes more to get the same pound of copper ore out of the ground than it used to.

Without objection, Vice-Chairman Jones withdrew his motion that the Jones twenty-two-page amendment dated 2/19/10 (Attachment 10) be adopted.

Without objection, Vice-Chairman Jones withdrew his motion that HB2617 do pass.

CHAIRMAN KONOPNICKI RECESSED THE MEETING AT 8:59 A.M. TO RECESS OR ADJOURNMENT OF THE FLOOR.

CHAIRMAN KONOPNICKI RECONVENED THE MEETING AT 3:47 P.M. ALL MEMBERS WERE PRESENT.

HB2617 - mining amendments; water; permits; rules- DO PASS AMENDED (continued)

Vice-Chairman Jones moved that HB2617 do pass.

Vice-Chairman Jones moved that the Jones twenty-two-page amendment dated 2/19/10 (Attachment 10) be adopted.

Jennifer Boucek, Legislative Liaison, Attorney General's Office, spoke in opposition to HB2617, primarily because of the provision dealing with judicial review which would require the Attorney General's Office to defend ADEQ in appeals cases, expending considerable resources and requiring additional staff.

Chairman Konopnicki encouraged Ms. Boucek to attend the upcoming stakeholders' meeting to present these concerns.

Lyn White, Freeport McMoRan, Arizona Mining Association, appeared in favor of HB2617. Referring to the documentation she distributed earlier (Attachment 12), Ms. White explained that her Association is not trying to circumvent the regulatory process, rather to streamline the process of bringing mining and jobs to Arizona.

Ms. White stressed the importance of mining to the rural economy, stating that Arizona produces 66 percent of all domestic copper.

Mrs. Pancrazi asked if the fee-setting will only be done by ADEQ and ADWR. Ms. White replied in the affirmative.

Vice-Chairman Jones stated that the concern has to do with the agriculture sector and the persistent sweep of funds and that there is an attempt to arrive at language which will protect some of these funds.

Ms. White discussed the requirements and rationale for mine inspectors, as well as reclamation efforts and examples. She stated that conflicting and duplicative statutes between ADWR and ADEQ will be addressed so that mitigation activities can move forward.

Vice-Chairman Jones stated that during the Ad Hoc meetings, smaller mining operations were concerned that they did not have the resources to deal with all the legal requirements.

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Administrative Office of the Courts, testified as neutral on HB2617, stating that changes to the Administrative Procedures Act did away with appellate hearing appeals and moved them to the Superior Court, where they could turn into a new trial with attendant costs. He stated his understanding is that the intent is to deal with ADEQ only, and that the next stakeholders' meeting will address this issue.

Jeff Gray, Legislative Liaison, City of Phoenix, stated that the City is neutral on the legislation, but has similar concerns to those expressed earlier today by the Arizona Municipal Water Users Association and the Arizona Cattlemen's Association. He is confident that those concerns will be addressed at the stakeholders' meeting.

Clint Webb, representing self, stated that he is neutral on HB2617 and that his concern is about the Arizona Mining and Mineral Museum.

Chairman Konopnicki assured Mr. Webb that nothing will happen to the Museum.

Vice-Chairman Jones announced the names of those who signed up in favor of HB2617 but did not speak:

Sydney Hay, AMIGOS and Arizona Mining Association
Russell Bowers, Executive Director, Arizona Rock Products Association
Madan Singh, Director, Department of Mines & Mineral Resources
Heather Bernacki, Government Relations Associate, Peabody Energy
Steve Trussell, Arizona Rock Products Association

Vice-Chairman Jones announced the names of those who signed up in opposition to HB2617 but did not speak:

Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona
Rosanna Gabaldon, Councilmember, Town of Sahuarita

Vice-Chairman Jones announced the names of those who signed up as neutral on HB2617 but did not speak:

Molly Greene, Salt River Project

Vice-Chairman Jones described the Ad Hoc meetings held in the fall, assuring the Members that all stakeholders were involved and that the intent of this legislation is to address all concerns.

Question was called on the motion that that the Jones twenty-two-page amendment dated 2/19/10 (Attachment 10) be adopted. The motion carried.

Vice-Chairman Jones moved that HB2617 as amended do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 13).

HCM2004 - economically depressed area; Navajo nation – DO PASS

Vice-Chairman Jones moved that HCM2004 do pass.

Diane Lenkowsky, House Majority Intern, explained that HCM2004 urges Congress to provide funding resources to and to designate the former Bennett Freeze Region and surrounding area of Coconino County as an economically depressed area (Attachment 14).

Mr. Deschene, sponsor, explained that the Bennett Freeze Region has suffered over the last forty years, but stated the ban has been lifted and HCM2004 will encourage Congress to release funding to the area.

Chairman Konopnicki reminded the Members that testimony was taken last year. Mr. Deschene stressed that he will offer an amendment that will add the Hopi Tribe to the legislation, which currently reads only for the Navajo Nation.

Vice-Chairman Jones asked if there is anything to preclude the area being designated as a state empowerment zone. Mr. Deschene replied that there is nothing to preclude that other than current budget problems.

Chairman Konopnicki stressed the importance of aiding this region.

Vice-Chairman Jones announced the names of those who signed up in favor of HCM2004 but did not speak:

Janet Regner, The Hopi Tribe

Question was called on the motion that HCM2004 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 15).

HCR2040 - sustainable state parks fund – DO PASS AMENDED

Vice-Chairman Jones moved that HCR2040 do pass.

Vice-Chairman Jones moved that the Jones two-page amendment dated 2/24/10 (Attachment 16) be adopted.

Thomas Adkins, Majority Research Analyst, explained that HCR2040, upon approval by the voters, establishes an annual state parks fee of \$9 to be paid at the time an individual registers his or her vehicle (Attachment 17). He explained that the amendment raises the fee to \$12, \$3 of which will go to the Arizona Department of Transportation, and makes other specifications.

Chairman Konopnicki explained that there is not a Prop 108 application as this is an HCR and will go to the voters. He stressed that it is important to help State Parks because the Legislature has taken all the funding away from the parks. He added that this fee is guaranteed, it cannot be taken away, and he is hopeful that it will increase attendance at the parks.

Barry Aarons, Greenlee and Apache County, stated his support for HCR2040, stressing the importance of the parks to residents and to people around the country and the world. He added that it is important to guarantee funding to the parks.

Mr. Weiers asked if motorcycles and boats would incur the fee and if multiple vehicles in a household would be charged the fees. Vice-Chairman Jones replied that the intent is to charge the fee for motor vehicles on the highway and that this will be clarified.

Jay Ziemann, Assistant Director, Arizona State Parks Board, addressed the Members in support of this legislation, which will represent the enactment of the Governor's task force recommendations for sustainable funding for Arizona State Parks. He explained that the intent is to apply the fee to non-commercial vehicles only, and to exempt off-highway vehicles, boats, trailers, and planes.

Renee Bahl, Executive Director, Arizona State Parks, stated her support for this legislation.

Wally Armor, Arizona State Parks Board, appeared in support of HCR2040, stating that the entire Board supports this source of permanent funding. He urged the Members to keep these parks open and he explained that they are critical to rural communities.

William Thornton, Arizona Heritage Alliance, appeared in support of this legislation. He explained that through the Alliance the people of Arizona have invested over \$200 million of lottery revenue in parks that preserve the state's natural, cultural, and historical resources and provide recreational opportunities for hundreds of thousands of visitors each year. He stressed that the return on this investment has been phenomenal as the parks generate \$260 million in economic activity each year, much of which is in rural communities.

He urged the Legislature to stop the fund sweeps, which have taken \$53 million in the last 18 months. Included in these sweeps are the dollar bills that folks donate on-site.

Chairman Konopicki concurred with these sentiments.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, stated her support for HCR2040, explaining that many communities have stepped up to keep the parks open and that this legislation provides a structural solution for constant funding.

Roger Carter, representing self, testified in support of the legislation, stating that Arizona must develop an economy based on ecotourism.

Jim Vaaler, representing self, appeared in support of HCR2040, stating that it is a bargain to get into all the state parks for such a small fee. He added that shuttering the parks is an abrogation of the Legislature's responsibility to residents.

Vice-Chairman Jones announced the names of those who signed up in favor of HCR2040 but did not speak:

Rob Smith, representing self

Brenda Smith, representing self

Marilyn Ruggles, representing self

Tiffany Sprague, representing self

Ann Hutchinson, North Country Conservancy

Ken Strobeck, Executive Director, League of Arizona Cities and Towns

Mark Hayduke Grenard, representing self

Janet Regner, The Hopi Tribe

Peter Bengtson, representing self

Janice Miano, Arizona Heritage Alliance

Deb Sparrow, representing self

Claudine Mohoney, representing self

Jane Pauk, RN, representing self

Bettina Bickel, representing self

Nick Simonetta, Government Affairs Consultant, Arizona Off Highway Vehicle Coalition

Elizabeth Woodin, citizen, representing self

Alisa McMahan, representing self

Michael Fiflis, representing self

Richard Hubbard, Valley Partnership

Michelle Pulich-Stewart, representing self

David McCaleb, representing self

Cristie Statler, Executive Director, Arizona State Parks Foundation

Bill Meek, President, Arizona State Parks Foundation
Marc Garcia, Greater Phoenix Convention & Visitors Bureau
Kimberly Freer, Greater Phoenix Convention & Visitors Bureau
Jeff Williamson, Heritage Alliance
Jim McPherson, President, Arizona Preservation Foundation
Susan Culp, representing self
Thomas Hulen, Conservationist, representing self
Sam Campana, Executive Director, representing self
Shelley MacDonald, representing self
Douglas Frerichs, representing self
Norris Nordvold, Inter Tribal Council of Arizona

Question was called on the motion that the Jones two-page amendment dated 2/24/10 (Attachment 16) be adopted. The motion carried.

Vice-Chairman Jones moved that HCR2040 as amended do pass. The motion carried by a roll call vote of 5-1-0-2 (Attachment 18).

Without objection, the meeting adjourned at 5:07 p.m.

Jane Dooley, Committee Secretary
March 11, 2010

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