

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

COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY

Minutes of Meeting
Wednesday, March 17, 2010
House Hearing Room 3 -- 9:00 a.m.

Chairman Weiers called the meeting to order at 9:15 a.m. and the secretary called the roll.

Members Present

Ms. Fleming
Mr. Patterson
Ms. Reeve

Mr. Seel
Mr. Stevens

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

Members Absent

Mrs. McGuire (excused)

Committee Action

SB1014 – DPA S/E (5-2-0-1)
SB1027 – DP (5-2-0-1)
SB1123 – DP (5-0-0-3)
SB1172 – DP (6-0-1-1)

SB1261 – DPA (7-0-0-1)
SB1325 – DP (6-0-1-1)
SCR1004 – DP (6-1-0-1)

Chairman Weiers asked everyone in attendance to stand for a moment of silence to honor Sergeant First Class Glen J. Whetten, 31, who died in Afghanistan on March 12, 2010, in support of Operation Enduring Freedom. Sergeant First Class Whetten died of injuries sustained when an improvised explosive device detonated near his vehicle.

Ms. Reeve introduced her uncle, David Reeve, an active member of the Republican Party in Texas.

PRESENTATION:

Dennis Cole, Senior Vice Commander, Arizona Veterans of Foreign Wars (VFW), advised that the VFW is a 110 year-old veteran service organization. Its mission is to protect the rights and interests of its veteran population. The VFW has approximately 35,000 members in Arizona, of which 9,000 are members of the Ladies Auxiliary. All Arizona VFW members are volunteers; only six are paid employees.

He explained that the VFW is a community-based service organization that has three programs to help veterans and families in need. The VFW provides financial assistance to families of veterans in need, has a military assistance program and supplies calling cards so veterans who are overseas can call home without charge.

Last year, the Arizona VFW and the Ladies Auxiliary donated 233,679 hours of volunteer work within its communities. The Arizona Veterans Service Office handled nearly 5,000 claims for veterans' benefits, widows' benefits, disability compensation, and pensions last year. So far this year, 119 claims have been processed. He stated that the VFW makes an impact. The men and women of the VFW have served their country, love their country, care about its families, take care of its communities and want to continue to take care of those men and women who are serving this country today.

Mr. Cole related that he met the Chairman at an event at the Veterans' Coliseum about seven weeks ago where various organizations were involved in helping homeless veterans. He related that over 1,000 veterans received some kind of assistance: health, legal, clothing, showers, haircuts, etc. He stated that homelessness is a growing problem, especially in the southwest, because of the climate since it is easier to exist on the street here than it is in the Midwest. The VFW will be getting involved with the homeless veterans next year and has started putting together some programs. The amount of assistance will depend on its budget.

Terry Dalton, Veterans Service Officer, Arizona Veterans of Foreign Wars (VFW), spoke about the homeless veterans living in Arizona. He related that there are about 104,000 veterans in the country at any one time living on the streets; 27 to 33 percent live in Arizona. Of the homeless veterans in Arizona, approximately 37 percent are Vietnam veterans, many suffering from post traumatic stress, drugs and alcohol abuse. He divulged that a troubling aspect is that three years ago, four percent of the homeless veterans were women; now the number has increased to eight percent. The women oftentimes have children with them and they have no place to go. With more women going into the service, it is expected the number of homeless women veterans will grow.

Mr. Cole mentioned that one of the biggest problems the VFW is facing, other than homelessness, is rural health care for veterans.

CONSIDERATION OF BILLS:

SB1261 – families of fallen officers fund – DO PASS AMENDED

Ms. Reeve moved that HB1261 do pass.

Ms. Reeve moved that the Weiers four-line amendment dated 3/16/10 to SB1261 be adopted (Attachment 1).

Nicholas Calderon, Majority Intern, explained that SB1261 modifies the requirement a nonprofit corporation must meet in order to receive allocated monies from the Families of Fallen Police Officers Special Plate Fund (Attachment 2). The amendment requires the Department of Public

Safety (DPS) to allocate monies to the nonprofit corporation that paid the implementation fee to the Department of Transportation (ADOT) (Attachment 1).

Andy Swann, President, Associated Highway Patrolmen of Arizona, Arizona Chapter of Concerns of Police Survivors, in support of SB1261 advised that the Arizona Chapter is an organization that provides services to survivors of police officers who died in the line of duty. This bill cleans up existing language in statute that creates the fund and allows those monies from the fund to be distributed to this worthwhile charity.

In response to Mr. Seel, Mr. Swan advised that the Fund has a current balance of \$30,000.

Ms. Reeve announced the names of those who signed up in support of SB1261 but did not speak:
Jim Warriner, Arizona Conference of Police and Sheriffs (C.O.P.S.)
Kevin Biesty, Legislative Liaison, Arizona Department of Transportation (ADOT)
Jan Blaser-Upchurch, Executive Board Member, Arizona Chapter of Concerns of Police Survivors
Cathie Buckmister, Arizona Chapter of Concerns of Police Survivors
James Mann, Arizona Fraternal Order of Police (FOP)
Bill Everson, Chairman, Arizona Labor Council, Arizona State Fraternal Order of Police
Bryan Soller, State Vice President, Arizona State Fraternal Order of Police
Ray Churay, Deputy Director, Maricopa County Sheriff's Office
Don Isaacson, representing Fraternal Order of Police
John Wentling, Vice Chairman, Arizona Citizens Defense League, Inc., representing self
Jimmy Chavez, President, Arizona Highway Patrol Association
Robin Quinn, representing self
Norman Moore, representing Fraternal Order of Police
Chuck Foy, Executive Director, Arizona Correctional Peace Officers Association
Brian Livingston, Executive Director, Arizona Police Association
Mike Williams, representing Arizona Police Association, Phoenix Law Enforcement Association

Question was called on the motion that the Weiers four-line amendment dated 3/16/10 to SB1261 be adopted (Attachment 1). The motion carried.

Ms. Reeve moved that SB1261 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 3).

SCR1004 – cold war victory day – DO PASS

Ms. Reeve moved that SCR1004 do pass.

Nicholas Calderon, Majority Intern, stated that SCR1004 designates May 1 of each year as Cold War Victory Day in Arizona (Attachment 4). The bill requires the Arizona Secretary of State to transmit a copy of this Resolution to the Cold War Veterans Association.

Senator Jack Harper, sponsor, related that this legislation honors the veterans of the U.S. military who served in the Cold War. Cold War Victory Day is not a paid holiday but a recognized day to honor veterans who served during this period.

Question was called on the motion that SCR1004 do pass. The motion carried by a roll call vote of 6-1-0-1 (Attachment 5).

SB1325 – polygraph examinations; interviews; law enforcement – DO PASS

Ms. Reeve moved that SB1325 do pass.

Thomas Adkins, Majority Research Analyst, explained that SB1325 makes changes to the investigatory protocol for law enforcement officers and probation officers (Attachment 6).

Norman Moore, representing Arizona Fraternal Order of Police, spoke in support of SB1325. He reviewed the bill which establishes certain baseline due process provisions for law enforcement and probation officers who have been identified as possibly violating rules and regulations of the department or subject to a citizen's complaint:

- Allows a law enforcement officer to trigger the due process protections.
- Provides that a law enforcement officer can have a representative accompany the officer into the internal affairs interview subject to certain conditions.
- Increases the level of information provided to the officer to include copies of the complaint that contains the alleged facts.
- Provides that the polygraph exam results are limited to uses for employment, certification, and provides that all other uses are prohibited.
- Stipulates that all polygraph information relating to a law enforcement officer is required to be destroyed.
- Triggers all due process protections when the potential discipline includes dismissal, demotion or suspension for more than 24 hours and lowers the threshold to 16 hours.

Mr. Moore encouraged Members to support the bill.

Mr. Patterson expressed concern about the provision relating to the destruction of records.

James Mann, Executive Director, Arizona Fraternal Order of Police, in support of HB1325, addressed the concern about the polygraph provision. He advised that a polygraph exam is given to a perspective employee when a person initially applies to the agency. The polygraph is very detailed and very personal. The purpose of the polygraph is to ensure that the applicant meets the standards of the Arizona Peace Officer Standards and Training Board (AZPOST).

Mr. Patterson asked whether the polygraph is used in an investigation. Mr. Mann answered in the affirmative and said the records are destroyed after that process is completed and resolved. Currently there is no rule in place having to do with polygraphs on record retention. The polygraph is kept as long as the employee works in the agency.

Ms. Reeve announced the names of those who signed up in support of SB1325 but did not speak:
Don Isaacson, representing Fraternal Order of Police
Thomas Parker, representing self
Bill Everson, Chairman, Arizona Labor Council, Arizona State Fraternal Order of Police
Bryan Soller, State Vice President, Arizona Fraternal Order of Police

Ray Churay, Deputy Director, Maricopa County Sheriff's Office
John Ortolano, Arizona Fraternal Order of Police
John Thomas, representing Arizona Association of Chiefs of Police

Ms. Reeve announced the names of those who signed up as neutral on SB1325 but did not speak:
Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board
Seth Apfel, Volunteer, representing self

Question was called on the motion that SB1325 do pass. The motion carried by a roll call vote of 6-0-1-1 (Attachment 7).

SB1172 – schools; gun safety programs – DO PASS

Ms. Reeve moved that SB1172 do pass.

Nicholas Calderon, Majority Intern, said that SB1172 increases the list of people who are eligible to teach the Arizona Gun and Safety Program Course and modifies the Course requirements (Attachment 8).

Chairman Weiers announced the names of those who signed up in support of SB1172 who did not speak:

Dave Kopp, President, Arizona Citizens Defense League, Inc
John Wentling, Vice President, Arizona Citizens Defense League, Inc.

Question was called on the motion that SB1172 do pass. The motion carried by a roll call vote of 6-0-1-1 (Attachment 9).

SB1027 – immigration; seismic sensors; pilot program – DO PASS

Ms. Reeve moved that SB1027 do pass.

Thomas Adkins, Majority Research Analyst, related that SB1027 requires the Department of Public Safety (DPS) to seek grants to implement a one-year pilot program that would use seismic sensors to monitor rural airport runways and areas for potential illegal drug trafficking, illegal alien trafficking or human smuggling (Attachment 10). The bill requires that a report be submitted by July 1, 2012 as to the effectiveness of the pilot program to the Governor, Speaker of the House, President of the Senate and Secretary of State, and states that this Act repeals on January 1, 2013.

Ms. Reeve announced the names of those who signed up in support of SB1027 but did not speak:
Beth Straley, 40 Days For Life Campaign Administrator, representing self
Mike Williams, Quantum Technologies, Arizona Police Association
Royce Flora, Chairman, District 8 Republican Committee, representing self

Ms. Reeve announced the names of those who signed up as neutral on SB1027 but did not speak
Tim Grubbs, Legislative Liaison/Finance Manager, Arizona Department of Homeland Security

Ms. Reeve announced the names of those who signed up in opposition to SB1027 but did not speak:

Lydia Guzman, Chairman, representing self

Jennifer Allen, Executive Director, Border Action Network

Brian Livingston, Executive Director, Arizona Police Association, advised that the Arizona Police Association consists of police, correction, detention and border patrol officers. He stated that the Association supports this legislation because of the diminishing number of law enforcement officers across the state and the crises facing the state. He contended that increasing technology is needed to ensure that drug trafficking is discovered and human smuggling is easily identified as well as weaponry coming across the border. He said this is a tool to alert officers to possible illegal activity.

Mr. Patterson asked why the state is being directed to do this and not the federal government. Mr. Livingston answered the concern is that many times the Border Patrol agent cannot get to a given area in time. DPS is the state's police agency and it is important for that agency to be involved because it has the ability to communicate with all other law enforcement agencies throughout the state. He pointed out that this program only will be implemented if a grant is available. Mr. Patterson maintained that the Border Patrol and the U.S. Department of Homeland Security should be doing this because it is a federal responsibility.

Mr. Patterson referred to an article in the February 2010 Police Chief magazine which pointed out that seismic sensors frequently malfunction due to weather or get tripped by animals and livestock, resulting in false alarms. He wondered whether this technology is proven enough for the state to take this on. Mr. Livingston related that the manufacturer has advised technology has improved to ensure that protections are there and resources are not wasted.

Mr. Seel asked whether violence on the border is increasing or decreasing. Mr. Livingston replied that it obviously is increasing. Border Patrol officers are being shot at by people engaging in illegal activity. Mr. Seel commented that plans should be started to address the issue. Mr. Livingston commented that plans are already in place. Mr. Seel queried whether they include the National Guard. Mr. Livingston said he does not know.

Ms. Fleming stated that the language is confusing because it requires DPS to seek a grant and report to the Governor, the Speaker of the House, the President of the Senate and the Secretary of State. Mr. Livingston clarified that DPS must seek the grant first. Without a grant, nothing will go into effect.

Mark Tinker, President, Quantum Technology Sciences, Inc., in support of SB1027, testified that seismic ground sensors have been used since the Vietnam War, and technology has improved dramatically over the last few decades. The sensors can now discriminate between humans and animals. These devices can be left in the ground for months. He explained how the technology works. He related that anything that exists in the air or in the water powers energy. That energy goes through the air, couples with the ground and the sensor records it. The challenge is to take that energy and convert it into information that is actionable for someone else.

In response to Mr. Patterson, Mr. Tinker confirmed this is his business and he asked the sponsor to run this legislation. He disclosed that his company is one of about 20 that build these devices and he welcomes the opportunity to compete with these other companies in bidding for this contract.

Mr. Seel asked whether this will go through the state's open procurement law in competition with other companies. Mr. Tinker replied in the affirmative.

Chairman Weiers asked whether these are individual units that report through satellite or are they placed into the ground. Mr. Tinker advised that there are different ways to employ the sensors. He briefly explained how the sensors will work for this application. He said he believes the technology he is proposing is vastly different than what is normally being done.

In reply to Ms. Fleming, Mr. Tinker said he has not talked to the county sheriffs along the border.

Mr. Stephens questioned whether the sensors are fixed-based or mobile. Mr. Tinker answered that they are buried underground but they monitor things both on land and in the air.

Senator Russell Pearce, sponsor, said there was never a more important time for this kind of technology than the present when budget times are tough and the Director of Homeland Security is cutting funds for the Border Patrol and not completing the border fence. He advised there has been a 2,000 percent increase in drug trafficking coming across the border and this technology is a good answer to address that. He stated that this system is much better than sensors used in the past to detect movement of people. He contended that seismic sensors will result in huge benefits, using limited resources, to help detect and apprehend drug traffickers and human smugglers along the border.

Discussion ensued between Mr. Patterson and Senator Pearce relating to Senator Pearce's testimony. Mr. Patterson disputed facts presented and criticized how questions were answered.

Mr. Patterson asked whether there is concern about false alarms with animals and livestock triggering the sensors. Senator Pearce replied in the negative. He said he has no concern because of the proven technology of these devices. The sensors will be in remote areas and will identify whether the movement is from a vehicle, an animal or a human.

Mr. Patterson asked the need for this legislation when law enforcement can do this now. Senator Pearce said he worked with Border Patrol agents and law enforcement officers and they all agree this will be a great solution to help with border violence, using the limited resources they have, in an efficient manner.

Mr. Seel inquired whether the state open procurement law will be used if a grant is accessed. Senator Pearce replied in the positive.

Question was called on the motion that SB1027 do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 11).

SB1123 – prisoners; community corrections; monitoring; fees – DO PASS

Ms. Reeve moved that SB1123 do pass.

Thomas Adkins, Majority Research Analyst, disclosed that SB1123 establishes the Community Corrections Enhancement Fund consisting of fees for community supervisors, parole, Global Positioning System (GPS) monitoring and home arrest (Attachment 12).

Ms. Reeve announced the names of those who signed up in support of SB1123 but did not speak:
Jennifer Bowser, Arizona Department of Corrections
James Mann, Arizona Fraternal Order of Police
Bill Everson, Chairman, Arizona Labor Council, Arizona State Fraternal Order of Police
Bryan Soller, State Vice President, Arizona Fraternal Order of Police
Tom Dorn, Lobbyist, Management & Training Corporation
Norman Moore, Attorney, Fraternal Order of Police
Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Council

Question was called on the motion that SB1123 do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 13).

SB1014 – military family relief fund eligibility – DO PASS AMENDED S/E

S/E: concealed weapons; school grounds; faculty

Ms. Reeve moved that SB1014 do pass.

Ms. Reeve moved that the Weiers 22-line strike-everything amendment dated 3/15/10 to SB1014 be adopted (Attachment 14).

Daniel Gonzalez-Plumhoff, Assistant Majority Research Analyst, Appropriations Committee, explained that the proposed strike-everything amendment (Attachment 14) allows university and community college faculty members who possess valid concealed carry weapons (CCW) permits to carry concealed firearms on the grounds of a public community college, provisional community college or university (Attachment 15).

Senator Jack Harper, sponsor, asked Members for their support of SB1014. He explained that this bill allows faculty members with CCW permits to carry their firearm concealed with them on community college, provisional community college or university campus grounds despite any rules or laws to the contrary. He maintained that the right to bear arms is an individual right that is not to be infringed on. This bill puts fear in the minds of criminals who intend to do harm to students. He said he believes it is a good idea for others to carry concealed weapons on a college campus to be able to deter an attack besides the limited number of security officers.

Vice-Chairman announced the names of those who signed up in support of the strike-everything amendment to SB1014 but did not speak:

John Wentling, Vice President, Arizona Citizens Defense League, Inc.
Royce Flora, Chairman, District 8 Republican Committee, representing self

Ms. Reeve announced the names of those who signed up in opposition to the strike-everything amendment to SB1014 but did not speak:

John Thomas, Arizona Association of Chiefs of Police

Greg Fahey, Associate Vice President, The University of Arizona

Katherine Harmeyer, representing self

Craig McDermott, representing self

Mitch Menlove, Arizona State University

Kristen Boilini, Lobbyist, Northland Pioneer College, Cochise Community College

Alisa Lyons, Arizona Community College Presidents' Council

Charlene Ledet, Special Assistant, State Relations, The University of Arizona

Dana Paschke, Maricopa Community College Faculty Association

James Horton, President, Yavapai College

Christy Farley, Executive Director, Northern Arizona University

Rick Hovden, Lieutenant, Tucson Police Department

Christine Thompson, Assistant Executive Director for Government Affairs, Arizona Board of Regents (ABOR), testified that ABOR is opposed to the strike-everything amendment to SB1014. She advised that Chief John Pickens is available to answer questions.

John Pickens, Chief of Police, Arizona State University, testified in opposition to the strike-everything amendment to SB1014. Since the tragic shooting at Virginia Tech in 2007, personnel at campuses across the nation have been reviewing, updating and testing plans to deal with these types of situations; however, there is no preparation that can prevent these criminal acts if an individual is determined to commit this type of act. He said he believes the intent of this legislation is good but he also believes it will result in unintended consequences. He related that in an academic environment, there are many incidents that involve police actions. The primary objective is to neutralize the threat and identify the target or suspect. Police officers do not know how they will react in these situations and that is why training is so important. He listed other concerns which include weapons security, proper training of persons carrying concealed weapons, misidentifying a person carrying a weapon with the suspect as well as accidental discharge of a weapon. He said he does not believe allowing university personnel to carry weapons on campus is the solution to this problem and said he is opposed to any legislation that supports individuals other than law enforcement carrying weapons on campus.

Joe Cappelli, Chief of Police, Yavapai College, spoke against the strike-everything amendment to SB1014. He said he believes this legislation poses an additional risk to first responders and that puts people's lives at risk. The disparity in training concerns him as does being able to discern faculty members from a suspect. Because of campus shootings throughout the country, his department has changed the way it trains. CCW permit training does not give a person the expertise needed to diffuse an armed confrontation. He said that storage of weapons in a classroom is also a concern. He opined this legislation is well-intended but ill-advised.

Chairman Weiers asked Chief Cappelli if he supports carrying a concealed weapon. Chief Cappelli replied that he does; however, he has an issue with the level of training.

Dave Kopp, President, Arizona Citizens Defense League, Inc., testified in support of the strike-everything amendment to SB1014. He related that he is a certified CCW permit instructor. He

teaches people taking the classes that they are not policemen and are not required to act as policemen. He stresses that one of the most important things for a CCW holder to remember is that the person can defend himself only, and anything beyond that will subject the person to legal action. As for securing a firearm, he stated that the most secure place to store a firearm is on one's person.

Question was called on the motion that the Weiers 22-line strike-everything amendment dated 3/15/10 to HB1014 be adopted (Attachment 14). The motion carried.

Ms. Reeve moved that SB1014 as amended do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 16).

Without objection, the meeting adjourned at 11:27 a.m.

Joanne Bell, Committee Secretary
March 22, 2010

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