

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

**COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY**

Minutes of Meeting  
Wednesday, March 31, 2010  
House Hearing Room 3 -- 9:00 a.m.

Vice-Chairman Gowan called the meeting to order at 9:01 a.m. and attendance was noted by the secretary.

**Members Present**

Ms. Fleming  
Ms. Reeve  
Mr. Seel

Ms. Sinema  
Mr. Stevens

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

**Members Absent**

Mrs. McGuire

**Committee Action**

SB1070 – DPA S/E (5-2-0-1)  
SB1109 - HELD

SCR1056 – DPA (7-0-0-1)

Note: On Tuesday, March 30, Representative Sinema was appointed as a Member of the Committee on Military Affairs and Public Safety replacing Representative Patterson.

**CONSIDERATION OF BILLS:**

**SB1070 – immigration; law enforcement; safe neighborhoods – DO PASS AMENDED S/E  
S/E: same subject**

Without objection, Vice-Chairman Gowan announced that he will allow his three-line amendment dated 3/30/10 for consideration (Attachment 1). Ms. Sinema objected on the basis that the amendment was distributed after the deadline. She said it can be offered in Committee of the Whole. Vice-Chairman Gowan concurred.

**Mr. Seel moved that SB1070 do pass.**

**Mr. Seel moved that the Gowan 24-page strike-everything amendment dated 3/29/10 to SB1070 be adopted (Attachment 2).**

Rene Guillen, Majority Research Analyst, Banking and Insurance Committee and the Water and Energy Committee, advised that the strike-everything amendment (Attachment 2) is similar to the underlying bill and to HB2632, immigration; law enforcement; safe neighborhoods, which was heard in this Committee and passed out of Committee of the Whole last week. He reviewed the major differences between the underlying bill and the changes made by the strike-everything amendment (Attachment 3):

- Stipulates that any person who is arrested must have his status determined before the person is released.
- Stipulates that implementation of the provisions relating to determination of status for lawful contact cannot solely consider race, color or national origin.
- Specifies that a person is presumed to not be unlawfully present if they provide any of the following to an officer: a valid driver license, a valid nonoperating identification license, a tribal enrollment card or other form of tribal identification or a valid federal, state or local government-issued identification.
- Changes the trespassing provisions from trespassing to willful failure to comply or carry an alien registration document.
- Provides a defense from prosecution under unlawfully transporting, moving, concealing, harboring or shielding unlawful aliens if the person is providing or assisting in providing emergency public safety or public health services otherwise available to the general public without regard to income.
- Changes the wording requiring peace officers to impound or remove vehicles using transporting, moving, concealing, harboring or shielding unlawfully present aliens.
- Explains the severability, implementation and construction of the bill clause.

In reply to Ms. Sinema's questions relating to the trespass section, Mr. Guillen explained that the original bill required that a person had to be on private or public land or in violation of registration documents. The strike-everything amendment removes language relating to trespassing and being on public or private land and retains just the violation of registration documents language.

Senator Russell Pearce, sponsor, advised that this bill addresses the federal government's failure to act with regard to securing our borders and enforcing our laws. He stated that this is a nation of laws and that the rule of law is important. He contended that citizens have a constitutional right to expect the immigration laws to be enforced. This bill eliminates the sanctuary policies which are already illegal. In addition, it is illegal to have a policy that restricts the exchange of information between local law enforcement and Immigration and Customs Enforcement (ICE). He maintained that this is not only a federal issue and that states have an inherent authority to enforce these laws and ask for information about immigration status the same as for any other legal traffic stop. He reiterated that he wants these laws to be enforced and the integrity of this nation protected.

Ms. Sinema queried whether the state has the ability to arrest, try in a court of law and deport undocumented persons. Senator Pearce answered that the federal entity deports illegal aliens; no state has the authority to remove a person from this country.

Senator Pearce continued with his testimony. He related that this legislation allows law enforcement to do its job. If a person is in Arizona in violation of federal law, that person can be arrested by state law enforcement. He pointed out that 75 percent of the citizens endorse this proposal and he read the names of law enforcement associations and other groups in support of SB1070. He asked Members for their support.

Ms. Sinema expressed concern about the language on page 4, lines 10 through 12, relating to failure to carry an alien registration document and asked whether a photocopy is sufficient to meet the requirement of this policy. Senator Pearce advised that federal law does not allow photocopies. He stated that this language mirrors federal law and only Congress can change federal law. Ms. Sinema argued that a person can be held in custody while that person's status is being verified, causing the person to be subject to a loss of liberty even though the person has not committed a crime. Senator Pearce disagreed. He said that if the legal status is validated by a call to ICE, the person will not be held. Ms. Sinema again stated that the person is subject to being held until verification is made by ICE.

Ms. Fleming brought up the issue of foreign national spouses of military personnel. Senator Pearce stated that this bill does not address that issue because it is already in federal statute.

In reply to Ms. Sinema, Senator Pearce said there is a very strong civil rights provision in the bill. He pointed out that in order to have lawful contact, law enforcement personnel must have reasonable suspicion to believe there is probable cause before a person can be arrested.

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns, in opposition to SB1070, testified that local law enforcement works with the ICE unit of the Department of Homeland Security. Statistics show that 6,500 to 7,000 illegal aliens have been turned over to ICE by municipal law enforcement agencies so the League does not believe this bill is necessary because it is already being done.

To that point, Chairman Weiers asked why a large number of law enforcement officers have told him they want this bill because their hands are tied on this issue. Mr. Wiebusch said that since these people are being turned over to ICE, it appears that the system is working.

Mr. Seel asked Mr. Wiebusch whether the League represents the City of Phoenix. Mr. Wiebusch stated that all incorporated municipalities in the state are members of the League. Mr. Seel brought up the City of Phoenix's policy which specifically instructed its officers, when they came across illegal aliens, that they were not to identify them but were supposed to turn them over to community organizations. To that point, Ms. Sinema said she understands that the City of Phoenix policy requires officers to identify people who have engaged in criminal activity but not to do so for lesser offenses, such as traffic stops.

Ms. Sinema asked whether all cities that oppose this legislation share concerns about unfunded mandates included in the bill. Mr. Wiebusch said they also have other concerns with the bill.

John Thomas, Arizona Association of Chiefs of Police, testified in opposition to SB1070 because of drafting concerns and said those concerns can be resolved by redrafting the language. He reviewed specific areas that need to be addressed:

Page 1, lines 16 through 19 and lines 20 through 24

Page 2, lines 17 through 21

Page 3, lines 9 through 14 and lines 26 through 31

Page 4, lines 7 through 21 and lines 10 through 12

Page 6, lines 11 through 14

Pages 7, line 29

Page 8, lines 1 through 2, lines 3 through 7, lines 8 through 10, and lines 14 through 17

Page 9, lines 8 through 9

Page 20, lines 17 through 20

Ms. Sinema brought up areas of concern to her and discussion ensued on the following:

- Page 1, line 24 – “when practicable” is not defined.
- Page 2, section D – “transporting an individual outside the jurisdiction of the law enforcement agency” may be interpreted as out of state.
- Page 3, section F – “less than full extent permitted by federal law” could make an official or agency of this state, county, city, town or other political subdivision subject to a civil suit.
- Page 6, section E – “an officer may lawfully stop any person if he believes the person is in violation of any civil traffic law” changes a secondary offense to a primary offense.
- Page 7, section 13-2928 – “transporting” may apply to a school bus driver, public bus driver or cab driver.

Ron Johnson, Executive Director, Arizona Catholic Conference, spoke in opposition to SB1070. He contended that humanitarian concerns need to be protected. He reminded Members about testimony he gave on HB2632 about victims and witnesses of crimes and spoke of the need for further clarity so they will not be afraid to come forward. He raised additional concerns about language on pages 7 and 8 relating to conceal, harbor, and transport and said that language is so broad it can be interpreted to include nonprofit organizations, serving meals to the homeless, homeless shelters or just serving the community at large. He pointed out that on page 8, line 2, there is a defense included; however, he said he believes “defense” should be changed to “exemption.”

Mr. Stevens questioned whether it is possible to look at a person and determine whether that person is a criminal. Mr. Johnson replied in the negative. Mr. Stevens asked Mr. Johnson if he has a problem with a church harboring or hiding illegal immigrants. Mr. Johnson said the Arizona Catholic Conference does not endorse anything that is against the law and added that is not one of the concerns being addressed.

Jennifer Allen, Executive Director, Border Action Network, testified as being opposed to the entire bill. Members of the Border Action Network are absolutely opposed to all components of this legislation because they believe SB1070 is one of the most poorly thought out, scantily-researched and most far-reaching pieces of legislation they have ever reviewed. She agreed that the current immigration policy is broken and needs to be fixed; however, this proposal is not the

solution and does nothing to address the fundamental problems of the issue. She said this proposal will result in exorbitant costs to the state and cause undue hardship to residents. She said this is politics, not policy making. It takes away law enforcement flexibility; it takes away officer discretion and adds new complex responsibilities without providing for training or resources. It has civil liberties implications by requiring all people to carry identification documents to establish their legal status in this country. As written, it will be costly to implement the provisions of the bill. She maintained that SB1070 is irresponsible legislation and urged Members to vote against this bill.

Father Glenn Jenks, Valley Interfaith Project, in opposition to SB1070, spoke about unfunded costs to municipalities and the loss of revenue to the state. He said that undocumented residents spend about \$4.4 billion dollars in this state per year and pay \$2.4 billion in taxes every year. He said it is irresponsible in this economic climate to pass such a bill. In addition, families are terrified; they will not report crimes, nor will they be witnesses to crimes as long as these kinds of bills become law.

Mr. Stevens asked Father Jenks about the financial data he cited and asked whether it can be provided to the Committee. Father Jenks answered that the numbers are from a study done by a professor at the University of Arizona. He said he will be happy to provide that data.

In response to Ms. Sinema's query, Father Jenks advised that Valley Interfaith Project represents about 75,000 people in 45 congregations.

Allison Bell, Vice President for Government Relations, Arizona Chamber of Commerce & Industry, neutral on SB1070, spoke about retention of E-Verify records, the inappropriateness of transferring criminal code into civil statutes, and the definition of "harboring."

Todd Landfried, Director, Government Relations & Marketing, Arizona Employers for Immigration Reform, neutral on SB1070, revealed some concerns with the bill. He said he shares concerns expressed by others about the lack of resources to communities to cover the costs of implementing the provisions of the bill, and opined that taxes will have to be raised and businesses will have to pay. He expressed unease about unintended consequences; the bill can be interpreted only as a negative incentive for businesses to locate in Arizona. Lastly, there is concern about the harboring issue and gave an example where a construction business will be in violation of this law if a driver has someone in the truck who is an undocumented person. He encouraged Legislators to fix language to address these issues.

Levi Bolton, Vice President, Phoenix Law Enforcement Association (PLEA), testified in support of SB1070. He provided an example of verification of a suspected illegal alien by law enforcement and pointed out the simplicity of verifying whether the person is undocumented. In addition, he referred to testimony relating to additional training which will be costly and onerous, and claimed that current training enables officers to determine reasonable suspicion. He urged support of the legislation.

Mark Spencer, President, Phoenix Law Enforcement Association (PLEA), in support of SB1070, spoke about the cost of illegal immigration by citing the names of police officers who have lost their lives or been injured at the hands of illegal aliens. He related that in March, 2004 the

Phoenix Police Department abandoned its proactive policy on immigration enforcement, restricted its partnership with ICE and mandated that an illegal alien commit another crime or serious felony for an officer to contact ICE. Eight out of ten members of PLEA believed this policy was detrimental to the quality of life in the City of Phoenix and saw a clear connection between illegal immigration and crime. He stated that the federal government has failed miserably in protecting the borders. He related that PLEA does not believe that ethnicity is an indication of criminality. He urged the Committee to support this bill.

Ms. Sinema asked whether the verbiage on page 3, section F, causes concern. Officer Spencer replied that the section addresses an officer's discretion. Ms. Sinema said she is not referring to intent, but to the language which allows anyone to sue. Discussion ensued.

Ms. Sinema referred to the language relating to "when practicable" on page 1, line 24, and asked whether there should be an exemption for a victim or a witness. Officer Spencer said that is addressed by federal statute.

Mr. Seel brought up the City of Phoenix policy on immigration. Officer Spencer opined that even with the changed policy, there still is resistance by Phoenix police management. Mr. Seel asked how this proposal will affect that policy. Officer Spencer stated that it allows an officer to exercise reasonable discretion to engage with federal officers in immigration matters. He said it brings accountability to departments and encourages officers to use common sense.

Senator Pearce asserted that this is a common sense bill; it puts common sense and discretion back into the law. He addressed arguments and objections raised by opponents of the bill. The bill complies with but does not exceed federal law. It is about protecting law-abiding citizens and he again stated that the state has the inherent responsibility to enforce laws and protect the citizens of this state.

Ms. Reeve asked for an explanation of "harbor." Senator Pearce said that language was taken from federal law.

Ms. Sinema again brought up the language on page 6, section E, which allows an officer to stop someone for a secondary offense and she asked whether further work can be done on terminology to resolve the issue.

Ms. Sinema stated concern for the people who are authorized aliens but do not have a legal right to work, such as students, and asked whether language can be adjusted to address this. Senator Pearce advised that issue is addressed in the bill. He noted that this legislation is about illegal aliens in the United States, not about immigrants.

Ms. Sinema raised concern about privacy rights and referenced page 2, lines 22 through 28. Senator Pearce related that language mirrors federal law. The language does not expand the duties of law enforcement officers, nor does it limit the ability for someone to sue. It gives officers the discretion to determine whether actions are reasonable and practical.

Ms. Sinema brought up the issue of illegal aliens who volunteer to serve in the armed forces. She asked whether they will be subject to this legislation when they return after serving the

country. Senator Pearce stated that matter is covered by federal law and states cannot change federal policy. Ms. Sinema commented that states can choose to make exclusions.

Ms. Sinema asked who will provide training since more officers will be engaged in enforcing immigration policies. Senator Pearce advised that the Arizona Peace Officers Standards and Training Board (AZPOST) provides officer training; no additional training will be required.

Mr. Seel announced the names of those who signed up in support of the strike-everything amendment to SB1070 but did not speak:

Paul Yoder, American Citizens United

Diana Culver, Director/President Kids Klub, Inc.

Ray Churay, Deputy Director, Maricopa County Sheriff's Office

Beth Straley, Campaign Administrator, 40 Days For Life, representing self

Rebecca Baker, Deputy County Attorney, Maricopa County Attorney's Office

Kevin Myers, United for A Sovereign America (USA), representing self

Pamela Pearson, representing self

James Hallgren, Assistant Prayer Coordinator, 40 Days for Life, representing self

Royce Flora, Chairman, District 8 Republican Committee, representing self

Brian Livingston, Executive Director, Arizona Police Association

Ann Flora, representing self

Kathryn Kobon, representing self

Martha Payan, American Conservation Union

Mr. Seel announced the names of those who signed up in opposition to the strike-everything amendment to SB1070 but did not speak:

Lucy Howell, St. Vincent de Paul Society, Phoenix Diocesan Board

Jeff Greenspan, Arizona Campaign for Liberty

Rosemary Anton, representing self

Chris Griffin, representing self

Salvador Reza, coordinator, representing self

Alessandra Meetze, Executive Director, American Civil Liberties Union of Arizona

Thomas Donovan, Valley Interfaith Project

Craig McDermott, representing self

Rob Dalager, City of Phoenix Police Department

Bonnie Danowski, Valley Interfaith Project

Ellen Katz, Litigation Director, William E. Morris Institute for Justice

Jozef De Groot, representing self

Susan Charlton, attorney, City of Phoenix, Phoenix Police Department

Scott Butler, City of Mesa

Ryan Harper, representing City of Sierra Vista

Lisa Estrada, Intergovernmental Affairs Coordinator, City of Peoria

Lydia Guzman, representing self

Katie Decker, Legislative Liaison, Town of Fountain Hills

Ken Rineer, Self and Gun Owners of Arizona

Connie Scoggins, Assistant City Attorney, City of Yuma

Janet Valder, Valley Interfaith Project

Paul Ahler, Executive Director, Arizona Prosecuting Attorneys' Council

Michelle Gramley, Town of Gilbert  
Linda Brown, Arizona Advocacy Network  
Molly McGovern, Service Employees International Union (SEIU) Arizona  
Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale  
Tom Schoaf, City of Litchfield Park  
Kendra Leiby, Arizona Coalition Against Domestic Violence  
Jamaar Williams, Vice Chair, Chicano Latino Law Students' Association  
Ramon Garcia, representing self

Mr. Seel announced the names of those who signed up as neutral on the strike-everything amendment to SB1070 but did not speak:

Farrell Quinlan, State Director, National Federation of Independent Business

Ms. Sinema advised that Alessandra Soler Meetze, Executive Director of the American Civil Liberties Union of Arizona, sent an e-mail to Members of the Committee asking that her written statement be made part of the record (Attachment 4).

**Question was called on the motion that the Gowan 24-page strike-everything dated 3/29/10 to SB1070 be adopted (Attachment 2). The motion carried.**

**Mr. Seel moved that SB1070 as amended do pass. The motion carried by a roll call vote of 5-2-0-1 (Attachment 5).**

**SB1109 – technical correction; vehicle refueling apparatus(now: disciplinary warnings; personnel; definition ) - HELD**

**Vice-Chairman Gowan announced that SB1109 will be held.**

**SCR1056 - Vietnam veterans' memorial day – DO PASS AMENDED**

**Mr. Seel moved that SCR1056 do pass.**

Nicholas Calderon, Majority Intern, stated that SCR1056 designates March 29 of each year as Vietnam Veterans' Memorial Day in Arizona (Attachment 6).

**Mr. Seel moved that the Weiers two-line amendment dated 3/29/10 to SCR1056 be adopted (Attachment 7).**

Mr. Calderon explained that the amendment changes the title of the holiday from Vietnam Veterans' Memorial Day to Vietnam Veterans' Day (Attachment 7).

Senator Ron Gould, sponsor, said he brought this legislation forward because it was brought to his attention that Arizona has never declared a Vietnam Veterans Day.

In reply to Chairman Weiers, Senator Gould said he agrees with the amendment, explaining that it will eliminate any confusion between Memorial Day and Vietnam Veterans Memorial Day.

Colonel Joey Strickland, Director, Arizona Department of Veterans' Services, testified in support of SCR1056. He related that 40 years ago, three million soldiers were asked to serve in America's longest war. He stated that 60,000 never returned home and thousands continue to die from Agent Orange exposure every day. He said those who survived came home to a country that took its anger and political views out on them, the American warrior. The past cannot be changed but by supporting this Resolution and creating a Vietnam Veterans Day in Arizona, a wrong can be corrected.

David Lucier, President, Arizona Veterans Foundation, in support of SCR1056, related that he received the Congressional Gold Medal for his late mother, a civilian who was a Woman's Air Service pilot, just two weeks ago when that organization received official recognition, veterans' benefits and an official memorial for the women who died in the line of duty.

Michael Marks, representing self, apologized to the Committee for his emotional testimony. He revealed that he and his two brothers fought in Vietnam. He lost one brother two years ago from Agent Orange and the other brother is fighting cancer from exposure to Agent Orange. He stated that he has been a volunteer with a Vietnam veterans' organization for 20 years and has been fighting for this recognition for a long time. He thanked Members for this bill and stated his total support for SCR1056.

David Carasco, representing self, testified in favor of SCR1056. He advised that he is the commander of an honor guard known as the Prisoner of War (POW), Missing in Action (MIA) and Killed in Action (KIA) Honor Guard. He disclosed that he has been working at the Vietnam Memorial over the last two weeks in preparation for the ceremony that will take place and said that passage of this legislation will be a great gift at that time.

Mr. Seel announced the names of those who signed up in support of SCR1056 but did not speak:  
David Hampton, Public Information Officer, Arizona Department of Veterans' Services  
Robin Quinn, representing self  
Beth Straley, Campaign Administrator, 40 Days For Life, representing self  
James Hallgren, Assistant Prayer Coordinator, 40 Days for Life, representing self  
Ramon Garcia, representing self

**Question was called on the motion that the Weiers two-line amendment dated 3/29/10 to SCR1056 be adopted (Attachment 7). The motion carried.**

**Mr. Seel moved that SCR1056 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 8).**

Without objection, the meeting adjourned at 12:28 p.m.

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Joanne Bell, Committee Secretary  
April 6, 2010

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