

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

**COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE**

Minutes of Meeting  
Thursday, April 8, 2010  
House Hearing Room 3 -- 9:00 a.m.

Chairman Biggs called the meeting to order at 9:00 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Farley	Ms. Reeve	Mrs. Burges, Vice-Chairman
Mrs. McLain	Mr. Vogt	Mr. Biggs, Chairman
Mr. Meyer	Ms. Waters	

**Members Absent**

None

**Committee Action**

SB1018 – DPA (7-1-0-0)	SB1106 – DP (8-0-0-0)
SB1023 – DP (7-0-0-1)	SB1137 – DPA (8-0-0-0)
SB1030 – DP (8-0-0-0)	SB1140 – DPA S/E (8-0-0-0)
SB1063 – DPA S/E (8-0-0-0)	SB1443 – DPA (5-3-0-0)

**CONSIDERATION OF BILLS**

**SB1018 - photo enforcement procedures; justice courts – DO PASS AMENDED**

**Vice-Chairman Burges moved that SB1018 do pass.**

**Vice-Chairman Burges moved that the Biggs 12-line amendment dated 4/7/10 be adopted (Attachment 1).**

Justin Riches, Majority Research Analyst, explained that SB1018 adds new requirements relating to the state photo enforcement system signage, complaint processing and license plate obstruction. It requires a portion of photo enforcement fund monies to be deposited in the Public Safety Equipment Fund in FY2011 and modifies Judicial Productivity Credit (JPC) calculations related to photo enforcement citations (Attachment 2).

Chairman Biggs asked if basing fines or civil penalties on a notice of violation rather than a uniform traffic ticket and complaint would change current law. Mr. Riches responded that adding the traffic ticket and complaint language would change current law. Chairman Biggs stated that notices of violation have no legal significance, and that fines should only be on uniform traffic tickets and complaints.

Mr. Meyer asked if changes in the filing make it more consistent with other forms of citations. Mr. Riches responded that the change is from 60 to 120 days, regardless of consistency.

Senator Russell Pearce, sponsor, explained that SB1018 does not change current practice and cleans up issues with posting signs. Senator Pearce stated that courts have been overwhelmed with photo radar citations that are excluded from the Judicial Productivity Credit. Judicial Productivity Credits are used by Justices of the Peace to determine staffing, and their current staff cannot manage the thousands of additional citations.

Mr. Meyer asked if changes in filing time and the actual fine change current practice. Senator Pearce responded that the court's representative can better address the fine change. Mr. Meyer asked why the filing time was changed from 60 days to 120 days. Senator Pearce stated that the time change was an agreement made with the courts and they think it is a reasonable time frame for getting the complaints served. Discussion ensued regarding a reasonable length of time to serve violations.

Mrs. McLain asked why Senator Pearce did not just focus on the Judicial Productivity Credits. Senator Pearce responded that was the original intent of the bill, but they decided to blend several bills into one.

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Arizona Judicial Council, testified in support of SB1018. Mr. Landau stated that the main focus of the bill is to work with Justices of the Peace so they can work through the process in a reasonable way. Mr. Landau went on to explain that notices of violation and uniform traffic tickets are the same thing, and if the 302,000 citations issued in Maricopa County made it to the court system it would shut down.

Chairman Biggs asked if photo radar would require a whole new system of judicial processing, enforcement, and due process. Mr. Landau responded that courts do not determine whether photo radar is allowed to be used, but that they must process tickets in an orderly way that allows the courts to operate.

Discussion ensued regarding the purpose of a notice of violation, language on the notices, and service of tickets.

Lester Pearce, Justice of the Peace, Maricopa County Justice Courts, testified in support SB1018. Mr. Pearce distributed a handout to committee showing the number of citations issued since 2009 (Attachment 3) and explained that the current law is an unfunded mandate. Mr. Pearce went on to say that following the current JPC guidelines, the state would need to create eight new courts.

Chairman Biggs asked if the number of tickets listed on the handout is in addition to the court's normal workload. Mr. Pearce responded that was correct, and that the personal contact citations have actually decreased 17 percent resulting in a loss of \$2.5 million to the county. Discussion ensued regarding additional fees, the legal process, and the correct place in the Arizona Revised Statutes for photo radar laws.

Shawn Dow, representing self, testified in opposition to SB1018. Mr. Dow stated that SB1018 allows the county board of supervisors to tack on additional fees and the overwhelmed courts cannot process legitimate complaints in a reasonable amount of time.

Ryan Denke, representing self, testified in opposition to SB1018. Mr. Denke stated that if courts could not file a violation within 60 days it should be dismissed, and that tacking on additional fees for appearing in court discourages people from exercising their due process rights. Mr. Denke went on to say that funding the Department of Public Safety with photo enforcement revenue creates a conflict of interest.

Vice-Chairman Burges announced the names of those who signed up in support of SB1018, but did not speak:

Terry Stewart, Court Administrator, Maricopa JP Bench

Mike Williams, Redflex, Arizona Police Association

**Question was called on the motion that the Biggs 12-line amendment dated 4/7/10 be adopted (Attachment 1). The motion carried.**

**Vice-Chairman Burges moved that SB1018 as amended do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 4).**

### **SB1030 - driver license violations; suspensions – DO PASS**

**Vice-Chairman Burges moved that SB1030 do pass.**

Nick Roser, Majority Research Intern, explained that SB1030 requires the Arizona Department of Transportation (ADOT) to issue restricted driver licenses to eligible individuals who are convicted of driving with a suspended license, beginning January 1, 2011 (Attachment 5).

Mrs. McLain asked if SB1030 would apply to any suspended license or just DUIs. Mr. Roser responded that it would apply to DUI, extreme DUI, suspension for failure to pay civil fee, or failure to appear in court.

Senator Russell Pearce, sponsor, stated that SB1030 gives some flexibility to Justices when handling multiple charges, data errors for insurance companies and the Motor Vehicle Division.

Brian Livingston, Executive Director, Arizona Police Association, testified in support of SB1030. Mr. Livingston stated that officers stop citizens for a variety of minor driving violations and points are assigned to their license, after a certain number of points are accumulated the license is suspended for one year. If that person is caught driving again, the

license is suspended for another year. Administrative issues also result in a suspension of licenses for additional years, leading to prolonged suspensions. Mr. Livingston went on to say that Justices should have discretion when dealing with suspended licenses.

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Administrative Office of the Courts, testified as neutral on SB1030. Mr. Landau stated that most people go to court for traffic violations, and that SB1030 makes a cumbersome process smoother.

Vice-Chairman Burges announced the names of those who signed up in support of SB1030, but did not speak:

Kevin Biesty, Legislative Liaison, ADOT

Mike Williams, Arizona Police Association, PLEA

Vice-Chairman Burges announced the names of those who signed up as neutral on SB1030, but did not speak:

Lanny Hair, Executive Vice President, Independent Insurance Agents & Brokers of Arizona

**Question was called on the motion that SB1030 do pass. The motion carried by a roll-call vote of 8-0-0-0 (Attachment 6).**

**SB1106 - technical correction; publication of notice (now: removal of vehicles; notice) – DO PASS**

**Vice-Chairman Burges moved that SB1106 do pass.**

Justin Riches, Majority Research Analyst, explained that SB1106 increases the requirements of a police officer who removes or causes the removal of a vehicle (Attachment 7).

Senator Russell Pearce, sponsor, stated that this is a simple bill to improve contact with the owner of a vehicle so the owner may pick it up after it has been towed.

**Question was called on the motion that SB1106 do pass. The motion carried by a roll-call vote of 8-0-0-0 (Attachment 8).**

**SB1443 - photo enforcement procedures – DO PASS AMENDED**

**Vice-Chairman Burges moved that SB1443 do pass.**

**Vice-Chairman Burges moved that the Biggs 12-line amendment dated 4/6/10 be adopted (Attachment 9).**

Justin Riches, Majority Research Analyst, explained that SB1443 prescribes new requirements related to photo enforcement procedures, modifies photo enforcement funds and prohibits a person from covering or obscuring a license plate (Attachment 10). Mr. Riches went on to explain the amendment.

Mr. Farley asked how the amendment references obscuring license plates. Mr. Riches responded that the amendment removes the language prohibiting obstruction of license plates. Mr. Farley asked if this would give permission for people to obscure their plate. Chairman Biggs responded that plates cannot be obstructed from officer view under current law.

Senator Linda Gray, sponsor, stated that SB1443 is different from SB1018 because it mandates that signs saying that photo radar is ahead must also include the speed limit.

Mr. Meyer asked if SB1443 mandates that cities and towns with photo enforcement in place must spend 35 percent of the revenue on law enforcement. Senator Gray responded that city police would be pleased to get any additional revenue.

Chairman Biggs asked how language stating that notices of violation are issued once a person exceeds 11 miles per hour over the speed limit changes current law. Senator Gray responded that the 11 miles per hour requirement is a policy now, not a law. Discussion ensued regarding reasonable and prudent speed, speeding in emergency situations, and legal defense of photo radar tickets.

Mr. Meyer asked if having a dedicated amount going to law enforcement for the number of citations they issue will cause any problems. Senator Gray responded that the additional revenue will help cover officer's time when they go to court.

Mike Williams, Redflex, Arizona Police Association, testified in support of SB1443. Mr. Williams stated that SB1443 is a reform bill, and photo radar supporters and opponents should like it. Mr. Williams went on to say that under SB1443 photo radar cannot be placed within 300 yards of a speed limit change, three signs must be placed alerting drivers that photo radar is ahead, and that additional revenue will help put more officers on the street.

Chairman Biggs asked if photo enforcement is designed to replace cops for traffic stops. Mr. Williams responded that there are still officers on the street doing stops, but since photo radar is in place speeds on the freeways have decreased 11 miles per hour. Discussion ensued regarding whether or not officers still need to do traffic stops, best use of officer's time, the validity of statistics related to photo radar, and the benefits and drawbacks of directing funds to law enforcement.

Jenna Jones, Arizona Process Servers Association, testified in opposition to SB1443. Ms. Jones stated that if the amendment is adopted the Arizona Process Servers Association will be neutral to SB1443.

Jeff Evert, representing self, testified in opposition to SB1443. Mr. Evert stated that with the amendment he is also neutral, but has some concerns regarding off-duty officers serving citations for which they have not undergone training. Mr. Evert went on to say that he is concerned about the supervision of off-duty officers serving tickets, since process servers now work directly for the courts.

Shawn Dow, representing self, testified in opposition to SB1443. Mr. Dow stated that he believes photo radar is unconstitutional and he doesn't support an expansion.

Ryan Denke, representing self, testified in opposition to SB1443. Mr. Denke stated that the purpose of changing the mailing clause is to present an element of surprise to people who will not expect a process server. Mr. Denke went on to say that there are many other things Arizona could do to reduce accidents and save lives, so that is not a valid reason to support a bad policy.

Brian Tassinari, Lobbyist, Redflex, testified in support of SB1443. Mr. Tassinari stated that comments have been made that SB1443 would be an expansion of photo radar, and that is no longer part of the bill. Mr. Tassinari went on to explain that the current law allows for tickets to be filed 60 days after the violation, then once the ticket is filed it starts the 90 day clock for service, for a total of 150 days after the violation. SB1443 would reverse those, with service first and then 30 days for filing, for a total of 120 days from the date of violation.

Chairman Biggs asked if service can be made before a complaint is ever filed. Mr. Tassinari responded that under SB1443, that is correct. Discussion ensued regarding if service can take place before a complaint is filed, what process servers will be serving, and issues with officers serving tickets.

Brian Livingston, Arizona Police Association, testified in support of SB1443. Mr. Livingston stated that this will be an off-duty job for officers and that they will not be in uniform. Mr. Livingston went on to say that he got involved after they heard House and Senate members concerns about how the tickets were being served by process servers, and that the funding percentage can be spent on anything and will be statewide, so there is no reason to suspect citation abuse.

Discussion ensued regarding validity of reduction in accident statistics and who can serve citations.

Lester Pearce, Justice of the Peace, Maricopa County Justice Courts, testified as neutral on SB1443. Mr. Pearce stated his concern is that SB1443 does not contain the JPC piece contained in SB1018, and the language is broader when it comes to service. Mr. Pearce went on to say that without proper service, people unknowingly have licenses and registrations suspended, and that complaints now need to be filed before they are served.

Theresa Ulmer, Redflex, testified in support of SB1443, Ms. Ulmer stated that the JPC language was removed from SB1443 so that there was enough difference between SB1443 and SB1018 for them to be stand-alone bills.

Vice-Chairman Burges announced the names of those who signed up in opposition to SB1443, but did not speak:

Pat Shaughnessy, representing self

**Question was called on the motion that the Biggs 12-line amendment dated 4/6/10 be adopted (Attachment 9). The motion carried.**

**Vice-Chairman Burges moved that SB1443 as amended do pass. The motion carried by a roll-call vote of 5-3-0-0 (Attachment 11).**

**SB1023 - motor vehicle accidents; death; injury – DO PASS**

**Vice-Chairman Burges moved that SB1023 do pass.**

Nick Roser, Majority Research Intern, explained that SB1023 adds several violations to those that constitute causing serious physical injury or death by a moving vehicle violation (Attachment 12).

Bobbi Hartmann, Abate of Arizona, testified in support of SB1023. Ms. Hartmann testified that SB1023 will require Justices to suspend the license of anyone who commits a violation that results in serious injury or death.

Mr. Meyer asked if SB1023 would also apply to bicyclists. Ms. Hartmann confirmed that some portions of the bill would also apply to bicyclists.

Vice-Chairman Burges announced the names of those who signed up in support of SB1023, but did not speak:

Paul Price, Arizona Confederation of Motorcycle Clubs

Bill Mueller, representing self

Kathleen Thomsen-Grover, Arizona Confederation of Motorcycle Clubs, representing self

Carole Oreilly, Lobbyist, Abate

Diane Stratton, representing self

Mick Degn, Modified Motorcycle Association (MMA)

Judith Hirson, representing self

Shelley Thorkelson, representing self

Raymond Kronenbitter, Registered Nurse, Arizona Nurses Association

**Question was called on the motion that SB1023 do pass. The motion carried by a roll-call vote of 7-0-0-1 (Attachment 13).**

**SB1063 - game and fish commission; bison – DO PASS AMENDED S/E**  
**S/E: public transportation; regional planning**

**Vice-Chairman Burges moved that SB1063 do pass.**

**Vice-Chairman Burges moved that the Biggs five-page strike-everything amendment dated 4/5/10 be adopted (Attachment 14).**

Nick Roser, Majority Research Intern, explained that the strike-everything amendment to SB1063 requires the regional planning agency to work with state and local public transportation operators to develop the regional public transportation system element of the Regional Transportation Plan. The bill makes changes to the content of the Plan and the regional public transportation authority powers. It replaces the term “board” with “regional planning agency” (Attachment 15).

**Question was called on the motion that the Biggs five-page strike-everything amendment dated 4/5/10 be adopted (Attachment 14). The motion carried.**

Dennis Smith, Executive Director, Maricopa Association of Governments, testified in support of SB1063. Mr. Smith stated that statute creating the Regional Transportation Authority was authorized in 1985, and since then there have been many changes in federal law that impact the Authority. Mr. Smith went on to say that this is primarily a clean up bill to match state and federal law.

Mr. Farley asked if the strike-everything amendment was an agreement from all parties. Mr. Smith confirmed that is correct, adding that some language was not drafted properly and needs to be changed.

Mrs. McLain asked if the only reason for this change is because the federal government says Arizona is not in compliance. Mr. Smith responded that is partially correct, but this will be a better way of operating that will help all the agencies.

Vice-Chairman Burges announced the names of those who signed up in support of SB1063, but did not speak:

David Johnson, Intergovernmental Affairs Analyst, Town of Buckeye  
Scott Butler, City of Mesa  
Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler  
Tom Remes, City of Phoenix

Vice-Chairman Burges announced the names of those who signed up as neutral on SB1063, but did not speak:

Bryan Jungwirth, Valley Metro Regional Public Transportation Authority  
John Farry, Vallet Metro Rail

**Vice-Chairman Burges moved that SB1063 as amended do pass. The motion carried by a roll-call vote of 8-0-0-0 (Attachment 16).**

**SB1137 - department of transportation; vehicle right-of-way – DO PASS AMENDED**

**Vice-Chairman Burges moved that SB1137 do pass.**

**Vice-chairman Burges moved that the Biggs two-page amendment dated 4/5/10 be adopted (Attachment 17).**

Nick Roser, Majority Research Analyst, explained that SB1137 makes changes relating to the Arizona Department of Transportation (ADOT), establishes the Transportation Subaccount of the State Highway Fund (SHF), and appropriates monies from the Driving Under the Influence Abatement Fund (DUIAF) (Attachment 18).

**Mr. Farley moved that the Biggs two-page amendment dated 4/5/10 be amended as follows:**

**Page 1, strike lines 1 through 6.**

Mr. Farley stated that the effect of this section will not allow ADOT to use money it has received from the vehicle license tax as a match to draw federal funds for transit projects. Mr. Farley went on to say that Arizona sends more money through the federal gas tax than it receives.

Kevin Biesty, Legislative Liaison, Arizona Department of Transportation, testified in support of SB1137. Mr. Biesty stated that the original amendment is fine with ADOT and he would meet with members of the committee to discuss how to draw more federal funds.

**Question was called on motion that that the Biggs two-page amendment dated 4/5/10 be amended as follows:**

**Page 1, strike lines 1 through 6.**

**The motion failed.**

**Division was called and the motion failed by a hand vote of four ayes and four nays.**

**Mr. Farley moved that the amendment be divided into two questions.**

Chairman Biggs ruled the motion out of order. Mr. Farley requested a ruling from the Rules attorney.

**Without objection, Mr. Farley withdrew his motion.**

**Question was called on the motion that the Biggs two-page amendment dated 4/5/10 be adopted (Attachment 17). The motion carried.**

**Vice-Chairman Burges moved that SB1137 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 19).**

**SB1140 - counties; boards of adjustment – DO PASS AMENDED S/E**  
**S/E: department of juvenile corrections; continuation**

**Vice-Chairman Burges moved that SB1140 do pass.**

**Vice-Chairman Burges moved that the Biggs 19-line strike-everything amendment dated 4/6/10 be adopted (Attachment 20).**

Justin Riches, Majority Research Analyst, explained that the proposed strike-everything amendment to SB1140 continues the Arizona Department of Juvenile Corrections (ADJC) for five years (Attachment 21).

Lee Miller, Lobbyist, Maricopa County, testified in support of SB1140. Mr. Miller stated that the legislature appointed a commission to look at the ADJC, but currently the ADJC sunsets in 2011. Mr. Miller went on to say that if ADJC is going to sunset he would prefer it be at the request of the commission.

Vice-Chairman Burges announced the names of those who signed up in support of SB1140, but did not speak:

Beth Rosenberg, Lobbyist, Children's Action Alliance

Kathleen Mayer, Pima County Attorney's Office

Paul Ahler, Arizona Prosecuting Attorneys' Council

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association

Rip Wilson, Maricopa County

**Question was called on the motion that the Biggs 19-line strike-everything amendment dated 4/6/10 be adopted (Attachment 20). The motion carried.**

**Vice-Chairman Burges moved that SB1140 as amended do pass. The motion carried by a roll-call vote of 8-0-0-0 (Attachment 22).**

Without objection, the meeting adjourned at 11:40 a.m.

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Emilio Bascunan, Committee Secretary  
May 27, 2010

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