

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – First Regular Session

**COMMITTEE ON COMMERCE**

Minutes of Meeting  
Wednesday, February 2, 2011  
House Hearing Room 5 -- 10:00 a.m.

Vice-Chairman Mesnard called the meeting to order at 10:00 a.m. and attendance was noted by the secretary.

**Members Present**

Ms. Alston  
Mr. Gray R  
Ms. McCune Davis

Ms. Miranda C  
Mr. Pratt  
Mr. Robson

Mr. Mesnard, Vice Chairman  
Mr. Weiers J, Chairman

**Members Absent**

None

**Committee Action**

HB2078 - DPA (8-0-0-0)  
HB2079 - DP (8-0-0-0)  
HB2103 - HELD  
HB2129 - DISCUSSED AND HELD  
HB2160 - DPA (7-0-0-1)

HB2168 - DP (8-0-0-0)  
HB2192 - DP (7-0-0-1)  
HB2284 - DPA (7-0-0-1)  
HB2536 - HELD

**PRESENTATION OF THE SPECIAL AUDIT OF ARIZONA SPORTS AND TOURISM  
AUTHORITY, OFFICE OF THE AUDITOR GENERAL**

Dale Chapman, Performance Audit Director, Arizona Office of the Auditor General, stated that the special audit of the Arizona Sports and Tourism Authority (Authority) is required by statute. Mr. Chapman stated that the legislation required that the Auditor General's Office review and evaluate 17 questions in the following general areas (Attachment 1):

- The Authority's procurement processes for contracts entered into during calendar years 2008 and 2009, as well as the Authority's procurement of concessionaire services.
- The Authority's financial situation and cash flow projections.
- The Authority's current and continuing ability to meet its bond debt obligations.
- The Authority's oversight of the facility manager.
- Authority contractual obligations for financing Cactus League commitments.
- Authority policies for funding youth and amateur sports programs within Maricopa County.

Mr. Chapman stated that the following are Authority responsibilities:

- Maintaining, operating, improving, and marketing the use of the University of Phoenix Stadium, which is the home of the Arizona Cardinals and Fiesta Bowl.
- Distributing monies to the Arizona Office of Tourism.
- Attracting and retaining Major League Baseball Cactus League spring training operations in Maricopa County.
- Reviewing, approving, and funding grants for youth and amateur sports facilities and programs within Maricopa County.

Mr. Chapman stated that the Authority's fiscal year 2010 revenues totaled \$57.7 million, while its expenses and distributions totaled \$74.3 million. Since the March 2009 performance audit report, which addressed the Authority's financial difficulties, the Authority has taken the following steps to address its financial situation:

- The Authority has reduced its operating expenses from more than \$1.4 million in fiscal year 2007, to approximately \$1.1 million in fiscal year 2010, and has reduced its staffing and limited travel, marketing, and promotion activities.
- The facility recurring operating expenses have been reduced from \$12.3 million in fiscal year 2007, to approximately \$9.4 million in fiscal year 2010.
- The Authority has obtained a zero-percent interest rate loan of \$1 million and a revenue advance of \$500,000 from its new concessionaire, entering a contract with an event management company for guaranteed benefits of \$750,000 annually for the duration of the contract, and taking advantage of favorable interest rate changes related to its bonds totaling approximately \$2.7 million.

Mr. Chapman explained that these steps have resulted in a nearly \$9 million operating reserve as of June 30, 2010.

Mr. Chapman informed the Committee that the Authority still faces financial difficulties resulting in the following areas not being fully funded in fiscal year 2010, which is required if monies are available:

- Tourism promotion - Statutorily required distribution of \$5.9 million, but distributed \$5.3 million.
- Cactus League promotion - Statutorily required distribution of \$4 million, but distributed \$3.8 million.
- Youth and Amateur Sports - Statutorily required distribution of \$1.8 million, but distributed \$900,000 (Attachment 1).

Chairman Weiers asked why the Authority's obligations have not been reduced more to offset the deficit that is occurring. Mr. Chapman explained that statute requires that the Authority fund its priorities at a certain amount; however, if required amounts cannot be met, it must fund as much as possible based on available revenue.

Vice-Chairman Mesnard stated that if the Authority has the capability to scale-back within its means, there is no deficit. Mr. Chapman stated that the source of the deficit is that the Authority is using its reserve to fund operations.

Chairman Weiers clarified that the deficit is a “paper deficit” and not an actual deficit, because the Authority is using a reserve fund to meet its obligations. Mr. Chapman concurred and explained that because the Authority is projecting continued revenue shortfalls, it will have to continually rely on its reserve to meet its funding obligations and fund its operations. Chairman Weiers requested the source of the \$1 million zero-interest loan that Mr. Chapman referenced during his presentation. Mr. Chapman stated that the loan is provided by the Authority’s concessionaire per contract; discussion ensued.

Mr. Robson asked for clarification regarding the contract between the Authority and the concessionaire. Mr. Chapman explained that the contract specifies \$750,000 in annual benefits to the Authority which can result in revenue increases from additional rents that the concessionaire brings in. Mr. Robson asked if the \$750,000 is a guaranteed amount. Mr. Chapman answered in the affirmative.

Mr. Chapman continued his presentation stating that the Authority projects deficits for its own operations through fiscal year 2014, ranging from approximately \$800,000 to \$3 million, and by fiscal year 2016, its cumulative operating deficit is projected to total \$6 million. He explained that the Authority’s options to address its financial situation are limited:

- Hotel bed taxes and car rental surcharge are voter-protected revenues.
- National Football League income taxes, sales tax recapture monies, and distribution of most of these revenues would require legislative action.

He stated that the Authority has met its bond obligations and should be able to continue doing so, but does not have the capacity to incur additional debt. Mr. Chapman asserted that the Authority’s projected tourism revenue shortfall for planned commitments through the fiscal year 2031 is \$164.8 million (Attachment 1).

Ms. Alston asked why the Authority’s distributions were not funded on a proportional percentage and how it was decided how much to fund each obligation. Mr. Chapman stated that statute directs how the Authority is to fund its obligations.

### **RESPONSE TO THE SPECIAL AUDIT OF THE AUDITOR GENERAL BY THE ARIZONA SPORTS AND TOURISM AUTHORITY**

Jaime Molera, Arizona Sports and Tourism Authority, stated that when the legislation passed in 2010 requiring the audit, the Arizona Sports and Tourism Authority welcomed the opportunity to work closely with the Auditor General’s Office to address fiscal difficulties. He stated that the Authority has been proactive not to exceed expenses by reducing operational costs long-term.

Tom Sadler, President, Arizona Sports and Tourism Alliance, stated that the Authority is delighted with the outcome of the audit because it demonstrates the quality of the Authority’s work on behalf of the citizens of Maricopa County. He stated that the Authority is facing financial challenges but is making great strides relative to what is within its control, by reducing expenses and driving revenue. Mr. Sadler stated that about a year or two previously, the Authority’s financial projections showed it running a deficit within ten months’ time. He stated that due to the changes the Authority has made, there is not currently a projected deficit in its cash flow, all while maintaining its current level of service.

Chairman Weiers asked what will happen if obligations continue to grow and revenues continue to decline. Mr. Sadler stated that the Authority will continue to distribute the revenues that come in and control the expenses and revenues for the stadium. Chairman Weiers asked why obligations and trends in income are not being leveled. Mr. Chapman deferred to John Pokorney.

John Pokorney, Chief Financial Officer, Arizona Sports and Tourism Authority, addressed Chairman Weiers' question stating that there are two sides to the Authority's revenues. The tourism portion of the Authority's revenues is legislated regarding the distribution of those monies on a monthly basis. He stated that the primary obligation is bonds, then, if money is left over, it goes to tourism and so forth; discussion ensued.

Mr. Gray asked Mr. Sadler the current level of the Authority's reserve. Mr. Sadler returned to the podium to address Mr. Gray's question, stating that the current reserve is \$9 million. Mr. Sadler announced that he would be distributing information at the end of the meeting regarding the 10-year history of the University of Phoenix Stadium (Attachment 2).

Bill Peltier, Chairman of the Board of Directors, Arizona Sports and Tourism Authority, thanked the Committee for the opportunity to explain the current condition of the Authority.

## **CONSIDERATION OF BILLS**

### **HB2103 - homemade food products; regulation; exception - HELD**

**Vice-Chairman Mesnard announced that HB2103 will be held.**

### **HB2536 - dog tracks; live racing exception - HELD**

**Vice-Chairman Mesnard announced that HB2536 will be held.**

### **HB2078 - office of tourism; continuation - DO PASS AMENDED**

Vice-Chairman Mesnard announced that HB2078 will be for a vote only because testimony was heard in the January 19, 2011 Committee meeting.

**Chairman Weiers moved that HB2078 do pass.**

**Chairman Weiers moved that the Weiers five-line amendment dated 2/1/11 be adopted (Attachment 3). The motion carried.**

**Chairman Weiers moved that HB2078 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 4).**

Vice-Chairman Mesnard stated that the names of those who signed up in support of HB2078 were announced in the January 19, 2011 meeting and will not be read.

**HB2079 - department of housing; continuation - DO PASS**

Vice-Chairman Mesnard announced that HB2079 will be for a vote only because testimony was heard in the January 19, 2011 Committee meeting.

**Chairman Weiers moved that HB2079 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 5).**

**HB2129 - large employers: AHCCCS; reimbursement - DISCUSSED AND HELD**

Diana Clay, Majority Research Analyst, stated that HB2129 requires certain employers to reimburse the Arizona Healthcare Cost Containment System (AHCCCS) for their employees' benefits (Attachment 6).

Ms. Clay explained that the Weiers three-line amendment dated 1/31/11 (Attachment 7) requires that anyone who votes for the bill will be the ones that reimburse AHCCCS.

Ms. Clay explained that the McCune Davis eleven-line amendment dated 2/1/11 (Attachment 8) requires employers to prominently post the percentage of employees that utilize AHCCCS coverage on all entrances of each business.

**Chairman Weiers moved that HB2129 do pass.**

Chairman Weiers stated that the three-line amendment requires anyone who votes for an unfunded mandate be held responsible for paying for that mandate (Attachment 7).

Ms. McCune Davis read an email from Representative Patterson, the sponsor of HB2129, addressed to Chairman Weiers. The email stated that in light of a conversation with Chairman Weiers regarding HB2129, Representative Patterson acknowledges that Chairman Weiers is not in support of HB2129, and Representative Patterson will not support the bill with the adoption of the Weiers three-line amendment dated 1/31/11 (Attachment 7). In the email, Mr. Patterson requested that the bill be held by Chairman Weiers. Chairman Weiers stated that he appreciates Representative Patterson's request to hold the bill and restated the purpose of the amendment; discussion ensued between Ms. McCune Davis and Chairman Weiers.

Chairman Weiers asked if there is a possible privacy issue concerning the McCune Davis eleven-line amendment dated 2/1/11 (Attachment 8). Ms. McCune Davis stated that information of a general nature is available as to how employees receive their health insurance and the intent is not to invade privacy, but to provide the public with information that is entitled to them. Chairman Weiers asked how the information will be retrieved stating that his understanding is that he cannot go to the Department of Economic Security and request the information due to privacy issues. Ms. McCune Davis stated that she believes that the Legislature knows how many employees are utilizing AHCCCS, etc.

Mr. Robson stated that when he served on the city council, the council was not able to get the referenced information from DES, except in generalized terms; discussion ensued.

Chairman Weiers stated that Ms. McCune Davis's amendment contains no penalty for non-compliance and queried why anyone would comply. Ms. McCune Davis replied that it does not contain a penalty; the amendment is intended to be a substitute amendment to Chairman Weiers' amendment to the bill; discussion ensued.

Vice-Chairman Mesnard announced the names of those who signed up in support of HB2129 but did not speak:

Mike Colletto, Executive Director, Community Horizons  
Rebekah Friend, Lobbyist, Arizona AFL-CIO

Vice-Chairman Mesnard announced the names of those who signed up in opposition to HB2129 but did not speak:

Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce and Industry  
Michelle Ahlmer, Executive Director, Arizona Retailers Association  
Sherry Gillespie, Government Relations Manager, Arizona Restaurant Association  
Steve Chucri, President, Arizona Restaurant Association

Chairman Weiers announced that in light of discussions regarding the amendments and HB2129, he will withdraw his motion that HB2129 do pass, and the bill will be held.

**Chairman Weiers withdrew his motion that HB2129 do pass.**

**HB2160 - prearranged funeral agreements - DO PASS AMENDED**

Amy Asta, Majority Intern, stated that HB2160 further outlines the terms established in current statute for investing prearranged funeral trust fund money (Attachment 9).

Ms. Asta explained that the Weiers three-line amendment dated 2/1/11 removes unnecessary language regarding *prudent investor* (Attachment 10).

**Chairman Weiers moved that HB2160 do pass.**

Chairman Weiers, sponsor, explained that HB2160 is a bill that was introduced in the House of Representatives in 2010, but did not pass through the Senate committee. He explained that HB2160 allows funeral homes to prearrange or preplan a funeral service where an individual has paid in advance with either insurance or an established funeral trust fund.

Wendy Briggs, Lobbyist, Service Corporation International (SCI), Arizona Funeral Services, testified in support of HB2160, stating that it broadens the types of investments that trusts can be involved in, which are currently limited to bank accounts or government-backed bonds. She explained that this restriction makes providing adequate funds through earning interest, to cover costs of funeral services, difficult. She specified that HB2160 also holds the investor accountable to the *prudent investor standard*, which is currently defined in Title 14, for the invested trust monies.

Ms. McCune Davis asked if the trustee is also the owner of the funeral home company. Ms. Briggs answered in the negative. Ms. Briggs provided that the investments are required by statute to be deposited into an interest bearing account with a financial institution within the

state, within 30 days. She explained that the assets are not subject to garnishment in a bankruptcy, so if the funeral business were to go into bankruptcy, the funds would be secure with the financial institution.

Vice-Chairman Mesnard announced the names of those who signed up in support of HB2160 but did not speak:

John Mangum, Arizona Funeral Cemetery & Cremation Association

Jay Kaprosy, Senior Government Relations Advisor, SCI Arizona

**Chairman Weiers moved that the Weiers three-line amendment dated 2/1/11 (Attachment 10) be adopted. The motion carried.**

**Chairman Weiers moved that HB2160 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 11).**

### **HB2284 - board of appraisal; disciplinary proceedings - DO PASS AMENDED**

Amy Asta, Majority Intern, stated that HB 2284 allows the Arizona Board of Appraisal to continue the investigation of a complaint of an appraiser even if that person's license lapses or expires (Attachment 12).

Ms. Asta explained that the Mesnard three-line amendment dated 2/1/11 (Attachment 13) allows the board to continue investigations up to eighteen months after the license or certificate has expired.

Vice-Chairman Mesnard stated that the amendment received no opposition and is an attempt to put a statute of limitations on the investigations.

Representative Judy Burges, sponsor, stated that there have been instances where an appraiser has allowed his license to lapse or expire in anticipation of an investigation, and the Arizona Board of Appraisal currently has no recourse.

Ben Alteneder, Coalition of Arizona Appraisers, testified in support of HB2284, stating that the intent of the legislation is to adjudicate pending complaints filed against an appraiser, whose license has lapsed or expired.

Vice-Chairman Mesnard announced the names of those who signed up in support of HB2284 but did not speak:

Elaine Arena, Appraisal Institute, Phoenix Chapter

Sue Miller, Real Estate Appraiser, Appraisal Institute (AI), Phoenix Chapter

Vice-Chairman Mesnard announced the names of those who signed up as neutral on HB2078 but did not speak:

Dan Pietropaulo, Executive Director, Arizona Board of Appraisal

**Chairman Weiers moved that HB2284 do pass.**

**Chairman Weiers moved that the Mesnard three-line amendment dated 2/1/11 (Attachment 13) be adopted. The motion carried.**

**Chairman Weiers moved that HB2284 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 14).**

**HB2192 - state lottery; transfer - DO PASS**

M.J. Bildner, Assistant Majority Research Analyst, stated that HB2192 allows for a successful transition between the old Arizona State Lottery Commission (Commission) and the new State Lottery Commission (Attachment 15).

Chairman Weiers, sponsor, stated that HB2192 is clean-up legislation and deferred to Karen Emery, who is speaking on behalf of Jeff Hatch-Miller, the Director of the Arizona Lottery, who is not able to be present at the Committee.

Karen Emery, Deputy Director of Policy, Arizona Lottery, testified in support of HB2192, stating that the bill is designed to ensure a seamless transition between the current Arizona Lottery, which sunsets on June 30, 2012, and the new Arizona Lottery, which begins the very next day.

Ms. Alston asked why Arizona requires a new lottery. Ms. Emery restated that the current Arizona Lottery sunsets on June 30, 2012 and that in 2010 there was discussion to bond against future lottery revenues and that the only way that the current lottery would be able to continue was to go to the ballot in November of 2010, which was beyond the end of the previous fiscal year. The bonding period generally extends for at least 20 years, so the decision was made to allow the current lottery to sunset and establish a new lottery, which had a life cycle beyond the 20-year bonding period.

Chairman Weiers asked what happens to the Arizona Lottery's current funding obligations if HB2192 does not pass. Ms. Emery stated that the revenue that was generated for distribution to meet funding obligations would be there at the end of the fiscal year and the new lottery would lack the authority to continue those distributions.

**Chairman Weiers moved that HB2192 do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 16).**

**HB2168 - bulk merchandise containers; records - DO PASS**

Diana Clay, Majority Research Analyst, stated that HB2168 regulates the sale and purchase of bulk merchandise containers (Attachment 17).

Mr. Robson, sponsor, stated that HB2168 addresses the issue of pallet theft, which has become a very real problem in the business community, resulting in approximately \$1 million in losses each year.

Matt Jorgensen, Senior Logistics Manager - Sara Lee West Region, Sara Lee Bakery Group, testified in support of HB2168, stating that Sara Lee Bakery Group's estimated losses in Arizona alone are \$150,000. He stated that Sara Lee Bakery Group does not sell its equipment to the public, but has specific vendors that it sells the bulk merchandising containers to, that grinds them down and recycle them for new plastics. He stated that a lot of work has already been done internally and with other states to reduce the level of theft.

Chairman Weiers asked why HB2168 confines the scope and the amount of bulk merchandising containers that recyclers can take, if any container that comes to a recycler is stolen property. Mr. Jorgensen clarified that if the container goes to any recycler other than one of the specified vendors that Sara Lee Bakery Group sells to, it is stolen property. Chairman Weiers asked why a threshold is permitted when all pallets coming to recycling facilities are stolen. Mr. Jorgensen deferred to Mike Gardner.

Mike Gardner, Lobbyist, Arizona Beverage Association, testified in support of HB2168, stating that the threshold stated in the bill is based on legislation from other states. It is set for purposes of uniformity with other legislation, and allows for someone who may have found a pallet on the street, etc.; discussion ensued.

Mr. Robson asked that HB2168 move forward and be amended at a later time.

Ms. McCune Davis stated that she could not find the definition of a bulk storage container within the bill and suggested that an amendment be added as the bill moves forward to include a definition for clarification. Mr. Robson stated that he would discuss a possible amendment with Ms. McCune Davis.

John Kalil, Vice President, Arizona Beverage Association, testified in support of HB2168, stating that Kalil Bottling Company spends \$700,000 a year on bulk merchandise containers and those containers are stored behind stores, and Kalil Bottling Company expects that its property is safe. He stated that HB2168 is a step toward ensuring that protection.

Chairman Weiers restated his question regarding the inclusion of a threshold on a practice of recycling that is illegal and queried why not make it illegal with zero allowance. Mr. Robson stated that not every beverage company holds its containers exclusively and he would like an opportunity to explore why other states utilize the 10-unit threshold; discussion ensued.

Mr. Pratt asked if Kalil Bottling Company had ever lost a pallet from the back of the truck. Mr. Kalil answered in the affirmative. Mr. Pratt queried if that could be the reason for the 10-item threshold included in the bill. Mr. Kalil stated that he is not sure why the threshold was set at 10 containers, other than keeping with other state legislation that had passed previously.

Mr. Gardner returned to the podium, stating that he would be happy to continuing working with Mr. Robson to address the valid concerns brought up by the Committee. He stated that one of the challenges is distinguishing between wooden pallets that are not clearly marked where plastic pallets used specifically by one company are clearly marked.

Vice-Chairman Mesnard announced the names of those who signed up in support of HB2168 but did not speak:

Michelle Ahlmer, Executive Director, Arizona Retailers Association  
Jaime Molera, Lobbyist, Coca-Cola  
J. Rick Smith, GSI Investigations

**Chairman Weiers moved that HB2168 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 18).**

Without objection, the meeting adjourned at 11:30 a.m.

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Charly Laube, Committee Secretary  
February 23, 2011

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