

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON GOVERNMENT

Minutes of Meeting
Tuesday, March 22, 2011
House Hearing Room 4 -- 2:00 p.m.

Chairman Burges called the meeting to order at 2:11 p.m. and attendance was noted by the secretary.

Members Present

Mr. Arredondo	Ms. Hobbs	Mrs. Ugenti
Mr. Forese	Mr. Meyer	Mr. Urie, Vice-Chairman
Mr. Gowan	Mr. Montenegro	Mrs. Burges, Chairman

Members Absent

None

Committee Action

SB1157 - DPA S/E (5-1-0-3)	SB1375 - DP (7-1-0-1)
SB1188 - DPA S/E (6-3-0-0)	SB1379 - DPA (6-3-0-0)
SB1278 - DP (5-4-0-0)	SB1468 - DP (7-2-0-0)
SB1282 - DP (6-3-0-0)	SB1502 - DP (7-0-0-2)
SB1286 - DPA (5-4-0-0)	SB1525 - HELD
SB1322 - DP (5-4-0-0)	SB1598 - DPA (8-1-0-0)
SB1333 - DPA (7-2-0-0)	SB1610 - NOT ASSIGNED
SB1361 - NOT ASSIGNED	

CONSIDERATION OF BILLS

SB1361 - fire districts; joint powers authority - NOT ASSIGNED

Vice-Chairman Urie announced that SB1361 is not assigned to the Committee on Government and will not be heard.

SB1610 - state firearm - NOT ASSIGNED

Vice-Chairman Urie announced that SB1610 is not assigned to the Committee on Government and will not be heard.

SB1525 - city; town; development fees - HELD

Vice-Chairman Urie announced that SB1525 is scheduled to be heard in the Special Committee on Government that is to immediately follow this Committee and will be held.

SB1282 - political committee registration; religious entity - DO PASS

Vice-Chairman Urie moved that SB1282 do pass.

Stephanie Johnson, Assistant Majority Research Analyst, stated that SB1282 prohibits this state and any agency or political subdivision of this state from requiring a person to register as a political committee if the person is a religious assembly or institution that does not spend a substantial amount of time or assets, within the meaning provided in the Internal Revenue Code, on influencing any federal, state or local legislation, referendum, initiative or constitutional amendment (Attachment 1).

Vice-Chairman Urie announced the names of those who signed up in support of SB1282 but did not speak:

Deborah Sheasby, Legal Counsel, Center for Arizona Policy
Cathi Herrod, President, Center for Arizona Policy
Terrance Traylor, representing self

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1282 but did not speak:

Craig McDermott, representing self

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1282 but did not speak:

Jim Drake, Assistant Secretary of State, Arizona Secretary of State
Amy Bjelland, State Election Director, Arizona Secretary of State

Question was called on the motion that SB1282 do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 2).

SB1598 - cities; counties; regulatory review - DO PASS AMENDED

Vice-Chairman Urie moved that SB1598 do pass.

Vice-Chairman Urie moved that the Montenegro 20-page amendment dated 03/18/2011 (Attachment 3) be adopted.

Stephanie Johnson, Assistant Majority Research Analyst, explained that SB1598, with the adoption of the Montenegro 20-page amendment dated 03/18/2011 (Attachment 3), establishes the Regulatory Bill of Rights for cities counties and county flood control districts (Attachment 4). Ms. Johnson explained the following provisions:

- Specifies that the court may affirm, reverse or remand to the governing body, in whole or in part, the decision reviewed for further action that is necessary to comply with the mandatory requirements prescribed in statute.
- Requires a local government, in the design phase of a public works project, to provide notice and opportunity for comment to all utilities the city or town believes may be impacted for the purposes of:
 - Eliminating or minimizing the need for relocation of aerial, surface and underground facilities of the impacted utilities and, if relocation is unavoidable, minimizing the relocation costs to the extent practicable relative to the cost of the public works project.
 - Minimizing subsequent reconstruction or modification of utility facilities after completion of the public works project.
- Defines the following terms:
 - *Public works project*
 - *Utility*
 - *Food and swimming pool inspection*
 - *Working day*
- Strikes language in the regulatory bill of rights regarding a person's right to have a local government not adopt an ordinance or code under a specific grant of authority that exceeds the subject matter areas listed in the specific grant of authority or not adopt an ordinance or code under a general grant of authority to supplement a more specific grant of authority as provided in statute.
- Allows electronic notice to be given to a regulated person or entity.
- Permits a person to inspect all ordinances, codes and substantive policy statements of a local government on the local government's website.
- Requires a local government inspector or regulator to provide notice to a regulated person of the right to have a split or duplicate of any samples taken during the inspection.
- Directs a local government inspector to provide the rights prescribed in this Act in writing, on initiation of, or two working days before, an inspection, except for a food and swimming pool inspection that has up to one working day after an inspection.
- Requires a local government to provide electronic access to inspection reports and all subsequent documents.
- Mandates that a local government must determine if the regulated person is in substantial compliance with the corrected deficiencies, unless the determination is not possible due to conditions of normal operations at the premises.
- Deletes investigations under tribal state gaming compacts and the Arizona Peace Officers Standards and Training Board from what the inspection requirements of this Act do not apply to.
- States that inspection requirements prescribed in this Act do not apply to inspections by a county board of health or a local health department pursuant to statute.
- Allows a local government to adopt rules or ordinances to implement this Act and specifies that this Act must not be used to exclude evidence in a criminal proceeding and does not apply to a local government inspection that is requested by the regulated person.
- Requires a local government, when establishing time frames, to consider increased municipal flexibility in structuring the licensing process and personnel including:
 - Adult businesses and other licenses that are related to the First Amendment.
 - Master planned communities.

- Suspension of the substantive and overall time frames for purposes including public hearings or state or federal licenses.
- Allows each department to issue a written or electronic notice of administrative completeness or deficiencies based on the applicant's submission of missing information or a request for additional information if the permit sought requires approval of more than one department of the local government.
- Permits a local government to issue an additional written or electronic notice of administrative completeness or deficiencies based on the applicant's submission of missing information.
- Specifies that this Act does not apply to licenses issued within seven working days after receipt of the initial application or permit that expire within 21 working days after issuance.
- Requires a local government, when a person obtains an application for a license, to provide the website address and any other information, if applicable, to allow the regulated person to use electronic communication with the local government.
- Exempts the following from the provisions of this Act:
 - An ordinance, code, regulation or substantive policy statement that relates only to the internal management of a local government and that does not directly and substantially affect the procedural or substantive rights of duties of any segment of the public.
 - An ordinance, code, regulation or substantive policy statement that relates only to the physical servicing, maintenance or care of a local government-owned or operated facility or property.
 - An ordinance, regulation or substantive policy statement that relates to inmates or committed youth, a correctional or detention facility under the jurisdiction of the municipality or a patient admitted to an institution or treatment center pursuant to court order.
 - An ordinance, code, regulation or substantive policy statement that relates to a local government contract.
- Applies the same provisions to a county flood control district.
- Makes technical and conforming changes.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, testified as neutral on SB1598, thanking Members for the hard work done on the bill.

Mr. Meyer asked if the origin of SB1598 was to address mining issues and rock products. Mr. Guillen stated that originally, parts of the bill specifically addressed aggregates, but a portion of the bill dealt with all licensing permits that granted authority. Mr. Meyer asked if the bill stipulates that all cities and towns follow the same licensing process; Mr. Guillen answered in the affirmative. Mr. Meyer asked if Town A has a local license and Town B wants to do things differently, can it. Mr. Guillen stated that SB1598 allows for local authority regarding the length of time frames for administrative and substantive review, but does not change what cities, towns and counties can regulate. Mr. Meyer asked if some of the guidelines include time requirements. Mr. Guillen answered in the affirmative but explained that each city and town can determine what the time frame is for each permit and license. Mr. Meyer asked if the League of Arizona Cities and Towns has other concerns with the bill. Mr. Guillen explained that the meetings regarding the bill went well and if other issues arise, the League is comfortable with meeting to resolve them.

David Kimball, Arizona Rock Products Association, testified in support of SB1598, stating that the bill includes a general planning section which requires that, during the planning process, currently identified sources of aggregates are incorporated into the general planning of counties and cities so that those resources will be identified and effectively preserved. He explained that this ensures that when growth occurs, identified aggregate sources are not allowed to be mined for the benefit of future development. Mr. Kimble stated that the next major component of the bill is a regulatory bill of rights that has been part of state statute for 15 years. He explained the various issues that have occurred within cities and counties based on this regulatory bill of rights and stated that Arizona cannot provide incoming businesses the kind of certainty necessary regarding the time frames for them to become operational. He stated that SB1598 requires municipalities and counties, with respect to licensing approvals, to provide some time frame to be determined by the cities and counties.

Senator Lori Klein, sponsor, stated that SB1598 extends to municipal and county governments the regulatory reform requirements that have applied to state government for over 10 years. She asserted that the bill strives to achieve consistent treatment, fairness and certainty under the law for the business community at all levels of government. She explained that the goal of SB1598 is to open up Arizona for business and to create real jobs and wealth in the private sector.

Vice-Chairman Urie announced the names of those who signed up in support of SB1598 but did not speak:

Marcus Dell'Artino, Qwest Communications

Marcus Osborn, Manager of Government and Public Affairs, Arizona Manufacturers Council

Adam Hawkins, Government Affairs, Arizona Mining Association

Ken Quartermain, Lobbyist, Cox Communications

Susan Anable, Manager, Government Relations, Cox Communications

Tom Jenney, Arizona Director, Americans for Prosperity, Arizona

Michelle Bolton, Vice President of Public Affairs, Greater Phoenix Chamber of Commerce

Lorna Romero, Director of Government Relations, Arizona Chamber of Commerce and Industry

Sarah Morgan, Vice President, Arizona Chapter, The Associated General Contractors of

America, representing self

Philip Bashaw, Arizona Farm Bureau Federation, Arizona Farm Bureau

Lyn White, Manager Government Relations, Freeport-McMoRan Copper & Gold

Dave Kopp, Manager, Americans for Prosperity

Greg Patterson, IOWUA Director, Arizona Competitive Power Alliance

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1598 but did not speak:

Chad Heinrich, Government Relations Coordinator, City of Tempe

Craig McDermott, representing self

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1598 but did not speak:

Paul Jepson, Assistant to the City Manager, City of Maricopa

Karen Peters, Lobbyist, City of Phoenix

Question was called on the motion that the Montenegro 20-page amendment dated 03/18/2011 (Attachment 3) be adopted. The motion carried.

Vice-Chairman Urie moved that SB1598 as amended do pass. The motion carried by a roll call vote of 8-1-0-0 (Attachment 5).

SB1286 - counties; cities; permits; time limit - DO PASS AMENDED

Vice-Chairman Urie moved that SB1286 do pass.

Vice-Chairman Urie moved that the Forese 28-line amendment dated 3/18/11 (Attachment 6) be adopted.

Stephanie Johnson, Assistant Majority Research Analyst, stated that SB1286 requires a local government to approve or deny an application for any permit issued by a city, town or county within 60 days after receipt of the proposed application. SB1286 specifically states that a failure to respond within 60 days after receiving a complete application for any permit constitutes approval of the application (Attachment 7).

Ms. Johnson explained the following provisions of the proposed Forese 28-line amendment dated 3/18/11 (Attachment 6):

- Allows the applicant to grant the city, town or county an extension for an additional 60 calendar days or an additional 120 calendar days.
- Directs the city, town or county to advise the applicant if they find that the application is incomplete within 30 calendar days after the date the application was filed with the local government.
- Requires a city, town or county, if the application is denied, to advise the applicant in writing of the denial and the grounds for denial and provide the applicant with a written disclosure of the applications approved by the local government under the same regulatory provisions within the preceding 180 calendar days.

Mr. Urie asked what kind of application is being referenced. Ms. Johnson stated that the bill does not specify the kind of application, but that it is any application issued by a city, town or county.

Senator Lori Klein, sponsor, stated that the City of Chandler approves or denies all applications within 30 days and that a 60-day requirement is not inordinate. She explained that the Forese amendment allows the applicant to request another 120 days plus an additional 60 days. She noted that the applicant has to receive 30-day notice of a problem with the application before that application is denied. She opined that similar legislation passed in Pennsylvania with a positive outcome and that the bill helps to create jobs.

Chairman Burges asked if Senator Klein is supportive of the Forese amendment; Senator Klein replied in the affirmative.

Vice-Chairman Urie noted the large difference between a permit for sign placement or building improvements and requesting a permit to build a plant. He stated that by statutory right, when permits are changing zoning, 180 days are required. He stated that forcing the city to decide on an application within 120 days does not comply with state laws. Senator Klein stated that zoning

and planning do take time, but is typically done prior to permit requests. She explained that the intent of the bill is not to interfere with the existing process.

Mr. Forese stated that the intent of the bill is not to force a city or town to be pro-business, but the issue is that the existing approval power is sometimes used to extort something from a builder or used as a process to generate additional income for a town or city. He explained that a Floor amendment will be offered to make this bill the default if existing statutory requirements and specifications for a permit are not in place.

Mr. Meyer requested specific examples of the mentioned abuses and stated that if the abuses are taking place, the citizens have the responsibility to vote to change the city councils. Mr. Forese stated that abuses have been found and provided an example of a group that has received five “red line” documents during the permit process. Brief discussion ensued.

Mrs. Ugenti asked how the bill will affect larger projects that may receive temporary approval to break ground before moving through the full approval process. Senator Klein stated that she does not believe the bill will impact the larger projects that need to move forward. She stated that the bill’s intent is to move the application process forward for applicants because they are creating the jobs.

Brief discussion ensued regarding the large project approval process and consistency in the approval process.

Mr. Forese cited the City of Chandler’s permit approval record, stating that all permits were approved within the six-month time frame. Vice-Chairman Urie stated his concern about a simple permit application requiring the same length of time as a complicated permit application. Mr. Forese stated that the bill is designed only to eliminate the extortion element surrounding the permit process and that is the reason for the six-month provision. Mr. Arredondo asked if cities have the right to opt out of the bill. Mr. Forese clarified that cities have the right to deny requested applications. Mr. Arredondo stated his concern that if cities do not currently have a problem with approval time frames is the bill creating a problem for those cities. Mr. Forese explained that abuses are taking place and need to be corrected. He offered that if there is an unintended consequence of the bill, he and the sponsor will be happy to work on that issue. Discussion ensued between Mr. Arredondo and Mr. Gowan regarding the six-month time frame.

Senator Klein stated that SB1286 is a pro-business bill that helps to create jobs by making sure that all cities and towns approve or deny applications within a timely manner.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, testified in opposition to SB1286, stating that regarding permitting and licensing, the cities and towns want to be pro-business because by approving business permits and licensing, new revenue is created. Mr. Guillen addressed the slowing down of the approval process and offered that much is being requested of cities and towns with little financial means available to comply. He stated that the League opposes SB1286 primarily due to the lack of flexibility for sizable projects like large hotels, shopping malls, ball parks, hospitals, etc. He explained that the permitting process is designed to protect the public and not to interfere with businesses.

Mr. Forese agreed with Mr. Guillen and asked if there are any permits that cannot be completed within six months. Mr. Guillen stated that he will have to research that and get back to Mr. Forese. Mr. Forese restated the intent of the six-month provision in SB1286. Mr. Guillen stated his concern about the large “umbrella” time frame of six months and queried where the effectiveness is for smaller applications. Mr. Forese stated that he does not see anything wrong with a longer time frame because it will not affect the applications that do not need that allotment of time for approval. He stated that it is a default to prevent possible abuses. Mr. Guillen stated that the city has 60 days unless the applicant extends the time to up to six months; if it is not possible to approve the application during the 60 days, the city is forced to deny the application. Discussion ensued between Mr. Guillen and Mr. Forese.

Mrs. Ugenti requested an example of a large project with complexities that would require a longer time frame for approval. Mr. Guillen stated that a nuclear power plant is a good example. He offered the benefits of the provisions of the previous bill, SB1598, as opposed to SB1286. He stated that it allows for adjustment for permits that they may not have control over the entire process. He explained the example of the Tostitos Fiesta Bowl and the permits required.

Vice-Chairman Urie announced the names of those who signed up in support of SB1286 but did not speak:

Dave Kopp, Manager, Americans for Prosperity
Rebecca Mahan, representing self
Tom Jenney, Director, Americans for Prosperity, Arizona
Byron Schломach, Economist, representing self

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1286 but did not speak:

Romina Korke, Director of Government Affairs, City of Goodyear
Craig McDermott, representing self
Chad Heinrich, Government Relations Coordinator, City of Tempe
Paul Jepson, Assistant to the City Manager, City of Maricopa
Michael Celaya, Intergovernmental Relations Director, City of Surprise
Alison Zelms, Assistant City Manager, City of Sedona
Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale
Brent Stoddard, Director of Intergovernmental Programs, City of Glendale
Michelle Gramley, Town of Gilbert
Karen Peters, Lobbyist, City of Phoenix
Beth Lewallen, Maricopa County Board of Supervisors
Brad Lundahl, Government Relations, City of Scottsdale
Leah Hubbard, Special Assistant to the City Manager, City of El Mirage
Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler
Mike Williams, Town of Queen Creek

Question was called on the motion that the Forese 28-line amendment dated 3/18/11 (Attachment 6) be adopted. The motion carried.

Vice-Chairman Urie moved that SB1286 as amended do pass. The motion carried by a roll call vote of 5-4-0-0 (Attachment 8).

SB1278 - county assessor; permanent retrieval fund - DO PASS

Vice-Chairman Urie moved that SB1278 do pass.

Stephanie Johnson, Assistant Majority Research Analyst, stated that SB1278 changes the population threshold for the establishment of a county assessor's Property Information Storage and Retrieval Conversion and Maintenance Fund (Fund) and continues the Fund until 2014 (Attachment 9). She explained the bill's provisions:

- Allows a county assessor's Fund to be established in each county with a population of less than 750,000 people, rather than 500,000.
- Contains a delayed repeal date of from and after December 31, 2014.
- Makes technical and conforming changes.

Mrs. Ugenti asked how many times the Fund has been extended; Ms. Johnson stated that this is the second time it has been extended.

Vice-Chairman Urie asked how much money has been collected in fees over the ten-year period; Ms. Johnson deferred to the sponsor.

Senator Sylvia Allen, sponsor, provided a brief history of the bill and the assessor's property information systems conversion needs. She stated that during current economic difficulties, small counties are experiencing hardships and have absorbed nearly \$2 million in state budget impacts including the loss of major revenue sources such as the County Assistant Fund which was \$7.6 million annually, etc. She explained that the bill extends the Fund for three years. She stated that the assessor's system upgrades require continual maintenance and updating. She thanked the Members for considering the bill.

Rod Ross, Legislative Associate, County Supervisors Association, testified in support of SB1278, stating that the counties have absorbed nearly \$200 million in impacts from the state budget since 2008 and are not in a position to lose another revenue source to the state. He explained that the Fund provides some aid to the assessors to upgrade systems, which could not be done without it.

Mr. Urie stated that some databases can have a centralized location for all counties to access and inquired how the counties are currently managing those logistics. Mr. Ross explained that currently, each county is independently doing its upgrades.

Jen Sweeney, Government Affairs Director, Arizona Association of Counties, testified in support of SB1278, stating that the promise made in 2006 to not ask for another extension is being broken due to the unforeseen economic situation. She explained that without the funds to maintain current systems, eventually the counties will need an entirely new system to replace the one that has become obsolete. She explained that, like a laptop, if it is not maintained and kept current with the changing technology, eventually the system becomes obsolete and must be replaced, which is more costly than gradual maintenance. She stated that by allowing the counties to continue using the Fund for another three years, the benefit to the counties is significant.

Vice-Chairman Urie announced the names of those who signed up in support of SB1278 but did not speak:

Ronald Nicholson, Assessor, Mohave County

Cammy Darris, Navajo County Assessor

Joanne Keene, Government Relations Director, Coconino County

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1278 but did not speak:

Kevin McCarthy, President, Arizona Tax Research Association

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1278 but did not speak:

Tom Farley, Lobbyist, Arizona Association of REALTORS®

Question was called on the motion that SB1278 do pass. The motion carried by a roll call vote of 5-4-0-0 (Attachment 10).

SB1322 - cities; services; managed competition(now: managed competition; city services) - DO PASS

Vice-Chairman Urie moved that SB1322 do pass.

Michelle Hindman, Majority Research Analyst, stated that SB1322 requires all municipal services, in cities with a population of 500,000 or more persons, that cost more than \$75,000, to go through an open and competitive bidding process (Attachment 11). Ms. Hindman explained the bill's provisions:

Competition Mandate – Municipal Services

- Requires competitive service cities to provide all municipal services that cost \$75,000 or more through a city department or independent contractor that has entered into a contract through open and competitive bidding.
- Allows competitive service cities to provide municipal services costing less than \$75,000 through open and competitive bidding contracts.
- Allows state agencies and political subdivisions, including a municipality or its departments, to bid for a municipal service contract pursuant to statute.
- Prohibits a competitive service city from stopping municipal employees from terminating their employment to accept employment with an independent contractor, unless a conflict of interest or corruption would result.
- States that the city manager of each competitive service city is responsible for administering all municipal service contracts with independent contractors and municipal departments.
- Requires a competitive service city to comply with statutory guidelines for procuring construction services and to employ generally accepted accounting principles when considering bids submitted by municipal employees.
- Allows permit applicants to use the professional services provider of their choice for plan submission, permitting and inspections.
- Permits competitive service cities to charge a reasonable fee for permits issued.

- Allows any bidder of municipal service contracts to incorporate, within a bid, the use of any municipal facility or equipment that a competitive service city would use in performing the same service.

Precompetition Assessment

- Requires the city manager of each competitive service city to prepare a report detailing each municipal service that will be put into open and competitive bidding, describing the services to be contracted, the anticipated contract price and contractual performance standards.
- Directs the city manager to transmit this report to the city council and requires the city council to consider the report within 30 days.
- Requires the open and competitive bidding for contract to commence immediately after the city council approves the final statement of work.
- States that a city council's disapproval of a statement of work is valid only if they propose, by resolution, specific modifications that guide the city manager.
- States that the city manager must incorporate the council's modifications within 30 days, then the final statement of work will be deemed adopted by the council and open and competitive bidding shall commence immediately.

Open and Competitive Bidding of Service

- Requires the council of a competitive service city, by ordinance, to provide for standards and processes ensuring transparent, open and competitive bidding by independent contractors and city departments for contracts to furnish municipal services, including provisions to guard against corruption and conflicts of interest.
- Directs the city council to reasonably tailor the scale and complexity of operations in order to generate competitive bids from the private sector.
- States that the selection of professional services must comply with existing statute governing the procurement of professional and construction services.

Minimum Contract Standards

- Directs the city manager of a competitive service city to award all contracts to the bidder who is able to provide reasonable assurance of fulfilling the contract standards at the lowest cost to the city.
- Sets a maximum contract length of five years, with three one-year renewals, before services must go through the open and competitive bidding process again.
- Allows cities to award contracts longer than five years only to an independent contractor or public-private partnerships involving significant fixed capital investments, with a contract term equal to the amortization schedule reasonable in that industry.
- States that a city's contract standards must establish specific performance outcomes from the work, but may not override the managerial discretion of independent contractors in determining how best to fulfill those standards.
- States that a city's contract standards may not dictate how employees of independent contractors are compensated.
- Establishes the following minimum contract standards for any service contract:
 - All bidders must be able to provide reasonable performance and payment bonds, guarantees, letters of credit or other acceptable forms of security, the amount of which may be less than 100 percent of the value of the contract, made on a facility-by-facility basis, of what is required to adequately protect the competitive service city.

- All bidders must maintain an adequate level of liability insurance consistent with a city's risk management requirements, the cost of which must be included in all submitted bids.
- Independent contractors must have appropriate safety policies and procedures in place, perform background checks on their employees, and acknowledge that the city may terminate any contract in the event of any material breach.

Transparency in Bidding and Performance

- States that all bid-related communications and supporting materials submitted for consideration by competitive service cities are public records.
- Directs the city manager and all city departments to perform annual performance audits for contracted services, the cost of which must be accounted for and incorporated into any bid.
- Directs the city manager to seek an independent performance audit every five years to evaluate the city's audits.
- States that all performance audits are public records.

Transparency in the Cost of Municipal Employment

- States that any state agency or political subdivision that bids on a municipal service contract must disclose and incorporate budgeting for reasonably anticipated overtime to be paid to the bidder's employees and the present value of anticipated retirement benefits.

Miscellaneous

- States that taxpayers in a competitive service city have legal standing to bring court action to enforce the provisions of this Act.
- Specifies that the provisions of this Act do not apply to municipal judges, police officers, municipal firefighters, 911 operators or tax collection and audit enforcement functions of a competitive service city or if compliance would violate any applicable federal law or regulation.
- Exempts existing vested contractual or intergovernmental agreements for furnishing municipal services that have been entered into before the effective date of this Act.
- States that when current vested contractual or intergovernmental agreements expire, they may only be continued if they are municipal services subject to the provisions of and are continued or renegotiated in accordance with this Act.
- Defines *competitive service city* as any city with a population over 500,000.
- Defines *municipal services* as all services provided directly or indirectly by a city for the benefit of its residents, not including the duties performed by the mayor, city council, city manager or city attorney.
- Provides applicable time frames.

Senator Frank Antenori, sponsor, stated that state government cannot compete to be more efficient and still provide the highest level of services as the private sector because there is no direct competitor. He explained that the bill does not mandate that the city eliminate any jobs, but it enforces that each city is using the money provided by the taxpayers in the most efficient way.

Ms. Hobbs stated that cities have cut budgets as much as possible and asked what prompted SB1322. Senator Antenori stated that SB1322 does not mandate that the service be given to

anyone else, but it keeps the city competitive and maintains the city's ability to keep current services if they are a better use of taxpayer monies.

Mr. Urie asked why this is not already being implemented in all cities. Senator Antenori replied that some cities have very vocal minorities that "make noise" with the mention of wide-spread privatization or solutions for problems. He posed that the government should not be spending money that can be managed by the private sector vendor at the same level of quality for much less. Discussion ensued regarding the types of jobs that can be managed by the private sector without the overhead of salaries and retirements.

Ms. Hobbs asked how a city can opt out of awarding a contract if it chooses not to when the bill clearly states that it "shall" and not "may". Senator Antenori deferred to Councilman DiCiccio.

Sal DiCiccio, Phoenix City Councilman, representing self, testified in support of SB1322, stating that the intent of the bill is to create a model that allows the cities to look at cuts in a different way. He stated that in order to deliver services efficiently, the city needs to have a variety of innovative ideas and options accessible. He stated that local governments have started increasing permit and application costs to cover cuts.

Vice-Chairman Urie asked if Mr. DiCiccio can convince the other councilmen to look at those fees and help reduce them. Mr. DiCiccio stated that he has and will continue to do so. Mr. DiCiccio explained that the unions on the local level have a lot of influence and make local change difficult. Discussion ensued regarding the local civilian unions and the management problems within the City of Phoenix.

Mr. Meyer stated that the Phoenix City Council is elected to manage issues and asked why the issues are not being managed and why the state is being asked to manage the local issues. Mr. DiCiccio stated that special interest groups interfere with the city council's ability to make the necessary changes. He stated that if the state fixes state-level issues without fixing city and local issues, the problem will not truly be fixed.

Ms. Hobbs restated the question she asked Senator Antenori to Mr. DiCiccio. Mr. DiCiccio stated that it allows city employees to participate as well. He explained that the bill states that the city must look at every aspect of delivering the services, not just cost.

Discussion ensued between Mr. DiCiccio and Vice-Chairman Urie regarding the civilian unions.

Chairman Burges asked how many potential out-of-state companies would be coming in and taking jobs away from the local citizens. Mr. DiCiccio stated that the Phoenix City Council looked at the possible unintended consequences and addressed those potential issues; he provided various examples.

Tom Jenney, Arizona Director, Americans for Prosperity, Arizona, testified in support of SB1322, stating that Phoenix used to be good at contracting out but has fallen short in the last decade. He stated that the city councils are free to decline any bid and there is nothing forcing them to take any bid. He asserted that the State of Arizona is sovereign, but the cities are not sovereign. He stated that SB1322 is a "give and take" between the different levels of government.

Byron Schlomach, Economist, Goldwater Institute, testified in support of SB1322, stating that based on research done at the Goldwater Institute, Tucson wanted to bid out its trash collection services and the threat of competition resulted in better services by the city. He reiterated Mr. Jenney's comments and agreed that Arizona is sovereign.

Nancy Zimmerman, representing self, testified in support of SB1322, stating that it allows public comparison of the cost of services in the public and private sectors and requested that opportunity be given to see where taxpayer wages are spent and where savings may be realized.

Katie Dionne, representing self, testified in support of SB1322, stating that it would behoove the state in current economic times to find other companies that provide better service at lower costs. She explained that she has personally adjusted her lifestyle to accommodate the current economic times and the state and cities should be doing the same.

Doug Cole, City of Tucson, Tucson Water, testified in opposition to SB1322, stating that the management of finite resources, such as water, makes long-term planning difficult. He stated his concern about possible unintended consequences and asserted that this debate is better suited for city hall.

Karen Peters, City of Phoenix, testified in opposition to SB1322, stating that the city has a responsibility to make sure taxpayers get what they pay for. She cited the various areas where the City of Phoenix currently outsources services. She explained that competitive bidding is expensive and time consuming and carries the risk of protests. Also, every contract with outside bidders requires supervision to make sure that the taxpayers are getting what they pay for. Ms. Peters addressed Ms. Hobbs' question regarding the term "shall", stating that all things being equal, the city must go with the lowest bid. She stated that each government function should be reviewed individually to see if it can be done more efficiently with private business after taking into consideration all relevant costs. Ms. Peters addressed other issues raised in previous testimony regarding the costs associated with city employees.

Roman Ulman, Representative, American Federation of State, County and Municipal Employees (AFSCME), testified in opposition to SB1322, stating that the bill is looking for a solution without a problem. He stated that Arizona's cities are some of the best in the world. He provided an example of a situation where he and his wife had to go to the mayor's office to request that a situation be resolved with a contractor blocking entrance to his business. He stated that the situation was resolved within minutes because government is often accessible and private contractors are not. He asserted that if jobs are taken away from local employees, Arizona's families will be affected.

Jim Ogsbury, Legislative Director, League of Arizona Cities and Towns (League), testified in opposition to SB1322, stating that the League does not condemn or endorse the management reforms embedded in the bill. He stated that he defends the prerogative of the cities and towns to implement provisions in the bill. He explained that city and town leaders are working overtime to reduce costs and achieve greater efficiencies in the delivery of services. He explained that the budgets of average Arizona municipalities have been reduced by 30 percent over the last three years.

Mrs. Ugenti asked if a city must accept the lowest bid. Ms. Hindman answered in the affirmative, explaining that the bill is clear that the lowest contract must be awarded.

Chairman Burges stated that generally, common practice allows that a company does not have to accept the lowest bid if there is a good reason. She stated that she is not sure if this applies to SB1322.

Senator Antenori stated that the accepted bid must provide reasonable assurance of fulfilling the competitive service and standards.

Mr. Ulman stated that because of the many interpretations, cities like Detroit have undergone lengthy and costly litigation for awarding contracts to the second highest bidder.

Vice-Chairman Urie announced the names of those who signed up in support of SB1322 but did not speak:

Terrance Traylor, representing self
Steve Voeller, President, Arizona Free Enterprise Club
David Kimball, Gallagher and Kennedy
Dave Kopp, Manager, Americans for Prosperity
Shawna Bolick, Author and Researcher, representing self
Farrell Quinlan, State Director, National Federation of Independent Business
Pamela Pearson, representing self

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1322 but did not speak:

Leonard Gilroy, Director of Government Reform, Reason Foundation

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1322 but did not speak:

Leah Hubbard, Special Assistant to the City Manager, City of El Mirage
Paul Jepson, Assistant to the City Manager, City of Maricopa
Michael Celaya, Intergovernmental Relations Director, City of Surprise
Alison Zelms, Assistant City Manager, City of Sedona
Rebekah Friend, Lobbyist, Arizona AFL-CIO
Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale
Michelle Gramley, Town of Gilbert
David Johnson, Intergovernmental Affairs Analyst, Town of Buckeye
David Kincaid, City Manager, City of Safford
Pat Burgess, Captain Precinct Committeeman, representing self
Joseph Brehm, Management Intern, City of Prescott
Matthew Busby, Assistant to the City Manager, City of Apache Junction
Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler
Connie Scoggins, Assistant City Attorney, City of Yuma
Kevin DeMenna, City of Phoenix
Ruth Osuna, City Manager, City of Eloy
Ryan DeMenna, City of Phoenix
Jason Stokes, representing self

Mike Williams, Town of Queen Creek
Scott Butler, City of Mesa
Brent Stoddard, Director of Intergovernmental Programs, City of Glendale
Sandy Bahr, Conservation Director, Sierra Club

Question was called on the motion that SB1322 do pass. The motion carried by a roll call vote of 5-4-0-0 (Attachment 12).

SB1333 - cities; towns; deannexation; incorporation - DO PASS AMENDED

Vice-Chairman Urie moved that SB1333 do pass.

Vice-Chairman Urie moved that the Urie six-page amendment dated 3/21/11 (Attachment 13) be adopted.

Michelle Hindman, Majority Research Analyst, stated that SB1333 establishes time frames within which a prescribed distance of an incorporated city or town is declared an urbanized area and prescribes a deannexation procedure for a specified population (Attachment 14). She explained the bill's provisions:

Urbanized Areas; Incorporation

- Stipulates that if a municipality causing an urbanized area to exist is in a county with a population between 800,000 and 1,500,000 persons and does not approve a petition requesting annexation of the area proposed for incorporation within 120 days of its presentation, the following applies within the provided time frames:
 - One year – all territory within five miles of an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
 - Two years – all territory within four miles of an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
 - Three years – all territory within three miles of an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
 - Four years – all territory within two miles of an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
 - Five years – all territory within one mile of an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
 - Six years – no territory bordering an incorporated city or town having a population of 5,000 or more persons is declared an urbanized area.
- Stipulates that, through December 31, 2020, if the area proposed for incorporation has a population of 1,500 or more persons, is in a county with a population between 800,000 and 1,500,000 persons and has a governing board – including a planned community board of directors or a special district board – the Board shall proceed with the incorporation or annexation *without* a resolution by the city or town or a filed affidavit.
- Clarifies that, through December 31, 2020, this Act does not apply to an area covered by a planned community association during the period of declarant control.

Deannexation; Incorporation

Election

- States that if 10 percent of the qualified electors residing in a community with a population of 1,500 or more persons petition a city or town, setting forth the metes and bounds of the community and asking for an election for the purpose of *deannexation*, the city or town must call the election within 60 days of the petition filing.
- Prescribes the statutory election dates that must be followed and states that an election shall not be called within 12 months of a previous election on the deannexation of the same territory.
- States that only qualified electors may vote on the question of deannexation.
- Directs a city or town, if the question of deannexation is passed by a majority of qualified electors voting on the issue, to set forth the deannexation by ordinance and return the territory to the county.
- Requires the Board that intends to receive the deannexed area to set forth by ordinance the legal description of the territory and declare its return.

Taxation

- States that deannexed land is not exempt of lawfully assessed taxes against it for the purposes of paying indebtedness.
- Allows the governing body to levy a tax at the same rate and purpose as a tax that had been levied against the property before a deannexation.
- Exempts land from taxation if the owner of any deannexed land pays off and discharges a portion of the indebtedness and prescribes associated terms for the payment.
- Requires the evidences of payment of the portion or the indebtedness to be deposited with the city or town clerk and directs the clerk to give the landowner a certificate of payment.

Filing Requirements

- Requires a copy of the order of the deannexation described in any city or town, certified by the clerk of the court, to be filed for record in the appropriate county recorder's office.
- States that the record or a copy of the order decree, certified by the clerk of the court, is proof of the deannexation.

Incorporation

- Allows the qualified electors as prescribed in this Act, to petition the Board, setting forth the metes and bounds of the community, the name under which the petitioners wish to be incorporated and asking for an election for the purpose of incorporation.
- Requires the Board to call the election for incorporation within 60 days of the petition filing.

Ms. Hindman explained that the Urie six-page amendment dated 3/21/11 (Attachment 14) strikes the deannexation provisions and makes an internal reference change.

Senator Frank Antenori, sponsor, stated that SB1333 derives from a situation taking place in Pima County. He explained that the incorporated population of Maricopa County is 94 percent; in Pima County, that number is 64 percent. He explained that state share revenue is based upon incorporation and there are cities in Pima County that are trying to annex into the city. He stated that SB1333 is an effort to facilitate the increase in the number of incorporated citizens within Pima County. He stated that SB1333 will encourage annexation of largely populated areas that want to become municipal entities.

Chairman Burges asked Senator Antenori if he supports the proposed Urie amendment; Senator Antenori replied in the affirmative.

Question was called on the motion that the Urie six-page amendment dated 3/21/11 (Attachment 13) be adopted. The motion carried.

Vice-Chairman Urie moved that the Urie two-line amendment dated 3/21/11 (Attachment 15) be adopted.

Ms. Hindman explained that the Urie two-line amendment dated 3/21/11 (Attachment 15) increases the population threshold from 1,500 to 15,000 persons who want to incorporate within the next ten years.

Question was called on the motion that the Urie two-line amendment dated 3/21/11 (Attachment 15) be adopted. The motion carried.

Vice-Chairman Urie moved that SB1333 as amended do pass.

Vice-Chairman Urie announced the names of those who signed up in support of SB1333 but did not speak:

Michael Manola, Tonopah Valley Fire District

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1333 but did not speak:

Michael Celaya, Intergovernmental Relations Director, City of Surprise

Michelle Gramley, Town of Gilbert

Mike Williams, Town of Queen Creek

Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1333 but did not speak:

Karen Peters, Lobbyist, City of Phoenix

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, testified in opposition to SB1333, stating that the League of Arizona Cities and Towns is neutral on the bill with the adoption of both Urie amendments. He thanked Senator Antenori and Mr. Urie for their work with the League on the bill.

Question was called on the motion that SB1333 as amended do pass. The motion carried by a roll call vote of 7-2-0-0 (Attachment 16).

SB1375 - forfeiture of office; technical correction(now: livery vehicles; taxis; limousines; regulation) - DO PASS

Vice-Chairman Urie moved that SB1375 do pass.

Stephanie Johnson, Assistant Majority Research Analyst, stated that SB1375 adds requirements to the owners of livery vehicles, taxis and limousines (Attachment 17). She explained the bill's provisions:

- States that the regulation and use of livery vehicles, taxis, and limousines are of statewide concern.
- Specifies that livery vehicles, taxis and limousines and their uses that are regulated pursuant to statute are not subject to further regulation by a county, city, town or other political subdivision of this state.
- Allows a public airport operator that operates a public airport pursuant to statute or a public body operating a public airport to establish the number of livery vehicles, taxis or limousines that may conduct business at a public airport or to set additional or more restrictive requirements for the conduct of that business at a public airport.
- Requires a taxi or livery vehicle to display interior signage that contains the driver's name and is readily visible to passengers.
- Stipulates that a driver of a livery vehicle, taxi or limousine must complete a criminal background check prior to being engaged as an employee or lessee of the vehicle owner.
- Directs an owner of a livery vehicle, taxi or limousine licensed through the Department of Weights and Measures (Department) to have written evidence of criminal background checks of any drivers operating a vehicle for the owner, whether as an employee or lessee, available for inspection at all times by the Department.
- Requires an owner of a livery vehicle, taxi or limousine licensed through the Department to have all vehicle maintenance records of all the owner's livery vehicles, taxis or limousines available for inspection at all times by the Department and specifies that these records must be updated at least annually.
- Makes technical and conforming changes.

Senator Frank Antenori, sponsor, stated that SB1375 establishes a statewide standard that will protect the consumer, allow transparency, allow the cities to have input in regulating background checks, and require vehicle maintenance records.

Vice-Chairman Urie announced the names of those who signed up in support of SB1375 but did not speak:

Dana Paschke, Discount Taxi, Total Transit
Craig Hughes, CEO, Total Transit, Inc.
John MacDonald, Lobbyist, Total Transit, Inc.

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1375 but did not speak:

Shawn Marquez, Director of Compliance Programs, Department of Weights and Measures
Rob Dalager, City of Phoenix

Question was called on the motion that SB1375 do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 18).

SB1379 - technical correction; notaries public; conduct(now: consumer fireworks; regulation) - DO PASS AMENDED

Vice-Chairman Urie moved that SB1379 do pass.

Vice-Chairman Urie moved that the Burges 12-line amendment dated 3/18/11 (Attachment 19) be adopted.

Stephanie Johnson, Assistant Majority Research Analyst, stated that SB1379 modifies a governing body's authority to regulate the use and sale of permissible consumer fireworks by municipalities and counties and establishes the State Fire Marshal Fund (Attachment 20). She related the bill's provisions:

- Stipulates that this Act does not prohibit the following:
 - The sale of permissible consumer fireworks by a retailer in a consumer fireworks retail sales facility or store if the retailer complies with rules adopted pursuant to statute.
 - The use of permissible consumer fireworks by the general public, except on a state or locally owned property.
- States that the storage, transportation, sale, possession, display for retail sale and use of permissible consumer fireworks and federally deregulated novelty items are of statewide concern.
- Specifies that the regulation of permissible consumer fireworks and their use between June 15 through July 5, December 12 through December 31 and January 1 through January 2 is not subject to further regulation by a governing body.
- Prohibits the sale and use of permissible consumer fireworks in a county that includes at least 2,500,000 but not more than 5,000,000 acres of federal land and that has a population of less than 500,000 people.
- Allows an incorporated city or town or a county within the unincorporated areas of the county to provide by ordinance for an annual fee for each consumer fireworks retail sales facility or store carrying consumer fireworks in an amount sufficient to cover all legitimate costs for necessary permits, licenses and authorizations, but specifies that this amount may not exceed a total of \$200 or \$50 respectively.
- Clarifies that in areas where fire services are provided by a fire district, the respective fire district must receive 50 percent of the fees permitted by this Act.
- Prohibits an incorporated city or town or a county within the unincorporated areas of the county from doing the following:
 - Impose any fee or charge, other than permitted by this Act, on the retail sale of permissible consumer fireworks.
 - Prohibit or restrict the display for retail sale of permissible fireworks in consumer fireworks retail sales facilities or stores that comply with the National Fire Protection Association standards between June 15 through July 5, December 12 through December 31 and January 1 through January 2.
 - Impose on a retail seller any financial guarantee requirements, including bonding or insurance provisions, containing restrictions or any other conditions not imposed on the same basis on all other business licenses.
 - Impose signage requirements on a retail seller beyond those required by the National Fire Protection Association standards.

- Prohibits a person from selling, allowing or authorizing the sale of permissible consumer fireworks to a person under the age of 18.
- Directs the State Fire Marshal to adopt rules prescribing licensure requirements for fireworks importers-exporters, wholesalers and retail fireworks locations and allows the State Fire Marshal to collect fees.
- Establishes the State Fire Marshal Fund consisting of fees collected pursuant to this Act and specifies that the Office of the State Fire Marshal will administer the fund and prescribes how the monies in this fund shall be distributed.
- Defines *consumer fireworks retail sales facility, store, importer-exporter, retailer, and wholesaler*.
- Contains a legislative intent clause.
- Makes technical and conforming changes.

Ms. Johnson explained that the Burges 12-line amendment dated 3/18/11 (Attachment 19) specifies that the sale of permissible consumer fireworks in a consumer fireworks retail sales facility is not allowed in a residentially-zoned area and contains an emergency clause.

Senator Frank Antenori, sponsor, stated that a consumer fireworks bill was passed last year and generates revenue to the state. He explained that SB1379 eliminates two counties with large national forests. He explained that SB1379 is a cleanup bill to prevent a possible prohibition on fireworks and a loss of revenue.

Vice-Chairman Urie asked if the bill addresses where fireworks can be set off. Senator Antenori explained that the previous year's bill allows the fire marshals and chiefs to regulate where the fireworks can be set off and that SB1379 regulates the sale of consumer fireworks. He stated that each city has ordinances regarding where fireworks can be set off. Vice-Chairman Urie stated his concern regarding cities with dry climates that allow fireworks to be set off on improved surfaces and asked if Senator Antenori is willing to support a Floor amendment addressing that issue. Senator Antenori explained that the lighting of fireworks is better left to the cities to regulate.

Question was called on the motion that the Burges 12-line amendment dated 3/18/11 (Attachment 19) be adopted. The motion carried.

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns, testified in opposition to SB1379, stating that the League has a number of concerns regarding potential fires.

Mike Williams, TNT Fireworks, testified in support of SB1379, providing a brief history of the 2010 legislation that was passed regarding consumer fireworks and the events that prompted SB1379. He related the various attempts by the cities to regulate the sale of fireworks, which is illegal.

Ms. Hobbs asked if current law bans cities from allowing the sale of fireworks. Mr. Williams replied in the negative and explained that products like guns and fireworks should be regulated by the state, not the cities.

John Wayne Gonzales, Intergovernmental Liaison, City of Phoenix, testified in opposition to SB1379, stating that the capping of fees is a problem because the fire engineers are inspecting a variety of requirements when they inspect fireworks vendors. He stated that the vagueness of zoning in the bill is a concern due to the potential clustering of similar vendors within one area.

Ms. Hobbs asked if permit fees to sell fireworks require that a fire marshal must go out and inspect because the product is explosive. Mr. Gonzalez answered in the affirmative and stated that a fire marshal is also verifying water access, chemical compound of the product, storage, exit signs in the tent, etc. Ms. Hobbs asked the difference between what the bill caps the fees at and what his city currently charges. Mr. Gonzales stated that the amendment caps the fees at \$250 and the industry charges \$600 for each tent inspection. He explained that other business will have to subsidize these tent inspections if the cap in the amendment is not raised.

Mr. Williams stated that most tent inspections take approximately 10 minutes because the industry actually sets up the tent. He explained that most tents do not have sides. He listed the various fees that are charged to a tent that is erected for only one week of sales and opined that the fees are too high.

Vice-Chairman Urie announced the names of those who signed up in support of SB1379 but did not speak:

Michelle Ahlmer, Executive Director, Arizona Retailers Association

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1379 but did not speak:

Karen Peters, Lobbyist, City of Phoenix

Michelle Gramley, Town of Gilbert

Brad Lundahl, Government Relations, City of Scottsdale

Joseph Brehm, Management Intern, City of Prescott

Kevin DeMenna, City of Phoenix

Ryan DeMenna, City of Phoenix

Vice-Chairman Urie moved that SB1379 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 21).

SB1188 - adoption; marital preference - DO PASS AMENDED S/E

S/E: same subject

Vice-Chairman Urie moved that SB1188 do pass.

Vice-Chairman Urie moved that the Burges six-page strike-everything amendment dated 3/18/11 (Attachment 22) be adopted.

James Craig, Majority Intern, explained that the proposed Burges six-page strike-everything amendment dated 3/18/11 (Attachment 22) to SB1188 requires the Department of Economic Security (DES) Division of Children, Youth and Families (Division) to give married couples preference over single adults when placing children in adoptive homes, and establishes other factors that must be taken into consideration during the placement process (Attachment 23). Mr. Craig explained the bill's provisions:

- Requires the Division or an adoption agency to place a child in an adoptive home that best meets the child's safety, social, emotional, physical and mental health needs.
- Directs the Division or an adoption agency, when placing a child in an adoptive home, to take into consideration the following factors:
 - Marital status, length and stability of the adoptive parents' relationship.
 - Placement with the child's siblings.
 - Established relationships between the child and the adoptive parents, including placement with a grandparent or foster parent.
 - Adoptive family's ability to meet the safety, social, emotional, physical and mental health needs of the child.
 - Ability of the adoptive family to financially provide for the child.
 - Wishes of the child, if 12 years or older.
 - Wishes of the child's birth parents, unless their rights have been terminated or the court has established a case plan of severance and adoption.
 - Availability of relatives or other significant persons to provide support to the adoptive family and child.
- Requires the Division or an adoption agency to give placement preference to a married man and woman over a single adult if all relevant factors are equal.
- Requires the court to make findings on the record regarding the best interests of the child in each adoption proceeding.
- Requires DES, in its semi-annual report, to categorize adoption information by marital status and relationship of the adoptive parents.
- Requires DES, in its semi-annual report, to compile information detailing the number of children whose adoptive placement was disrupted, and to categorize that information by age, ethnicity, cause of the disruption, and marital status of the adoptive parents.
- Makes technical and conforming changes.

Senator Linda Gray, sponsor, stated that SB1188 is a bill that looks at what is in the best interest of the child. She related a story of a married couple who had fostered a child who was then given back to the biological mother for a short time. That child was then placed with a single foster parent and even though the relationship with the married couple and child existed and the adoption process had been initiated, preference was given to the single parent who ultimately adopted the child. She stated that DES needs to consider what best meets the needs of the child; all things being considered equal, preference should go to the married couple. She opined that all children want to have a mom and a dad.

Ms. Hobbs asked, if the best interest of the child as well as all other factors is being considered, what is the issue that is being solved by the bill. Senator Gray stated that all things being equal, children want a mom and a dad, so placement should go to a married couple. Ms. Hobbs asked who determined that all children want a mom and a dad. Senator Gray stated that there are a number of research studies that reflect that children want a mom and a dad; she deferred to a pediatrician who was present to testify.

Mr. Meyer asked if the statistic is being considered that 50 percent of all marriages end in divorce. Senator Gray stated that on the first page of the strike-everything amendment, line 11, the length and stability of the marital relationship of the prospective adoptive parents is to be considered before placement is made. Mr. Meyer asked how long a couple has to have been

married before the relationship is considered "more stable". Senator Gray stated that it depends on the marriage but DES goes through a process to determine the strength of the marriage. Mr. Meyer stated that he has reviewed many studies reflecting no difference between a child being placed with a married couple or with a single parent. He stated that he would like to see Senator Gray's research. Senator Gray stated that there is research showing that children in the home of a single parent who is in a relationship with someone outside of the home, are being harmed.

Mr. Gowan asked if Mr. Meyer is suggesting that a married couple is not better suited to raise a child than a single parent. Mr. Meyer answered in the negative. Mr. Gowan stated that the bill simply gives priority to a married couple but does not deny adoption to a single parent. Mr. Meyer stated that each situation is unique and that DES should be able to decide what is best for the child and marital status should not be the determining factor. He opined that legislation should not regulate that preference. Mr. Gowan asserted that a married couple is better suited to raise a child because a child is receiving both mothering and fathering, which is different for each parent, and cannot be obtained from a single parent. He restated that the bill does not exclude single parents but that it simply allows preference to a married couple. Mr. Meyer stated that Mr. Gowan is making assumptions because there are many married couples that have not been successful at raising their children, whereas there are many examples of single parents who have done an excellent job of raising their children. He asserted that being married does not mean those parents will do a better job than a single parent. Mr. Gowan stated that if a single parent is better suited than a married couple, the child would go to the single parent. The bill states that all things being equal, preference is given to a married couple, but does not deny placement with a single parent if the single parent is better suited.

Mrs. Ugenti restated Mr. Gowan's points. Ms. Hobbs stated that if all things being equal are being considered, why is the bill needed. Mrs. Ugenti stated that the bill looks at the situation from a child's perspective. She opined that a child wants a mom and a dad and that a married set of parents is the most conducive situation for a child. Mr. Gowan stated that the laws of nature dictate that a man and woman are required to create a child and it takes a man and a woman to raise a child. Ms. Hobbs stated that in modern society all types of families exist and that children can benefit from all kinds of families. Discussion ensued.

Gary Auxier, M.D., pediatrician, representing self, testified in support of SB1188, stating that the bill makes common sense, fits with scientific evidence and is in the best interest of the child. He explained that large amounts of research show that children thrive best in a home with both a mother and a father. He stated that he has seen children raised successfully in all types of homes, but a married couple is in the best interest of the child. He opined that mothers do not father and fathers do not mother.

Ms. Hobbs asked if the study Dr. Auxier cited references adoptive homes. She asserted that parents choosing to adopt may be more eligible than parents who are simply married but may have many "issues". Dr. Auxier stated that the research is referencing all types of families. He stated that all of the research he has seen states that children do best in a home with a married couple.

Cathi Herrod, President, Center for Arizona Policy, testified in support of SB1188, stating that the current DES regulations do not even include marital status as a factor to be considered.

Vice-Chairman Urie announced the names of those who signed up in support of SB1188 but did not speak:

Ron Johnson, Executive Director, Arizona Catholic Conference

Marsha Atkin, United Families Arizona

Terrance Traylor, representing self

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1188 but did not speak:

Leslie Reprogle, representing self

Craig McDermott, representing self

Sam Holdren, Public Affairs Director, Equality Arizona

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

Andrea Fries, representing self

Christine Scarpati, CEO, Child Crisis Center

Vice-Chairman Urie announced the names of those who signed up as neutral on SB1188 but did not speak:

Beth Rosenberg, Lobbyist, Children's Action Alliance

Question was called on the motion that the Burges six-page strike-everything amendment dated 3/18/11 (Attachment 22) be adopted. The motion carried.

Vice-Chairman Urie moved that SB1188 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 24).

SB1468 - homeowners' associations; design guidelines; rules - DO PASS

Vice-Chairman Urie moved that SB1468 do pass.

James Craig, Majority Intern, stated that SB1468 prevents homeowners' associations (HOA) from requiring security deposits from members to ensure compliance with design guidelines (Attachment 25). He explained that the bill prohibits condominium and planned community HOAs from requiring security deposits to ensure compliance with specified design and architectural guidelines.

Senator Ron Gould, sponsor, stated that SB1468 was brought forward due to a design criteria deposit being charged by HOAs to builders that is not being returned. He stated that an agreement between stakeholders has been made to move the bill forward and if an agreement on some outstanding issues cannot be reached in time for a Floor amendment, he will hold the bill. He stated that he is a man of his word and asked the Committee to give him deference.

Mr. Arredondo asked if Senator Gould has met with Paul Gilbert. Senator Gould answered in the affirmative and stated that he agrees with Mr. Gilbert's statement.

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1468 but did not speak:

Paul Gilbert, Principal, Beus Gilbert, representing self

Walter Caroll, Pima Canyon Estates Homeowners Association

Gary Seamans, Pima Canyon Estates Homeowners Association
David Nathanson, Pima Canyon Estates Homeowners Association
Kevin DeMenna, Community Associations Institute
Deb Gullett, Diamond Ventures
Ryan DeMenna, Associate, Community Associations Institute
Jeff Sandquist, Robson Communities, Inc.

Senator Robert Burns, self, testified in support of SB1468, stating that he has been meeting with the stakeholders and Senator Gould and he supports the decision to hold the bill if an agreement has not been reached.

Mr. Meyer asked how the stakeholders are determined. Senator Burns stated that the names that Vice-Chairman Urie cited are the stakeholders that have been included in meetings.

Michael Racy, Lobbyist, Diamond Ventures, testified in opposition to SB1468, stating that he has been included in negotiations with Senator Gould and progress has been made. He thanked Senator Gould for his continued work on the bill.

Question was called on the motion that SB1468 do pass. The motion carried by a roll call vote of 7-2-0-0 (Attachment 26).

SB1502 - fire districts; merger; consolidation - DO PASS

Vice-Chairman Urie moved that SB1502 do pass.

Michelle Hindman, Majority Research Analyst, stated that SB1502 allows a fire district to merge or consolidate by unanimous consent of the governing bodies of the fire districts or by holding an election (Attachment 27). She explained the provisions of the bill:

- Requires the permission – by ordinance or resolution – of the incorporated city or town in which a single parcel requesting inclusion into a fire district or a sanitary district is located before the governing body of the appropriate district can approve a boundary change.
- Requires a fire district to post its budget at least 20 days before the required public hearing, if it maintains a publicly viewable website.
- Allows the governing board of a fire district to place a question on the ballot at a general election to change the district's name.

Fire District – Elections

- Prohibits persons who are qualified electors of a fire district, who are related as immediate family members and who have had the same household of residence within the four years preceding a candidacy from running for an elected fire district office.
- Prescribes conditions and allows any qualified elector who resides in the fire district to bring an action in superior court to enforce the provisions of this Act.
- Defines *household of residence* and *immediate family member*.

Fire Districts – Merger

- Allows the governing bodies of fire districts to choose to merge by unanimous resolution without an election or to choose to hold an election on the question of the merger.
- Stipulates that only a majority vote is required, rather than a three-fourths vote, to adopt a resolution that a proposed fire district merger will promote the public health, comfort, convenience, necessity or welfare.
- Clarifies that the proposed resolution regarding the fire district merger shall call for an election.
- Stipulates that the required notice being sent to each owner of taxable property within the boundaries of the district include an estimate of the assessed value of the merged district, the change in property tax liability for a typical resident of the proposed merged district and a list of the benefits and injuries that may result from the proposed merger.

Fire Districts – Consolidation

- Allows the governing bodies of fire districts to choose to consolidate by unanimous resolution without an election or to choose to hold an election on the question of consolidation.
- Repeals existing language relating to preparing a consolidation impact statement, notice of the consolidation and public hearing requirements.
- Allows two or more fire districts to consolidate, on receipt of a resolution declaring the consolidation to be considered, and upon holding a public hearing to determine if a consolidation would be in the best interest of the districts.
- Requires the governing body to send a written notice that contains the following information, to each owner of taxable property within the boundaries of the district:
 - The purpose of the resolution.
 - Notice of the date, hour and place of the public hearing on the proposed consolidation.
 - Name and description of the boundaries of each district proposed for consolidation.
 - An estimate of the assessed value of the consolidated district.
 - The change in the property tax liability for a typical resident of the proposed consolidation district.
 - A list of the benefits and injuries that may result from the proposed consolidation.
- States that no new territory may be included as a result of a consolidation.
- Requires the clerk of the fire district governing body to post notice in at least three conspicuous public places in the district as well as publish notice in a daily newspaper of general circulation at least ten days before the public hearing.
- Directs the clerk of each governing body of a fire district affected by a consolidation to mail a notice and copy of the resolution in support of the consolidation to the Chairman of the Board of Supervisors in each county where the affected fire districts are located.
- Requires the Chairman of the Board of Supervisors to order a review of the proposed consolidation and submit written comments to the governing body of each affected fire district within 10 days of receiving the notice.
- Directs the governing body of the affected fire districts to consider the comments of the Board of Supervisors and persons who appear for or against the proposed consolidation at a public hearing.

- Stipulates that if each governing body of the districts affected by the proposed consolidation adopts a resolution by majority vote, each of the bodies is required to submit the resolutions calling for an election to the Board of Supervisors.
- Requires the governing body of the fire district into which consolidation was requested and approved pursuant to statute, to declare by resolution that the district is consolidated and each affected district joined.
- Repeals the allowance for a newly consolidated fire district with a combined population of 50,000 or greater to include the title of *fire authority* within its name.

Vice-Chairman Urie asked if SB1502 applies to noncontiguous county island fire districts. Ms. Hindman stated that it is her understanding that it does not apply.

John Flynn, Arizona Fire District Association, testified in support of SB1502, stating that the bill does not apply to noncontiguous county island fire districts. He stated that SB1502 is a housekeeping measure to improve the efficiency of the districts and allow them to enhance the response to their constituencies. He stated that in the current economic times the ability to merge and consolidate the fire districts in the state is paramount to continue to provide emergency services.

Vice-Chairman Urie announced the names of those who signed up in support of SB1502 but did not speak:

Lee Miller, Lobbyist, Arizona Fire District Association

Question was called on the motion that SB1502 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 28).

SB1157 - technical correction; cosmetology schools; contracts(now: wastewater and garbage charges) - DO PASS AMENDED S/E
S/E: elections; candidate certification

Vice-Chairman Urie moved that SB1157 do pass.

Vice-Chairman Urie moved that the Burges five-page strike-everything amendment dated 3/17/11 (Attachment 29) be adopted.

James Craig, Majority Intern, explained that the proposed Burges five-page strike-everything amendment dated 3/17/11 (Attachment 29) to SB1157 requires candidates for office to provide the Arizona Secretary of State (SOS) with documents certifying they meet the requirements for office (Attachment 30). He cited the provisions of the bill:

- Requires candidates for office to include in an affidavit to the SOS or the county, references to and attachment of all documents that show they are qualified at the time of the election to hold the office sought.

Presidential Candidates

- Directs the national political party committee to provide the SOS written notice of a party's nomination of its candidates for President and Vice President.
- Requires the national political party committee to submit an affidavit of the presidential candidate stating their citizenship and age with attached documents that prove the candidate meets the Constitutional requirements for office.
- States that the affidavit must contain the following:
 - Certified copy of the presidential candidate's long form birth certificate including:
 - o Date and place of birth.
 - o Names of the mother and father.
 - o Information sufficient to determining the citizenship of the mother and father.
 - o Name of the hospital and attending physician, if applicable.
 - o Signatures of any witnesses in attendance.
 - Sworn statement that identifies the candidate's places of residence in the United States for the preceding fourteen years.
- Directs the SOS to withhold the candidate's name from the ballot if both the candidate and the national party committee do not provide the documents required by this Act.
- Allows the SOS to withhold a candidate's name from the ballot if they believe the preponderance of the evidence shows the candidate does not meet the requirements to hold office.
- States that any member of the Arizona House of Representatives, the State Senate, or any citizen of this state has legal standing to initiate an action to enforce the provisions of this Act.

Chairman Burges asked Mr. Craig to explain the Burges five-line amendment dated 3/17/11 (Attachment 31).

Mr. Craig explained that the Burges five-line amendment dated 3/17/11 (Attachment 31) to SB1157 would make the provisions of the bill effective after December 31, 2012.

Chairman Burges stated that the Burges five-line amendment will not be moved and the Committee will not be hearing it.

Mr. Meyer asked Mr. Craig to explain how the House or Senate could enforce the law or cause the law to be enacted. Mr. Craig stated that it refers to court action. Mr. Meyer asked how that process would work. Mr. Craig deferred to Michelle Hindman.

Michelle Hindman, Majority Research Analyst, explained that the language gives any member of the legislature or any taxpayer standing to sue if they believe that the provisions of the bill have not been enforced to their liking. Mr. Meyer asked who would be sued. Ms. Hindman stated that she believes the suit would be filed against the Secretary of State because in the bill, the Secretary of State is given the authority to remove a candidate from the ballot if they believe that candidate's qualifications are not intact. She deferred to Chairman Burges.

Chairman Burges, sponsor, stated that she is offering the bill to apply to every candidate running for office. She stated that situations have come to her attention where illegal aliens have run for various offices and citizens have been called for jury duty and those people have declined serving because they have illegal status. She stated that a former Senator is being charged with fraud on his per diem. She stated that she feels it is important to have any candidate running for any office, including President of the United States, show that they are qualified. Chairman Burges read a statement from the Congressional Research Division from Jack Maskell, Legislative Attorney, American Law Division, to the Committee regarding the lack of a federal law, regulation, rule, guideline or requirement requiring that a candidate for federal office produce his or her original birth certificate or a certified copy of the record of live birth to any official of the United States government. She explained that there is no agency that currently vets any candidate is qualified for federal office (Attachment 32).

Mr. Meyer asked if the bill applies to all candidates who are running in the State of Arizona for any office on both the state and federal levels, including President of the United States; Chairman Burges answered in the affirmative. Mr. Meyer stated that Chairman Burges had an amendment that would make the bill effective for the election following the 2012 election. Chairman Burges stated that she thought about making the bill effective after December 2012, and stated that there is no good time to start. Discussion ensued.

Jeff Lichter, representing self, testified in support of SB1157, stating that it is a statement that the verification of all requirements for candidates at all levels of government is essential. He stated that these requirements are particularly important for Presidential contenders to meet the constitutionally-listed qualifications of age, residency and natural born citizenship. He stated that in 2008, in five different states, the secretary of state permitted a convicted felon, an admitted Nicaraguan by birth to be added to the ballot as a Presidential candidate. He provided other examples of candidates that were added to the ballots without being properly vetted.

Vice-Chairman Urie announced the names of those who signed up in support of SB1157 but did not speak:

Terrance Traylor, representing self

Vice-Chairman Urie announced the names of those who signed up in opposition to SB1157 but did not speak:

Lydia Guzman, representing self

Michael Celaya, Intergovernmental Relations Director, City of Surprise

Kelly Townsend, Author, Greater Phoenix Tea Party, testified in support of SB1157, stating that accountability has lost its priority and replaced by fears of bringing controversy on the State of Arizona. She expressed her approval of the passing of SB1070 from the 2010 Session. She requested the support of the Committee for the bill.

Question was called on the motion that Burges five-page strike-everything amendment dated 3/17/11 (Attachment 29) as amended be adopted. The motion carried.

Vice-Chairman Urie moved that SB1157 as amended do pass. The motion carried by a roll call vote of 5-1-0-3 (Attachment 33).

Without objection, the meeting adjourned at 6:07 p.m.

Charly Laube, Committee Secretary
July 12, 2011

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