

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON APPROPRIATIONS

Minutes of Meeting
Wednesday, March 23, 2011
House Hearing Room 1 -- 2:00 p.m.

Chairman Kavanagh called the meeting to order at 3:36 p.m. and attendance was noted by the secretary.

Members Present

Ms. Alston	Mr. Jones	Mrs. Ugenti
Mr. Campbell	Mrs. McLain	Mr. Williams
Mr. Fillmore	Mr. Olson	Mr. Court, Vice-Chairman
Mr. Heinz	Mrs. Tovar	Mr. Kavanagh, Chairman

Members Absent

Mr. Forese

Committee Action

SB1357 - DP (8-4-0-1)	SB1561 - DP (7-3-0-3)
SB1398 - DPA S/E (10-1-0-2)	SCM1005 - DP (7-3-0-3)
SB1539 - DP (10-0-0-3)	

CONSIDERATION OF BILLS

SB1357 - AHCCCS; missed appointments; provider remedy - DO PASS

Vice-Chairman Court moved that SB1357 do pass.

Amber Morin, Majority Intern, Appropriations Committee, explained that SB1357 requires Arizona Health Care Cost Containment System (AHCCCS) patients who miss a scheduled appointment to pay a \$25 missed appointment fee (Attachment 1). In response to questions, she provided the following information:

- The AHCCCS contract waiver does not currently allow this fee to be charged.
- There is no provision for due process in the bill.
- The bill does not specify a penalty if the fee is not paid; however, the patient cannot reschedule an appointment until the fee is paid.
- A waiver from the federal government is necessary to allow this fee to be charged.

Senator Frank Antenori, sponsor, stated that a constituent who is a physician has a 60 percent missed appointment rate among AHCCCS patients at his practice. Senator Antenori said if he misses an appointment with his doctor and does not give advance notice, he is charged \$25. His doctor makes exceptions for justified reasons, but not if someone forgets or does not show up. Some of the AHCCCS patients have missed three or four appointments in a row and just call to reschedule, and the doctor cannot deny the request. These missed appointments cost the doctor hundreds of dollars in lost time and inconvenience other patients who could have been scheduled earlier. He said this bill places every patient on an even keel and will, hopefully, instill personal responsibility, accountability and basic courtesy in people.

Mr. Campbell opined that this bill violates the Medicaid Act and could result in litigation. Senator Antenori responded that if physicians are not able to do this, many will stop seeing AHCCCS patients. He pointed out that it is optional; it is not mandatory. He indicated that he spoke with the Governor's staff and this provision was included twice in a letter to the U.S. Department of Health and Human Services Secretary Kathleen Sebelius; it is also part of current negotiations between the Governor's Office and Centers for Medicare & Medicaid Services (CMS).

Mr. Jones asked what happens if an AHCCCS patient is one or two hours late for an appointment. Senator Antenori replied that the bill does not define *late*; what to do in that instance will be up to the provider.

Mr. Jones said he is concerned about the potential for abuse by a physician. If someone is 10 or 15 minutes late, the physician could say the person missed the scheduled appointment and charge the fee. Senator Antenori stated that if he is 15 minutes late for an appointment with his physician, he has to pay a \$25 fee; it will be up to the provider to determine.

Discussion followed about whether the bill will save money for AHCCCS if patients miss appointments, delaying treatment, and end up going to the emergency room.

Senator Antenori stated that there is currently a shortage of primary care physicians in Arizona and appointments are at a premium. Many of these missed appointments could result in shorter wait times for other patients.

Jennifer Carusetta, Chief Legislative Liaison, Arizona Health Care Cost Containment System (AHCCCS), neutral on SB1357, advised that this proposal will require approval from CMS; however, it is part of the Governor's plan for AHCCCS.

Vice-Chairman Court asked if the bill will be needed if this proposal becomes part of the CMS waiver. Ms. Carusetta answered that is a policy decision for the Legislature and Governor.

Vice-Chairman Court announced the names of those who signed up in support of SB1357 but did not speak:

David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association

Tom Jenney, Arizona Director, Americans for Prosperity

Dave Kopp, Manager, Americans for Prosperity

Vice-Chairman Court announced the names of those who signed up in opposition to SB1357 but did not speak:

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

Elizabeth Mendoza, representing self

Chairman Kavanagh commented that there was a much support for the bill in the Senate and it is consistent with the Governor's and Legislative budget plan.

Question was called on the motion that SB1357 do pass. The motion carried by a roll call vote of 8-4-0-1 (Attachment 2).

SB1398 - photo enforcement; DPS equipment fund - DO PASS AMENDED S/E
S/E: moving violations; assessment; equipment; enforcement

Vice-Chairman Court moved that SB1398 do pass.

Vice-Chairman Court moved that the Kavanagh five-page strike-everything amendment to SB1398 dated 3/21/11 (Attachment 3) be adopted.

Vice-Chairman Court moved that the McLain four-line amendment to the strike-everything amendment to SB1398 dated 3/22/11 (Attachment 4) be adopted.

Chris Stapley, Majority Assistant Research Analyst, explained that the strike-everything amendment to SB1398 (Attachment 3) contains the following provisions (Attachment 5):

- Adds an additional \$13 assessment for various offenses and specifies how the money is to be distributed.
- Repeals various state photo enforcement statutes.
- Amends requirements for persons who have received a notice of violation from photo enforcement.
- Extends the transfer of remaining monies in the Public Safety Equipment Fund (PSEF) to FY 2011-12.

Mr. Stapley related that the McLain four-line amendment to the strike-everything amendment to SB1398 removes the section relating to notice of violations (Attachment 4).

Mrs. Tovar stated that a Tovar 20-line amendment appropriates \$1.3 million from the \$7 million remaining in the PSEF to cover transplants for patients in the Arizona Health Care Cost Containment System (AHCCCS) (Attachment 6). It was brought to her attention that the amendment is unconstitutional and not germane, so it will not be offered; however, she looks forward to working on reaching an agreement so patients needing transplants can be saved.

Vice-Chairman Court asked if the \$7 million remaining in the PSEF is the same funding referenced in the bill sponsored by Representative Steve Montenegro to be used in Pinal County.

Mike Huckins, Majority Research Analyst, advised that the original version of Representative Montenegro's bill references the same monies, but the appropriation was changed to the General Fund.

Mr. Fillmore questioned the language relating to issuance of a complaint by certified mail.

Senator Frank Antenori, sponsor, stated that three bills are consolidated into the strike-everything amendment. He indicated that he is not aware of a requirement for issuance of a complaint for violation by certified mail.

Vice-Chairman Court pointed out that is existing language, so it is not part of the bill. He asked if there has been an estimate of how much the additional \$13 assessment will raise for the different funds. Mr. Stapley stated that the Joint Legislative Budget Committee (JLBC) indicated that the judiciary expects slightly less than 600,000 people to be impacted, so the total amount of revenue generated will be almost \$7.8 million. If so, \$2.3 million to \$2.4 million will go to DPS equipment, the agency that cited the individual and the Gang Intelligence and Team Enforcement Mission (GITEM); about \$600,000 will go to the courts.

Chairman Kavanagh related that a substantial amount of money provided for police safety equipment was lost when photo radar was eliminated from state highways, so this is an attempt to recover funds for that purpose.

Senator Antenori related that the first bill included in this measure repeals the statute used to begin photo enforcement by the state on the State Highway Program. The second bill recovers the funds for police safety equipment mentioned by Chairman Kavanagh, provides funding to the court system to implement SB1201, firearms omnibus, and to GITEM for grants to fight illegal immigration and gangs. He related an incident that led to the need for DPS funding to obtain a spike tire system that is deployable and retractable, noting that the monies will also be used to purchase body armor, ammunition and targets for training, tasers, etc.

He stated that the third bill is meant to remedy a problem he perceives as deception. If someone receives a photo radar ticket, it compels that person to "rat out" the person in the picture and implies that it is a legal court document to which the person must respond, which is not the case. It is a notice, and if the person does not respond, he or she will be served with an official court summons and then will need to show up in court and respond. The strike-everything amendment states that it is not necessary to "rat out" anyone and prohibits creating the perception that the notice is an official court document requiring a response. He said he opposes the McLain four-line amendment because it eliminates this entire portion.

Senator Antenori acknowledged to Mrs. McLain that if someone is officially served with the complaint, an additional charge for that service would be avoided if the person responded to the notice of violation, and depending on the jurisdiction, it could range from \$20 to \$30. The additional charge is noted by the companies on the notice. Mrs. McLain said she has had discussions with Members of the Committee who agree that the language relating to notice of violations should probably be included, but she believes the language can be improved. She indicated that she is willing to work on new language for a Floor amendment. Discussion followed.

Mike Williams, Arizona Police Association; Phoenix Law Enforcement Association, in favor of the strike-everything amendment to SB1398, stated that by keeping the current language in the strike-everything amendment, police officers have a “hammer” to bring everyone together; if the language is eliminated by the McLain four-line amendment, photo radar companies can oppose the measure and will have no incentive to work on additional language.

Stan Barnes, American Traffic Solutions, in opposition to the strike-everything amendment to SB1398, expressed support for the McLain four-line amendment and promised to work to improve the language. He stated that the notice of violation language in the strike-everything amendment will allow people who are smart enough to “game” the system to avoid ever being “ratted out” for running a red light.

Levi Bolton, Vice President, Phoenix Law Enforcement Association, showed a copy of a notice of violation from the City of Phoenix and opined that it looks officious and is disingenuous. He added that he supports the strike-everything amendment and opposes the McLain four-line amendment.

Jerry Landau, Government Affairs Director, Arizona Supreme Court, signed in as neutral on the strike-everything amendment to SB1398. He stated that he has no position on the McLain four-line amendment, but he has a concern about a provision in the strike-everything amendment.

Chairman Kavanagh stated that testimony is only being taken on the McLain four-line amendment.

In response to a question, Mr. Bolton clarified his opposition to the McLain four-line amendment.

Chairman Kavanagh stated that some of the notices are very misleading and appear as if the person receiving the notice will be in trouble by not responding or not identifying the driver of the vehicle.

Mrs. McLain indicated that she has long been an opponent of any kind of radar enforcement, but the language in the strike-everything amendment basically gives people permission to flout the law and not be responsible for what may have been a traffic citation. The language can be improved.

Senator Antenori stated that a Floor amendment will have to be drafted to make a technical change pointed out by Mr. Landau, so he is willing to work on the language with Mrs. McLain. He submitted that the burden of proof for photo radar companies should be the same as it is for police officers. He asked the Members not to adopt the McLain four-line amendment.

Names of persons who signed up in support of the strike-everything amendment to SB1398 but did not speak:

Joe Clure, Phoenix Law Enforcement Association

Javier Cota, Police Sergeant, Mesa Police Association

Brian Livingston, Executive Director, Arizona Police Association

Terrance Traylor, representing self

Luis Ebratt, President, Arizona Probation Officers Association; Arizona Conference of Police & Sheriffs

Kelsey Lundy, Lobbyist, Arizona Highway Patrol Association

Mark Spencer, President, Phoenix Law Enforcement Association

Names of persons who signed up in opposition to the strike-everything amendment to SB1398 but did not speak:

Brian Tassinari, Lobbyist, Redflex

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

Scott Butler, City of Mesa

Names of persons who signed up as neutral on the strike-everything amendment to SB1398 but did not speak:

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns

Question was called on the motion that the McLain four-line amendment to the strike-everything amendment to SB1398 dated 3/22/11 (Attachment 4) be adopted. The motion carried.

Vice-Chairman Court moved that the Kavanagh five-page strike-everything amendment to SB1398 dated 3/21/11 (Attachment 3) as amended be adopted. The motion carried.

Vice-Chairman Court moved that SB1398 as amended do pass. The motion carried by a roll call vote of 10-1-0-2 (Attachment 7).

SB1539 - CORP; designated position; waiver - DO PASS

Vice-Chairman Court moved that SB1539 do pass.

Mike Huckins, Majority Research Analyst, explained that SB1539 permits certain corrections employees under the Corrections Officers Retirement Plan (CORP) who are transferred or promoted to temporarily fill an Arizona State Retirement System (ASRS) designated position to maintain active status in CORP without a time limitation (Attachment 8).

Vice-Chairman Court announced the names of those who signed up in support of SB1539 but did not speak:

Jennifer Bowser, Arizona Department of Corrections

Don Isaacson, Fraternal Order of Police

John Thomas, Arizona Correctional Peace Officers Association

Lesli Sorensen, Government Relations Officer, Arizona State Retirement System

Question was called on the motion that SB1539 do pass. The motion carried by a roll call vote of 10-0-0-3 (Attachment 9).

SB1561 - legislative appropriations; federal monies. - DO PASS

Vice-Chairman Court moved that SB1561 do pass.

Mike Huckins, Majority Research Analyst, explained that SB1561 gives the Legislature the power to appropriate noncustodial federal monies (Attachment 10). It is identical to HB2577, legislative appropriations, federal monies, sponsored by Mr. Olson, which passed the House earlier in the Session.

Vice-Chairman Court announced the names of those who signed up in support of SB1561 but did not speak:

Jose Borrajero, representing self
Judy Borrajero, representing self

Vice-Chairman Court announced the names of those who signed up in opposition to SB1561 but did not speak:

David Landrith, Vice President of Policy & Political Affairs, Arizona Medical Association
Rebekah Friend, Lobbyist, Arizona AFL-CIO

Vice-Chairman Court announced the names of those who signed up as neutral on SB1561 but did not speak:

John Wentling, representing self

Question was called on the motion that SB1561 do pass. The motion carried by a roll call vote of 7-3-0-3 (Attachment 11).

SCM1005 - technical correction; urging the president(now: balanced budget; federal) - DO PASS

Vice-Chairman Court moved that SCM1005 do pass.

Amber Morin, Majority Intern, Appropriations Committee, explained that SCM1005 urges the United States Congress to pass a constitutional amendment requiring a federal balanced budget (Attachment 12).

Lucy Caldwell, Pass the Balanced Budget Amendment, spoke in support of SCM1005. She advised that Pass the Balanced Budget Amendment is a nonprofit organization led by Ken Blackwell that is rallying for a federal balanced budget amendment vote by October 1, 2011. The organization advocates for a resolution such as this to be passed in states across the country. The United States is in an unprecedented debt crisis of \$14 trillion, so if this is not done now, it will be too late. In response to a question, she related that the organization supports all efforts to pass a federal balanced budget amendment, but it is believed that SCM1005 is the effort that should be tried first. Earlier in the month, the U.S. Senate voted on a resolution and was very close to having the votes, so it could actually become a reality.

Vice-Chairman Court announced the names of those who signed up in support of SCM1005 but did not speak:

Sydney Hay, Pass the Balanced Budget Amendment
Tom Jenney, Arizona Director, Americans for Prosperity
Dave Kopp, Manager, Americans for Prosperity
Terrance Traylor, representing self

Question was called on the motion that SCM1005 do pass. The motion carried by a roll call vote of 7-3-0-3 (Attachment 13).

Without objection, the meeting adjourned at 5:14 p.m.

Linda Taylor, Committee Secretary
April 14, 2011

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