

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – First Regular Session

COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY

Minutes of Meeting
Wednesday, March 23, 2011
House Hearing Room 3 -- 8:00 a.m.

Vice-Chairman Proud called the meeting to order at 8:08 a.m. and attendance was noted by the secretary.

Members Present

Mr. Dial
Mr. Gallego
Mr. Harper

Mr. Smith D
Mr. Stevens

Ms. Proud, Vice-Chairman
Mr. Gowan, Chairman

Members Absent

Mr. Hale

Mr. Miranda R (excused)

Committee Action

SB1012 - WITHDRAWN
SB1020 - DP (6-0-0-3)
SB1057 - DP (6-0-0-3)
SB1235 - DPA (6-0-0-3)
SB1283 - DP (5-0-0-4)
SB1337 - DPA (6-0-0-3)

SB1361 - DP (6-0-0-3)
SB1373 - DPA S/E (6-0-0-3)
SB1458 - DP (6-0-0-3)
SB1495 - DP (5-1-0-3)
SB1505 - DP (6-0-0-3)
SCM1003 - DP (6-0-0-3)

PRESENTATION:

Cross Border Terror Threats in Arizona

Mark Hanna, CEO, Real Life Enterprises, advised that Real Life Enterprises is a leading-edge technology integration and security company based in Phoenix. He spoke about the terror threat in Arizona and related two incidents of Islamic militants who crossed the border, one at the Canadian border and one who crossed into the U.S. from Mexico. He brought up the discovery of a pamphlet “In Memory of Our Martyrs” found by a Border Patrol agent just outside the Casa Grande substation on January 27, 2011 in an area heavily trafficked by illegal border crossers. The pamphlet was published in Iran and contains short biographies of Islamic suicide bombers and other Islamic militants who died carrying out attacks. The same week that the pamphlet was found, an Islamic militant was arrested in San Diego after being smuggled across the Mexican border. Yet, on March 1, 2011 the Department of Homeland Security (DHS) posted on its

website “our nation is more secure than it was two years ago and more secure than when DHS was founded.” Last April, Secretary of Homeland Security Janet Napolitano declared that the southern border was “as secure now as it has ever been.” He explained that DHS uses the following methodology to arrive at its conclusion about border security: number of agents at the border, number of drug confiscation that occurred, and number of apprehensions that have taken place. He provided the following information to dispute DHS’s claim: in the last two years, apprehensions have steadily declined to their lowest point; in 2010, 463,000 apprehensions occurred, down from 556,000 in 2009; currently, there are approximately 17,000 border patrol agents on the southern border, the largest number ever, and approximately 2.5 million pounds of marijuana were seized in 2010.

He related that these statistics were given as proof that the border is secure. However, he said that a key variable being left out of DHS’s computations is the number of illegal aliens who are or have actually crossed the border. In September 2010, Customs and Border Protection stated that “effective control is only 44 percent on the southern border.”

He noted that 180,000 special interest aliens (SIAs) have crossed into the U.S. since 2008, according to intelligence sources, Customs and Border Protection, and law enforcement. Included in that number were confirmed Afghanis, Iranians, Egyptians, Iraqis, Pakistanis, Yemenis and Sudanese.

Lieutenant Colonel Joseph Myers, gave a video presentation entitled *Crime-Terror Nexus and Cross-Border Threats*. He informed Members that he is retired and the information he is presenting represents his opinions and not the opinions of the Department of Defense or the Department of the Army. He said he and his colleague, Patrick Poole, are here to provide the Committee with ideas, issues and data on the border issue. He described the crime-terror nexus as a strategic dynamic that fuels the capabilities of the criminal and terrorist or insurgent organizations, and said it is particularly challenging to international and state authorities. He stressed that the crime-terror nexus is important to understand from both a law enforcement and national security perspective in order to provide warnings and indicators. Open borders present a challenge to North and Latin America and he noted that terrorist presence is extensive across Latin America, ranging from such organizations as Hezbollah, Hamas, Revolutionary Armed Forces of Columbia, Shining Path, etc.

Colonel Myers talked about diasporas and pointed out that immigrants bring many positive attributes of their cultures to our society. Unfortunately, some of the negative aspects of their culture are also brought, such as their criminal methodologies and organizations. He spoke of the relationship between North America, Latin America and Hezbollah. He pointed out that Hezbollah, a terrorist group sponsored by Iran and Iran’s State Intelligence Service has global capabilities. Hezbollah has conducted terrorist attacks in Latin America, principally in Argentina, which have been tied to senior political leaders in Iran. Its last major terrorist attack was against the United States’ interests in the Khobar Towers bombing in Saudi Arabia. He said the key point to remember is that Hezbollah still maintains global reach and routinely surveils U.S. global interests. Both the Drug Enforcement Administration (DEA) and the Congressional Research Service agree on Hezbollah’s drug trafficking ties. Hezbollah has also received material support in the form of weapons trafficking, fake transport, fake passports and other electronic items. Former Federal Bureau of Investigation (FBI) Director Robert Mueller, in

2006, testified that a Hezbollah human smuggling ring had crossed the Mexican border into the United States. People linked to terrorism have been arrested coming over the border from Mexico, including persons with ties to Hezbollah, Hamas and al-Qaeda. He brought up the Mexican cartels and their connection with drug trafficking and the crime-terror nexus. He related that various terrorist groups are linking up with criminal organizations for exchange of drugs, as well as capabilities, knowledge, tactics, techniques and procedures. He advised that 35,000 killings linked to organized crime have been reported in Mexico since 2006. The violence and political instability in other countries motivate illegal immigrants to find safer ground in the U.S. In addition, with open borders and illegal migration, a lot of the gang problem is migrating into the U.S. During the past year, the Border Patrol reported that 60,000 illegal aliens other than Mexicans were apprehended, of which 663 were aliens from special interest countries. The Border Patrol also acknowledges they are capturing only one out of four illegal aliens. He concluded by quoting a senior Immigration and Customs Enforcement (ICE) official who commented that "If you keep your nose clean as an illegal alien in the United States, you're home free...no one is looking for you."

Patrick Poole a counter-terrorism consultant and intelligence analyst, described the various terrorist operatives living in, or having ties to Arizona, and their activities, particularly in relation to al-Qaeda. He presented an overview of the New York Police Department (NYPD) radicalization report depicting the radicalization problem. The NYPD identified a process through which an individual goes through to commit a terrorist attack. He said he has adapted that NYPD model to show that there are many people who will never commit a terrorist act who are an integral part of the radicalization process; these are support networks that help move the future terrorists along the process. NYPD specifically identified Muslim student associations, of which Arizona has about a dozen, as radicalization incubators. He maintained that focus should not only be on terrorist networks, but on support networks as well.

Mr. Gallego queried what should be done to curtail the problem relating to Muslim student associations. Mr. Poole said that it is known that Muslim student associations have been hosting Hamas fundraisers which are blatantly illegal and should be stopped. Also, law enforcement should be notified of any extremists that are being hosted by these organizations.

Mr. Gallego asked how the 180,000 SIAs were identified. Mr. Hanna advised that number was given at the February Border Security Conference, a Homeland Security-sponsored conference by a former Central Intelligence Agency (CIA) operations officer. He said he can provide the CIA officer's source to Members if they wish.

Mr. Seel thanked the Committee for hearing this information. He said this subject is vital to Arizona. Border security is not just about human trafficking and drug trafficking; it has a much larger implication. He submitted that the information presented today demonstrates that a significant number of people of interest have crossed the border and have been involved in acts against the sovereignty and security of our nation, and he stated that raises the issue of border security to a whole new level.

Mr. Gallego said he would like the opportunity to hear from all sides as to what is going on at the border. He said he would like to invite some of the border mayors to discuss border security.

He would also like to invite the Arizona State University and University of Arizona Islamic Muslim Student Associations so they can have the opportunity to speak for themselves.

CONSIDERATION OF BILLS:

SB1012 - technical correction; technical registration board(now: fingerprint clearance cards; citizenship) - WITHDRAWN

Vice-Chairman Proud announced that SB1012 has been withdrawn from the Committee on Military Affairs and Public Safety.

SB1020 - child welfare agency; technical correction(now: peace officers; licensure; registration prohibited) - DO PASS

Chairman Gowan moved that SB1020 do pass.

Justin Riches, Majority Research Analyst, explained that SB1020 prohibits the Department of Public Safety (DPS) from issuing a private investigator (PI) license or registration certificate to a peace officer, including a reserve peace officer (Attachment 1). The bill exempts retired peace officers or peace officers who are accident reconstructionists. The bill defines *private investigator*.

Senator Linda Gray, sponsor, advised that current statute allows an active duty or reserve peace officer to be licensed as a private investigator or to have a private investigator agency; however, there are a number of law enforcement agencies that, by rule, prohibit police officers from having a PI license. She said there is a fine line between an officer being on duty and doing investigative work, and then working as a PI when off duty, and the temptation of using taxpayer resources, such as a vehicle, computer, access to Motor Vehicle Division (MVD) records, federal data records, etc. She submitted that it is time to change the statute to prohibit an on-duty officer from obtaining a license as a private investigator because of the integrity of crossing that line and using taxpayer resources.

Vice-Chairman Proud noted the provision of the bill that exempts retired peace officers. She asked whether this grandfathered those peace officers who are already retired. Senator Gray said that issue needs to be worked on.

Bill Rucker, representing self, testified in support of SB1020. He revealed that he is a private investigator who did a “sting” on a police officer and he explained the circumstances of that sting. He stated that the police officer crossed the line by using law enforcement resources. He maintained that there is abuse of authority in law enforcement; this is not a single incident and other officers are participating in this practice.

Lyle Mann, Deputy Director, Arizona Peace Officer Standards & Training Board (AZPOST), neutral on SB1020, spoke about the use of authority by an officer for personal gain. He stated that there are certain things that a licensed PI can do and there are certain things that a certified peace officer can do. He made himself available to answer questions about the intertwining of those duties.

Mr. Gallego said he wants to ensure that this will not preclude peace officers from being security guards. Mr. Mann replied that it will not. He explained that security is off-duty work coordinated through agencies.

Chairman Gowan announced the names of those who signed up in support of SB1020 but did not speak:

James Mann, Arizona Fraternal Order of Police

Question was called on the motion that SB1020 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 2).

SB1057 - law enforcement officers; disciplinary action(now: disciplinary action; law enforcement officers) - DO PASS

Chairman Gowan moved that SB1057 do pass.

Joe DeMenna, Assistant Majority Research Analyst, explained the provisions of SB1057 (Attachment 3):

- Allows an officer to bring an action in superior court for a new hearing concerning termination if:
 - The termination occurred as a result of the chief of the law enforcement agency or the chief executive officer of a city or town reversing the choice or proposal of a civil service board or merit commission; and
 - The termination is believed to be without just cause by the officer.
- Allows an officer to bring an action in superior court to review the agency's file if the officer is fired by the executive officer of a city or town or the chief of the law enforcement agency and there are no civil service boards or merit commissions to evaluate the termination.
- Specifies that if the court finds from the review of the file that just cause for the action did not exist, then the officer is entitled to a hearing.
- Allows the court to award reasonable attorney fees to the prevailing party and requires the court to award that party all costs.
- Specifies the following results if the superior court finds that just cause for the action against the employee did not exist:
 - Requires the officer to be reinstated to their previous position within the law enforcement agency by court order.
 - Allows the court to reward the officer monetary damages that cannot exceed the officer's combined wages and benefits lost as a result of the wrongful termination.
- Makes technical and conforming changes.

Senator Linda Gray, sponsor, advised that there is agreement on SB1057 by law enforcement management and union members.

Levi Bolton, Vice President, Phoenix Law Enforcement Association, Arizona Police Association, testified in support of SB1057. He stated that peace officers take pride in their oath to serve the public and there is no place for bad police officers in law enforcement. Police

officers also expect the use of due process when necessary. This proposal only applies when an officer has gone through due process and prevailed; this legislation provides a remedy for the officer. He asked Members to support SB1057.

Chairman Gowan announced the names of those who signed up in support of SB1057 but did not speak:

Don Isaacson, Fraternal Order of Police

Mike Williams, Arizona Police Association, Phoenix Law Enforcement Association

James Mann, Arizona Fraternal Order of Police

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

Question was called on the motion that SB1057 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 4).

SB1235 - law enforcement officers; disciplinary procedures - DO PASS AMENDED

Chairman Gowan moved that SB1235 do pass.

Joe DeMenna, Assistant Majority Research Analyst, reviewed the provisions of SB1235 (Attachment 5):

- Requires the employer, at the request of an officer who is subject to a disciplinary interview, except as provided by court rule, to provide a basic summary of any discipline ordered against any other officer of similar rank and knowledge working for the employer within the preceding two years for the same or comparable infraction.
- Allows the employer to supply file reproductions of relevant punitive cases as a substitute.
- Prohibits the employer from taking concluding action or arranging a hearing until the essential outline or file copies are provided to the officer.
- Requires a city or town with a population of less than 65,000 and a county with a population that is less than 250,000 to supply an alternate hearing officer by means of an interagency agreement with another city, town or county, upon the first request of a party.
- Requires the officer to repay the city, town or county for half of any additional expenses incurred for securing the alternate inquiry officer according to the interagency agreement if the officer is the party that requested the alternate hearing officer.
- Stipulates that if a different hearing officer is requested by means of an interagency agreement, the hearing officer is to provide to the officer or employer the decision of continuing the hearing for an additional 10 days.
- Applies requirements for an officer appeals hearing for disciplinary actions that result in dismissal, demotion or suspension for more than eight hours, instead of sixteen hours.
- Specifies that an officer may request copies of other officers' disciplinary action after the employer completes the investigation if the employer seeks disciplinary action.
- Prohibits a serious incident stress management team member who acquires information from an emergency services medical technician, officer or firefighter in secrecy and in confidence

while in the course of the member's reaction to a noteworthy incident from being required or permissible in a legal proceeding, trial or investigation, except under certain circumstances.

- Makes technical and conforming changes.

Mr. DeMenna explained the provisions of the Gowan seven-line amendment dated 3/21/11 (Attachment 6):

- Allows the court rule to not be necessary in order to require the employer's basic summary notice of discipline after an employer completes an investigation of a law enforcement officer and plans to seek disciplinary action.
- Changes the provision that specifies the option an officer has to request copies of other officers' disciplinary action after the employer completes the investigation if the employer seeks disciplinary action by making the provision inapplicable in the case of a court rule that would prohibit the release of these file copies or disciplinary cases.
- Adds the requirement for cases before the office of administrative hearing or if the employer is a county, city or town as a precursor to the provision that requires a city or town with a population of less than 65,000 and a county with a population that is less than 250,000 to supply an alternate hearing officer by means of an interagency agreement with another city, town or county, upon the first request of a party.

Chairman Gowan moved that the Gowan seven-line amendment dated 3/21/11 be adopted (Attachment 6).

Don Isaacson, Fraternal Order of Police (FOP), in favor of SB1235, testified that this bill is part of a multi-year effort with the FOP, police chiefs and county sheriffs to improve due process for police officers who are in a disciplinary setting. The three key items are: defining the threshold of discipline that triggers rights to due process, the ability of the officer to obtain from the agency records of similar discipline and the ability to remove a hearing officer if there is a bias.

James Mann, Executive Director, Labor Council, Arizona Fraternal Order of Police, testified in support of SB1235. He advised that the FOP has spent a number of years working on some of these issues with other law enforcement organizations and the courts, and he is not aware of any opposition to this bill. The FOP strongly supports the crisis intervention provision that was added to the bill in the Senate.

Tom McSherry, representing self, spoke in support of SB1235. He said he is the President of Crisis Preparation and Recovery, a training crisis intervention and counseling company. He stated that a critical incidence, such as a child drowning or an officer-involved shooting, is an event that can overwhelm a responder's ability to cope. He described the stress management program designed to mitigate the impact of such events, and said the key is trust and privacy. The concern by participants is that their statements regarding their thoughts and emotional reactions may be used against them by supervisors or someone outside the organization; thus some are reluctant to participate in the process. This bill will provide comfort to the participants that anyone involved in the program cannot be compelled to disclose what was stated in the intervention with the following exceptions: that they may be a danger to self or others, or that they have committed a crime. He submitted that this bill will help save careers and the lives of those who serve the public. He requested passage of this bill.

Chairman Gowan announced the names of those who signed up as neutral on SB1235 but did not speak:

Jerry Landau, Legislative Liaison, Arizona Supreme Court, Administrative Office of the Courts

Chairman Gowan announced the names of those who signed up in support of SB1235 but did not speak:

Norman Moore, Attorney, Fraternal Order of Police

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

Brian Livingston, Executive Director, Arizona Police Association

Levi Bolton, Vice President, Phoenix Law Enforcement Association

Question was called on the motion that the Gowan seven-line amendment dated 3/21/11 be adopted (Attachment 6). The motion carried.

Chairman Gowan moved that SB1235 as amended do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 7).

SCM1003 - depleted uranium; veterans - DO PASS

Chairman Gowan moved that SCM1003 do pass.

Jonathon Bates, Majority Intern, stated that SCM1003 urges the United States Department of Veterans Affairs (VA) and the Department of Defense (DOD) to assist members or veterans of the armed forces who have been exposed to depleted uranium (DU) (Attachment 8).

Senator Kyrsten Sinema, sponsor, advised that exposure to depleted uranium (DU) is a concern many veterans are facing. DU was used extensively in the Gulf and the Iraq Wars and has resulted in serious health issues. Arizona is joining with other states in asking the Department of Veterans Affairs and the Department of Defense to have pre-screening for veterans to determine whether they have been exposed to unusual amounts of depleted uranium.

Question was called on the motion that SCM1003 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 9).

SB1283 - child custody; military families - DO PASS

Chairman Gowan moved that SB1283 do pass.

Justin Riches, Majority Research Analyst, stated that SB1283 modifies the child custody decree for a parent who receives temporary orders from the Armed Forces (Attachment 10). He reviewed the provisions of the bill:

- Prohibits a court from entering a final order modifying parental rights and responsibilities and parent-child contact in an existing order until 90 days after the deployment ends, unless modification is agreed to by the deploying parent.

- Prohibits a court from considering a parent's absence caused by deployment or mobilization or the potential for future deployment or mobilization as the sole factor supporting a real, substantial and unanticipated change in circumstances.
- Specifies that on motion of a deploying or nondeploying, mobilizing or absent military parent, the court, after a hearing, is required to enter a temporary order modifying parental rights and responsibilities or parent-child contact during the period of deployment or mobilization if:
 - A military parent who has custody or parenting time pursuant to an existing court order has received notice from military leadership that the military parent will deploy or mobilize in the near future.
 - The deployment or mobilization would have a material effect on the military parent's ability to exercise parental rights and responsibilities or parent-child contact.
- Requires the court, on motion of a deploying parent, if reasonable advance notice is given and good cause is shown, to allow that parent to present testimony and evidence by electronic means with respect to parenting time or parent-child contact matters instituted, if the deployment of that parent has a material effect on the parent's ability to appear in person at a regularly scheduled hearing.
- Defines *electronic means* to include communication by telephone or video teleconference.
- Requires the court to hear motions for modification because of deployment as expeditiously as possible.
- Specifies that if a military parent receives military temporary duty, deployment, activation or mobilization orders that involve moving a substantial distance away from their residence or that otherwise have a material effect on the military parent's ability to exercise parenting time, at the request of the military parent, for the duration of the military parent's absence the court may delegate that parent's parenting time, or a portion of that time, to a child's family member, including a stepparent, or to another person who is not the child's parent but who has a close and substantial relationship to the minor child, if the court determines that is in the child's best interest.
- Prohibits the court from allowing the delegation of parenting time to a person who would be subject to limitations on parenting time.
- Requires the parties to attempt to resolve disputes regarding delegation of parenting time through the dispute resolution process specified in their parenting plan, unless excused by the court for good cause shown.
- Specifies that a court order pursuant to this subsection does not establish separate rights to parenting time for a person other than a parent.
- Requires all temporary modification orders pursuant to this section to include a specific transition schedule to facilitate a return to the pre-deployment order within 10 days after the deployment ends, taking into consideration the child's best interest.

Senator Kyrsten Sinema, sponsor, related that SB1283 allows individuals to serve their country without making a choice between their families and their country. This bill allows them to continue to serve their country and permits their parents and family members to maintain their relationship with their children in their absence. It ensures that upon completion of their service,

they can return home and resume that relationship. The Committee amendment offered in the Senate allows a deploying parent to designate another person in the family to take his custody time in order to maintain that relationship. She said she hopes this legislation will make it easier for soldiers who are separated or divorced to maintain their relationship with their children during and after their deployment.

Laura Crehan, Department of Defense Regional Liaison, Office of Deputy Under Secretary of Defense for Military Community and Family Policy, spoke in support of SB1283. She related that the mission of the Military Community and Family Policy is to serve as a resource to state policymakers as they work on issues related to quality of life and military families. One of the top priorities this year is child custody and ensuring that the impacts of deployment do not adversely impact child custody decisions that are being made. She revealed that many states do not always consider the uniqueness of military life as they are making custody decisions. While the Department of Defense believes that the welfare of the child is paramount, it also believes that the demands of military service should not abrogate a parent's rights. Absences for training or deployment provide disruption to visitation arrangements and create a lot of stress on service members when they need to focus on their mission and not on whether they will lose custody of their children. The protections in this bill address the unique conditions of service life and balance the equities involved in child custody decisions.

David Hampton, Legislative Liaison, Arizona Department of Veterans' Services, testified that the Department wholeheartedly endorses SB1283.

Question was called on the motion that SB1283 do pass. The motion carried by a roll call vote of 5-0-0-4 (Attachment 11).

SB1458 - professional licensure; out-of-state applicants - DO PASS

Chairman Gowan moved that SB1458 do pass.

Justin Riches, Majority Research Analyst, explained that SB1458 allows licenses, certificates or registrations issued pursuant to Arizona Revised Statutes, Title 32, to be issued without examination if the person holds a valid license, certificate or registration in another state (Attachment 12). He reviewed the provisions of the bill:

- Requires a license or certificate to be issued without an exam to a person who is married to an active duty member of the Armed Forces and who is accompanying the member to an official permanent change of station to a military installation located in Arizona if certain conditions apply.
- Specifies that this section does not prevent a regulating entity from entering into a reciprocity agreement with another state or jurisdiction for persons married to active duty members of the Armed Forces, except that the agreement may not allow out-of-state licensees or certificate holders to obtain a license or certificate by reciprocity in this state if the applicant has not met standards that are substantially equivalent to or greater than the standards required in this state as determined by the regulating entity on a case-by-case basis.

- Specifies this section does not apply to a regulating entity that has entered into a licensing compact with another state for the regulation of practice under the regulating entity's jurisdiction.

Senator Kyrsten Sinema, sponsor, testified that this bill addresses situations where an active duty service person is stationed in Arizona and the spouse is unable to find employment because of lengthy licensure requirements. SB1458 states that if a person is qualified to practice in another state, that person can begin practicing here in Arizona without taking the state's exam. She said this allows military families to stay together during times of deployment, allows the spouse to continue gainful employment and contributes to the family income. She said a Floor amendment will be requested to address a minor licensure oversight.

Laura Crehan, Department of Defense Regional Liaison, Office of Deputy Under Secretary of Defense for Military Community and Family Policy, in support of SB1458, stated that the provisions of this bill will help spouses find work as military families move from state to state. The primary goal of this legislation is retention of service members. Most of the decisions to stay in the military are made at home, and not in the personnel office. Retaining trained and experienced military personnel also involves retaining families. She advised that most military families depend on two incomes. Since military families relocate every two to three years, this bill will assist spouses in finding employment quickly. She related that the Department of Defense is grateful to the State of Arizona for supporting military families in the past. She added that the Pentagon is excited about this legislation because Arizona has taken the lead in this effort and will be able to provide model legislation for the rest of the country.

Chairman Gowan announced the names of those who signed up in support of SB1458 but did not speak:

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

Chairman Gowan announced the names of those who signed up as neutral on SB1458 but did not speak:

Heather Bernacki, Government Relations Associate, Arizona Physical Therapy Association

Question was called on the motion that SB1458 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 13).

SB1337 - disclosure; collect call rates - DO PASS AMENDED

Chairman Gowan moved that SB1337 do pass.

Jonathon Bates, Majority Intern, advised that SB1337 requires operator service providers from a jail, prison or correctional facility to disclose the rate of a collect call to the party initiating the collect call and the party responsible for the payment of the call (Attachment 14). The bill requires the rate disclosure to occur before the party responsible for the payment of the collect call accepts the call and requires disclosure to be in accordance with Code of Federal Regulations (CFR) §64.703 (a) and (b).

Chairman Gowan moved that the Gowan four-line amendment dated 3/18/11 be adopted (Attachment 15).

Mr. Bates explained that the Gowan four-line amendment dated 3/18/11 removes language requiring disclosure to the party initiating the call and removes language requiring disclosure to be in accordance with CFR §64.703 (a) and (b) (Attachment 15).

Susan Anable, Manager, Government Relations, Cox Communications, neutral on SB1337, testified that she worked with the sponsor to ensure that the bill addresses the underlying concern regarding disclosure of an intrastate collect call when made from a prison. Under federal law, if a call is made to another state from a correctional facility, there is a disclosure requirement relating to the cost of the call.

Chairman Gowan announced the names of those who signed up as neutral on SB1337 with the amendment but did not speak:

Jennifer Bowser, Arizona Department of Corrections

Question was called on the motion that the Gowan four-line amendment dated 3/18/11 be adopted (Attachment 15). The motion carried.

Chairman Gowan moved that SB1337 as amended do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 16).

SB1361 - fire districts; joint powers authority - DO PASS

Chairman Gowan moved that SB1361 do pass.

Joe DeMenna, Assistant Majority Research Analyst, reviewed the provisions of SB1361 (Attachment 17):

- Allows cities, towns, counties and fire districts to form a separate legal entity for the purposes of jointly exercising powers held in common by the contracting parties and further specifies that any separate legal entity formed pursuant to this Act *must* include a fire district.
- Specifies that the common powers of the contracting parties may include fire protection, the preservation of life, providing emergency medical services, and carrying out its other powers and duties, including providing ambulance transportation services pursuant to statute.
- Directs the governing body of a separate legal entity formed pursuant to this Act to be composed of officials elected to one or more of the governing bodies of the political subdivisions that are parties to the agreement, or their designees.
- Permits the separate legal entity, subject to existing applicable law, to do the following:
 - Make and enter into contracts, including contracts, leases or other transactions with one or more of the parties to the agreement forming the separate legal entity.
 - Employ agents and employees.
 - Acquire, hold or dispose of property.
 - Acquire, construct, manage, maintain and operate buildings, works, infrastructure, apparatus, equipment and improvements.

- Incur debts, liabilities and obligations.
- Sue and be sued.
- States that a separate legal entity identified pursuant to this Act:
 - Is a political subdivision of this state having:
 - The governmental and proprietary powers that are common to the contracting parties specified in the agreement and those powers provided for in statute.
 - The rights and immunities of the parties that are granted by the Constitution and statutes of this state, including immunity of its property from taxation.
 - May separately contract for an *undertaking* with any two or more of the parties or other public agencies or other entities and specifies that limitations on the exercise of common powers must be applicable only to the parties to the agreement participating in the undertaking.
 - May incur obligations payable from the entity's revenues, to pay the costs and expenses of acquiring or constructing any structures, facilities or equipment necessary to effectuate the purpose of the agreement subject to specific conditions and requirements.
- Clarifies that the exercise of joint powers does not create any expansion of a certificate of necessity (CON) issued pursuant to statute or the operating rights as defined by the CON held by one or more of the entities entering into a joint powers authority.
- Stipulates that such operating rights must remain the same as those rights granted to the CON holder at the date of the establishment of the joint powers authority unless modified pursuant to statute.
- Defines *undertaking*.
- Specifies that *undertaking* does not include the acquisition by eminent domain of existing works or facilities of a political subdivision.
- Adds *fire district* to the definition of *public agency*.

Lee Miller, Lobbyist, Arizona Fire District Association, spoke on behalf of SB1361. He explained that there are approximately 162 fire districts in Arizona. Arizona has laws that allow fire districts to merge and consolidate; however, control issues and community identity issues are a big impediment to create operational efficiencies. This bill allows fire districts to work with other municipalities in the community to form a third organization so that staffing, maintenance and the ongoing operations will be jointly managed. He pointed out that SB1361 does not create any new taxing or bonding authority for any organization.

Chairman Gowan announced the names of those who signed up in support of SB1361 but did not speak:

John Flynn, Arizona Fire District Association

Question was called on the motion that SB1361 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 18).

SB1373 - governmental mall commission; public terms - DO PASS AMENDED S/E
S/E: military affairs; families; funds; omnibus

Chairman Gowan moved that SB1373 do pass.

Chairman Gowan moved that the Gowan 11-page strike-everything amendment dated 3/21/11 to SB1373 be adopted (Attachment 19).

Justin Riches, Majority Research Analyst, advised that the proposed Gowan 11-page strike-everything amendment dated 3/21/11 (Attachment 19) to SB1373 makes various changes to statute relating to military affairs, military families and veterans as follows (Attachment 20):

- Exempts spouses and unemancipated minors from being disqualified from unemployment benefits if they are changing locations with a member of the Armed Services under orders.
- Provides an additional community property exemption for property acquired as a result of service in the Armed Forces.
- Establishes Arizona veteran supportive campuses.
- Requires the Arizona Department of Administration to establish a veteran-owned business participation goal of awarding veteran-owned businesses state contracts involving the procurement of materials, services or construction of materials.

Chairman Gowan moved that the Gallego two-page amendment dated 3/18/11 to the strike-everything amendment be adopted (Attachment 21).

Mr. Riches explained that the Gallego two-page amendment dated 3/18/11 to the strike-everything amendment deletes language referring to the Montgomery GI bill and replaces it with language that specifies all education benefits available to veterans of the U.S. Armed Forces can be used for deferment of tuition payments, fees and required books, upon registration at a state-supported community college, college or university (Attachment 21).

Mr. Gallego advised that many campuses are dropping veterans from their classes because payment is taking too long to process. This proposal allows more time for those veterans to get their money to the colleges and allows the colleges to be able to accept that money without being in violation of statute. The college can still deny credit for the class if payment is not made at the end of the term.

Vice-Chairman Proud asked whether the sponsor is supportive of the amendment. Mr. Gallego advised that he has not approached the sponsor. Chairman Gowan advised that the sponsor is aware of the amendment.

Question was called on the motion that the Gallego two-page amendment dated 3/18/11 to the strike-everything amendment be adopted (Attachment 21). The motion carried.

Chairman Gowan moved that the Gowan four-page amendment dated 3/22/11 at 9:16 a.m. to the strike-everything amendment be adopted (Attachment 22).

Mr. Riches explained that the Gowan four-page amendment dated 3/22/11 at 9:16 a.m. to the strike-everything amendment extends the Military Family Relief Fund five years, from December 31, 2013 to December 31, 2018 (Attachment 22). Additionally, the amendment reduces the number of committee members on the Military Family Advisory Committee required to recommend approval of a \$20,000 grant from *every* committee member to *two-thirds* of the Committee.

David Hampton, Legislative Liaison, Arizona Department of Veterans' Services, in support of the amendment, advised that it has been very difficult to get all members of the Military Family Advisory Committee together at one time to agree to allocate the \$20,000 grant. This will allow more money to go to military families who are in need. He suggested a verbal amendment to the amendment on Page 4, line 4, strike 2011, insert 2012. He explained that this will allow the committee an extra year to process the grant. So far this year, the committee has been able to allocate \$52,000 to 11 families through this fund.

In answer to Chairman Gowan, Mr. Riches advised that, without objection, the rules of the Committee will permit a short amendment.

Without objection, Mr. Harper moved that the Gowan four-page amendment dated 3/22/11 at 9:16 a.m. be amended as follows (Attachment 22):

Page 4, line 4, strike 2011 and insert 2012

The motion carried.

Chairman Gowan moved that the Gowan four-page amendment dated 3/22/11 at 9:16 a.m. as amended be adopted (Attachment 22). The motion carried.

Chairman Gowan moved that the Gowan four-page amendment dated 3/22/11 at 11:06 a.m. to the strike-everything amendment be adopted (Attachment 23).

Mr. Riches stated that the Gowan four-page amendment dated 3/22/11 at 11:06 a.m. to the strike-everything amendment allows a disabled veteran who is 100 percent disabled to submit a copy of the certificate of 100 percent disability, issued by the U.S. Veterans Administration, to the Arizona Department of Transportation in order to receive international symbol of access special plates (Attachment 23).

Chairman Gowan advised that this proposal was brought to him by a disabled veteran constituent with a 100 percent disability who was having difficulty obtaining a disabled placard without first getting documentation from a doctor stating that he is 100 percent disabled.

Question was called on the motion that the Gowan four-page amendment dated 3/22/11 at 11:06 a.m. to the strike-everything amendment (Attachment 23) be adopted. The motion carried.

Chairman Gowan moved that the Gowan 11-page strike-everything amendment dated 3/21/11 as amended be adopted (Attachment 19). The motion carried.

Chairman Gowan moved that SB1373 as amended do pass.

Chairman Gowan announced the names of those who signed up in support of SB1373 but did not speak:

Gene van den Bosch, CEO/President, Arizona Veterans' Education Foundation

Question was called on the motion that SB1373 as amended do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 24).

SB1495 - Arizona state guard; establishment - DO PASS

Chairman Gowan moved that SB1495 do pass.

Jonathon Bates, Majority Intern, explained that SB1495 authorizes the Governor to establish the Arizona State Guard for any reason considered to be necessary (Attachment 25). The bill removes language requiring the Governor to issue regulations to govern the administration and organization of the Arizona State Guard.

Mr. Harper reminded Members that SB1495 mirrors the language of HB2070, adopted in this Committee on February 16, 2011 to establish the Arizona State Guard. This legislation removes the restriction relating to the massive deployment of National Guard soldiers out of the state in order for the Governor to be able to establish the State Guard. He urged support of this bill.

Chairman Gowan queried whether HB2070 has an emergency clause. Mr. Harper replied in the negative.

Mr. Harper advised that he is still working on amending HB2070 in the Senate to include training for radiological situations, and to further define the role of the Arizona State Guard.

Jaime Farrant, Policy Director, Border Action Network, testified against SB1495 and stated that his opposition is the same as when he testified against HB2070 on February 16, 2011. He said that the Border Action Network believes that this bill undermines democracy. He maintained that it is a wide, far-reaching measure that gives any future governor in the state the ability to call this force for any reason. Additionally, a fiscal note requested by Senator Gallardo showed that it will cost \$8 million to set up and train a State Guard with 100 officers; he said that is a concern in a time when massive budget cuts are being proposed. He opined that the bill is vague; the Border Action Network would like further clarification of the language because it is ambiguous as currently drafted.

Mr. Harper pointed out that this bill does not fund anything. It takes away the roadblock for the Governor to establish the Arizona State Guard.

Mr. Farrant agreed that the bill does not appropriate any funds; however, setting up a State Guard will have some cost for the state. He added that the Adjutant General did not sign up to speak in support of HB2070 or this legislation, and questioned why the Adjutant General has never been present to speak in this process when the duties of the State Guard will be under the auspices of that office.

Vice-Chairman Proud pointed out that illegal immigration in Arizona costs \$2.7 billion for education, incarceration and hospitalization. To that point, Mr. Farrant stated that immigration is not addressed in this measure. That is one concern; other concerns are that money is being used to set this up that can be better utilized for health care and education. Additionally, the Adjutant General has never spoken publicly on this issue and whether it is even needed.

Chairman Gowan announced the names of those who signed up in support of SB1495 but did not speak:

John Wentling, Vice President, Arizona Citizens Defense League, representing self

Terrance Traylor, representing self

Dave Kopp, Manager, Arizona Citizens Defense League

Chairman Gowan announced the names of those who signed up in opposition to SB1495 but did not speak:

Rivko Knox, representing self

Question was called for on the motion that SB1495 do pass. The motion carried by a roll call vote of 5-1-0-3 (Attachment 26).

SB1505 - nuclear security guards; weapons ranges - DO PASS

Chairman Gowan moved that SB1505 do pass.

Joe DeMenna, Assistant Majority Research Analyst, reviewed the provisions of SB1505 as follows (Attachment 27):

- Exempts viable nuclear production station armed security guards during the performance of official duties or during security preparation exercises sponsored by the nuclear station from the following misconduct involving weapon violations:
 - Carrying a concealed deadly weapon within the immediate control of the guard or intent to transport a weapon.
 - Entering a nuclear or hydroelectric generating station carrying a deadly weapon on his person or within direct management of any person.
- Exempts an outdoor shooting range specifically made for military or armed nuclear security training and that is not open to the general public from noise restrictions and noise measurement, or decibel level, requirements.

- Exempts the hours of use from restrictions for use of outdoor shooting ranges, within the statutory guidelines for night time use.

Chairman Gowan announced the names of those who signed up in support of SB1505 but did not speak:

George Diaz, Senior Public Affairs Representative, Arizona Public Service

Chairman Gowan announced the names of those who signed up as neutral on SB1505 but did not speak:

Dave Kopp, Manager, Arizona Citizens Defense League

Chairman Gowan said he spoke with the bill's sponsor who wants to ensure that security guards are able to practice maneuvers and use shooting ranges without interference from local authorities so they will be able to protect the nuclear power plant from terrorist threats.

Question was called on the motion that SB1505 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 28).

Vice-Chairman Proud thanked the Chairman for allowing her to Chair this meeting.

Chairman Gowan thanked staff and Members for their work in this Committee. He also thanked all veterans for their service to our country.

Without objection, the meeting adjourned at 11:14 a.m.

Joanne Bell, Committee Secretary
April 12, 2011

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