

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – Second Regular Session

COMMITTEE ON TECHNOLOGY AND INFRASTRUCTURE

Minutes of Meeting
Thursday, January 26, 2012
House Hearing Room 1 -- 9:00 a.m.

Chairman Stevens called the meeting to order at 9:07 a.m. and attendance was noted by the secretary.

Members Present

Mr. Dial
Ms. Proud

Mr. Seel
Mr. Wheeler

Mr. Pierce, Vice-Chairman
Mr. Stevens, Chairman

Members Absent

Mrs. Gonzales

Committee Action

HB2033 – DPA (6-0-0-1)

HB2410 – DPA (6-0-0-1)

HB2094 – DP (6-0-0-1)

HB2412 – DP (6-0-0-1)

HB2403 – DISCUSSED AND HELD

CONSIDERATION OF BILLS

HB2033 - appropriation; secretary of state – DO PASS AMENDED

Vice-Chairman Pierce moved that HB2033 do pass.

Vice-Chairman Pierce moved that the Stevens 19-line amendment dated 1/25/12 (Attachment 1) be adopted.

Stephanie Johnson, House Assistant Research Analyst, explained that HB2033 appropriates \$500,000 from the state General Fund to the Secretary of State (SOS) in fiscal year 2012-2013 (Attachment 2). Ms. Johnson described the following provisions:

- Appropriates \$500,000 from the state General Fund in fiscal year 2012-2013 to the SOS for the purpose of developing electronic databases for financial disclosures and lobbyist reporting required under statute.
- Exempts such appropriation from statutory provisions regarding lapsing of appropriations.

Ms. Johnson explained that the Stevens 19-line amendment dated 1/25/12 (Attachment 1) requires the SOS to develop an electronic database system for financial disclosures and lobbyist reporting requirements in statute. The amendment also specifies that the database must allow a county, city or town to elect to use the SOS's system subject to approval by the local governing body and the local governing body conforming their financial and lobbying disclosure requirements with the requirements of this state. Finally, this amendment does not require the SOS to provide for a system that complies with any other filing requirements aside from those in current statute and changes the amount appropriated to the SOS from \$500,000 to \$650,000.

Mr. Wheeler questioned the purpose of HB2033 and the increase in appropriations. Ms. Johnson deferred the inquiry to the sponsor of the bill.

Representative Kimberly Yee, sponsor, stated the intent of HB2033 is to create government transparency in the area of monitoring financial gifts and contributions. She stated that she believes citizens deserve to know who is influencing government. Representative Yee explained the appropriation in the bill will create a new electronic database providing online access to records that previously had to be viewed at the SOS's Office.

Vice-Chairman Pierce inquired the necessity of the bill if gifts are banned outright. Representative Yee responded that the database also includes financial disclosure statements and funding to allow for necessary updates to the database.

Mr. Dial questioned the cost of scanning the documents into a portable document format (PDF) to post to the current website and expressed concern about the appropriation. Representative Yee deferred the inquiry to Jim Drake.

Jim Drake, Assistant Secretary of State, Arizona Secretary of State's Office (SOS), testified in favor of HB2033, stating the problem with just scanning documents into PDF form is that the documents are not searchable and are limited in their applications. Mr. Drake stated the necessity of modernizing the database to allow it to be searchable, user-friendly and transparent. He emphasized the cost is not just for expanding a system; it is also for blending and reading the data currently on file.

Mr. Dial asked if the database would be searchable by the year. Mr. Drake replied it would be more robust and much easier to navigate. He explained various scenarios of searching for data.

Chairman Stevens commented on the outdated system and said he is looking forward to being able to file financial disclosure statements online.

Mr. Dial questioned if the SOS contacted any third-party groups to provide data services. Mr Drake stated that past experience with third-party groups like IBM create situations where the state does not have ownership rights to the software. He said the SOS would like to avoid that situation and expand the database in-house.

Mr. Seel inquired if Mr. Drake could investigate the possibility of finding third-party groups that may have already created a database of this nature to see if the state could copy it. Mr. Drake responded he would and will get back to the Committee Members with the information.

Vice-Chairman Pierce announced the names of those who signed up in support of HB2033 but did not speak:

Ken Bennett, Arizona Secretary of State

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

Vice-Chairman Pierce announced the names of those who signed up as neutral on HB2033 but did not speak:

Seth Apfel, representing self

Question was called on the motion that the Stevens 19-line amendment dated 1/25/12 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Pierce moved that HB2033 as amended do pass. The motion carried by a roll call vote of 6-0-0-1 (Attachment 3).

HB2094 – prepaid wireless E911 excise tax – DO PASS

Vice-Chairman Pierce moved that HB2094 do pass.

Michelle Hindman, House Majority Analyst, explained HB2094 establishes a prepaid wireless telecommunications E911 excise tax (Attachment 4). Ms. Hindman made reference to the following provisions:

Prepaid Wireless Telecommunications E911 Tax (E911 Tax)

- Levies an E911 tax in an amount of eight-tenths of one percent of the gross proceeds of sales or gross income derived from the retail sale of prepaid wireless telecommunications services.
- States that the seller is liable for the E911 Tax and allows the amount to be separately stated on the document provided or otherwise disclosed to the consumer.
- Determines that the retail sale of prepaid wireless telecommunications service occurs if any of the following applies:
 - A retail sale is completed in person at a business location in Arizona.
 - The product is delivered to the consumer at an Arizona address.
 - The seller's business records indicate that the consumer's address is located in Arizona and those records are not made or kept in bad faith.
 - The consumer gives the seller an Arizona address, including a payment instrument, and the address is not given in bad faith.
 - The wireless telephone number is associated with a location in Arizona.
- Asserts that the amount of the tax paid by the seller must not be included in the tax base for computing another similar tax or fee that is imposed by this state, any political subdivision or any intergovernmental agency.
- Clarifies that the E911 tax levied under the provisions of this Act shall be the only E911 funding obligation for prepaid wireless telecommunications service in this state.
- Prohibits this state, any political subdivision or any intergovernmental agency from levying any other similar tax or fee on any seller or consumer for the sale, purchase, use or provision of prepaid wireless telecommunications service for the purpose of funding E911 service.

Department of Revenue (DOR)

- States that a separate bond is not required of DOR in administering this Act.
- Clarifies that the procedures for a seller in documenting a sale that is not a retail sale of prepaid wireless telecommunications service shall be substantially similar to existing statutory retail classifications.
- Requires DOR to separately account for the E911 monies collected and deposit the monies into the Fund.
- Exempts DOR from statutory rule making requirements for the purposes of implementing this Act.

Definitions

- Defines the following terms:
 - *Public service corporation.*
 - *Consumer.*
 - *Prepaid wireless telecommunications service.*
 - *Prepaid wireless telecommunications service provider.*
 - *Retail sale of prepaid wireless telecommunications service.*
 - *Seller.*
- Modifies the definition of *provider*.
- Redefines *wireless services*.
- Deletes the definition of *wireless provider*.

Miscellaneous

- Exempts a seller of prepaid wireless telecommunications service from liability of damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or E911 services. Further exempts a seller from liability associated with any lawful investigation.
- Clarifies that the existing statutory tax levied on wire and wireless service accounts does not apply to prepaid wireless telecommunications service.
- Contains an effective date of from and after September 30, 2012.
- Makes technical and conforming changes

Mr. Seel questioned the revenue amount.

Representative Bob Robson, sponsor, stated the amount of revenue is estimated to be between two to four million dollars. Representative Robson explained the tax is not a new tax; it is capturing one already in existence. Representative Robson stated that he believes the 911 system in place is in chaos due to outdated operating equipment and the need to locate people on cell phones instead of land lines, as most people no longer pay for a home phone.

Mr. Seel requested clarification on the levying of eight-tenths of one percent of the gross proceeds of sales or gross income derived from the retail sale of prepaid wireless telecommunications services. Representative Robson deferred the question to staff.

Michelle Hindman, House Assistant Director of Research, explained that customers who have prepaid or month-to-month cell phones are currently paying twenty cents per month for each activated account.

Mr. Seel inquired if this is a new tax. Representative Robson explained that it is not.

Ms. Hindman stated that between 20 to 30 percent of people in the cell phone market are buying prepaid phones. This statute requires companies selling prepaid and month-to-month cell phones to collect the tax to pay into the E911 system.

Sean Laux, Legislative Liaison, Arizona Department of Revenue (DOR), testified as neutral, explaining that whether a person has a land line, wireless, prepaid or post-paid, the provider is responsible for paying the twenty cents for E911. HB2094 removes the pre-paid wireless from the flat rate language to shift the burden from the provider to the retailer.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, in support of HB2094, informed Committee Members that Liz Graeber with Maricopa Region 911 can speak to the technical side of the bill.

Michelle Ahlmer, Executive Director, Arizona Retailers Association, testified as neutral on HB2094, she said she plans on offering a future amendment due to the shift of responsibility to the retailer.

Gretchen Jacobs, Attorney, TracFone, testified in support of HB2094 stating that some companies are currently paying the tax but others are not. She stated the bill clarifies the mechanism to collect the tax for the industry.

John Flynn, Arizona Fire District Association, Arizona Fire Chiefs Association, testified in favor of HB2094, stating the bill provides necessary funding allowing the fire service to update the E911 system throughout the State of Arizona.

Liz Graeber, Maricopa Region 911 Administrator, Phoenix, neutral on HB2094, stated the difference between 911 and E911 is enhanced 911, which permits data to go along with voice as it is routed to the 911 center.

Mr. Seel questioned the impact of collecting the tax. Ms. Graber responded that the collection of the tax allows for the purchase of updated equipment. She stated that 80 percent of 911 calls in Coconino County are from cell phones and the new equipment will provide locations of the people calling from a cell phone.

Vice-Chairman Pierce announced the names of those who signed up in support of HB2094 but did not speak:

Don Isaacson, Sprint

Norman Moore, Attorney, Sprint

Joseph Abate, Martinez & Curtis, PC, AT&T

Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler

Ryan Harper, Triadvocates, LLC, Verizon Wireless

Jerry Fuentes, President, AT&T Arizona

Ryan Peters, Intergovernmental Programs Administrator, City of Glendale

Vice-Chairman Pierce announced the names of those who signed up in opposition to HB2094 but did not speak:

Seth Apfel, representing self

Question was called on the motion that HB2094 do pass. The motion carried by a roll call vote of 6-0-0-1 (Attachment 5).

THE MEETING RECESSED AT 9:55 A.M.

THE MEETING RECONVENED AT 10:40 A.M. All Members were present except Mrs. Gonzales.

HB2410 – procurement; brand name; prohibition – DO PASS AMENDED

Vice-Chairman Pierce moved that HB2410 do pass.

Vice-Chairman Pierce moved that the Stevens 6-line amendment dated 1/19/12 (Attachment 6) be adopted.

Patrick Devine, House Majority Intern, explained HB2410 directs the invitation of bids to include two or more vendors, three or more products and also prevents a contract for information systems or telecommunications systems based on the use of a brand name only specification (Attachment 7).

Mr. Devine presented that the Stevens 6-line amendment dated 1/19/12 (Attachment 6) additionally requires that the invitation for bids must also be from an original equipment manufacturer when the contract award is greater than \$5,000. If the awarded contract is not the lowest responsible and responsive bidder the director must prepare a written justification.

Mr. Wheeler questioned if any type of vendor will be restricted from contracting abilities because of HB2410.

Chairman Stevens, sponsor, responded that HB2410 will give people who did not have a selection in the process an opportunity to select.

Mike Williams, Brocade, testified in support of HB2410 stating the bill will give more options in the bid process. He said that in the technology field, rather than have an agency put out a bid to five vendors that offer the same product, such as software; this bill grants additional bids with more options.

Vice-Chairman Pierce announced the names of those who signed up in support of HB2410 but did not speak:

Elan Wollitzer, representing self

Seth Apfel, representing self

Sara Sparman, Government Relations Specialist, Brocade

Question was called on the motion that the Stevens 6-line amendment dated 1/19/12 (Attachment 6) be adopted. The motion carried.

Vice-Chairman Pierce moved that HB2410 as amended do pass. The motion carried by a roll call vote of 6-0-0-1 (Attachment 8).

HB2412 – large-scale computing systems – DO PASS

Vice-Chairman Pierce moved that HB2412 do pass.

Stephanie Johnson, House Assistant Research Analyst, explained that HB2412 requires the Arizona Department of Administration (ADOA) to perform a study of large-scale computing systems and the number of public documents available on the Internet (Attachment 9). Provisions are as follows:

- Requires ADOA to perform a study of the state’s current use of, reliance on and costs of large-scale computing systems and the potential cost savings from, and potential consequences of, employing other large-scale computing systems that are available in the marketplace.
- Directs this study to consider the following:
 - The nature of the operations supported by existing large-scale computing systems, including this state’s need to conduct those operations in a reliable, secure, scalable and end-user-friendly manner.
 - Employee costs, one time charges, recurring charges and average maintenance charges associated with the components of large-scale computing systems, for such systems already in existence.
 - For existing large-scale computing systems, this state’s reliance on employees from the private sector for system maintenance and support and the feasibility of having those functions performed by new or existing state employees.
 - An assessment of the overall value of existing large-scale computing systems to this state.
 - Whether large-scale computing systems of comparable capacity and performance characteristics are available in the marketplace and, if not, in what manner the marketplace is failing to offer these comparable systems.
 - If comparable large-scale computing systems exist in the marketplace, what good faith estimates exist for cost components comparable to existing large-scale computing systems.
 - The feasibility of having system maintenance and support functions performed by employees of this state, provided comparable large-scale computing systems exist in the marketplace.
 - An assessment of whether large-scale computing systems exist that might provide this state with overall value comparable to, less than or greater than existing large-scale computing systems.
- Mandates that ADOA implement a study of the number of public documents that are available on the Internet and the potential cost savings that could be obtained by making more documents available on the Internet.

- Specifies that any recommendations that result from this study must require that state documents and information use nonproprietary industry sitemap protocols and search engine mapping.
- States that ADOA shall report its findings, recommendations and priorities on or before October 1, 2014 to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Senate and House of Representatives Appropriations Committees and the Secretary of State.
- Prescribes that ADOA must consider the following when developing the report:
 - Soliciting public comments from stakeholders.
 - Incorporating relevant, publicly available case studies into the report.
 - Comparing any cost-savings suggested by such case studies to the cost of supporting this state's current large-scale computing systems.
 - Describing any limitations this state faces in hiring, as state employees, large-scale computing systems support engineers and technicians.
 - Describing the overall value of different large-scale computing systems studied.
- Allows ADOA to withhold from public record any confidential or otherwise sensitive information, except for pricing information that is contained in the report.
- Defines *large scale computing systems* and *overall value*.
- Contains a repeal date of from and after December 31, 2014.

Chairman Stevens, sponsor, stated HB2412 will determine where the state is computer-wise and justify the appropriations for the existing computer systems.

Vice-Chairman Pierce announced the names of those who signed up in support of HB2412 but did not speak:

Seth Apfel, representing self

Question was called on the motion that HB2412 do pass. The motion carried by a roll call vote of 6-0-0-1 (Attachment 10).

HB2403 – public notices; internet – DISCUSSED AND HELD

Chairman Stevens announced that HB2403 will be discussed and held.

Michelle Hindman, House Majority Analyst, explained that HB2403 allows statutory public notice requirements to be made in a newspaper or online (Attachment 11). Ms Hindman cited the following provisions:

- States that if there is a statutory requirement for a publication of a notice in a newspaper, the person responsible for the publication may publish in the newspaper *or* may provide notice at a designated site on a worldwide public network of interconnected computers, for at least the specified number of times as prescribed by law.
- Asserts that if the number of times the notice is required to be published is unspecified, the minimum amount of time notice is given through the worldwide web is as prescribed in statute.

Chairman Stevens, sponsor, stated that HB2403 will allow the state to move forward to manifest electronic work. He elaborated that since the draft of the bill, some concerns have been brought forward and he plans to amend HB2403 as necessary.

John Naughton, Publisher, Payson Roundup, testified in opposition to HB2403 stating that communities rely on newspapers to access information on government proceedings. The current system allows private third-parties to handle public notices to ensure the notices are independent, archivable, accessible and verifiable. He questioned what HB2403 fixes since the Arizona Newspaper Association (ANA) created an online website in 1998 granting newspapers the ability to upload public notices and newspapers. He stated that he believes that with the current system in place at the price of \$293,000 for the creation and maintenance already being paid, he does not see the necessity for the bill.

Mr. Wheeler requested Mr. Naughton to elaborate on a story the Nogales International recently published regarding meeting minutes from Santa Cruz County that were lost.

Mr. Naughton deferred the inquiries to Manuel Coppola.

Manuel Coppola, Publisher, Nogales International, in opposition to HB2403, stated Santa Cruz County did not lose the minutes, but since February 19, 2009 the minutes were never posted. Mr. Coppola mentioned that prior to 2009 the minutes were always posted because the newspapers needed them to publish in the paper but as soon as the requirement to publish the minutes went away, the county stopped posting them.

Chairman Stevens commented that the law in place is not wrong; it is Santa Cruz who did not adhere to the law for the posting requirements.

Mr. Naughton returned to the podium to answer Members' questions on the following topics:

- Newspapers versus Internet with regards to accessibility
- Public notice fees
- Public notice revenue
- Newspapers progression to the World Wide Web
- Newspaper subscriptions verses Internet subscriptions

Richard Horton, Counsel, Ashton Construction Company, testified in opposition to HB2403 stating that he believes moving public notices to the government is not a wise or efficient idea. He commented that not everyone has access to a computer and everyone is not online. Mr. Horton cited an example of some of the subcontractors the construction company does business with that do not have access to computers and who rely on the print version of the newspaper.

Tom Lee, Group Manager, Wick Communications Company, testified in opposition to HB2403 stating that he has 90 employees that the bill adversely affects. Mr. Lee stated that he believes the bill will create more government spending.

Richard Larson, Advertising Director, Prescott Newspapers, Inc., testified in opposition to HB2403 stating that the Prescott Newspaper recently sent out a survey questioning the public on public notices and the returns were unfavorable to the bill.

Chairman Stevens inquired if the poll was scientific. Mr. Larson responded that it was not. Chairman Stevens questioned the response rate of the survey. Mr. Larson stated that 40 surveys were returned to the newspaper. Chairman Stevens asked how many surveys were sent out. Mr. Larson responded that the newspaper has a circulation of approximately 15,000 readers.

Ms. Proud questioned the different types of public notices.

Mr. Larson cited some of the following types of public notices:

- County notices
- Budget information
- City notices
- Foreclosures
- Legal notices
- Incorporations

Mr. Larson answered Members' questions regarding fees for public notices, online operations, access to public notices and government transparency.

Elliott Freireich, representing self, testified in opposition to HB2403 stating that navigating government websites can be difficult and the removal of public notices from the newspaper will create a burden to citizens.

Discussion ensued on the location of public notices in the newspaper versus on a website.

Mr. Moody returned to the podium stating that every public notice can be found online at www.publicnoticeads.com free of charge.

Vice-Chairman Pierce announced the names of those who signed up in opposition to HB2403 but did not speak:

Ginger Lamb, representing self

David Hayes, representing self

Seth Apfel, representing self

Teri Hayt, representing self

Pam Miller, Publisher/CEO, Verde Valley Newspapers, Incorporated

Paula Casey, representing self

Vice-Chairman Pierce announced the names of those who signed up as neutral on HB2403 but did not speak:

Beth Lewallen, Maricopa County Board of Supervisors

Without objection, the meeting adjourned at 12:00 p.m.

Abby Selvey, Committee Secretary
February 7, 2012

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