

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – Second Regular Session

**COMMITTEE ON TRANSPORTATION**

Minutes of Meeting  
Thursday, March 8, 2012  
House Hearing Room 3 -- 9:00 a.m.

Chairman Williams called the meeting to order at 9:02 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Farley  
Mr. Gray R  
Ms. Hobbs

Mr. Lovas  
Mrs. McLain

Ms. Fann, Vice-Chairman  
Mr. Williams, Chairman

**Members Absent**

Mr. Meyer

Mr. Weiers, JP

**Committee Action**

SB1124 - DP (6-0-0-3)  
SB1161 - DISCUSSED & HELD

SB1216 - DP (6-0-0-3)  
SB1402 - DP (7-0-0-2)

**CONSIDERATION OF BILLS**

**SB1216 - emergency vehicle access plan; ADOT - DO PASS**

**Vice-Chairman Fann moved that SB1216 do pass.**

Justin Riches, Majority Research Analyst, explained that SB1216 requires the Director of the Arizona Department of Transportation (ADOT) to establish an Emergency Vehicle Access Plan in state highway work zones (Attachment 1).

Senator Andy Biggs, sponsor, stated that when there is a construction project, sometimes it is difficult for emergency vehicles to arrive on the scene of an accident or in the event of an emergency. A situation occurred near Tucson where a vehicle blew up and the driver was trapped. Emergency vehicles were unable to respond in time and the young man was killed. He added that he worked with ADOT on this bill, which provides the impetus for correcting that type of problem.

Vice-Chairman Fann announced the names of those who signed up in support of SB1216 but did not speak:

Jack Moraine, representing self

Vice-Chairman Fann announced the names of those who signed up as neutral on SB1216 but did not speak:

Kevin Biesty, Legislative Liaison, ADOT

**Question was called on the motion that SB1216 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 2).**

### **SB1124 - surplus lines; ADOT contracts - DO PASS**

**Vice-Chairman Fann moved that SB1216 do pass.**

Justin Riches, Majority Research Analyst, explained that SB1124 stipulates that companies with surplus lines insurance coverage are eligible to bid on Arizona Department of Transportation (ADOT) contracts (Attachment 3).

Karlene Wenz, Government Affairs Specialist, Surplus Line Association of Arizona, in favor of SB1124, stated that she represents a group of brokers who specialize in this type of insurance that is not sold in the admitted market. Surplus lines insurance is property and liability insurance that is unusual and highly specific for racing events, long-haul trucking, etc. In 2010, some contractors who obtained insurance through the surplus lines market were not allowed to bid on ADOT projects because an ADOT manual states that in order to bid on a project, the contractor must have insurance through the admitted market. There is no substantive difference between the two; both are regulated by the Arizona Department of Insurance, etc. She said she worked with ADOT to develop the language in SB1216.

Vice-Chairman Fann asked if this will open up the market for insurance companies in Arizona. Ms. Wenz said no, there is already a healthy market for property and liability coverage in the admitted market and the surplus lines market in Arizona. This insurance is readily available and the only barrier was the language in the ADOT manual.

Vice-Chairman Fann announced the names of those who signed up as neutral on SB1124 but did not speak:

Kevin Biesty, Legislative Liaison, ADOT

Vice-Chairman Fann announced the names of those who signed up in support of SB1124 but did not speak:

Russell Reiten, Government Affairs, Independent Insurance Agents & Brokers of Arizona

**Question was called on the motion that SB1124 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 4).**

**SB1161 - state institutions; technical correction(now: vehicle disabled windshield placard) -  
DISCUSSED AND HELD**

**Vice-Chairman Fann moved that SB1161 do pass.**

Tom Kwon, Majority Intern, explained that SB1161 allows a permanently physically disabled person to obtain multiple permanently disabled removable windshield placards (Attachment 5).

Kevin Biesty, Legislative Liaison, Arizona Department of Transportation (ADOT), neutral on SB1161, related that individuals obtain a signed form from their doctor verifying that they are handicapped and qualify for a placard or disability plate, which is up to the individual to choose. Placards are assigned to the vehicle and ADOT provides extra placards for additional vehicles at the individual's request.

Mrs. McLain questioned the need for this legislation if multiple placards can already be obtained. Mr. Biesty responded that ADOT has no concerns about the bill, but from talking to the sponsor, Senator Rick Murphy, he surmised that the intent is for clarification in statute.

Mrs. McLain asked if individuals must pay \$25 for disability plates like special plates. Mr. Biesty responded that there is no charge for disability plates.

Mr. Kwon clarified that the bill allows permanently physically disabled applicants to obtain additional placards without a written request, which is currently required.

Justin Riches, Majority Research Analyst, added that a written request will still be required for additional placards by applicants who are temporarily physically disabled. He acknowledged that the bill clarifies language in statute. In response to a question, he noted that the statute allows only two placards to be issued, although additional requests could probably be submitted to ADOT.

Senator Rick Murphy, sponsor, related that he knows some people, including his grandmother, who no longer drive and have placards, but many times when his mother takes his grandmother somewhere, they do not always use the same car or sometimes leave the placard in the other car that someone else is using, etc. This bill will make it easier to obtain an additional placard. He added that if a doctor verifies that someone is permanently disabled, it is burdensome to have to fill out the paperwork every five years when the placard expires, so the bill removes the expiration date requirement.

Mrs. McLain noted that it is already possible to request a second placard from ADOT. Senator Murphy replied that he was not aware that a second placard can be obtained by a second application, which was nice to find out, but the other part of the bill not requiring renewal is still worthwhile.

Chairman Williams asked if Senator Murphy will consider a Floor amendment to strike the language about obtaining an additional placard. Senator Murphy said he will agree to that as long as ADOT assures him it can already be done.

Discussion followed about the potential for fraudulent use of the placards.

Vice-Chairman Fann assumed the Chair.

Mr. Kwon pointed out that the bill does not change the requirement that a permanently disabled windshield placard must be renewed every five years.

Chairman Williams resumed the Chair.

Senator Murphy said he thought that the five-year renewal provision was eliminated by the bill, but since it is not, he will work on that because it is the more important provision.

Mr. Biesty related that temporarily disabled placards expire after six months. In FY 2011, nearly 125,000 new disability placards were issued, of which approximately 100,000 were provided to permanently disabled applicants. He said he did not see the five-year renewal removal in the bill and does not know the impact, but he will work on that with Senator Murphy.

Chairman Williams stated that he would like to retain the bill for further work on the language.

Vice-Chairman Fann endorsed the bill, but expressed concern about removing the five-year renewal requirement, which could potentially result in many placards with no expiration date being used fraudulently. Senator Murphy said he understands, but pointed out that of the 100,000 permanently disabled placards issued, it is not known how many were renewed and how many were new. He suspects that a significant number are renewals.

**Vice-Chairman Fann withdrew the motion that SB1161 do pass.**

**Chairman Williams announced that SB1161 will be held.**

**SB1402 - broadband conduit installation; right-of-way; ADOT - DO PASS**

**Vice-Chairman Fann moved that SB1402 do pass.**

Tom Kwon, Majority Intern, explained that SB1402 allows the Digital Arizona Highways Act of 2012 to be enacted pursuant to broadband conduit installation (Attachment 6).

Senator Adam Driggs, sponsor, conveyed that this is part of a two-step process to bring broadband to far-reaching rural areas of the state and to allow future growth of broadband, by using existing Arizona Department of Transportation (ADOT) routes and easements during road construction projects, to lay conduit. This will make a very expensive process more affordable. In response to a question, he acknowledged that having conduit services more readily available in rural areas is important for economic development and education.

Vice-Chairman Fann asked if this would apply to Public Private Partnership (P3) projects or if the broadband industry may want to provide financing to benefit everyone without costing taxpayers a lot of money.

Senator Driggs responded that this project will not involve taxpayer money, but will be funded entirely by private sector investment. He clarified that the bill creates the infrastructure that

allows the process to move forward. ADOT is willing to assist in this process, but does not want to administer it, so SB1403 - digital Arizona infrastructure office, addresses the administrative side, which is currently going through the Senate and should be heard by the House Transportation Committee next week.

Michael Keeling, Chair, Arizona Telecommunications and Information Council (ATIC), in support of SB1402, stated that according to broadband providers, there is a 10 to 25 percent deficiency of broadband coverage in the state, which translates into lack of job opportunities and impacts educational opportunities and medical services. The providers indicated that one of the major constraints was the ability to backhaul the traffic from a small community to Phoenix or Tucson, whichever is closer, so attempts were made to determine how to reduce the backhaul cost, which allows private sector providers already in rural communities to expand services to more users (Attachment 7). The state rights-of-way and roadways offer a significant part of that solution so discussions began with ADOT, which currently has a permitting program that allows for this type of work, but the provider must have the environmental and archeological studies done that are necessary for putting in the conduits. That is a duplication of what ADOT is already doing, but ADOT's current legislative definition is for roadway purposes, which does not include the transport of information. This bill expands the definition of transportation so those ancillary activities that are expensive for the providers and are already done for ADOT are useful for both. A companion bill addresses administration that will be heard at the next meeting.

In response to questions, he said the two bills were introduced as a package, but if the companion bill does not pass, he would encourage expansion of the definition of transportation and then work on how to administer these types of programs, but in a fashion that does not burden ADOT unnecessarily. He noted that the funding is from long-term leasing of conduit to private providers that will be placed into a fiduciary account and can only be used for planning, engineering and construction for delivery of the conduit. The money can be pulled out by ADOT and ADOT contractors, and there is a life cycle maintenance that is in the purview of ADOT.

Robert Smith, ATIC Associate; Town of Chino Valley, in favor of SB1402, stated that a strong correlation between robust communications infrastructure and economic development has been established, and the paradigm shift in economic development in the rural sector has moved toward organic growth and global competition. By installing this conduit, it will be possible to empower communities to compete globally and thrive. He anticipated additional impacts to quality of life, as well as health and human services.

Kevin Biesty, Legislative Liaison, Arizona Department of Transportation (ADOT), neutral on SB1402, said he talked with Mr. Gray and proponents of the bill who helped address concerns. Because many rights-of-way that ADOT "controls" are not actual state rights-of-way and ADOT is usually there on an easement, ADOT cannot do anything that is outside of the transportation function that exists. For example, ADOT wanted to place a monument on State Route 179 for a fallen Department of Public Safety officer killed in the line of duty, but could not because it was not ADOT's right-of-way; it was on federal land. The concept of utilities running along with freeways happens today, but ADOT cannot expend any federal or state transportation dollars for anything other than transportation. If a utility needs to get into the right-of-way, it is done by permit.

Mr. Biesty said he does not want the Members to think that by passing this bill, a large number of projects will be started. If the broadband community shows ADOT a plan, it can be matched with ADOT's five-year plan or the long-range plan; however, no new construction or capacity projects are planned outside of Maricopa and Pima Counties for the next five years as revenues remain stagnant, if not declining, and the Highway User Revenue Fund continues to be reduced. He said he understands the P3 component, which is exciting, but ADOT wants to be part of the solution and can only operate within what it is legally allowed to do.

Mrs. McLain asked if it would be possible to negotiate another agreement outside of ADOT's agreement if a provider wants to lay conduit and ADOT has an easement on federal or Native American land. Mr. Biesty responded that is how ADOT would envision it, but there is concern that it may delay the road project. He does not see this bill doing anything differently than what is currently done with utilities obtaining permits.

Mr. Farley noted that Mr. Biesty indicated that ADOT has no plans or funding to build roads for the next five years and questioned the need for the bill. Mr. Keeling responded that this is a long-term plan, not a one- to- five-year kind of exercise. If the studies that are going on now have the benefit of usage to both the asphalt road as well as the fiber roadways, instead of just one of those, it will reduce the cost. In addition, the bill allows work to go on, not only for new and major expansion of roadways, but for minor updates and extensions into small rural communities where there is not an ongoing major roadway project.

Vice-Chairman Fann announced the names of those who signed up in support of SB1402 but did not speak:

Bob Rosenberg, eLearning System for Arizona Teachers & Students

Susan Bitter Smith, Lobbyist, Arizona-New Mexico Cable Communications Association

Chris Marley, Mayor, Town of Chino Valley

Michael Whipple, Board Member, ATIC

Oris Friesen, IT Consultant, representing self

Ralph Gierish, Board Member, ATIC; Arizona Telemedicine Council

Mark Goldstein, President, International Research Center; Secretary, ATIC, representing self

Joseph Abate, Counsel, A T & T

Akos Kovach, Economic Development Planner, Southeastern Arizona Governments Organization

Ken Bennett, Secretary of State

Greg Bryan, Mayor, Town of Tusayan

Vice-Chairman Fann announced the names of those who signed up as neutral on SB1402 but did not speak:

Jim Ogsbury, Legislative Director, League of Arizona Cities and Towns

Bob Burns, former State Senator, representing self, spoke in support of SB1402. He stated that this group has been very involved with all of the stakeholders. There are still some problems with clarification between the supporters and ADOT, which he said he believes can be worked out. He asked the Members to keep the bill moving to see if services provided to people in rural Arizona can be improved.

Mr. Gray stated that there are some concerns, but there has been a lot of cooperation and stakeholder involvement; this is a process that continues to be worked on.

Aaron Sandeen, State Chief Information Officer/Deputy Director, Arizona Department of Administration (ADOA), spoke in support of SB1402. He related that ADOA is responsible for two broadband grants from the federal government through the stimulus program, one for planning and one for mapping. Almost \$10 million in funding was received to gather data to identify broadband capabilities in the state, and through that process, ADOA identified shortcomings and gaps in coverage. There are many sections within the state that do not have the network capacity today, which has a huge impact on education, health care and economic development. Also, state agencies do not have the network capacity to do many things.

He said he believes there are other opportunities for funding besides public-private partnerships. The federal E-Rate Program gives discounts for broadband access to schools, which the ADOA has the authority to coordinate around the state. Millions of dollars are unspent every year because that is not coordinated properly with the schools, so this is an awesome opportunity. Also, Congress recently passed a bill that will put \$7 million into the network to expand public safety broadband. Arizona will receive much of that and there will be a lot of infrastructure that does not currently exist. Without this legislation, ADOA will be limited in moving forward.

In response to a question, Mr. Sandeen said this bill will allow ADOA to coordinate efforts with ADOT in the planning process; the companion bill creates the office to receive funding, plan, coordinate and work directly with ADOT instead of individual entities applying to ADOT for permits.

**Question was called on the motion that SB1402 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 8).**

Without objection, the meeting adjourned at 10:27 a.m.

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Linda Taylor, Committee Secretary  
April 13, 2012

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