

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – Second Regular Session

COMMITTEE ON GOVERNMENT

Minutes of Meeting
Tuesday, March 13, 2012
House Hearing Room 4 -- 2:00 p.m.

Chairman Ugenti called the meeting to order at 2:44 p.m. and attendance was noted by the secretary.

Members Present

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

Members Absent

None

Committee Action

SB1283 – HELD BY SPONSOR	SB1433 – DISCUSSED AND HELD
SB1348 – DP (7-0-0-2)	SCM1010 – DP (7-0-0-2)
SB1379 – DP (5-3-0-1)	

CONSIDERATION OF BILLS

SB1433 - cities; towns; police functions; revocation – DISCUSSED AND HELD

Chairman Ugenti stated that there will be an informational hearing on SB1433.

Michelle Hindman, Assistant Director of Majority Research, explained that SB1433 allows the county sheriff to assume control of a municipality's law enforcement functions under specific conditions (Attachment 1). The Arizona Peace Officers Standards and Training Board (AZPOST) was created to address the needs for minimum peace officer selection, recruitment, retention and training standards. SB1433 asserts that a municipality does not have the authority to establish, regulate, appoint or remove the police and to prescribe the police powers and duties if 50 percent or more of the police officers have had their certifications revoked by AZPOST. SB1433 directs the Attorney General (AG) to determine that the reasons for the revocation are based on systemic issues rather than individual misconduct and then notify the county board of supervisors of the appropriate county of their determination.

Tom Horne, Attorney General, Office of the Attorney General, testified in support of SB1433, which he deemed a very important bill in terms of the safety of the citizens of Arizona; he added that SB1433 has received unanimous consent in the Arizona Senate. He explained that he was first introduced to this issue as State Superintendent of Public Instruction when money that was supposed to go to schools was diverted to the church run by Warren Jeffs; at that time, the Legislature passed a bill giving him authority to take over the school districts. He then was contacted by a woman who had escaped from Colorado City and was caught and taken back by the local police, called "marshalls," who answer not to the law of the State of Arizona but to the dictates of Warren Jeffs (Attachment 2). He added that there have been two more recent cases as well (Attachment 3).

Chairman Ugenti asked if anything happened to the marshalls who took the women back against their will; Mr. Horne answered in the negative, explaining that it is very difficult for AZPOST to get the information that is needed to bring action against these individuals. He added that, in this case, the agency (the Colorado City police) is the cause of the misconduct rather than the investigator of the misconduct.

Mr. Horne went on to describe the totalitarian system that prevents access to evidence and threatens "blood atonement" for women's "transgressions" (Attachment 4). He then described the predicament of "lost boys," over 1,000 young men who have been expelled from Colorado City so that older men have access to and can dominate the young women. He stressed the importance of getting the county sheriff's office to patrol the city, rather than allowing the local marshalls, who answer to the church of Warren Jeffs instead of the rule of law, to patrol. Mr. Horne reiterated the importance of the law being enforced equitably, regardless of people's religion.

Bruce Wisan, representing self, appeared in support of SB1433. He explained that since May of 2005 he has acted as Special Fiduciary for the United Effort Planned Trust which owns 80 to 90 percent of the land and buildings in Colorado City, Arizona and its sister city of Hilldale, Utah just across the border. He stated that for many years there has been no rule of law in Colorado City and the only way to obtain it is to replace the local police force with independent law enforcement officers. One-third of the residents of the community live in Hilldale and two-thirds live in Colorado City; both cities are controlled by church leadership and by Warren Jeffs who instructs the residents what to do about who should be mayor or on the city council, what should be done about electricity and water, etc.

In answer to Chairman Ugenti's question, Mr. Wisan explained that if a mayor or marshall does not comply, he will be expelled from Warren Jeff's Fundamentalist Church of Jesus Christ of Latter Day Saints (FLDS), and will lose his wife, his job, and his family. He will be pressured to leave his home and the community, even though Mr. Wisan is supposed to manage the buildings and residences. Mr. Wisan stated that this pressure is the reason for such compliance on the part of the leaders of the community. He described the situations of three mayors who have recently been excommunicated by Warren Jeffs with no reason given. He stated again that there is no city employee who is not an FLDS adherent; police officers (marshalls) cannot function in any normal capacity.

Mr. Wisan went on to describe instances of police harassment including burning books and vandalizing libraries and school playgrounds; this would be breaking and entering, except that

the perpetrators were local marshalls. He addressed Chairman Ugenti's question about filing complaints with AZPOST, saying that he has not done that because if one police officer (marshall) is excommunicated, he is replaced by another FLDS member so there is no one to lodge a complaint with. He stated that he has not been paid by the trust for over three years, so has not delved deeply into this issue. He expressed thanks to the Attorney General's Office for taking on this issue to correct a great inequity.

Chairman Ugenti asked him if current officers have been violating the law; Mr. Wisan replied "yes, absolutely."

Helaman Barlow, representing self, testified in opposition to SB1433. He explained that he is currently a sergeant and has been with the marshall's office in Colorado City for seventeen years.

Chairman Ugenti asked Mr. Barlow if he follows the rule of law; he answered in the affirmative and explained that his primary reason for testifying is that he read the bill and became concerned that he could lose his job for something that another officer did years ago.

Mr. Urie asked Mr. Barlow to comment on the events that Mr. Wisan reported, which included the library break-in. Mr. Barlow stated that charges were filed; he was uncertain how long ago the break-in occurred, but thought it was perhaps six months ago. Mr. Urie said that he was curious about the responsiveness of law enforcement and asked if anyone was currently under investigation. Mr. Barlow reiterated that the case has been filed with the county prosecutor, but that he did not know the status.

Mr. Urie asked about the switching back and forth of residences; Mr. Barlow stated that a confrontation will be investigated.

Mr. Arredondo questioned the use of the term "marshall" and asked if Mr. Barlow was a United States Marshall. Mr. Barlow explained that the term is used in Arizona towns and that he is a town marshall.

Chairman Ugenti asked if Mr. Barlow's religious convictions or beliefs conflict with or influence his oath to uphold the law. Mr. Barlow stated that they do not and added that Warren Jeffs is incarcerated and has nothing to do with his job as a police officer.

Mr. Forese asked if there is a problem in Colorado City where religion interferes with the rule of law. Mr. Barlow replied "absolutely not" and explained that he and five of the current marshalls were investigated by AZPOST and the Attorney General's Office and no disciplinary action was taken.

Discussion ensued about the investigation and decertification. The Members also discussed how SB1433 might affect due process rights of the currently-employed officers.

Art Harding, Office of the Attorney General (AG), appeared in support of SB1433. He addressed the history of the investigation, explaining that depositions may have been taken by the Civil Rights Section of his office. He stated that, to his knowledge, there are no ongoing criminal investigations of the officers and that he is not certain what Mr. Barlow was referencing.

Chairman Ugenti clarified that this bill is asking a town to forfeit law enforcement to the county based on a threshold formula of how many officers in that town have had their certifications revoked, and to highlight and address a systemic problem. She asked, if the officers investigated by AZPOST have been cleared by the AG, what is the problem being addressed.

Mr. Harding referred to Attachment 4, in which the judge talks specifically about the lack of law enforcement protection and recommends further action, establishing that there are ongoing, systemic problems in the Colorado City police/marshalls' department. Discussion ensued on whether or not there is sufficient evidence to continue disciplinary action. Mr. Harding stated that this bill will shut down the town's right to perform police duties without addressing due process rights; there is nothing in law to address an agency that, one at a time, just replaces one officer with another FLDS member, choosing theocratic law over the oath of law enforcement.

Isaac Wyler, representing self, stated his support for SB1433. He explained that, in 2004, he was kicked out of Colorado City along with 20 other men. He said that last year over 100 families were decimated by Warren Jeffs, who runs the town from a prison cell in Texas. Anyone defying his orders could lose his family, home, or even be thrown out of the community. Mr. Wyler explained that women who want out of their marriage are afraid of the police department which will bring them back against their will. In response to Members' questions, he described other examples of police harassment and vandalism.

Sam Brower, representing self, appeared in support of SB1433. He stated that he is a private investigator asked by the AG's office to testify. He began investigating eight years ago in Colorado City and described the following for the Members:

- the "lost boys" phenomenon wherein hundreds, perhaps thousands of young men are systematically excommunicated so that older men can have access to young women
- that police are also priests in the FLDS church, creating a threatening scenario for the townspeople and an atmosphere in Colorado City which is threatening

Mike Williams, Arizona Police Association, explained his opposition to the legislation because the police will stand up for any officer who is implicated by the behavior of other officers.

Ms. Hobbs commented that the bill seems narrowly crafted to address this agency where 50 percent of the officers have been decertified, which seems to indicate a systemic problem.

David Darger, Town Manager, Town of Colorado City, appeared in opposition to SB1433, stating that he expects the police to treat everyone equally. He stated that the AG's Office has lied and has a conflict of interest in this issue because it will be in receivership of this property.

Chairman Ugenti asked Mr. Darger to clarify his statement that the AG's Office lied. Mr. Darger attempted to support his statement with specific details, but Chairman Ugenti stated that it appears that the AG made his assessments properly.

Jeff Matura, Attorney, Town of Colorado City, appeared in opposition to SB1433 and stated that he will attempt to detail some of the history. He stated that 2007 was the last time an officer was decertified and steps were taken then to address any problems, even hiring outside legal counsel to address the situation. Mr. Matura stated that the seven Colorado City officers are audited

annually and have dual certification in Colorado City and in Hilldale, a Utah city just across the state line; he stated that if this law passes, these seven will still be certified in Utah.

Discussion ensued about the eight-year look back to determine systemic issues.

Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board (AZPOST), appeared as neutral on SB1433. He explained that if this legislation passes, the town will no longer be able to have a police force, but that the officers can go to any other place to work. He also addressed the eight-year look back, clarifying that is the only way to see the systematic nature of Warren Jeffs' control over the town of Colorado City.

Mr. Mann added that AZPOST is the primary investigator and does have doubts that the Colorado City police agency is fulfilling the precept of what an agency should do in providing information about misconduct. He stated there is evidence that the Colorado City police agency has not taken steps to prevent actions against the trust and trust properties managed by Mr. Wisan.

Chairman Ugenti asked for details on current audits of the Colorado City agency; Mr. Mann replied that audits are done on an individual's training record as reflected by the AZPOST standards, which he described.

Doris Goodale, State Representative, District 3, informed the Members that Colorado City is in her district and is a communal-type of town based on the FLDS; she stated that one cannot extricate the town from the religion. In reply to Chairman Ugenti's question, Representative Goodale stated that she is neutral on SB1433.

Chairman Ugenti announced the names of those who signed up in support of SB1433 but did not speak:

Trey Williams, Legislative Liaison, Arizona Association of Counties

Kimberly MacEachern, Arizona Prosecuting Attorneys' Advisory Council (APAAC)

Chairman Ugenti announced the names of those who signed up in opposition to SB1433 but did not speak:

Brian Livingston, Arizona Police Association

Jim Ogsbury, League of Arizona Cities and Towns

Chairman Ugenti announced that SB1433 will be held.

SCM1010 - Indian nations; cabinet department – DO PASS

Patrick Devine, House Majority Research Intern, explained that SCM1010 requests that state-tribal policies and issues are elevated to a cabinet level status (Attachment 5).

Senator Jack Jackson, sponsor, explained the history and the purpose of SCM1010, which asks the Governor to work with the State Legislature to elevate the Commission on Indian Affairs to a cabinet level position. He informed the Members that the State of New Mexico is the first and only state to have done this already.

Mr. Gowan announced the names of those who signed up in support of SCM1010 but did not speak:

Norris Nordvold, Inter Tribal Council of Arizona
Ron Lee, representing self
Mike Bielecki, Navajo Nation

Mr. Gowan moved that SCM1010 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 6).

SB1348 - state poet laureate; establishment – DO PASS

Mr. Gowan moved that SB1348 do pass.

Patrick Devine, House Majority Research Intern, explained that SB1348 establishes the official State Poet Laureate for the State of Arizona (Attachment 7).

Sean Nevin, Assistant Director, Virginia G. Piper Center for Creative Writing, explained his support for SB1348 and informed the Members that Arizona is one of eight states with no Poet Laureate. He stated that this position would be appointed by the Governor with a mission to champion the art of American poetry.

Mr. Gowan announced the names of those who signed up in support of SB1348 but did not speak:

Robert Booker, Executive Director, Arizona Commission on the Arts
Catherine "Rusty" Foley, Arizona Citizens for the Arts
Heather Heroldt, Scottsdale Parent Council

Question was called on the motion that SB1348 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 8).

SB1283 - special district petitions; multiple ownership – HELD BY SPONSOR

Chairman Ugenti announced that SB1283 will be held at the request of the sponsor.

SB1379 - Arizona centennial freedom coin – DO PASS

Mr. Gowan moved that SB1379 do pass.

Stephanie Johnson, House Majority Assistant Research Analyst, explained that SB1379 allows the State Treasurer to design, produce and sell gold, silver, and copper coins denoted as the Arizona Centennial Freedom Coin (Attachment 9). She added that the bill stipulates that the Department of Weights and Measures will certify the weight and purity of each coin and that the State Treasurer will negotiate the manufacture and sale, which may include a prepayment requirement for purchase, and will deposit proceeds from the sale in the General Fund.

Ms. Hobbs asked if there is a fiscal note on SB1379; Ms. Johnson answered in the negative.

Mr. Meyer asked if there is a precedent, other than license plates, for the state to manufacture items; Ms. Johnson answered that she is not aware of any.

Mr. Urie asked if there are any minting capabilities in the state; Ms. Johnson stated that she is not certain. Mr. Gowan stated that there are such capabilities.

Mr. Meyer asked why the state would want to get into the business of minting coins if the federal government is manufacturing coins and currency; he inquired if this will be a revenue source. Mr. Gowan replied that there is nothing in the Constitution that prevents the state from striking coins.

Senator Don Shooter, sponsor, addressed questions from the Members. He explained that this bill is not compulsory, it just allows the state to do this if there is a demand. He added that he has had many inquiries about this in celebration of the state's centennial and addressed questions about the involvement of the Treasurer and the Department of Weights and Measures.

Michelle Hindman, Assistant Director of Majority Research, explained that there is a Centennial Medallion issued by the Arizona Historical Advisory Commission.

Ms. Hobbs asked if an appropriation will be necessary; Senator Shooter answered in the negative. There was discussion about the start-up costs and reimbursement by the sale of the coins.

Question was called on the motion that SB1379 do pass. The motion carried by a roll call vote of 5-3-0-1 (Attachment 10).

Without objection, the meeting adjourned at 5:45 p.m.

Jane Dooley, Committee Secretary
April 10, 2012

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