

ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature – Second Regular Session

COMMITTEE ON AGRICULTURE AND WATER

Minutes of Meeting
Thursday, March 15, 2012
House Hearing Room 5 -- 9:00 a.m.

Chairman Jones called the meeting to order at 9:24 a.m. and attendance was noted by the secretary.

Members Present

Mrs. Barton	Mrs. Judd	Mr. Urie
Mrs. Brophy McGee	Ms. Miranda C	Mr. Crandell, Vice-Chairman
Mr. Gallego	Mrs. Pancrazi	Mr. Jones, Chairman

Members Absent

None

Committee Action

SB1055 – DP (5-0-0-4)	SB1295 – DP (6-0-0-3)
SB1118 – DPA S/E (7-2-0-0)	SB1297 – DP (6-0-0-3)
SB1231 – DP (6-3-0-0)	SB1342 – DP (7-0-0-2)
SB1236 – DPA S/E (6-3-0-0)	SB1417 – DP (5-3-0-1)
SB1288 – DP (9-0-0-0)	

PRESENTATION

Legislative Update on the Office of Pest Management

Jack Peterson, Associate Director, Arizona Department of Agriculture and Acting Director, Office of Pest Management, provided the Members with an update to legislation passed in 2011 to begin an historic consolidation in state government. He stated that moving the Office of Pest Management (OPM) into the Arizona Department of Agriculture (ADA) has allowed Director Don Butler to manage and gain efficiencies that hopefully will lead the Legislature to decide upon a permanent combination of the two.

Mr. Peterson discussed licensing requirements organized around protecting the public and holding parties responsible for violations. He discussed the actions mandated by the legislation:

- move OPM into ADA (close Tucson office and combine)
- appoint OPM Task Force (ADA Director)
- continue the termite action report form (TARF)
- continue the responsible (qualifying) party in a company

- discontinue criminal background investigation
- eliminate the bureaucracy of inactive licenses
- business names now go to Registrar of Contractors and Secretary of State
- reduce number of classes of continuing education credits

Mr. Peterson discussed budget adjustments that have been made:

- 28 percent reduction in expenses
- number of full time employees reduced from 40 to 30
- \$2.7 million budget reduced to \$2 million
- OPM pays \$56,000 in rent and \$76,000 for overhead to ADA
- end-of-year cash balance of \$750,000

Mr. Peterson explained that operations dealing with licenses have been integrated and technology has been updated and now includes a customer-centered database. Overall, he stated, the integration of the OPM into ADA has gone very well.

Mr. Peterson stressed that the OPM regulates environmental contaminants in schools, office buildings, restaurants, etc.; it does not regulate private residences.

Chairman Jones stated that there had been concern about the merger and complimented Mr. Peterson on the successful transition.

Vice-Chairman Crandell expressed concerns about inequities in regulations and licensing and inquired about comparisons with other states. Mr. Peterson explained that the number of hours of training will be reduced and described what California does in this area.

Chairman Jones explained that a final report is required next year and that current statute will sunset in December of 2013 and will require renewal to retain OPM within ADA.

CONSIDERATION OF BILLS

SB1118 - ASRS; long-term disability amendments – DO PASS AMENDED S/E **S/E: forest, historical and preservation funds**

Vice-Chairman Crandell moved that SB1118 do pass.

Vice-Chairman Crandell moved that the Jones eight-page strike-everything amendment to SB1118 dated 3/13/12 (Attachment 1) be adopted.

Gina Kash, House Majority Research Analyst, explained that the strike-everything amendment to SB1118 establishes the Centennial Fund and the Forest Restoration and Treatment Fund (Attachment 2).

Mr. Gallego asked if these funds have ever been put in a ballot initiative to the voters; Ms. Kash answered in the negative.

Chairman Jones distributed information to the Members:

- a memorandum from Arizona Legislative Council (Attachment 3)
- two spreadsheets showing how much money has gone into the Land Conservation Fund over its history and how the funds have been allocated (Attachments 4 and 5)

Carolyn Campbell, Coalition for Sonoran Desert Protection, testified in opposition to the strike-everything amendment to SB1118. She explained that she represents an alliance of 41 conservation and community groups that works to integrate land use planning with habitat conservation planning in Pima County. She stated that the Land Conservation Fund is critical in these activities.

Linda Milhaven, Vice-Mayor, City of Scottsdale, read a letter from the Mayor of Scottsdale opposing the legislation based on the structure and questionable constitutionality of the bill (Attachment 6).

Barry Aarons, City of Scottsdale, testified against SB1118. He stressed the importance of restoring constitutional government and stated that the 1998 Proposition 105 applies and therefore a four-fifths vote to override Proposition 105 and advance this bill is required or it must be sent back to the voters.

Chairman Jones replied that the opinion of Legislative Council is that this bill will not remove funds. There have been two "once in a lifetime fires" in Arizona in the last decade and this legislation is in furtherance of protecting the watershed and habitats.

Mr. Aarons reiterated that this bill will move funds around and will require the Proposition 105 override.

Anne Bynon, representing self, stated her opposition to the legislation. She informed the Members that the McDowell Sonoran Preserve funding comes from the funds that this bill will sweep, funds that will be used to purchase a bridge of land to create a wildlife corridor to the Tonto National Forest.

Chairman Jones asked if the organization already has half of the funds for matching; Ms. Bynon answered in the affirmative.

Rebecca Eickley, representing self, explained that she is against the legislation and stressed that the tax dollars to be matched have been raised for a prior agreement; this bill takes that money away.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, appeared in opposition to SB1118, stating that it is unconstitutional because it violates the Voter Protection Act. In 1998 and 2010, voters demonstrated that they want these dollars used for protection of State Trust Land.

Chairman Jones discussed how this will take money that has yet to be appropriated. He added that, of over \$200 million to be appropriated in the General Fund, 90 percent goes to Maricopa County and Scottsdale; not much goes to rural Arizona. Mr. Gallego noted that, from an urban perspective, cities subsidize the rural areas. Discussion ensued.

Melinda Gulick, representing self, stated her opposition to SB1118 and indicated that the City of Scottsdale has secured half of the funding to make a bridge connection from the McDowell Sonoran Preserve to the Tonto National Forest. If a Growing Smarter matching grant were to be awarded, this will protect the land and make it ecologically sustainable by preserving the wildlife corridors. She added that diverting these funds will take almost \$80 million from education funding.

Chairman Jones clarified that the investment earnings from the \$80 million are what will be taken, equivalent to about \$350,000.

John Gulick, representing self, explained his opposition to SB1118 and his wishes to preserve land that might otherwise be developed. He stated that there is a lack of specificity about how the diverted funds would be used.

Scott Hunt, Arizona State Forester, appeared as neutral on SB1118 and stated that the task is forest restoration: to thin the forest to return to native conditions and to avoid catastrophic fires.

Chairman Jones asked him how the dollars in this bill, if awarded, will be used. Mr. Hunt replied that he did not sponsor this bill, but funding would be applied to the highest priority areas which have the potential for crown fires, as well as other strategic areas.

Mr. Hunt addressed Members' questions:

- one million acres burned last year, the most serious being the Wallow fire which burned over 500,000 acres and burned into western New Mexico
- restoring the forests will result in improved water quality
- these funds will be beneficial to the water supply of Arizona

Chairman Jones reiterated the history of this legislation. He stated that he does support conservation, but Propositions 105 and 108 make it difficult to deal with emergencies. The Legislature can appropriate only 31 percent of the state's revenue and must deal with the priorities that exist.

Vice-Chairman Crandell announced the names of those who signed up in support of SB1118 but did not speak:

George Reiners, Yuma Valley Rod and Gun Club

Vice-Chairman Crandell announced the names of those who signed up in opposition to SB1118 but did not speak:

Richard Travis, Flagstaff

Bettina Bickel, representing self

Simone Westbrook-Hall, The Nature Conservancy

Michael Racy, Pima County

Jessica Leiser, Legislative Analyst, Coconino County

Brad Lundahl, Government Relations, Scottsdale

Richard Hubbard, Valley Partnership

Umberto Broggi, representing self

David Ryan, representing self

David Hay, representing self
Mike Nolan, Executive Director, McDowell Sonoran Conservancy
Rita Ryan, representing self
Con Englehorn, representing self
James Heitel, Chairman, Scottsdale McDowell Sonoran Preserve Commission

Vice-Chairman Crandell announced the names of those who signed up as neutral on SB1118 but did not speak:

Janice Miano, Arizona Heritage Alliance
Karen Peters, City of Phoenix
Vanessa Hickman, Arizona State Land Department
Jay Ziemann, Assistant Director, Arizona State Parks Board

Question was called on the motion that the Jones eight-page strike-everything amendment to SB1118 dated 3/13/12 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Crandell moved that SB1118 as amended do pass. The motion carried by a roll call vote of 7-2-0-0 (Attachment 7).

SB1231 - appropriation; attorney general; habitat destruction – DO PASS

Vice-Chairman Crandell moved that SB1231 do pass.

Vice-Chairman Crandell moved that the Gallego seven-line amendment dated 3/13/12 (Attachment 8) be adopted.

Christopher Adams, House Majority Intern, explained that SB1231 appropriates \$250,000 from the state general fund in fiscal year 2012-2013 to the state Attorney General's Office for legal action against the United States Forest Service (Attachment 9).

Mr. Adams explained that the Gallego amendment would instead appropriate \$250,000 from the state general fund to the State Forester for forest restoration.

Senator Gail Griffin, sponsor, stated that SB1231 will hold the federal government accountable for the recent fire damage in Arizona. She added that she is not in favor of the Gallego amendment.

Mr. Gallego stated that his amendment will redirect funds to the State Forester for restoration. He stated that appropriating funds for litigation will be a waste of those funds.

Question was called on the motion that the Gallego seven-line amendment dated 3/13/12 (Attachment 8) be adopted. The motion failed by a roll call vote of 3-6-0-0 (Attachment 10).

Mr. Urie asked how funds allocated in this bill will be used.

Art Harding, Legislative Affairs Director, Attorney General's Office, stated that he is in support of SB1231. He addressed Mr. Urie's question, saying that there is not a strategy yet but that he will keep the Members informed.

Mrs. Pancrazi inquired how far the \$250,000 will go; Mr. Harding replied that it will allow the Attorney General's Office to get pretty far into the lawsuit, particularly if in-house resources are used.

Mr. Gallego asked if the Arizona State Government is the only entity with standing in this case; Mr. Harding replied that anyone can argue standing.

Vice-Chairman Crandell announced the names of those who signed up in support of SB1231 but did not speak:

Patrick Bray, Arizona Cattlemen's Association

Bas Aja, Arizona Cattlemen's Association

Vice-Chairman Crandell announced the names of those who signed up in opposition to SB1231 but did not speak:

Peter Bengtson, representing self

Alisa McMahan, representing self

Seth Apfel, representing self

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter

Question was called on the motion that SB1231 do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 11).

SB1236 - harvested water; recharge – DO PASS AMENDED S/E
S/E: surface water management; pilot project

Mr. Urie moved that SB1236 do pass.

Mr. Urie moved that the Jones three-page strike-everything amendment to SB1236 dated 3/13/12 (Attachment 12) be adopted.

Mr. Urie moved that the Jones nine-line amendment to the Jones three-page strike-everything amendment to SB1236 dated 3/14/12 (Attachment 13) be adopted.

Gina Kash, House Majority Research Analyst, explained that the strike-everything amendment to SB1236 relates to surface water management by creating an instream flow application process and creating a harvested water pilot project program (Attachment 14).

Ms. Kash explained that the Jones amendment makes clarifying changes to the instream flow application language and specifies that the water harvesting pilot project is subject to available funding.

Senator Gail Griffin, sponsor, stated that she has met with stakeholders and these are two areas in water management which will quantify the amount of water that can be recharged. She addressed

Members' questions about the pilot programs, which will operate in Yavapai and Cochise counties using funding from a Southern Arizona grant but that the Arizona Department of Water Resources (ADWR) will be involved.

Chairman Jones clarified that this bill is in reference to macro water harvesting and is a complementary bill to one sponsored by Representative Karen Fann.

Doug Dunham, Arizona Department of Water Resources, addressed the Members' questions about the definition of "macro water harvesting" which will be further determined, but basically is a system that uses large structures to capture and recharge water into the aquifers. He added that ADWR is directed to implement the provisions of the strike-everything amendment to SB1236, although there is no funding yet identified.

Discussion ensued regarding the specifics of the identified projects and if water is taken from one place and recharged into another. Chairman Jones added that other states are doing this, but it is a new approach and the science must be tested. Mrs. Pancrazi expressed her concern that this may give faulty data in measuring the watershed separate from water harvesting.

Question was called on the motion that the Jones nine-line amendment to the Jones three-page strike-everything amendment to SB1236 dated 3/14/12 (Attachment 13) be adopted. The motion carried.

Mr. Urie moved that the Jones three-page strike-everything amendment to SB1236 dated 3/13/12 (Attachment 12) as amended be adopted. The motion carried.

Mr. Urie moved that SB1236 as amended do pass.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, explained her opposition to the legislation, which contains almost nothing to protect the environment and the value of riparian areas.

Bas Aja, Arizona Cattlemen's Association, stated his support for the bill, which will protect wildlife and resources.

Jocelyn Gibbon, Environmental Defense Fund's Colorado River Program, explained that she is neutral on SB1236. She stressed the importance of protecting Arizona's rivers and streams and that this bill will provide instream flow tools. She discussed the effect of the legislation on water rights applications.

Chairman Jones stressed the importance of obtaining data on instream flow.

Vice-Chairman Crandell announced the names of those who signed up in support of SB1236 but did not speak:

Lyn White, Government Relations, Freeport-McMoRan Copper & Gold
Philip Bashaw, Arizona Farm Bureau

Vice-Chairman Crandell announced the names of those who signed up in opposition to SB1236 but did not speak:

Norris Nordvold, Inter Tribal Council of Arizona

Vice-Chairman Crandell announced the names of those who signed up as neutral on SB1236 but did not speak:

Chris Udall, Executive Director, Agri-Business Council of Arizona

Molly Greene, Salt River Project

Question was called on the motion that SB1231 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 15).

SB1288 - municipal water fees; repeal; appropriation – DO PASS

Vice-Chairman Crandell moved that SB1288 do pass.

Christopher Adams, House Majority Intern, explained that SB1288 repeals the ability of the Arizona Department of Water (ADWR) to levy fees on municipalities and appropriates \$6.3 million from the General Fund for ADWR in FY 2012-2013 (Attachment 16).

Senator Gail Griffin, sponsor, stated that this bill will fund ADWR and every one of the cities is on board in support.

Jim Ogsbury, League of Arizona Cities and Towns, explained his support for SB1288, which has united urban and rural cities and towns. There is no ADWR mechanism to assess fees relative to services rendered, so this bill is needed.

Vice-Chairman Crandell announced the names of those who signed up in support of SB1288 but did not speak:

Joseph Brehm, Management Intern, City of Prescott

Ron Doba, Northern Arizona Municipal Water Users Association

Norman Moore, Central Arizona Project

Kevin Burke, Assistant to the Town Manager, Town of Oro Valley

Peter Bengtson, representing self

Bridget Manock, Manager of Legislative Affairs, Central Arizona Project

Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale

Rob Adams, Mayor, City of Sedona

Ryan Peters, Intergovernmental Programs Coordinator, City of Glendale

Mark Hannah, Programs and Grants Manager, Town of Youngtown

Alisa McMahan, representing self

Don Isaacson, Central Arizona Project

Leah Hubbard, Intergovernmental Relations Coordinator, Town of Gilbert

Brad Lundahl, Government Relations, City of Scottsdale

Jeffrey Kros, Legislative Director, Arizona Municipal Water Users Association

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter

Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler

Jeff Gray, Legislative Liaison, City of Phoenix

Benjamin Bitter, Management Analyst, City Manager's Office, City of Casa Grande

Doug Cole, Tucson Water, City of Tucson

Question was called on the motion that SB1288 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 17).

SB1417 - mining operations; long-term storage credits - DO PASS

Vice-Chairman Crandell moved that SB1417 do pass.

Vice-Chairman Crandell moved that the Pancrazi five-line amendment dated 3/14/12 (Attachment 18) be adopted.

Gina Kash, House Majority Research Analyst, explained that SB1417 instructs the director of the Arizona Department of Water Resources (ADWR) to exclude the amount of groundwater that was withdrawn during the year for mining activities if the storer was engaged in mineral extraction and metallurgical processing within an initial Active Management Area (AMA) on or before January 1, 2011 (Attachment 19).

Ms. Kash explained that the Pancrazi five-line amendment (Attachment 18) specifies that the holder of the long-term storage credits may not sell any part to an entity not located in the state.

Mrs. Pancrazi stressed the importance of addressing out-of-state entities, but explained that there are concerns about this amendment; she requested that it be withdrawn.

Vice-Chairman Crandell withdrew his motion that the Pancrazi five-line amendment dated 3/14/12 (Attachment 18) be adopted.

Vice-Chairman Crandell moved that the Pancrazi two-page amendment dated 3/14/12 (Attachment 20) be adopted.

Ms. Kash explained that the Pancrazi two-page amendment (Attachment 20) creates an additional restriction to the uses of long-term storage credits so that they cannot be used outside of the Tucson AMA. Mrs. Pancrazi clarified that the amendment ensures that water from the Central Arizona Project (CAP) that is recharged comes up and is used in that same AMA and cannot be transported outside the AMA.

Senator Gail Griffin, sponsor, stated that this bill is area-specific. She stated that she is not familiar with the Pancrazi amendment, but that there may be legislation already in place that does the same thing.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, appeared in opposition to SB1417, stating that the mining operations are not subject to restrictions on transferring or selling credits as are other entities. Regarding moving water out of an AMA, she stated that this refers to groundwater only. She urged the Members to vet some of this legislation beyond one special interest stakeholder group, such as the mining industry.

Mr. Gallego asked if there is any wording preventing the trading of water credits. Ms. Bahr replied that there is nothing in this bill to restrict that.

Lyn White, Government Relations, Freeport-McMoRan Copper & Gold, explained her support for SB1417 and addressed the legislation's intent. She distributed information (Attachment 21) that shows where her company operates in Arizona, providing jobs. She stated that SB1417 will enable Freeport-McMoRan to continue to operate using the CAP allotment.

Mrs. Pancrazi asked what Freeport-McMoRan will do with the storage credits. Ms. White replied that the credits will be a management tool that will bank water for planners to use.

Mr. Gallego asked where the water is stored. Ms. White replied that there is no storage now, only the CAP allocation; this bill will allow storage.

In response to Mrs. Pancrazi's question, Ms. White stated that she anticipates storing from 12,000 to 15,000 acre feet of water.

Vice-Chairman Crandell announced the names of those who signed up in support of SB1417 but did not speak:

Rebecca Hudson, Arizona Chamber of Commerce and Industry

Bob Quick, President, Arizona Mining Association

Stuart Goodman, Southern Arizona Water Users Association

Vice-Chairman Crandell announced the names of those who signed up in opposition to SB1417 but did not speak:

Barbara Burkholder, representing self

Peter Bengtson, representing self

Alisa McMahan, representing self

Question was called on the motion that the Pancrazi two-page amendment dated 3/14/12 (Attachment 20) be adopted. The motion failed.

Question was called on the motion that SB1417 do pass. The motion carried by a roll call vote of 5-3-0-1 (Attachment 22).

Vice-Chairman Crandell assumed the Chair.

SB1055 - exempt wells; emergency use – DO PASS

Mr. Urie moved that SB1055 do pass.

Gina Kash, House Majority Research Analyst, explained that SB1055 allows an exempt well to be drilled inside of an Active Management Area (AMA) to be used only for livestock watering when water service is not available from the water provider due to an emergency that results in a temporary system disruption (Attachment 23).

Senator John McComish, sponsor, explained that this bill has been heard in a previous Session but did not receive a Committee hearing in the Senate. SB1055 will address a situation when livestock have died due to an interruption in water service.

Question was called on the motion that SB1055 do pass. The motion carried by a roll call vote of 5-0-0-4 (Attachment 24).

SB1297 - agricultural best management committee; continuation – DO PASS

Mr. Urie moved that SB1297 do pass.

Gina Kash, House Majority Research Analyst, explained that SB1297 continues the Agricultural Best Management Practices Advisory Committee for ten years (Attachment 25).

Mr. Urie announced the names of those who signed up in support of SB1297 but did not speak:
Chris Udall, Agri-Business Council of Arizona
Patrick Bray, Arizona Cattlemen's Association
Bas Aja, Arizona Cattlemen's Association
Philip Bashaw, Arizona Farm Bureau

Question was called on the motion that SB1297 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 26).

SB1295 - flood control districts; construction projects – DO PASS

Mr. Urie moved that SB1295 do pass.

Christopher Adams, House Majority Intern, explained that SB1295 allows regular county employees of counties with a population of 250,000 or fewer to undertake flood control district construction projects with an estimated cost of less than \$250,000 (Attachment 27).

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association, expressed his support for SB1295 and explained that this is an update to the threshold when rural flood control districts are allowed to do remediation using public personnel.

Vice-Chairman Crandell asked about the stipulation on county population. Mr. Madeksza replied that larger counties are more able to find outside contractors to bid on the work, but rural counties are not able to get competitive bids.

Vice-Chairman Crandell asked the level of procurement. Mr. Madeksza replied that current law stipulates that jobs under \$5,000 can be done by staff, but jobs over \$5,000 must be put out to bid.

Mr. Urie announced the names of those who signed up in opposition to SB1295 but did not speak:

Steve Trussell, Arizona Rock Products Association
Amanda McGennis, Associated General Contractors
Rebecca Timmer, representing self
Mark Minter, Arizona Builders' Alliance
David Jones, Arizona Contractors Association

Question was called on the motion that SB1295 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 28).

SB1342 - veterinarians; substance abuse treatment – DO PASS

Mr. Urie moved that SB1342 do pass.

Christopher Adams, House Majority Intern, explained that SB1342 establishes a treatment and rehabilitation plan for veterinarians and veterinary technicians who are impaired by alcohol or drug abuse (Attachment 29).

Jenna Jones, Arizona Veterinary Medical Examining Board, expressed her support for SB1342.

Mr. Urie announced the names of those who signed up in support of SB1342 but did not speak:
Meghaen Duger, representing self
Bas Aja, Arizona Cattlemen's Association
Susie Stevens, Arizona Veterinary Medical Association

Question was called on the motion that SB1342 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 30).

Chairman Jones announced that this is the last regular meeting of the House Agriculture and Water Committee and thanked the Members and staff for their hard work this Session.

Without objection, the meeting adjourned at 12:45 p.m.

Jane Dooley, Committee Secretary
April 24, 2012

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