

ARIZONA HOUSE OF REPRESENTATIVES  
Fifty-first Legislature – First Regular Session

**COMMITTEE ON WAYS AND MEANS**

Minutes of Meeting  
Monday, January 28, 2013  
House Hearing Room 1 -- 2:00 p.m.

Chairman Lesko called the meeting to order at 2:04 p.m. and attendance was called by the secretary.

**Members Present**

Mr. Cardenas  
Mr. Gallego  
Mr. Mesnard

Mr. Olson  
Mr. Petersen  
Mr. Wheeler

Mr. Kwasman, Vice-Chairman  
Mrs. Lesko, Chairman

**Members Absent**

None

**Committee Action**

HB2237 – DP (8-0-0-0)  
HB2324 – DP (8-0-0-0)  
HB2336 – DPA (8-0-0-0)

HB2344 – DP (8-0-0-0)  
HB2347 – DP (7-1-0-0)  
HB2439 – DP (8-0-0-0)

Chairman Lesko asked Chris Weston to introduce himself as the page for the Committee.

**CONSIDERATION OF BILLS**

**HB2324 - municipal tax code; leases – DO PASS**

**Vice-Chairman Kwasman moved that HB2324 do pass.**

Stephanie Jaffa, Majority Research Analyst, explained HB2324 prohibits a city, town, or special taxing district from levying a transaction privilege tax (TPT) or other similar tax on a commercial lease between two businesses of any kind with at least 80 percent common ownership (Attachment 1).

Representative Eddie Farnsworth, sponsor, explained HB2324 is an expansion of the language dealing with corporations. The language currently in statute states that if there is common ownership of 80 percent between a corporation and subsidiary, no TPT is charged. Several years ago the language was expanded to address sister corporations, but it did not have any inclusions of limited liability company (LLC) or partnerships, etc. This bill incorporates all business structures in the statute.

Farrell Quinlan, State Director of National Federation of Independent Business, spoke in support of the bill. Approximately 7,500 small businesses across Arizona are classified as LLCs in the tax code. The current language in statute deals with corporations and does not impact owners who may have multiple businesses.

Mr. Gallego asked for clarification. Representative Farnsworth further explained that this bill only applies to leases, not sales. An example he cited was of a doctor who buys a practice in a building which he holds in a separate company because of a limited liability benefit. Essentially, if renting from yourself, HB2324 would exempt you from paying the TPT tax.

Ryan Peters, League of Arizona Cities and Towns, neutral on the bill, stated he supports the concepts of the language and is working with the sponsor to prevent situations that would require a commercial lease tax.

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

Jeff Sandquist, National Association of Industrial and Office Properties (NAIOP)

Marcus Dell'Artino, Apollo Group

Jennifer Stielow, Arizona Tax Research Association

Heather Bernacki Wilkey, East Valley Chamber of Commerce Alliance

Craig McPike, representing self

Tim Lawless, Arizona Chapter, National Association of Industrial and Office Properties (NAIOP)

**Question was called on the motion that HB2324 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).**

### **HB2439 - income tax brackets; inflation index – DO PASS**

**Vice-Chairman Kwasman moved that HB2439 do pass.**

Casey Baird, House Majority Intern, explained HB2439 requires the Arizona Department of Revenue (DOR) to adjust the income dollar amounts for each income tax bracket in accordance with the average annual change in the Metropolitan Phoenix Consumer Price Index, beginning in taxable year (TY) 2014 (Attachment 3).

Mr. Olson, sponsor, explained that by eliminating the annual hidden tax increase each year, as the value of the dollar declines, HB2439 will leave the income tax brackets alone and would apply the same tax rate as the previous year.

Scot Mussi, Free Enterprise Club, testified in favor of the bill and noted identical language was sponsored and passed last year, but was halted in the Senate. HB2439 brings Arizona in line with the federal level and with other states.

Steven Slivinski, Goldwater Institute, spoke in favor of the bill citing that more than half of the states already have their income tax brackets indexed to inflation. An earlier tax reform bill intent was to balance out the revenue decline and pay for a tax cut, but was never instituted.

Chairman Lesko announced the names of those who signed up in support of HB2439 but did not speak:

Farrell Quinlan, National Federation of Independent Business

Vice-Chairman Kwasman announced the names of those signed up as neutral on HB2439 but did not speak:

Sean Laux, Department of Revenue

**Question was called on the motion that HB2439 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 4).**

### **HB2237 - schools; bonding level increase; repeal – DO PASS**

**Vice-Chairman Kwasman moved that HB2237 do pass.**

Ryan Sullivan, Assistant Research Analyst, explained HB2237 repeals Laws 2011, Chapter 344, Section 24 which did the following (Attachment 5):

- Increased the school district Class B bonding capacity limit if approved by the district voters prior to April 15, 2011 as follows:
  - 1) From 5% to 10% of the net asset value (NAV) for a common school district or union high school district.
  - 2) From 10% to 20% of the (NAV) for a unified school district.
- Required the total amount of indebtedness from Class A and Class B bonds issued by a school district to be under the current Constitutional limit.
- Prohibited a school district from issuing any new Class B bonds approved after April 15, 2011 until the district's total Class B bonded indebtedness would have fallen under the current statutory limits.

Chairman Lesko addressed Members' concerns and explained how the sponsor, Representative Stevens, expressed how the legislation is not working and school districts are not able to use it. She mentioned the Governor has doubling bonding capacity in her budget proposal.

**Question was called on the motion that HB2237 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 6).**

### **HB2336 - taxation; retail classification; cash equivalents – DO PASS AMENDED**

**Vice-Chairman Kwasman moved that HB2336 do pass.**

Ryan Sullivan, Assistant Research Analyst, explained HB2336 exempts the sale of cash equivalents from tax under the retail classification. The transaction privilege tax (TPT) is Arizona's version of a sales tax. Under Arizona's TPT, the seller is responsible for remitting to the state the entire amount of tax due based on the gross proceeds or gross income of the business. Pursuant to Arizona Revised Statutes § 42-5061, the retail classification under TPT comprises the business of selling tangible personal property at retail. The tax base for the retail classification is the gross proceeds of sales or gross income derived from the business. Statute exempts certain activities from the tax (Attachment 7).

Representative Tom Forese, sponsor, cited that Arizona has made a mistake by taxing items twice: when they are purchased and when they are redeemed.

**Vice-Chairman Kwasman moved that the Lesko two-page amendment to HB2336 dated 1/25/13 (Attachment 8) be adopted.**

Mr. Sullivan explained it is the intent of the Legislature to clarify that sale of cash equivalents are not subject to the transaction privilege tax (TPT) under the retail classification. This act does not establish a new exemption or deduction from the retail classification, but reaffirms that sales of cash equivalents are not subject to tax and should not have been subject to tax under section 42-5061, Arizona Revised Statutes, under any circumstances (Attachment 8).

Michelle Ahlmer, Executive Director, Arizona Retailers Association, spoke in favor of HB2336 with the amendment. It was never the intent to have both sides of a transaction taxed specifically the purchase and redemption of a gift card. She addressed Members' concerns and explained the support of the amendment which adds language omitted from the original bill.

Vice-Chairman Kwasman announced the names of those in support of HB2336 but did not speak:

Suzan Rowland, Lead Counsel, Blackhawk Network, Inc.

Craig McPike, Blackhawk Network, Inc.

Robert Schwimmer, Blackhawk Network, Inc.

Richard Travis, International Council of Shopping Centers

John Mangum, Arizona Food Marketing Alliance; Walgreens

Scot Mussi, Free Enterprise Club

Barb Dawson, Blackhawk Network, Inc.

Heather Bernacki Wilkey, Director, Government Affairs, East Valley Chambers of Commerce Alliance

Chairman Lesko announced the names of those who signed up as neutral on HB2336 but did not speak:

Sean Laux, Department of Revenue

**Question was called on the motion that the Lesko two-page amendment to HB2336 dated 1/25/13 (Attachment 8) be adopted. The motion carried.**

**Vice-Chairman Kwasman moved that HB2336 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 9).**

### **HB2347 - tax levy; bond costs – DO PASS**

**Vice-Chairman Kwasman moved that HB2347 do pass.**

Stephanie Jaffa, Majority Research Analyst, explained HB2347 specifically prohibits property tax levies in excess of the amount necessary, including a reasonable tax delinquency factor, determined by the County Treasurer to make the annual payment for bond principal and interest due (Attachment 10).

Chairman Lesko, sponsor, explained how the bill came about, reserve funds and tax levies.

Jennifer Stielow, Vice President, Arizona Tax Research Association, spoke in support of HB2347 and explained this bill would limit the levy annual debt service to an amount that is required for principal and interest plus amount required for delinquency.

John Moody, Attorney, Stifel Nicolaus & Company, spoke in opposition to HB2347. A Floor amendment is forthcoming to address the concerns in the bill.

Chairman Lesko announced the names of those who signed up in support of HB2347 but did not speak:

Gretchen Kitchel, Senior Public Affairs Representative, Salt River Project (SRP)  
Rebecca Hudson, Analyst, Corporate Public Affairs, Southwest Gas Corporation  
Lyn White, Manager, Government Relations, Freeport-McMorRan Copper & Gold

Chairman Lesko announced the names of those who signed up as neutral on HB2347 but did not speak:

Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale  
Ryan Peters, Intergovernmental Programs Administrator, League of Arizona Cities and Towns

Chairman Lesko announced the names of those who signed up in opposition to HB2347 but did not speak:

Charles Essigs, Director of Government Relations, Arizona Association of School Business Officials  
Janice Palmer, Governmental Relations Analyst, representing self  
Sara Sparman, Government Relations Specialist, Town of Queen Creek  
Sabrina Vazquez, Legislative Liaison, representing self  
Fred Rosenfeld, attorney, representing self

**Question was called on the motion that HB2347 do pass. The motion was carried by a roll call vote of 7-1-0-0 (Attachment 11).**

### **HB2344 - property tax penalty waiver – DO PASS**

**Vice-Chairman Kwasman moved that HB2344 do pass.**

Casey Baird, House Majority Intern, explained that HB2344 temporarily allows a county assessor to waive the penalty against an owner of a property classified as class 3 for failure to respond to a notice requesting information about the property's use. Provisions include a retroactive date of July 1, 2012 and a repeal date of July 1, 2014 (Attachment 12).

Chairman Lesko, sponsor, explained that recent legislation, specifically the jobs bill, and reclassified some class 3 properties to class 4 properties. Some property owners were out of town during the appeals process and this bill temporarily allows time flexibility before imposing a tax lien on the property.

Keith Russell, Maricopa County Assessor, spoke in support of the bill. Due to the legislative change, the reclassification of property, some property owners may have not been classified correctly. The Assessor's office sent out 125,000 letters to property owners but, under the current law, if the property owner does not respond within a certain time, they face a penalty. This bill would work with property owners to help manage this transition period.

Dianne McCallister, Maricopa County, reiterated support of HB2344.

Vice-Chairman Kwasman announced the names of those who signed up in support of HB2344 but did not speak:

Jen Sweeney, Deputy Director, Arizona Association of Counties

Paul Petersen, Attorney/Assessor Representative, Maricopa County Assessor

**Question was called on the motion that HB2344 do pass. The motion was carried by a roll call vote of 8-0-0-0 (Attachment 13).**

Without objection, the meeting adjourned at 2:57 p.m.

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Tracey Gardner, Committee Secretary  
February 13, 2013

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