

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

COMMITTEE ON COMMERCE

Minutes of Meeting
Wednesday, January 30, 2013
House Hearing Room 5 -- 11:00 a.m.

Chairman Forese called the meeting to order at 11:09 a.m. and attendance was noted by the secretary.

Members Present

Mr. Kwasman
Ms. Mach
Ms. McCune Davis

Mr. Mesnard
Ms. Miranda
Mr. Montenegro

Mr. Petersen
Mr. Shope, Vice-Chairman
Mr. Forese, Chairman

Members Absent

None

Committee Action

HB2109 – DP (8-1-0-0)
HB2147 – DPA S/E (6-3-0-0)
HB2276 – DP (6-2-0-1)

HB2280 – HELD
HB2342 – HELD

CONSIDERATION OF BILLS

HB2276 - benefit corporations – DO PASS

Vice-Chairman Shope moved that HB2276 do pass.

Stephanie Johnson, Assistant Majority Research Analyst, explained that HB2276 provides regulations for benefit corporations (Attachment 1).

Stuart Goodman, Seed Spot, stated that he is in support of HB2276 and introduced Mr. William Clark as an expert in this area who has introduced similar legislation in 13 states.

William Clark, representing self, testified in support of HB2276. He explained that "benefit corporations" is a new class of corporation which will do more than just maximize shareholder dividend profits. Benefit corporations:

- have as their purpose to create a material positive impact on the environment and society, as well as their profit-making purpose
- change the duties of directors to include the interests of all the constituencies that are touched by the corporation

- require transparency in reporting requirements so that shareholders know how the business is being operated

Mr. Clark explained that United States law has had a long-established principle that the purpose of a business corporation is to be operated to maximize its profitability for the benefit of its shareholders. In the early 1900s, Henry Ford was ordered by a Michigan Supreme Court ruling to pay dividends to shareholders rather than return profits to workers and the local community. This principle became so well accepted that there were no other court cases for over 100 years until 3 years ago in a lawsuit between eBay and Craigslist. The Delaware Chancery Court re-articulated the principle that the purpose of a business corporation is to be operated to maximize its profitability just for the shareholders.

Mr. Clark explained that benefit corporations will harness the power of the private sector; no tax breaks are being asked for, and the program will take nothing from the state. This legislation will merely free these businesses to behave in a way that will create positive impacts.

Ms. McCune Davis asked for a definition and an example of a public benefit. Mr. Clark replied that there are general public benefits to which all the benefit corporations adhere, and there are specific public benefits which could be as narrow as a specific project. He gave the example of a bakery committed to hiring ex-felons. In response to an inquiry about the subjectivity of defining a public benefit, Mr. Clark stated that the legislation is intended to be broad and not constraining; he added that for-profit universities are an example of a general public benefit.

Courtney Klein Johnson, Seed Spot, stated her support for HB2276. She described the mentorship, office space, and other support provided to 56 current entrepreneurial companies. The intent is to make certain that these companies stay in Arizona.

Vice-Chairman Shope announced the names of those who signed up in support of HB2276 but did not speak:

Ruben Gonzales, 11th Monk3y LLC
 Isela Garcia, Alesi Group, LLC
 Morgan Coffinger, Bokashi Evolution LLC
 Brett Heising, Brett Approved
 Corey Abramowitz, Gardenfly
 Rochelle Abramowitz, representing self
 Natalie Morris, Good Food Allies
 Jennifer Woods, Good Food Allies
 John R. Drury, Ideality, Inc.
 Ron Simmons, Ideality, Inc.
 Ana Parker, La Petite Sauvage
 Samantha Mies, MistoBox
 Trisha Gonzalez, Motivation to Graduation
 Jennifer Vollmann, New Global Citizens
 Julie Hyzdu, PoppyPocket LLC
 Jacob Pfeiffer, RED Leadership
 Kristi Murphy, SaucyPants LLC
 Leah Staten, SendAPoet LLC
 Hart Shafer, TheraSpecs

Tamara Heims, Tri Lotus Healing and Education Center
Anu Bhardwaj, representing self
Alex Sprayberry, SwagUp
Chris Nieto, Nieto Development
Adam Goodman, Goodman Interior Structures
Michael Rudinsky, Sky Financial Advisors
Carolyn Sechler, Sechler CPA PC
Kylie Rudinsky, representing self
Valeria Roy, Chronicles of Food
Patrick Armstrong, Canal Partners
Elizabeth Petroff, The List
Drew Curry, The Ollin
Caleb Barclay, The Peace Frame
Pam Chambers, My Bookalicious
Christine Ferreira, Mindbuckets
Derrick Loud, Boogud
Robert Thornton, Paper Clouds Apparel
Malissa Stawicki, SPOONLIVE
Cassie Peters, UFO Toothpicks, Inc.
Ann Cabano, One True Love
Rainey Gronwall, Goodman Interior Structures
Tina Leadbetter, Stone Hoe Gardens
Chris Petroff, Seed Spot

Vice-Chairman Shope announced the names of those who signed up in opposition to HB2276 but did not speak:

Laura Lo Bianco, representing self

Question was called on the motion that HB2276 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 2).

HB2280 - employee benefits; state preemption - HELD

Chairman Forese announced that HB2280 will be held.

HB2342 - increased research; tax credit refund - HELD

Chairman Forese announced that HB2342 will be held.

HB2109 - biennial contractor license; annual renewal – DO PASS

Vice-Chairman Shope moved that HB2109 do pass.

Dillon Diffie, Majority Intern, explained that HB2109 permits contractors to annually renew their licenses if granted an exception by the Registrar of Contractors (Attachment 3).

Tyler Palmer, Legislative Liaison, Registrar of Contractors, appeared as neutral on HB2109, stating that one concern is that if every contractor decided to renew annually that would certainly

increase the administrative expense of the Registrar of Contractors office. He requested an amendment to place restrictions on which contractors can get a one-year renewal and identify what constitutes a "real and immediate need" as stated in the bill.

Chairman Forese inquired about the fees to renew; Mr. Palmer replied that they can vary from \$240 to \$860 every two years.

Ms. McCune Davis asked why a contractor might request the one-year renewal; Mr. Palmer mentioned financial hardship, or retirement one year away.

Ms. McCune Davis asked why a change in law is needed to accommodate that; Mr. Palmer stated that current statute allows a contractor to use a one-year renewal only two times.

Mr. Petersen asked the difference between a one-year and a two-year renewal; Mr. Palmer replied that a one-year renewal costs one-half of a two-year renewal, so there is no financial advantage to the two-year renewal.

Representative Jeff Dial, sponsor, explained that this bill is in response to a constituent request.

Chairman Forese encouraged Representative Dial to work with the Registrar further.

Question was called on the motion that HB2109 do pass. The motion carried by a roll call vote of 8-1-0-0 (Attachment 4).

HB2147 - unemployment benefits; proof; eligibility – DO PASS AMENDED S/E
S/E: same subject

Vice-Chairman Shope moved that HB2147 do pass.

Diana Clay, Deputy Director, Majority Research, explained that the Forese three-page strike-everything amendment to HB2147 dated 1/25/2013 (Attachment 5) outlines requirements for the claimants and the employers during the process of filing a claim for unemployment insurance (UI) benefits (Attachment 6).

Ms. Clay explained that the strike-everything amendment to HB2147:

- Stipulates that an individual must provide all documentation and information on which a UI claim is based at the time of filing the claim.
- Requires an individual to provide sufficient documentation and information so the Department of Economic Security (DES) can determine the individual's eligibility status.
- Requires the employer, upon request, to provide relevant documentation to DES so a determination can be made regarding the individual's eligibility for benefits.
- Shifts to the individual, the burden of providing documentation to determine the individual's eligibility for benefits if the employer provides documentation that an individual voluntarily resigned or abandoned employment.
- Outlines the supporting documentation that may be presented to DES by the employer to show an individual voluntarily resigned or abandoned employment as follows:

- *Voluntary Resignation* – may include the employer’s verbal or written statement that the individual verbally resigned, and that work was available.
- *Job Abandonment* – may include the employer’s verbal or written statement that the individual failed to report to work and that work was available.
- Prohibits an individual who was not entitled to benefits to receive any additional benefits until all overpayments, penalties and interest are fully paid back to DES.

Mr. Petersen, sponsor, stated that this legislation is in response to a constituent's request and will prevent a problem that has been occurring at DES when people who are employed for one day and quit are then able to obtain UI benefits from DES; he stated that this is fraud.

Ms. McCune Davis asked for the statistics on the fraud; Mr. Petersen replied that DES is present and can provide those.

Ms. McCune Davis stated that her impression was that a person must work for longer than one day in order to be eligible for UI and asked for clarification about that; Mr. Petersen replied that will be addressed.

Eric Emmert, East Valley Chambers of Commerce Alliance, explained his support for HB2147. He stated that this issue arose in Gilbert where people are given benefits and the employer must initiate action to halt those "voluntary quit claims". He stated that this is largely a documentation bill and DES must evaluate it.

Ric Serrano, representing self, appeared to support HB2147, relating stories about his restaurant employees. He stated that responding to unfounded UI claims takes time and money from his primary task of running the restaurant. He stated that this bill will shift the burden of proof from employer to the individual, particularly in a "voluntary quit" situation.

Jeff Flancer, representing self, stated his support for HB2147, explaining that the restaurant industry has rapid turnover in employees and that many are taking advantage of the system.

Sherry Gillespie, Government Relations Manager, Arizona Restaurant Association, appeared in support of HB2147.

Ms. McCune Davis asked what documentation is provided to terminated employees. Mr. Serrano indicated that the employer may have documentation, such as daily logs of employee activities, but more often communication is only verbal.

Discussion ensued regarding the impact of shifting the burden to employees who may not have access to documentation to support their claims to DES.

Vice-Chairman Petersen noted that DES signed in as neutral on HB2147 but is not present in the hearing room today. Ms. McCune Davis indicated that agencies always sign in as neutral, at the direction of the Executive, but she believes there are significant issues with this legislation and DES is not here today to address them.

Vice-Chairman Shope announced the names of those who signed up in support of HB2147 but did not speak:

Farrell Quinlan, National Federation of Independent Business
Deanna Kupcik, Buckeye Valley Chamber of Commerce
Mary Ann Miller, Tempe Chamber of Commerce
Heather Bernacki Wilkey, East Valley Chambers of Commerce Alliance
Chad Heinrich, Greater Phoenix Chamber of Commerce
Gretchen Conger, Arizona Chamber of Commerce and Industry
Manny Tarango, Salt River Project
Robert Medler, Tucson Metro Chamber
Amanda Rusing, East Valley Chamber of Commerce Alliance
Amanda Baillie, representing self
Gary Anderson, representing self
Kevin Bishop, representing self
Susan Brechbill, representing self
Phil Bobadilla, representing self
Todd Brundrett, representing self
Diana Elarde, representing self
Tim Bricker, representing self
RW Hibbert, representing self
Tony Hyland, representing self
Tim Couch, representing self
Doug Jones, representing self
Kevin DeRosa, representing self
Gene Knippers, representing self
Tim Hovik, representing self
Sheila Hunter, representing self
Roy Jackson, representing self
Sherreis Moreland, representing self
Rick Kettner, representing self
Jim Lykins, representing self
Michelle Ahlmer, Arizona Retailers Association

Vice-Chairman Shope announced the names of those who signed up in opposition to HB2147 but did not speak:

Rebekah Friend, Arizona AFL-CIO
Ellen Katz, William E. Morris Institute for Justice
Cynthia Zwick, Arizona Community Action Association

Vice-Chairman Shope announced the names of those who signed up as neutral on HB2147 but did not speak:

Kathy Seeglitz Ber, Director of Legislative Services, Arizona Department of Economic Security

Vice-Chairman Shope moved that the Forese three-page strike-everything amendment to HB2147 dated 1/25/2013 (Attachment 5) be adopted. The motion carried.

Vice-Chairman Shope moved that HB2147 as amended do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 7).

Without objection, the meeting adjourned at 12:11 p.m.

Jane Dooley, Committee Secretary
February 4, 2013

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