

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

COMMITTEE ON GOVERNMENT

Minutes of Meeting
Tuesday, February 5, 2013
House Hearing Room 4 -- 2:00 p.m.

Chairman Ugenti called the meeting to order at 2:33 p.m. and attendance was noted by the secretary.

Members Present

Mr. Borrelli
Mr. Coleman
Ms. Dalessandro

Ms. Hernandez
Mr. Kavanagh
Mr. Quezada

Mr. Petersen, Vice-Chairman
Mrs. Ugenti, Chairman

Members Absent

Mr. Forese (excused)

Committee Action

HB2031 – DP (8-0-0-1)
HB2113 – DPA S/E (7-1-0-1)
HB2138 – DP (8-0-0-1)
HB2143 – DPA (8-0-0-1)
HB2196 – DP (8-0-0-1)

HB2212 – DP (8-0-0-1)
HB2231 – DPA S/E (8-0-0-1)
HB2283 – DP (5-3-0-1)
HB2443 – DPA (7-1-0-1)

CONSIDERATION OF BILLS

HB2231 - state fees; payment; alternative methods – DO PASS AMENDED S/E
S/E: same subject

Michelle Hindman, Deputy Director, Majority Research, explained that the proposed strike-everything amendment to HB2231 requires most state agencies to accept credit or debit cards for payments between \$5 and \$250 and to accept online payments for an amount between \$5 and \$250 by January 1, 2015 (Attachment 1).

Representative David Stevens, sponsor, stated that it is time for state agencies to accept credit and debit cards, and eventually accept payments online. HB2231 will facilitate this goal.

Tyler Palmer, Legislative Liaison, Registrar of Contractors, appeared as neutral on HB2231, supporting the idea but registering concerns about the \$250 limit which will limit online license applications and renewals.

Representative Stevens stated that there is language yet to be developed which will allow agencies to set their own limits.

Mr. Coleman asked what the fiscal impact will be to implement this bill. Representative Stevens replied that he is awaiting a fiscal note.

Mr. Borrelli asked if this will trigger a Prop 108 statute. Representative Stevens replied in the negative.

Daniel Romm, Legislative Liaison, Arizona Department of Housing, stated his neutrality on the legislation. He expressed concerns about the \$250 limit and about the fiscal cost to implement the credit card portion of the bill which will require a separate online portal to be set up and maintained.

Representative Stevens stated that agencies that have this payment option already in place will not be affected; he reiterated that the implementation date is far into the future and he does not wish to burden the agencies with software development costs.

Bill Boyd, Legislative Policy Administrator, Arizona State Land Department, appeared as neutral on the bill but stated concerns about the cost to implement which could be as high as \$100,000 per year.

Stuart Goodman, Physical Therapy Board and Psychology Board, stated his neutrality on the bill. He stated that small 90/10 agencies may not have the capability to implement this bill. He stressed that the concept is good but the cost will be challenging for small agencies. In response to Chairman Ugenti's question, he stated that he will conduct further research but does believe that this can cause a delay for smaller boards; the cost to implement will be approximately \$25,000.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2231 but did not speak:

Heather Bernacki Wilkey, Government Affairs, East Valley Chambers of Commerce Alliance
Gretchen Conger, Government Relations, Arizona Chamber of Commerce and Industry
Helen Heiden, Arizona Manufacturers Council
Tom Dorn, East Valley Chambers of Commerce Alliance

Vice-Chairman Petersen announced the names of those who signed up as neutral on HB2231 but did not speak:

Kevin Donnellan, Office of the Arizona State Treasurer

Vice-Chairman Petersen moved that HB2231 do pass.

Vice-Chairman Petersen moved that the Ugenti twenty-three page strike-everything amendment dated 02/01/2013 (Attachment 2) be adopted. The motion carried.

Vice-Chairman Petersen moved that HB2231 as amended do pass.

Chairman Ugenti asked Representative Stevens to provide the cost for the small agencies to implement this legislation. He replied that he would do that and that the extended time frame is intended to allow problems to be addressed and resolved.

Question was called on the motion that HB2231 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 3).

HB2031 - federal patent easements; counties; abandonment – DO PASS

Michelle Hindman, Deputy Director, Majority Research, explained that HB2031 allows a county to abandon federal patent easements at the request of a property owner, in the same manner as all other easements are abandoned, after notifying and obtaining the consent of all affected utilities and determining that the easement is no longer necessary or being used by the public (Attachment 4).

Representative Jeff Dial, sponsor, explained that HB2031 authorizes private owners to request abandonment of federal patent easements which were put in place at the time of statehood.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2031 but did not speak:

Lee Miller, Lobbyist, Maricopa County

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association

Jen Sweeney, Deputy Director, Arizona Association of Counties

Vice-Chairman Petersen moved that HB2031 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 5).

HB2113 - municipal annexation; size; exception – DO PASS AMENDED S/E
S/E: same subject

Michelle Hindman, Deputy Director, Majority Research, explained that the proposed strike-everything amendment to HB2113 enacts session law which modifies part of the definition of contiguous for the purposes of municipal annexation and provides a repeal date (Attachment 6).

Mr. Quezada asked why this is being proposed as session law. Ms. Hindman replied that there are concerns about unintended consequences if this is incorporated into permanent statute; this will allow a municipality to deal with its situation and the legislation could be made permanent next Session if desired.

Noel Griemsmann, Vice President of Legislative Affairs, Arizona Planning Association, spoke in favor of the strike-everything amendment to HB2113, which will provide additional flexibility in the annexation statutes.

Paul Jepson, Assistant to the City Manager, City of Maricopa, stated his support and indicated that he had requested this bill of Representative Frank Pratt. He explained that the City of Maricopa has experienced a lot of growth and has landowners who wish to bring property into the city but are not able to do so because of the shape of the property which, for instance, has a portion narrower than 200 feet. The "200 foot rule" is to eliminate strip annexation, but this bill

will address those properties that are wide enough overall but have "pinch points" which are too narrow.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2113 but did not speak:

Ryan Peters, League of Arizona Cities and Towns
Anthony Smith, Pinal County Supervisor, District 4
Jacqueline Walker, City of Kingman
Nicholas Gioello, representing self

Vice-Chairman Petersen moved that HB2113 do pass.

Vice-Chairman Petersen moved that the Ugenti sixteen-line strike-everything amendment to HB2113 dated 02/01/2013 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Petersen moved that HB2113 as amended do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 8).

HB2138 - municipalities; right-of-way; transfer – DO PASS

Tom Savage, Majority Intern, explained that HB2138 allows a county roadway or right-of-way to be transferred by mutual consent of the county and city governing bodies (Attachment 9).

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association, stated his support for HB2138 and indicated that he had requested the legislation in order to expedite the transfer of a highway in Pinal County from the county to the city.

Noel Griemsmann, Arizona Planning Association, appeared in support of HB2138 but expressed concern over the use of the term "transferred" which, in this context, functions the same as "annexation".

Vice-Chairman Petersen announced the names of those who signed up in support of HB2138 but did not speak:

Benjamin Bitter, Management Analyst, City of Casa Grande
Mark Barnes, Pinal County Board of Supervisors
Richard Bohan, Maricopa County Board of Supervisors
Jen Sweeney, Deputy Director, Arizona Association of Counties
Ryan Peters, Intergovernmental Programs Administrator, League of Arizona Cities and Towns
Anthony Smith, Pinal County Supervisor, District 4
Jacqueline Walker, City of Kingman
Nicholas Gioello, representing self

Paul Jepson, City of Maricopa, explained his support for HB2138, stating that annexation is very important. He added that in the cases where half of a road belongs to one municipality and the other half belongs to another, using the term "transfer" clarifies the situation.

Mr. Madeksza indicated that he will address those concerns.

Vice-Chairman Petersen moved that HB2138 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 10).

HB2143 - joint tenancy severance – DO PASS AMENDED

Virginia Carico, Assistant Majority Research Analyst, explained that HB2143 outlines the process for severing the right of survivorship in the case of real property owned as joint tenants with right of survivorship (Attachment 11). HB2143 stipulates that the right of survivorship is extinguished as provided in statute in the case of real property owned as joint tenants with right of survivorship. It states that the right of survivorship may also be extinguished with the following information:

- Recordation in the county recorder's office in the county or counties where the real property is located of an affidavit entitled *Affidavit Terminating Right of Survivorship* executed by any joint tenant under oath that sets forth a stated intent to terminate the survivorship right;
- A description of the instrument by which the right of survivorship was created including the date the instrument was recorded in the county recorder's book, page or instrument reference number and the legal description of the real property affected by the affidavit.

Ms. Carico added that HB2143 allows, with respect to a deceased joint tenant, the termination or extinguishment by death of that tenant's joint tenancy with right of survivorship to be evidenced by recording an affidavit by one or more of the surviving joint tenants, reciting the name and date of death of the deceased joint tenant and identifying the recorded instrument that created the tenancy.

Ms. Carico explained that the Ugenti thirteen-line amendment dated 2/4/13 (Attachment 12) adds, with respect to a deceased joint tenant, to the requirements for the termination or extinguishment by death of a tenant's joint tenancy with right of survivorship to be evidenced by the recordation in the office of the recorder of the county or counties where the real property is located with all of the following information:

- An affidavit executed by one or more of the surviving joint tenants that includes the name and the date of death of the deceased joint tenant, a description of the instrument by which the right of survivorship was created, including the date the instrument was recorded in the county recorder's book, page or instrument reference number, the legal description of the real property affected by the affidavit, and the cause of death of the deceased joint tenant.
- An attached death certificate of the deceased joint tenant.

Representative Kate Brophy McGee, sponsor, stated that HB2143 codifies and clarifies existing practice.

Larry Phelps, Land Title Association of Arizona, stated his support for HB2143, explaining that it will bring real estate practice into alignment between community property with the right of survivorship and joint tenancy with the right of survivorship by providing that either of those tenancies may be terminated simply by recording an affidavit.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2143 but did not speak:

Trey Williams, Legislative Liaison, Arizona Association of Counties

Jen Sweeney, Deputy Director, Arizona Association of Counties

Vice-Chairman Petersen moved that HB2143 do pass.

Vice-Chairman Petersen moved that the Ugenti thirteen-line amendment dated 2/4/13 (Attachment 12) be adopted. The motion carried.

Vice-Chairman Petersen moved that HB2143 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 13).

HB2196 - promotion certificates; 8th grade – DO PASS

Virginia Carico, Assistant Majority Research Analyst, explained that HB2196 removes language allowing school boards to request certificates of promotion from the county school superintendent, but permits schools to hold ceremonies honoring students promoting from the eighth grade (Attachment 14).

Representative Catherine Miranda, sponsor, explained that HB2196 will de-emphasize the eighth grade certificate, which is an archaic law dating back about 100 years when citizens lived in rural farming communities and the eighth grade certificate was necessary in order to go on to high school. She added that the legislation will not take away the promotion ceremonies, just the certificate signed by the school superintendent.

Dr. Tom Nerini, representing self, explained his support for HB2196 which will take away the concept of the eighth grade as a stopping point and keep the student body moving on to high school.

Anneliese Coleman, representing self, stated her support for HB2196.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2196 but did not speak:

Janice Palmer, Arizona School Boards Association

Vice-Chairman Petersen moved that HB2196 do pass.

Mr. Kavanagh clarified that this bill merely removes language about county certificates.

Question was called on the motion that HB2196 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 15).

HB2212 - legal holidays; counties; courts – DO PASS

Tom Savage, Majority Intern, explained that HB2212 clarifies that the Friday after Thanksgiving may be designated as a legal county holiday in lieu of Columbus Day (Attachment 16).

Representative Kate Brophy McGee, sponsor, stated that this is a technical solution which will allow the counties to take the day after Thanksgiving off if they choose to do so.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2212 but did not speak:

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association

Beth Lewallen, Maricopa County Board of Supervisors

Jen Sweeney, Deputy Director, Arizona Association of Counties

Vice-Chairman Petersen moved that HB2212 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 17).

HB2283 - government publications; other than English – DO PASS

Virginia Carico, Assistant Majority Research Analyst, explained that HB2283 requires any publication or document, other than voting material, issued to the public by a state agency to be in English and requires the non-English version to only be issued online and maintained in print at the state agency office (Attachment 18).

Representative Steve Smith, sponsor, stated that HB2283 is tied to Prop 103 which declared English to be the official language of Arizona and required certain actions. HB2283 is an effort to control taxpayer dollars; if the voter pamphlet were printed, bound, and shipped in English only, approximately \$1 million would be saved by the state. Alternate languages will continue to be available by internet or fax or by requesting copies from the agencies.

Chairman Ugenti clarified that ballots will continue to be available in multiple languages.

Discussion ensued regarding the intent and advantages of HB2283. Mr. Coleman inquired if, because savings are so great, perhaps everything including the English versions should be available online. Ms. Dalessandro expressed concern that many Arizonans do not have access to the internet. Representative Smith reiterated that a copy in another language can be requested from the agency and that HB2283 merely codifies Prop 103.

Vice-Chairman Petersen assumed the chair.

Ellen Katz, William E. Morris Institute for Justice, testified in opposition to HB2283 (Attachment 19), stating that it violates Title III of the Civil Rights Act. The Department of Economic Security and the Arizona Health Care Cost Containment System must provide services in a non-discriminatory manner and HB2283 would preclude translations of notices of eligibility for benefits or instructions for a hearing, for instance.

Chairman Ugenti assumed the chair.

Jennifer Carusetta, Arizona Health Care Cost Containment System (AHCCCS), appeared as neutral on the legislation. She stated that AHCCCS appreciates the intent, but said that HB2283 will violate the Civil Rights Act and expose Arizona to liability. Discussion ensued.

Vice-Chairman Petersen assumed the chair.

Mr. Borrelli inquired if Arizonans can obtain any language upon request. Ms. Carusetta replied that, for non-prevalent languages, an interpreter would be brought in.

Ms. Hernandez expressed concern about violating Title VI of the Civil Rights Act, which prohibits discrimination by government agencies that receive federal funds.

Mr. Kavanagh asked if HB2283 would only apply to state agencies that dispense federal dollars. Ms. Katz returned to the podium to reply that Title VI of the Civil Rights Act applies to government agencies that receive federal funds.

Chairman Ugenti assumed the chair.

Anjali Abraham, American Civil Liberties Union of Arizona, stated her opposition to HB2283 and explained that there are possible First Amendment issues with the bill which, as written, does represent a burden on people of limited English proficiency or non-English speakers to petition the government.

Vice-Chairman Petersen announced the names of those who signed up as neutral on HB2283 but did not speak:

Kathy Ber, Department of Economic Security
Colby Bower, Arizona Department of Health Services
Laura French, representing self

Vice-Chairman Petersen announced the names of those who signed up in opposition to HB2283 but did not speak:

Lydia Guzman, representing self
Peri Jude Radecic, Director of Public Advocacy, Arizona Center for Disability Law
Charles Essigs, Government Relations, Arizona Association of School Business Officials
Janice Palmer, Governmental Relations Analyst, Arizona School Boards Association

Vice-Chairman Petersen moved that HB2283 do pass.

Mr. Coleman stated that he wonders why this bill would allow English to be shipped if there is so much money to be saved. Ms. Hernandez concurred, saying if the purpose is to save money it should not be a language issue; simply do not print and ship anything.

Question was called on the motion that HB2283 do pass. The motion carried by a roll call vote of 5-3-0-1 (Attachment 20).

HB2443 - cities; counties; regulatory review – DO PASS AMENDED

Michelle Hindman, Deputy Director, Majority Research, explained that HB2443 modifies provisions of the municipal and county Regulatory Bill of Rights, which was established in the 2011 Legislative Session (Attachment 21).

Vice-Chairman Petersen assumed the chair.

Ms. Hindman explained that the Ugenti 14-page amendment dated 02/04/2013 (Attachment 22) makes several changes to the underlying bill regarding licensing time frames, application corrections and resubmissions, and fees. It also exempts the function or operation of law enforcement and makes other technical and conforming changes.

Ms. Hindman explained that the Petersen five-line amendment dated 2/4/13 (Attachment 23) modifies fire and light safety exemptions in the municipal and county inspection provisions to only those areas that are accessible to the general public.

Chairman Ugenti assumed the chair.

Representative Justin Olson, sponsor, explained that two years ago legislation was passed to create well-needed protections to those regulated by the counties, cities, towns, and flood districts. HB2443 will remedy some ambiguities about the new processes of that legislation; he assured the Members that stakeholder meetings have developed this bill.

Chairman Ugenti asked if further changes will be needed. Representative Olson replied that, with the Ugenti amendment, there are no further changes anticipated.

Mr. Kavanagh asked about the Petersen amendment. Representative Olson replied that there is no opposition, but that it has not been totally vetted. Mr. Kavanagh asked if the Petersen amendment should be held and presented in the Committee of the Whole. Representative Olson replied in the affirmative.

Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona, spoke in support of HB2443. He indicated that all affected agencies are in favor of the legislation. He stated that there are critical fixes for the homebuilding industry and that the Ugenti amendment renames some terms, refines the comment period and addresses fee issues. He stated that he supports the Petersen amendment.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, explained his support for HB2443 and the Ugenti amendment.

Discussion ensued on the Petersen amendment and how it would apply to "unannounced" and "scheduled" inspection visits.

Stuart Kimball, Arizona Rock Products Association, stated his support for HB2443. In response to a question from Mr. Kavanagh, Mr. Kimball stated that current law requires notification of an inspection. He explained that HB2443 with the Ugenti amendment allows inspectors to go into public and private areas without notice. He added that the Petersen amendment will require notification to inspect private areas.

Vice-Chairman Petersen assumed the chair.

Mr. Kavanagh posed a hypothetical situation; Vice-Chairman Petersen explained that his amendment would require that the agency notify a business about inspection of private areas and that the inspector be accompanied by a representative of the owner.

Chairman Ugenti assumed the chair.

Ms. Hindman clarified that the Ugenti amendment does not impact inspection or conflict with the Petersen amendment.

Representative Olson stated that he is supportive of the concept but that the term "representative of owner" is confusing in the Petersen amendment.

Ms. Hindman added that food inspections do not change with this bill.

Vice-Chairman Petersen announced the names of those who signed up in support of HB2443 but did not speak:

Richard Bohan, Maricopa County Board of Supervisors

Matthew Busby, City of Apache Junction

Ruth Osuna, City of Eloy

Marcus Osborn, Town of Queen Creek

Ed Muder, City of Show Low

Terry Hinton, Town of Thatcher

Gayle Mabery, Town of Clarkdale

Steve Trussell, Arizona Rock Products Association

Brent Stoddard, City of Glendale

Gretchen Conger, Arizona Chamber of Commerce and Industry

Jacqueline Walker, City of Kingman

Nicholas Gioello, representing self

Jack Hakim, City of Bullhead City

Brad Lundahl, City of Scottsdale

Vice-Chairman Petersen announced the names of those who signed up as neutral on HB2443 but did not speak:

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association

Vice-Chairman Petersen moved that HB2443 do pass.

Vice-Chairman Petersen moved that the Ugenti 14-page amendment dated 02/04/2013 (Attachment 22) be adopted. The motion carried.

Vice-Chairman Petersen moved that HB2443 as amended do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 24).

Without objection, the meeting adjourned at 5:00 p.m.

Jane Dooley, Committee Secretary
February 18, 2013

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