

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

COMMITTEE ON REFORM AND HUMAN SERVICES

Minutes of Meeting
Thursday, February 7, 2013
House Hearing Room 1 -- 9:00 a.m.

Chairman Montenegro called the meeting to order at 9:04 a.m. and attendance was noted by the secretary.

Members Present

Ms. Dalessandro	Mr. Mendez	Ms. Townsend, Vice-Chairman
Mrs. Gonzales	Mr. Seel	Mr. Montenegro, Chairman
Mrs. Lesko	Mr. Smith	

Members Absent

None

Committee Action

HB2281 – DP (8-0-0-0)

HB2331 – DPA (5-3-0-0)

CONSIDERATION OF BILLS

HB2331 - bonding; taxation; expenditures; district limitations - DO PASS AMENDED

Vice-Chairman Townsend moved that HB2331 do pass.

Stephanie Jaffa, Majority Research Analyst, explained that HB2331 prohibits the issuance of public bonds by any entity that is not governed by an elected body. The bill defines *elected governing* body as any governing body that includes one or more members appointed to fill an elected position on that body as otherwise provided by law (Attachment 1). Ms. Jaffa reviewed the following provisions:

Industrial Development Authorities

- Prohibits the issuance of public bonds by any entity that is not governed by an elected body.
 - Defines *elected governing body* as any governing body that includes one or more members appointed to fill an elected position on that body as otherwise provided by law.
- Prohibits the formation of a new IDA within the jurisdiction of any political subdivision in which any portion of the IDA would be located if the sum of the most recent expenditure amount of that political subdivision and the most recent aggregate expenditure amounts of all

other IDAs located in that political subdivision exceed the constitutional limit for that political subdivision.

- Prohibits an IDA from making a new or increased expenditure if the sum of the most recent expenditure amount of the political subdivision in which any portion of the IDA is located and the most recent aggregate expenditure amounts of all other IDAs located in any portion of that political subdivision would exceed the constitutional limit for that political subdivision.
 - Defines *political subdivision* as a city, town, or county.
- Repeals the section of statute exempting industrial development financing and pollution control financing corporations from certain debt limitations and reporting requirements.

Special Taxing District Property Tax Levies

- Prohibits the formation of a new special taxing district within the jurisdiction of any political subdivision in which any portion of the special taxing district would be located if the sum of the most recent publicly-reported level of ad valorem taxes then being levied by that political subdivision and the most recent publicly reported aggregate amount of ad valorem taxes being levied by all other special taxing districts located in any portion of that political subdivision would exceed the constitutional limit for that political subdivision.
- Prohibits a special taxing district from levying a new or increased ad valorem tax if the sum of the most recent publicly-reported level of ad valorem taxes then being levied by the political subdivision in which any portion of the special taxing district is located and the most recent publicly reported aggregate amount of ad valorem taxes being levied by all other special taxing districts located in any portion of that political subdivision would exceed the constitutional limit for that political subdivision.
 - Defines *political subdivision* as a city, town, county, or community college district.

Special Taxing District Expenditure

- Prohibits the formation of a new special taxing district within the jurisdiction of any political subdivision in which any portion of the special taxing district would be located if the sum of the most recent publicly-reported amount of expenditures then being made by that political subdivision and the most recent publicly reported aggregate amount of expenditures being made by all other special taxing districts located in any portion of that political subdivision would exceed the constitutional limit for that political subdivision.
- Prohibits a special taxing district from making a new or increased expenditure if the sum of the most recent publicly reported amount of expenditures then being made by the political subdivision in which any portion of the special taxing district is located and the most recent publicly reported aggregate amount of expenditures being made by all other special taxing districts located in any portion of that political subdivision would exceed the constitutional limit for that political subdivision.
 - Defines *political subdivision* as a city, town, or county.

Miscellaneous

- Enumerates the categories of special taxing districts subject to the provisions of the bill.
- Contains a declaration of statewide concern.
- Contains a severability clause.

Ms. Jaffa advised that the Montenegro 11-line amendment dated 2/6/13 at 2:38 p.m. (Attachment 2) replaces the debt limit and reporting exemption currently in statute with a requirement that IDAs report to the Arizona Department of Revenue by June 30 of each year on outstanding revenue bonds, describing both the aggregate principal amount of revenue bonds issued during the previous fiscal year and the total outstanding principal of all revenue bonds issued by the IDA as of July 1 of the current fiscal year.

Ms. Jaffa explained that the Montenegro two-page amendment dated 2/6/13 at 2:28 p.m. (Attachment 3) does the following:

- Applies the prohibition against the issuance of public bonds by an entity that is, not governed by an elected governing body, to governmental entities only.
- Specifies that the prohibition against the formation of a new special taxing district is limited to a city, town, county, or community college district whose property tax levies, taken together with the property tax levies of all other special taxing districts located in any portion of that political subdivision and formed with its approval or acquiescence, exceeds the constitutional limit for that political subdivision. It lifts the same restriction for political subdivisions whose most recent amount of expenditures, taken together with the most recent aggregate amount of expenditures made by all other special taxing districts located in that political subdivision and formed with its approval or acquiescence, exceeds the constitutional limit for that political subdivision.
- Eliminates the prohibition against a new or increased property tax levy for a special taxing district located in a city, town, county, or community college district whose most recent property taxes levied, taken together with the most recent aggregate amount of ad valorem taxes being levied by all other special taxing districts located in any portion of that political subdivision, would exceed the constitutional limit for that political subdivision.
- Removes the prohibition against a new or increased expenditure for a special taxing district that, if the most recent amount of expenditures being made by the city, town, or county in which any portion of the special taxing district is located is taken together with the most recent aggregate amount of expenditures made by all other special taxing districts located in that political subdivision would exceed the constitutional limit for that political subdivision. The provision replaces it with a stipulation that a special taxing district must not increase its expenditures above the aggregate amount of expenditures for the immediately preceding fiscal year if any portion of the special taxing district is located in a political subdivision whose most recent amount of expenditures, taken together with the most recent aggregate amount of expenditures of all special taxing districts located in that political subdivision and formed with its approval or acquiescence, exceeds the constitutional limit for that political subdivision.

- Clarifies that entities included in the definition of *political subdivision* must be located in this state.

Ms. Jaffa explained that the Montenegro two-page amendment dated 2/6/13 at 2:33 p.m. (Attachment 4) includes all of the provisions within the first two amendments.

Chairman Montenegro, sponsor, stated that HB2231 focuses on government debt and spending limits. He said that taxpayers deserve to have legislative safeguards in place to protect them from runaway government spending and debt. He cited an example in California where special taxation districts created complications. For clarification, Chairman Montenegro informed the Committee that the Montenegro two-page amendment dated 2/6/13 at 2:33 p.m. (Attachment 4) will be the offered amendment.

Nicholas Dranias, Director, Center for Constitutional Government, Goldwater Institute, testified in favor of HB2231 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). He provided a handout outlining the intent of the bill (Attachment 5) and stated that the bill is a reform measure to restore political accountability. In 1980, taxpayers voted to place limits on local government taxation and spending, but failed to include provisions to close loopholes. Mr. Dranias said that cities, towns and counties discovered a way to evade the caps on spending and taxing by shifting municipal services into special districts. He advised that since 1980, the number of special districts in Arizona has tripled and stated that the amendment represents a compromise attained by stakeholder meetings. Mr. Dranias urged Members to support the bill and the amendment.

Marcus Osborn, Public Affairs Specialist, Phoenix Industrial Development Authority (Phoenix IDA), testified in opposition to HB2231 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Osborn said Arizona Revised Statutes § 35-742 clearly specifies that the Phoenix IDA cannot obligate a city or county in terms of debt. The Phoenix IDA does not have any taxing authority and is a nonprofit corporation authorized by local government to execute private financing between private parties. The purpose of creating an IDA is for the numerous federal tax advantages. Mr. Osborn described the differences between a special taxation district and the Phoenix IDA and related that the Phoenix IDA funds economic development projects, charter schools and special projects. The Phoenix IDA is a “pass-through” entity for private borrowers and private recipients. Mr. Osborn stated that stakeholders are open to continuing discussions and possibly adding reporting requirements to the Arizona Department of Revenue for improved IDA transparency. He pointed out that any project approved by the Phoenix IDA must go before the county or the city council in a vote and the transaction has to be approved by the Arizona Attorney General’s Office. He said that he believes the Phoenix IDA mistakenly got “blended in” with the special taxation districts and explained how the Phoenix IDA is a different entity.

Mrs. Lesko queried the federal tax advantages of an IDA bond. Mr. Osborn deferred to Charles Lotzar.

Charles “Chuck” Lotzar, Attorney, Tucson Industrial Development Authority (Tucson IDA), spoke in opposition to HB2231 and the Montenegro amendment dated 2/6/13 at 2:33 p.m.

(Attachment 4). He advised that IDAs have the authority to issue tax-exempt bonds at the state level for any authorized project. At the federal level, they have the power to issue private activity bonds for limited purposes such as:

- Nonprofit agencies
- Charter schools
- Low-income housing
- Manufacturing facilities

Mrs. Lesko questioned if IDA bonds can be tax exempt from both state and federal governments. Mr. Lotzar answered in the affirmative.

In response to Members' questions, Mr. Osborn returned to the podium and addressed the following areas of concern:

- Amendment modifications
- Reporting requirements
- Language clarification
- IDA responsibilities
- State liability

Mr. Lotzar returned to the podium to explain securities and security requirements. He stated that cities, towns, counties or the state will not be obligated for repayment. The bond/securities only affect the exact revenues that are pledged, such as revenues from the project as financed or the borrower who sought the financing, for the development of the project.

Mr. Osborn reiterated that the IDA is a mechanism for the purpose of gaining and utilizing federal tax exemptions.

Lee Miller, Arizona Fire District Association, testified in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Miller addressed the concerns Mr. Dranias referenced, regarding special taxation districts and stated that fire districts are classified as a special taxation district but represent the concept of "user pay". The notion of a user pay service is an agreement by citizens to self tax in order to pay for fire and emergency services. Additionally, property owners must collect enough signatures in the community to create a fire district. Signatures must consist of at least 51 percent of the parcel owners and 51 percent of the value holders.

In the area of debt, Mr. Miller related that of the 165 fire districts, only 10 of the largest fire districts have general obligation debt. He said that the districts do not need enough money to justify the cost of issuing bonds for projects; many fire districts purchase fire trucks through dealership loans. Most expenditures associated with a fire district are derived from expenses out of the control of the district and include the Public Safety Personnel Retirement System (PSPRS), employee healthcare and the fluctuating costs of diesel fuel. Mr. Miller stated that HB2331 will destroy the notion of "user pay" by transferring fire service obligations to county government and assumes that counties will operate the districts more efficiently. He advised that

county governments have never delivered fire services before and prefer not to be involved in the activity now.

In response to Members' questions, Mr. Miller advised the following:

- Fire districts' financial needs are not large enough to justify borrowing
- Property owners pay fire districts twice per year - bills are paid out of collected monies
- Fire districts' concerns on applying limited tax increases
- Fire districts currently have rate limits, levy limits and a well-defined spending limit
- Fire districts have fluctuating costs in the areas of PSPRS, healthcare and diesel fuel
- Fire districts operate on an average budget of \$100,000 to \$150,000 annually
- Levy limit override monies may not be enough to cover future costs

Discussion ensued on expenditure limits and constitutional tax limits.

Robert Lynch, Attorney, Irrigation & Electrical Districts Association of Arizona (IEDA), testified in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Lynch said that the IEDA was not included in the stakeholder process. He advised that the bill will create unintended consequences such as hindering the water usage of the Colorado River. Mr. Lynch explained that the IEDA is governed by an elected board consisting of local farmers and questioned the inclusion of the agriculture districts. He requested that the IEDA be excluded from HB2331.

Dan Bogert, Research Analyst, County Supervisors Association, spoke in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Bogert stated that by aggregating the special taxation districts under the county's constitutional limit, the bill removes all tax capacity and creates limited flexibility.

In response to a question, Mr. Bogert explained the levy limit system.

John MacDonald, Maricopa Integrated Health System, testified in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. MacDonald provided a background on the Maricopa Integrated Health System. He advised that the facility serves as a "safety net" hospital for Maricopa County and operates under the direction of a five-member publicly elected board of directors. The mission of the hospital is to serve the underserved. Mr. MacDonald stated that the Maricopa Integrated Healthcare System is the only special healthcare district and questioned the intent of the bill.

In response to Mr. Seel's question, Mr. MacDonald explained the need for the hospital and said that the financial model under Maricopa County was failing. In 2003, Maricopa County voters approved proposition 414 to separate the county hospital from Maricopa County; creating a healthcare model addressing previous financial failures.

Chairman Montenegro reiterated that the intent of the bill is to protect taxpayers from excessive government spending and debt.

Stephen Slivinski, Senior Economist, Goldwater Institute, testified in support of HB2231 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Slivinski cited national statistics in relation to taxation and stated the necessity for the bill. He explained that the intent of HB2331 is to limit the creation of additional special districts and he informed Members that prior to 2006, IDAs were required to report debt; the amendment reinstates the requirement.

Larry Lange, Finance Director, City of Goodyear, spoke in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Lange provided a background on the City of Goodyear's 10 community facility districts. He explained that land developers plan community facility districts in agreement with voters and property owners. The districts are governed by state and local laws and expenditures are the responsibility of the developer and property owners.

In response to questions, Mr. Lange explained in detail the purpose and process of creating a community facility district.

Ryan Peters, Intergovernmental Programs Administrator, League of Arizona Cities and Towns, testified in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Peters stated that the bill will inhibit the ability to adequately fund the infrastructure required for developing and improving the State of Arizona.

Byron Schlomach, Chief Economist, Goldwater Institute, testified in support of HB2231 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Schlomach stated that there are 29 different types of special taxation districts; many were formed to bypass tax and expenditure limits. He advised that the bill will resolve confusion created by the special taxation districts and provide accountability to the taxpayers.

In response to a question, Mr. Schlomach explained the inclusion of IDAs in the special taxation district cap.

Discussion ensued on the necessity to include IDAs, the impact to rural areas and respecting the will of the people.

Michael Racy, Pima Association of Governments, testified in opposition to HB2331 and the Montenegro amendment dated 2/6/13 at 2:33 p.m. (Attachment 4). Mr. Racy explained the function of the airport authority in Tucson. He advised that the airport authority is operated by an independent, statutorily-created contractor that issues debt paid for by airport fees. The airport authority is not operated by Tucson or Pima County and does not have the authority to tax. Mr. Racy stated that the bill appears to prevent the airport authority from issuing debt.

To that point, Chairman Montenegro questioned if the airport authority has a constitutional limit on debt. Mr. Racy answered in the negative. Chairman Montenegro asked if the airport authority is included in the list of special taxation districts within the bill. Mr. Racy replied that it is his understanding that they are. Mr. Racy reiterated Mr. Lynch and Mr. Miller's previous concerns on levying tax limits.

Nick Dranias returned to the podium to address a question posed on the ability to levy tax limits.

The names of those who signed up in opposition to HB2331 but did not speak:
Courtney Gilstrap LeVinus, Industrial Development Authority of the County of Maricopa
Alison Zelms, representing self
Matthew Busby, Assistant to the City Manager, City of Apache Junction
Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale
Jack Hakim, Mayor, Bullhead City
Amber Wakeman, Intergovernmental and Public Relations Manager, City of El Mirage
Ruth Osuna, City Manager, City of Eloy
Brent Stoddard, Director of Intergovernmental Programs, City of Glendale
John Cassella, Intergovernmental Coordinator, City of Goodyear
Paul Jepson, Assistant to the City Manager, City of Maricopa
Ed Muder, City Manager, City of Show Low
Michael Celaya, Intergovernmental Relations Director, City of Surprise
Phillip Hubbard, Town of Buckeye
Gayle Mabery, Town Manager, Town of Clarkdale
Sara Sparman, Government Relations Specialist, Town of Queen Creek
Terry Hinton, Town Manager, Town of Thatcher
Jim Hartdegen, Maricopa-Stanfield Irrigation Districts
Norman Moore, Attorney, Central Arizona Project
Don Isaacson, Central Arizona Project
Richard Hubbard, President/CEO, Valley Partnership
Anne Hamilton, Senior Account Executive, DMB & Associates
Adam Trenk, Attorney, Walton International
Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona

The names of those who signed up as neutral on HB2331 but did not speak:
Leonard Clark, representing self

Vice-Chairman Townsend moved that the Montenegro two-page amendment dated 2/6/13 at 2:33 p.m. (Attachment 4) be adopted. The motion carried.

Vice-Chairman Townsend moved that HB2331 as amended do pass. The motion carried by a roll call vote 5-3-0-0 (Attachment 6).

HB2281 - foreclosure; tenant notification – DO PASS

Vice-Chairman Townsend moved that HB2281 do pass.

Ingrid Garvey, Majority Senior Research Analyst, explained HB2281 states that if an owner receives notice of a trustee's sale or other notice of foreclosure on a property after a tenant has entered into a rental agreement, the owner must provide written notice to the tenant (Attachment 7). Ms. Garvey explained that the Gonzales 26-line amendment dated 2/6/13 (Attachment 8) requires the owner to give notice within five days after receiving the trustee's sale notice and specifies required language in the notice. Additionally, the remaining language is based on the Protecting Tenants at Foreclosure Act of 2009.

Mr. Smith, sponsor, provided an explanation on the necessity of HB2281 and related this issue was brought by his constituency. The bill will provide additional measures of protection to

renters in the case of a non-payment foreclosure. Mr. Smith commented that the Gonzales amendment addresses the timeframe an owner must give a renter in the case of a trustee's sale, but includes federal language previously covered in the Protecting Tenants at Foreclosure Act of 2009. He advised Members that he will offer a Floor amendment to include the language on the time frame issue.

Mrs. Gonzales stated that she appreciates the inclusion of a required time period that owners must give to tenants.

Courtney Gilstrap LeVinus, Arizona Multihousing Association, testified as neutral to HB2281, stating that she is supportive of the underlying bill and the portion of the amendment addressing the time period an owner must give a tenant notice. Ms. LeVinus described the potential complications of including language within the Protecting Tenants at Foreclosure Act of 2009 and prefers to defer that matter to the federal requirements.

In response to a question, Ms. LeVinus informed Members that the new federal deadline for foreclosure extension is December 31, 2014.

Vice-Chairman Townsend announced the names of those who signed up in support of HB2281 but did not speak:
Staci Burk, Gilbert Unified Governing Board Member, representing self

Vice-Chairman Townsend announced the names of those who signed up as neutral on HB2281 but did not speak:
Leonard Clark, representing self

Vice-Chairman Townsend moved that the Gonzales 26-line amendment dated 2/6/13 (Attachment 8) be adopted. The motion failed.

Question was called on the motion that HB2281 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 9).

Without objection, the meeting adjourned at 11:32 a.m.

Abby Selvey, Committee Secretary
March 4, 2013

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