

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

COMMITTEE ON PUBLIC SAFETY, MILITARY AND REGULATORY AFFAIRS

Minutes of Meeting
Wednesday, February 13, 2013
House Hearing Room 3 -- 9:00 a.m.

Chairman Pierce called the meeting to order at 9:30 a.m. and attendance was noted by the secretary.

Members Present

Mr. Borrelli
Mr. Cardenas
Mr. Farnsworth

Mr. Gallego
Mr. Livingston
Ms. Peshlakai

Mr. Mitchell, Vice-Chairman
Mr. Pierce J, Chairman

Members Absent

None

Committee Action

HB2076 – DPA S/E (8-0-0-0)
HB2389 – DPA (8-0-0-0)
HB2392 – DPA S/E (8-0-0-0)

HB2455 – DPA (5-3-0-0)
HB2459 – DPA (8-0-0-0)
HCR2020 – DP (8-0-0-0)

CONSIDERATION OF BILLS

HCR2020 – first responders recognition day – DO PASS

Alesandro Norton, Majority Intern, explained that HCR2020 establishes March 18, 2013 as First Responders Recognition Day in Arizona (Attachment 1).

Chairman Pierce, sponsor, said this resolution was brought to him by the Mayor of the City of Glendale, Jerry Weiers.

Jerry Weiers, Mayor, City of Glendale, in support of HCR2020, stated that this resolution will not cost the state or cities any money. The intent is to honor first responders, which he hopes will become an annual recognition.

Leonard Clark, representing self, in support of HCR2020, expressed appreciation for first responders who place their lives on the line every day and night.

Vice-Chairman Mitchell announced the names of those who signed up in support of HCR2020 but did not speak:

Amber Wakeman, Intergovernmental and Public Relations Manager, City of El Mirage

John Schell, Lobbyist, City of Peoria

Jason Winsky, Police Officer, Combined Law Enforcement Associations of Arizona

Elaine Arena, Rural/Metro

Luis Ebratt, President, Arizona Probation Officers Association; Combined Law Enforcement Associations of Arizona

Jimmy Chavez, President, Arizona Highway Patrol Association

Levi Bolton, Vice President, Phoenix Law Enforcement Association; Arizona Police Association

Brent Stoddard, Director of Intergovernmental Programs, City of Glendale

Leah Hubbard, Intergovernmental Relations Coordinator, Town of Gilbert

Justin Harris, President, Glendale Law Enforcement Association

James Mann, Arizona Fraternal Order of Police

Scott Butler, City of Mesa

Brad Lundahl, Government Relations, City of Scottsdale

Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler

Ryan Peters, Intergovernmental Programs Administrator, League of Arizona Cities and Towns

Vice-Chairman Mitchell moved that HCR2020 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).

HB2459 - justice of the peace courts. – DO PASS AMENDED

Courtney McKinstry, Majority Research Analyst, explained that HB2459 updates the sections of statute related to justice and municipal courts (Attachment 3). The three-page Pierce amendment to HB2459 dated 02/08/2013 (Attachment 4) contains the following provisions:

- Clarifies that when a justice of the peace is unable to act, the duty to designate another justice precinct is held by the presiding justice of the peace, followed by the presiding superior court judge.
- Redrafts the bail statutes for justice and municipal courts.
- Repeals statute related to monies deposited in an appeal.
- Contains clarifying language and makes technical changes.

Representative Paul Boyer, sponsor, stated this bill updates many laws in Title 22 pertaining to justice and municipal courts and removes effective dates that have already passed.

Ellen Katz, Litigation Director, William E. Morris Institute for Justice, opposed HB2459. She related that the change of venue provisions could cause unintended consequences; however, she spoke to Justice Mark Anderson and Cheryl Rabin earlier today and they will meet to discuss and, hopefully, address her concerns.

Leonard Clark, representing self, indicated that he is somewhat nervous because justice of the peace courts need more scrutiny; he and some of his friends were not treated fairly. He agreed that updating is necessary, so he supports the bill.

Mark Anderson, Chairman, Maricopa County Justice Court Bench Legislative Committee, testified in favor of HB2459. He related that the intent of the bill is to modernize the statute by eliminating antiquated language to reflect what is done in justice and municipal courts in Maricopa County and across the state. It does not make substantial changes in terms of policy. He added that he will meet with Ms. Katz to address her concerns.

Vice-Chairman Mitchell announced the names of those who signed up in favor of HB2459 but did not speak:

Jen Sweeney, Deputy Director, Arizona Association of Counties

Terry Stewart, Court Administrator, Arizona Justice of the Peace Association

Vice-Chairman Mitchell moved that HB2459 do pass.

Vice-Chairman Mitchell moved that the Pierce three-page amendment to HB2459 dated 02/08/2013 (Attachment 4) be adopted. The motion carried.

Vice-Chairman Mitchell moved that HB2459 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 5).

HB2455 – unclaimed property; firearms; disposition – DO PASS AMENDED

Alesandro Norton, Majority Intern, explained that HB2455 requires agencies, rather than courts, to sell unclaimed or forfeited firearms, prevents a firearm from being returned to the person who found it and expands the definition of *found property* to include surrendered property (Attachment 6). The Pierce five-page amendment to HB2455 dated 2/7/2013 (Attachment 7) contains the following provisions:

- Requires all property used as evidence and remaining unclaimed or found property in the possession of the state, county or town agency to be disposed of exclusively by the entity in possession.
- Makes any rule or ordinance that relates to firearms enacted before or after July 29, 2010 null and void.
- Prohibits the destruction of a firearm or the acquisition for the purpose of destruction of a firearm by the state, any agency or political subdivision unless the firearm is prohibited from being sold under federal or state law.
- Expands the definition of *found property* to include otherwise received items.

Representative Brenda Barton, sponsor, stated this bill clarifies the legislative intent of existing state law to strengthen the state's preemption with regard to all firearm regulations. The Pierce five-page amendment clarifies the legislative intent.

Leonard Clark, representing self, opposed HB2455. He remarked that he strongly supports the Second Amendment, but with everything that is going on, to tell municipalities and counties they do not have the right to destroy a firearm that might have been used in the commission of a crime, is not wise.

Mr. Farnsworth stated that this bill does not change current law, which mandates that weapons must be sold. The only difference is that the court does not have to order the selling of a firearm; it will occur automatically.

Mary Rose Wilcox, Supervisor, Maricopa County Board of Supervisors, District 5, opposed HB2455 primarily because of the word *surrender*. She said she has held three major gun buy backs and took over 650 guns off the streets, particularly in Phoenix. People who attend gun buy backs are family members who have children and do not want the guns in the home or believe their adolescent children may be tempted to take the gun into the street. People turn firearms in because they want them out of circulation. Local police officers and local deputies with the Maricopa County Sheriff's Department told her they do not want these guns back out on the streets, whether they were surrendered in gun buy backs, taken in a homicide or confiscated in a raid. She asked the Members not to include the word *surrender*, which will affect gun buy backs and not to mandate that local jurisdictions sell the guns and put them back into circulation.

In response to questions, Supervisor Wilcox stated she would be amenable to requiring people who bring firearms to gun buy back events to sign an affidavit indicating that the weapon should be destroyed. Gun buy back events are voluntary; a mandate is not imposed on citizens.

Discussion followed about how other items involved in a crime are handled.

Gary Christensen, Arizona State Rifle and Pistol Association, in support of HB2455, related that the Association is the state affiliate of the National Rifle Association (NRA). This bill takes a small step in closing a loophole in the law that has resulted in cities becoming the possessors of certain firearms. He said Association members assume that police officers are doing something other than destroying guns at taxpayer expense. Anything used for criminal activity is sold for the benefit of the city or agency involved to fund programs, including police departments that are trying to make the streets safer. Police officers should be scanning the firearms to determine if there is any criminal involvement, and if the firearm is stolen, it should be returned to the owner. He submitted that because of the expense of destroying firearms, it should be done through a private enterprise where it is a relatively quick and inexpensive process.

Chairman Pierce stated that the amendment clarifies that there is no support for programs solely for the purpose of destroying guns.

Discussion ensued about the following issues:

- Private enterprises destroying weapons.
- Screening weapons to ensure they were not used in criminal activity.
- An analogy by Mr. Gallego in relation to stipulations if someone wills property to a local jurisdiction.
- Non-profit organizations funding gun buy back programs with federal funds.

Dave Kopp, Manager, Arizona Citizens Defense League, Inc., in support of HB2455, pointed out that existing statute in Title 12 already requires that firearms be sold. *Property* is defined as any item, including currency, that is sold for safekeeping or is evidence of found property or that has

been abandoned, unclaimed or awarded by the court. If someone goes to a gun buy back event and gives property to the state, city or county, it is abandoned, but some lawyers decided that abandoned does not mean abandoned, so *surrender* will make it clear. This bill clarifies that the guns must be sold. He said he would prefer private funding of gun buy backs, but as long as taxpayer money is being spent, he would prefer that the guns are recirculated to federal firearms licensees (FFL) because anyone who buys weapons from an FFL must have a background check.

Discussion followed about the probability of gun buy back programs run by cities at no taxpayer expense and possible liability issues if a non-profit organization hires a police officer to check weapons at a gun buy back event.

John Wentling, Vice President, Arizona Citizens Defense League, Inc., in support of HB2455, indicated that guns have to be sold or traded by departments to a FFL, and before the gun can be transferred, the person must undergo a background check or present a concealed weapons permit, which indicates the person passed a background check. He said he is concerned about guns possibly used in a crime. He stated that anyone can rent a saw and cut a firearm in half, which is their business, but to engage the government to do this on their behalf is an issue. He endorsed Chairman Pierce's amendment and opposed Mr. Gallego's amendment.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2455 but did not speak:

Roger Score, representing self
Ken Rineer, Gun Owners of Arizona
Jim Delton, representing self
Gary Johnson, representing self
Howard Levine, Pachyderm Coalition
Brent Gardner, Lobbyist, National Rifle Association
Todd Rathner, Legislative Consultant, Arizona State Rifle and Pistol Association
Richard Hanson, representing self

Vice-Chairman Mitchell announced the names of those who signed up in opposition to HB2455 but did not speak:

Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns

Mr. Gallego moved that the Committee on Public Safety, Military and Regulatory Affairs suspend its Committee Rules relating to distribution of amendments before a meeting for purposes of allowing the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) to be considered.

Chairman Pierce announced that the Committee will recess so he can consult with the Rules Attorney to make sure the motion is acceptable.

THE MEETING RECESSED AT 10:32 A.M.

THE MEETING RECONVENED AT 10:41 A.M. WITH ALL MEMBERS PRESENT.

Mr. Gallego withdrew the motion that the Public Safety, Military and Regulatory Affairs Committee suspend its Committee Rules relating to distribution of amendments before a meeting for purposes of allowing the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) to be considered.

Vice-Chairman Mitchell moved that HB2455 do pass.

Vice-Chairman Mitchell moved that the Pierce five-page amendment to HB2455 dated 02/07/2013 (Attachment 7) be adopted.

Mr. Gallego moved that the Public Safety, Military and Regulatory Affairs Committee suspend its Committee Rules relating to distribution of amendments before a meeting for purposes of allowing the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) to be considered. The motion carried.

Mr. Gallego moved that the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) be adopted.

Mr. Gallego related that the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) gives local jurisdictions the authority to destroy a firearm that is surrendered to a public agency by the owner for the purpose of destroying the firearm.

Question was called on the motion that the Gallego nine-line amendment to the Pierce five-page amendment to HB2455 dated 02/12/2013 (Attachment 8) be adopted. The motion failed.

Question was called on the motion that the Pierce five-page amendment to HB2455 dated 02/07/2013 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Mitchell moved that HB2455 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 9).

HB2389 – peace officers; omnibus – DO PASS AMENDED

Courtney McKinstry, Majority Research Analyst, explained that HB2389 allows specific information regarding a spouse and minor child of a deceased officer to be confidential and makes changes to statutes relating to law enforcement and probation officers (Attachment 10). The Pierce 23-line amendment to HB2389 dated 2/12/13 (Attachment 11) contains the following provisions:

- Clarifies that an officer may terminate a rental agreement if the officer provides the landlord written notice that the officer is under an order of protection within 30 days after the order was issued.

- Eliminates the requirement of an employer to provide a representative to an officer who is from the same membership organization as an officer during an investigative interview without a Memorandum of Understanding.
- Deletes language that allows a law enforcement officer or probation officer, in cases before the Law Enforcement Merit Council (LEMC), to request a change of hearing officer or judge.
- Removes language that prohibits an employer from assessing attorney fees or costs against the law enforcement or probation officer in any appeal.
- Eliminates the requirement that a landlord install a new lock at the tenant's expense if the tenant is an officer who filed a confidentiality affidavit.

Chairman Pierce noticed that someone signed in opposing the inclusion of Section 38-1101 and noted that he is working with stakeholders on that section and the following sections, generally referred to as the Peace Officer Bill of Rights. He stated he expects there will be an omnibus bill introduced next session, so anything dealing with A.R.S. § 38-1101 will not be considered this session. He added that a provision that was part of the personnel bill last year contained an inadvertent error, which he agreed to address in this bill.

Don Isaacson, Fraternal Order of Police (FOP), in support of HB2389, said the bill as amended contains four essential parts:

- Extends the right for the surviving spouse and children of a deceased peace officer to limit public access to personal information.
- States if there is an intentional act or statutory authorization, the law enforcement officer can sue.
- In accordance with the Multihousing Housing Association, allows a law enforcement officer who is being harassed, to move. He suggested a change to the Pierce 23-line amendment to HB2389 dated 2/12/13 (Attachment 11) on lines 10 and 11, to strike "order of protection" and insert "injunction prohibiting harassment".
- Includes language from last year's personnel bill, which is a conforming change to personnel appeals for state police officers who are not members of the Department of Public Safety (DPS) so their review standards are the same as those for DPS.

Mr. Isaacson added that anything related to A.R.S. § 38-1101 is removed from the bill and there are important matters the FOP would like to see changed. Chairman Pierce indicated an interest in dealing with that and other issues later, which he supports.

Chairman Pierce said he appreciates everyone's willingness to work on the other issues in order to develop good legislation to which everyone agrees.

James Mann, Executive Director, Arizona Fraternal Order of Police (FOP), in support of HB2389, related that many of the issues described are very important to FOP members.

Chairman Pierce announced the names of those who signed up as neutral on HB2389 but did not speak:

Leonard Clark, representing self

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2389 but did not speak:

Janice Goldstein, Arizona Trial Lawyers Association

John Ortolano, Arizona Fraternal Order of Police-Legislation

Jimmy Chavez, President, Arizona Highway Patrol Association

Levi Bolton, Vice President, Phoenix Law Enforcement Association; Arizona Police Association

Mike Williams, Arizona Police Association

Vice-Chairman Mitchell announced the names of those who signed up in opposition to HB2389 but did not speak:

Jason Winsky, Police Officer, Combined Law Enforcement Associations of Arizona

Luis Ebratt, President Arizona Probation Officers Association; Combined Law Enforcement Associations of Arizona

Vice-Chairman Mitchell moved that HB2389 do pass.

Vice-Chairman Mitchell moved that the Pierce 23-line amendment to HB2389 dated 2/12/13 (Attachment 11) be adopted. The motion carried.

Vice-Chairman Mitchell moved that HB2389 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 12).

HB2392 – confidential information; protective orders; injunctions – DO PASS AMENDED S/E
S/E: protective orders; confidential information; injunctions

Alesandro Norton, Majority Intern, advised that the Pierce 21-page strike-everything amendment to HB2392 dated 2/8/13 (Attachment 13) requires that a supplemental information form, utilized by the court or law enforcement agency for the purpose of service of process, be provided in a petition for an injunction prohibiting harassment or workplace harassment or for a petition for an order of protection (Attachment 14).

Chairman Pierce noted that when a domestic violence victim fills out a petition for an injunction or order of protection, the information becomes public record. The intent of the strike-everything amendment to HB2392 is to prevent personal information on the form from becoming public record.

Elizabeth Finn, Glendale City Court Presiding Judge, representing City of Glendale and 10 other cities, testified in support of the strike-everything amendment to HB2392. She indicated that a domestic violence grant was obtained in 2009 to fund a protective order coordinator to facilitate service of protective orders. Law enforcement personnel cannot leave city limits, and since the jurisdictions are connected, there are some issues, for example, she may need a protective order issued in Avondale or somewhere else. Not every court in law enforcement uses a defendant form that gives information to law enforcement about where the defendant can be found to serve the protective order, as well as information law enforcement should have for safety purposes, such as whether the person has access to guns or a substance abuse issue, etc. Law enforcement designed the form to petition and other documents to be filled out. The intent is to protect the

confidential service form that has information about the defendant and plaintiff's contact information.

Chairman Pierce announced the names of those who signed up in support of the strike-everything amendment to HB2392 but did not speak:

Shannon Rich, Arizona Coalition Against Domestic Violence

Jerald Monahan, Chief of Police, Arizona Association of Chiefs of Police

Vice-Chairman Mitchell announced the names of others who signed up in support of the strike-everything amendment to HB2392 but did not speak:

Brent Stoddard, Director of Intergovernmental Programs, City of Glendale

James Mann, Arizona Fraternal Order of Police

Vice-Chairman Mitchell moved that HB2392 do pass.

Vice-Chairman Mitchell moved that the Pierce 21-page strike-everything amendment to HB2392 dated 2/8/13 (Attachment 13) be adopted. The motion carried.

Vice-Chairman Mitchell moved that HB2392 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 15).

HB2076 – separating service members; licensure – DO PASS AMENDED S/E
S/E: military applicants; license requirements

Courtney McKinstry, Majority Research Analyst, explained that the Borrelli four-page strike-everything amendment to HB2076 dated 02/11/2013 (Attachment 16) establishes guidelines for the Arizona Department of Transportation (ADOT) and the Arizona State Board of Nursing to issue licenses to military veterans who meet requirements and establishes a report required of all licensing agencies (Attachment 17). The Borrelli two-line amendment to HB2076 dated 2/11/13 (Attachment 18) eliminates the requirement of state licensing agencies to submit a report.

Mr. Borrelli, sponsor, stated that he planned to leave the Marines at one time and went to the California Motor Vehicle Department to see if his military experience as a tractor-trailer operator would count toward a commercial driver license (CDL). He was told he would have to read a book, get 40 hours of road time and take a road test, so he decided to reenlist instead. This bill gives veterans an expedited chance to have their military experience count toward a CDL and medics an expedited way to have their military experience count toward licensing in Arizona.

Gregory Harris, Arizona State Board of Nursing, testified in support of the strike-everything amendment to HB2076. He indicated that the Board is eager to work with Mr. Borrelli to address the following:

- What training medics and corpsmen receive so the Board has a benchmark to judge their fitness, work and education. The military services are committed to working with the Board to perform an analysis to ensure that training measures up.

- Communicating with people at community colleges who will probably be involved in developing curriculum for any gap training that may be necessary.

Gretchen Conger Martinez, Director of Government Relations, Arizona Chamber of Commerce and Industry, testified in support of the strike-everything amendment to HB2076. She related that a number of stakeholder meetings were held with ADOT and the Board, all of whom are pleased with this language. Veterans have valuable skills and experience and it is imperative to help connect them with jobs their military experience already prepared them for.

Caryn Unterschuetz, Manager, Transition Services, John C. Lincoln Health Network, representing self, in support of the strike-everything amendment to HB2076, stated that Transition Services is staffed by transition coaches who are former medics and corpsmen. They work in the field with Medicare patients to improve transition from the hospital to rehabilitation or a skilled nursing facility. She talked about a special operations combat medic who served two tours in Afghanistan whose military certifications did not translate into any kind of civilian health care. She asked the Members to support this legislation to allow military-trained health professionals, combat medics and corpsmen to take state examinations commensurate with military training for licensure as health professionals. With 10,000 “baby boomers” joining the Medicare rolls daily in Arizona, health care shortages are looming on the horizon; there are long waits to be enrolled in nursing schools so the state cannot afford to delay taking action.

Chairman Pierce announced the names of those who signed up in support of the strike-everything amendment to HB2076 but did not speak:

Leonard Clark, representing self

Vice-Chairman Mitchell announced the names of others who signed up in support of the strike-everything amendment to HB2076 but did not speak:

Amy Duffy, Member, Duffy Consulting; Marine Corps Air Station (MCAS) Yuma

Brett Hunt, representing self

Ellen Poole, Executive Director, Southwest Region Government Relations, USAA

Becky Hill, Arizona Transit Association

Heather Bernacki Wilkey, Director, Government Affairs, John C. Lincoln Health Network

Jason Bagley, Government Affairs Manager, Intel Corporation

Vice-Chairman Mitchell moved that HB2076 do pass.

Vice-Chairman Mitchell moved that the Borrelli four-page strike-everything amendment to HB2076 dated 02/11/2013 (Attachment 16) be adopted.

Vice-Chairman Mitchell moved that the Borrelli two-line amendment to the strike-everything amendment to HB2076 dated 2/11/13 (Attachment 18) be adopted. The motion carried.

Vice-Chairman Mitchell moved that the Borrelli four-page strike-everything amendment to HB2076 dated 02/11/2013 (Attachment 16) as amended be adopted. The motion carried.

Vice-Chairman Mitchell moved that HB2076 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 19).

Without objection, the meeting adjourned at 11:30 a.m.

Linda Taylor, Committee Secretary
March 11, 2013

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