

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

COMMITTEE ON INSURANCE AND RETIREMENT

Minutes of Meeting
Tuesday, February 19, 2013
House Hearing Room 3 -- 2:00 p.m.

Chairman Lovas called the meeting to order at 2:16 p.m. and attendance was noted by the secretary.

Members Present

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| Mr. Livingston | Mr. Robson | Mr. Allen, Vice-Chairman |
| Ms. McCune Davis | Ms. Steele | Mr. Lovas, Chairman |
| Mr. Mendez | Ms. Townsend | |

Members Absent

None

Committee Action

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| HB2006 - HELD BY CHAIRMAN | HB2524 - DPA FAILED (3-5-0-0) |
| HB2173 - DPA (5-3-0-0) | HB2562 - DP (6-2-0-0) |
| HB2275 - DPA S/E (5-3-0-0) | HB2565 - DP (8-0-0-0) |
| HB2294 - DPA S/E (8-0-0-0) | HB2608 - DPA (5-3-0-0) |
| HB2302 - DP (8-0-0-0) | HB2633 - DP (6-2-0-0) |

CONSIDERATION OF BILLS

HB2608 - EORP; closure; defined contribution - DO PASS AMENDED

Vice-Chairman Allen moved that HB2608 do pass.

Vice-Chairman Allen moved that the Lovas 13-line amendment to HB2608 dated 02/15/2013 (Attachment 1) be adopted.

Jeanine Jones, Majority Research Analyst, explained that HB2608 closes the current Elected Officials Retirement Plan (EORP) and places elected officials who are elected or appointed on or after July 1, 2013 in the Elected Officials' Defined Contribution Retirement System (EODC) (Attachment 2). All elected officials who are members of EORP on June 30, 2013 will remain members of EORP. The Lovas 13-line amendment to HB2608 dated 02/15/2013 (Attachment 1) appropriates \$3.5 million from the General Fund to the EORP Fund each fiscal year from 2013-2014 through 2042-2043 to supplement the normal cost, plus an amount to amortize the unfunded accrued liability.

Chairman Lovas, sponsor, clarified that excluding new members from the defined benefit (DB) plan will not increase the current liability. The DB plan will no longer be available to new members, who will participate in the defined contribution (DC) plan. Running two plans at the same time will result in a slight administrative cost to the Arizona State Retirement System (ASRS).

Ms. McCune Davis noted that the amendment appropriates money for future years and asked if it was reviewed by the Rules Attorneys for constitutionality. Ms. Jones responded that she has not been contacted by anyone with that concern and she has not asked the Rules Office, but she will do so.

Speaker Andy Tobin, representing self, stated the intent of HB2608 is to address the liability crisis in EORP in the amount of \$253 million; the intent of the amendment is to begin backfilling that liability. Moving new members into a DC plan will keep the state from further liability. Elected officials perform a public service and he said he does not believe Members run for the Legislature in order to have a pension. Public service includes fiscal responsibility to constituents for future state obligations.

In response to questions, Mr. Robson indicated that four commissioners, who are not elected, participate in the current DB plan. Speaker Tobin clarified that the liability in the DB plan will be paid from the General Fund.

Mr. Robson commented that the portion of money appropriated from the General Fund is from when the DB system is discontinued and it will not be \$253 million. The problem is there are twice as many people in the DB system as there are employed, so there is no other way to address the problem.

Mr. Mendez asked why the DC plan is mandated instead of optional. Speaker Tobin replied that making it optional will create further liability.

Chairman Lovas stated there are more retirees than members in the DB plan and there is an incredibly high contribution rate that began at six percent in 1999; it is now up to 39 percent and increasing. There are also lawsuits and, if those are successful in overturning SB1609 - retirement system; plan; plan design (Laws 2011, Chapter 357), it is estimated the number will be 51 percent for employer contributions in the future. This bill will ensure the solvency of the DB plan for current members, modernize the plan, create a fair plan for new members (which is estimated to save cities and counties \$45 million over the next 30 years) and save the state money in the long run.

Pete Dunn, Attorney, Arizona Judges Association, opposed HB2608. He stated he does not oppose the closing of the EORP, but in order to continue to have a first-rate, nationally-recognized judiciary, there needs to be a reasonably good retirement system in the future. The problem with the bill as introduced is that a DC plan with an employer contribution of five percent and an employee contribution of eight percent makes it the worst retirement plan in the state. He suggested a DC plan with an equal contribution between employers and employees and allowing newly-elected officials the alternative of choosing ASRS, which is a good system and will attract more people to elected office.

Chairman Lovas noted that other options were studied, but by moving current EORP members into ASRS, the employer contribution rate will have to be increased from 23.5 percent to 30.5 percent, so it was decided that did not work for the system in the long run.

James Hacking, Administrator, Public Safety Personnel Retirement System (PSPRS), neutral on HB2608, noted that PSPRS is administering the current EORP program. A formal position on the bill from PSPRS will occur on February 20, 2013 when the Board of Trustees will meet. He expressed concern about the following:

- Separating the administrative responsibilities; ASRS will administer the DC plan, but PSPRS will administer the DB plan, which could cause problems.
- Disability protection can be provided by PSPRS for the DC plan at less cost than under the ASRS disability plan.
- The fixed contribution rate of 23.5 percent for the employer does not allow flexibility to deal with situations that may arise.

Mr. Hacking added that he hoped to have decisions from the Arizona Supreme Court with respect to retired judges challenging cost-of-living adjustment (COLA) changes and member increase changes included in the pension reform bill enacted in 2011. He expects a decision from the Superior Court soon in the case filed on behalf of active judges. In response to questions, he advised that if the Supreme Court upholds those challenges, it will be necessary to redo the fixed 23.5 percent rate.

Chairman Lovas stated if SB1609 is struck down, the numbers for the entire system will change and surmised the rate will be lower on the employer side.

Mr. Hacking pointed out that the rate is fixed whereas, under current statute, the rate floats depending on valuation results. Chairman Lovas agreed, but stated that the PSPRS Board will return every year with a recommendation of what the rate should be on a 30-year basis to pay off the liability, so it can be changed if SB1609 or something else affects it.

In response to questions, Mr. Hacking responded that an individual in the DC plan will be able to choose from a menu of investment options, which is normally the practice in a DC plan. If the DC plan is kept at PSPRS as originally proposed, administrative costs will be absorbed by the system.

Jen Sweeney, Deputy Director, Arizona Association of Counties, neutral on HB2608, testified that the Association is in a unique position because it represents EORP, as well as counties that are employers. She endorsed the fixed rate and the fact that all the changes are prospective. She pointed out that while legislative service may not be a career, many county elected officials consider their positions as careers, so there is a difference in the retirement program for legislators, which is a supplementary service to another job. She added she is willing to continue working on the bill.

Chairman Lovas announced the names of those who signed up as neutral on HB2608 but did not speak:

Jared Smout, Deputy Administrator, PSPRS

Greg Ferguson, Yuma County Board of Supervisors, representing self

Chairman Lovas announced the names of those who signed up in support of HB2608 but did not speak:

Scot Mussi, Free Enterprise Club

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns

Question was called on the motion that the Lovas 13-line amendment to HB2608 dated 02/15/2013 (Attachment 1) be adopted. The motion carried.

Vice-Chairman Allen moved that HB2608 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 3).

HB2565 - insurance; website posting of policies - DO PASS

Vice-Chairman Allen moved that HB2565 do pass.

Chloe Love, Majority Intern, explained that HB2565 allows an insurer to post property and casualty insurance policies and endorsements on the insurer's website instead of mailing a hard copy to the insured if the insurer meets specific conditions (Attachment 4). The bill allows the insured to request a copy of their policy or endorsement free of charge. Additionally, the bill requires that on each declaration page the insurer must clearly identify the policy purchased by the insured, any changes made to previously issued policy forms, the insurer's website and instructions on how to access policies online.

Representative Jeff Dial, sponsor, said this bill creates more flexibility.

Gregory Harris, Progressive Insurance, in support of HB2565, related that with the increased ability for information to be disseminated via the internet and other forms of electronic communication, more and more customers of insurance companies want to obtain information electronically. He worked with the Department of Insurance and other stakeholders to ensure consumers who do not have or use the internet can receive hard copies of documents. The bill allows customers to receive written notice in the mail from the insurance company about changes that will be made to their policy and the endorsement. Personal information will never be available online.

Chairman Lovas announced the names of those who signed up in support of HB2565 but did not speak:

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies
David Childers, Lobbyist, Farmers Insurance; Property Casualty Insurers Association of America

Chairman Lovas announced the names of those who signed up as neutral on HB2565 but did not speak:

Andrew Carlson, Executive Assistant for Policy Affairs, Arizona Department of Insurance

Question was called on the motion that HB2565 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 5).

HB2294 - lobbyist registration; state of incorporation - DO PASS AMENDED S/E
S/E: public pensions; court commissioners

Vice-Chairman Allen moved that HB2294 do pass.

Vice-Chairman Allen moved that the Robson nine-page strike-everything amendment to HB2294 dated 02/15/2013 (Attachment 6) be adopted.

Jeanine Jones, Majority Research Analyst, explained that the Robson nine-page strike-everything amendment to HB2294 dated 02/15/2013 (Attachment 6) removes language specifying the eligibility of full-time court commissioners in the Arizona State Retirement System (ASRS) and the Elected Officials Retirement Plan (EORP) as being dependent upon their inclusion in the Arizona 218 agreement (Attachment 7).

Mr. Robson, sponsor, said this is a legal issue; the commissioners were moved into ASRS and this bill moves them back to EORP; they will be grandfathered into the system and the state will not have to deal with legal issues.

Chairman Lovas announced the names of those who signed up as neutral on the strike-everything amendment to HB2294 but did not speak:

Dianne McCallister, Public Safety Personnel Retirement System

Question was called on the motion that the Robson nine-page strike-everything amendment to HB2294 dated 02/15/2013 (Attachment 6) be adopted. The motion carried.

Vice-Chairman Allen moved that HB2294 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 8).

HB2562 - public retirement systems; ineligible employees - DO PASS

Vice-Chairman Allen moved that HB2562 do pass.

Jeanine Jones, Majority Research Analyst, explained that HB2562 relieves the Arizona State Retirement System (ASRS) and the Public Service Personnel Retirement System (PSPRS) of liability for misenrolled ineligible members, modifies the definition of a PSPRS member and provides coverage under the ASRS Defined Contribution Plan for employees who are ineligible for a state retirement system (Attachment 9).

Mr. Robson, sponsor, remarked that approximately 2,500 people were misclassified. He is working on an amendment to address other issues, but if nothing is done, 2,500 lawsuits could potentially be filed. In response to questions, he indicated that 218 agreements are not exactly the same. This legislation identifies who should be in the system and who should not so there are no further problems or liabilities in the future. The PSPRS was going to remove these people 18 months ago, but did not at his request, so no one's pension is in jeopardy. He added he does

not believe the state will have any liability, but municipalities will, which is the other component he has been working on.

Shirley Gunther, Intergovernmental Affairs Manager, City of Avondale, neutral on HB2562, related that a stakeholder meeting was held during the interim and everyone is committed to resolving this in the best interest of employees. Unfortunately, three employees of the City of Avondale were told by PSPRS they were no longer in the system at the time of retirement and they were transferred to ASRS; ASRS said the employees do not belong in that system either. Mr. Robson was approached to find a place for these individuals. She added there are some issues with the bill that she hopes can be worked out.

Rene Guillen, Legislative Associate, League of Arizona Cities and Towns, neutral on HB2562, stated the goal is to make as few changes as possible in order to avoid upsetting someone's retirement. He added he is willing to continue working on the bill.

Chairman Lovas announced the names of those who signed up in support of HB2562 but did not speak:

Jared Smout, Deputy Administrator, PSPRS
John Flynn, Arizona Fire District Association

Chairman Lovas announced the names of those who signed up in opposition to HB2562 but did not speak:

Rebekah Friend, Lobbyist, Arizona AFL-CIO

Chairman Lovas announced the names of those who signed up as neutral on HB2562 but did not speak:

Mike Colletto, Executive Director, Professional Fire Fighters of Arizona
Patrice Kraus, Intergovernmental Affairs Coordinator, City of Chandler
Levi Bolton, Vice President, Phoenix Law Enforcement Association; Arizona Police Association
Luis Ebratt, President, Arizona Probation Officers Association; Combined Law Enforcement Associations of Arizona

Question was called on the motion that HB2562 do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 10).

HB2633 - health insurance; vaccines - DO PASS

Vice-Chairman Allen moved that HB2633 do pass.

Chloe Love, Majority Intern, explained that HB2633 requires contracts between insurer and health care providers to reimburse costs for childhood and adolescent vaccines as recommended by the United States Centers for Disease Control and Prevention (CDC) (Attachment 11).

Ms. McCune Davis, sponsor, stated that pediatricians began noticing a continuing trend of not being paid an adequate reimbursement rate for vaccines given to patients that were required by contracts entered into with insurance companies. As a result, some smaller and rural practices ceased providing vaccines. Last year, the federal government ruled that federally-purchased vaccines can no longer be given to insured children. Children who cannot receive vaccines by

their pediatrician are now going to county health departments, which have the same prohibition, so counties are confronted with using taxpayer dollars to purchase vaccines to pay for a service that should be provided by health plans. Efforts were made over the last 20 years to improve immunization rates in Arizona and there are very few cases of preventable diseases because of the strong level of immunity in communities. Any erosion of that level will place infants and children in ill health at risk.

Jennifer Tinney, Program Director, The Arizona Partnership for Immunization (TAPI), in support of HB2633, testified that TAPI began tracking the number of patients in public health clinics and county health departments and, in one year's time, there was a doubling of privately-insured children who accessed public health in some counties. The change in federal funding beginning in October 2012 does not allow public health departments to purchase vaccines for privately-insured children, so decisions had to be made about whether or not to use local tax money to purchase the vaccines, create a business within their system or turn children away. Public health clinics are a safety net to provide immunizations to children who are not insured elsewhere. HB2633 makes sure physicians are adequately reimbursed for vaccines and public health clinics are reimbursed for vaccines given to privately-insured children. She provided a handout that highlights what counties are facing (Attachment 12).

Dr. Mike Perlstein, Arizona Chapter of the American Academy of Pediatrics, spoke in favor of HB2633. He stated that five years ago, a survey was conducted among 10 pediatric practices in Arizona on reimbursement rates for vaccines; the survey showed that 8 out of the 10 practices were losing money. A committee was formed to meet with private insurance personnel about the issue and, over the years, there have been good responses from two larger plans, with minimal movement from several other plans. Vaccinations are one of the most important initiatives in promoting public health. He indicated that one or two vendors sell vaccines and set the price. A large system may be able to reduce costs by buying in bulk, but a small, single practice or two-physician office in a rural community is hamstrung. Doctors sell vaccines for the amount stipulated in contracts with health plans, so when there are changes in price, the reimbursement rate cannot be changed. He responded to questions regarding the following:

- Reimbursement rate for immunizations.
- Contracts by physicians with health plans and the inability to adjust reimbursement rates.
- Private contracts for employees, in which the company determines the plans to offer.
- Average cost of vaccines.

Ms. McCune Davis noted that contracts with health plans indicate that vaccines are covered. The reimbursement rate from some health plans is lower than the cost to purchase, store and administer vaccines, so the only remedy the pediatric community has been able to come up with for plans that have not been voluntarily compliant, is to ask for statutory requirements for reimbursement.

Dr. Perlstein clarified that what is being requested is the purchase price plus 21 percent. A national standard is set by the Centers for Medicare and Medicaid Services for an administration fee that is requested as well, which many insurance companies do not follow. He responded to questions concerning the cost of office visits for vaccines only and the amount of pediatricians' assets that are tied up in vaccines.

David Childers, America's Health Insurance Plans (AHIP), opposed to HB2633, testified that he does not believe this bill is the solution to the problem because it places government in the ratemaking business. It does not take into consideration pediatricians' administrative costs, procurement issues, pricing, storage and inventory. It will increase costs and expenses across the board and, once this legislation becomes law, every provider will want the same reimbursement rate. He noted that Representative Heather Carter, Chairman of the Health Committee, has convened a stakeholder group on this issue. He added that a solution was offered last year that should be considered.

In response to questions, Mr. Childers indicated that everything has been done to exert pressure on health plans that have not been "stepping up to the plate"; some progress has been made, but there are limitations on treatment of members of the Association.

Ms. McCune Davis pointed out that the state is losing ground on an essential public strategy that is keeping the community healthy. The cost is shifting from health plans to counties and taxpayers. Counties will have to set up administrative systems to be able to bill for the services provided in order to be reimbursed, which will be another layer of administrative costs that is not needed. HB2633 may lead to increased costs to prevent illness and keep people healthy but the services will be paid for.

Mr. Childers stated that different insurance companies charge different prices for various products and reimburse at different levels depending on the philosophy of the company. The Association cannot require that all companies charge the same, but it is possible to participate in discussions and try to develop reasonable solutions.

David Landrith, Vice President, Policy and Political Affairs, Arizona Medical Association, testified in support of HB2633. He stated this is a major public issue acknowledged by everyone, including insurance companies not paying their fair share for reimbursement. He urged the Members to pass HB2633 to keep everyone working to protect people and give physicians the ability not to have to subsidize a public health issue.

Chairman Lovas announced the names of those who signed up in support of HB2633 but did not speak:

Sue Braga, Executive Director, Arizona Chapter of the American Academy of Pediatrics
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association

Rory Hays, Lobbyist, Arizona Nurses Association

Pat VanMaanen, representing self

Laura Hahn, Executive Vice President, Arizona Academy of Family Physicians

Tara Plese, Arizona Association of Community Health Centers; Arizona Alliance for
Community Health Centers

Jennifer Bonnett, representing self

Richard Bitner, Legislative Counsel, Arizona State Association of Physician Assistants

Norman Moore, Attorney, Pfizer

Kelly Ridgway, Chief Executive Officer, Arizona Pharmacy Association

Matt Jewett, Research Associate, Children's Action Alliance

Chairman Lovas announced the names of those who signed up as neutral on HB2633 but did not speak:

Leonard Clark, representing self

Andrew Carlson, Executive Assistant for Policy Affairs, Arizona Department of Insurance

Chairman Lovas announced the names of those who signed up in opposition to HB2633 but did not speak:

Kathryn Busby, Health Net of Arizona

Dianne McCallister, Public Policy Partners, Express Scripts

Question was called on the motion that HB2633 do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 13).

HB2524 - return to work; compensation limit - ~~DO PASS AMENDED~~ FAILED

Vice-Chairman Allen moved that HB2524 do pass.

Vice-Chairman Allen moved that the Allen seven-line amendment to HB2524 dated 2/15/13 (Attachment 14) be adopted.

Chloe Love, Majority Intern, explained that HB2524 states that if a retired member of the Arizona State Retirement System (ASRS) returns to work, the compensation received from a public employer may not exceed the difference of the amount calculated by the ASRS used to determine a member's retirement benefit and monthly gross pension (Attachment 15). The Allen seven-line amendment to HB2524 dated 2/15/13 (Attachment 14) states that the compensation limit only applies if the retired member returns to work in the same position.

Mr. Allen, sponsor, indicated that about 11,000 people who are retired return to the same or similar job. Many earn substantially more, which is unfair to other employees and the fiduciary responsibility legislators have with taxpayer money. HB2524 does not prohibit someone from working somewhere else.

Steve Ramos, Member, Arizona Education Association (AEA) Retired, opposed HB2524. He stated there are approximately 2,000 members of the Association and only a fraction return to work for various reasons; sometimes because a school district needs somebody to return to work. There is an alternative contribution rate currently in law that takes care of any liability. He submitted that this is a solution looking for a problem that could have a dramatic effect on school districts' ability to fill hard-to-fill positions. Taxpayers dislike the term "double dipping", but retirement was earned by the employees; it is delayed compensation in return for accepting much lower salaries.

Mr. Allen asked if Mr. Ramos is aware of anyone who returns to work the next day or at the next opportunity to enrich them financially. Mr. Ramos responded that the ASRS prevents someone from returning to work full-time for a period of 12 months. From communications with retirees, most do not want to return to work after 12 months. The only people he is aware of who were asked to return to work did so on a less than 20-hour, 20-week basis.

Mr. Allen asked if someone who wants to move up in the education system is fighting an uneven battle against people who work longer rather than retire, and whether a higher salary is paid to those who return to work than before retirement. Mr. Mendez surmised that school districts ask teachers to return to work because a teacher is needed, not to avoid promoting other teachers.

Mr. Allen responded that this activity occurs everywhere in government, especially at the executive level of counties and cities, where top-dollar people return as contractors in their previous job to “feather their nest”.

Kevin B. DeMenna, SmartWorks; SmartSchoolsPlus, opposed HB2524. He related that people who engage in the ASRS sign on to a contract and contribute to the system, with the employer contributing a parallel amount. Upon completion of that contract, the employee is entitled to a benefit that is protected under the Arizona Constitution. He said his clients worked with ASRS staff to develop an alternative contribution rate (ACR), which requires if there is any unfunded liability associated with an ASRS member who is drawing a pension and not contributing to the system, the employer that engages that person is obligated to pay the ACR. He asked the Members to oppose the bill and amendment.

Mr. Allen stated this bill addresses incentives in situations where people are making much more than their counterparts. He surmised that Mr. DeMenna represents a market that is profiting from this activity, to which Mr. DeMenna agreed.

In response to questions, Mr. DeMenna noted that SmartSchoolsPlus typically has a one-year contractual relationship with a school district to provide teachers for whatever capacity is needed. The company is paid a fee for services from the arrangement with the employer and contracts with teachers who retired and receive a pension. The school district may have been paying the teacher \$50,000 annually before retirement, but when a teacher returns to work, the teacher is paid \$20,000 or \$30,000 annually, so a savings is realized by the school district. He added he is willing to work with Mr. Allen on other alternatives.

Chairman Lovas announced the names of those who signed up in opposition to HB2524 but did not speak:

Sandee McClelland, SmartSchoolsPlus
Andy McClelland, SmartSchoolsPlus
Joe Brekan, Educators Wealth Management
Scott Ogorek, Pro Financial
Rebekah Friend, Lobbyist, Arizona AFL-CIO
Jennifer Loreda, Arizona Education Association
Joe Carter, representing self
Ryan DeMenna, Senior Associate, SmartSchoolsPlus

Mr. Allen stated that people are drawing retirement accounts that were contracted for and returning to their previous job to “feather their nest”. SmartSchoolsPlus makes money off of a circumstance that perhaps should not be allowed to continue. The circumstances in which this occurs at county and city levels is much more egregious where 11,000 people returned to work and doubled their income while receiving retirement pensions. It is important, with the fiduciary responsibility to taxpayers, not to allow this to happen at public expense. He said he will work with interested parties to develop a reasonable compromise, but this activity must be eliminated.

Question was called on the motion that the Allen seven-line amendment to HB2524 dated 2/15/13 (Attachment 14) be adopted. The motion carried.

Vice-Chairman Allen moved that HB2524 as amended do pass. The motion failed by a roll call vote of 3-5-0-0 (Attachment 16).

HB2275 - insurance premium tax; reduction - DO PASS AMENDED S/E
S/E: insurance premium tax; reduction

Vice-Chairman Allen moved that HB2275 do pass.

Vice-Chairman Allen moved that the Lovas four-page strike-everything amendment to HB2275 dated 02/13/2013 (Attachment 17) be adopted.

Chloe Love, Majority Intern, explained that the proposed Lovas four-page strike-everything amendment to HB2275 dated 02/13/2013 (Attachment 17) preserves the current tax rate for fire insurance premiums and health service and disability insurance premiums while reducing the insurance premium tax rate for all other insurance (Attachment 18).

Representative Tom Forese, sponsor, indicated that the strike-everything amendment to HB2275 is necessary because over the last few years, taxes were reduced to create a better environment for businesses. Insurance companies are taxed differently, so in order to create fairness and make sure insurance companies have the same benefit, this bill phases down taxes for insurance companies over the next three years.

Mr. Mendez asked when the two-percent premium was implemented and why. Representative Forese replied that it was done under Governor Fife Symington for a number of reasons that are not pertinent.

Garrick Taylor, Vice President, Government Relations and Communications, Arizona Chamber of Commerce and Industry, spoke in support of the strike-everything amendment to HB2275. He noted that efforts were made in previous years to locate businesses in Arizona, including a phased-in 30 percent reduction in the corporate income tax, which resulted in a number of businesses locating in the state via the Arizona Commerce Authority. There is some unfinished business, however, which is the reduction in the insurance premium tax. This legislation will reduce the current 2 percent tax to 1.7 percent over three years.

J. Michael Low, Attorney, Prudential, testified in support of the strike-everything amendment to HB2275. He stated that Pruco Life Insurance Company is domiciled in Arizona. When the company competes with other states that lowered the premium tax rate, the company pays the higher tax rate of the state where it is domiciled or the state tax rate where business is written. In competing with Texas at 1.75 percent, Pruco Life ends up paying the 2 percent Arizona premium tax rate. Pruco Life competed for the public pension fund for Texas state employees and lost to a Texas company based on the margin of premium tax differential. In order to be competitive, it only makes sense to give a reduction over the next three years. If the state lowers the tax premium, more tax revenues will be gained from approximately 15 states with a higher premium tax rate. He responded to questions pertaining to profits of insurance companies, reduction in

revenue to the General Fund if the strike-everything amendment passes and how the provisions benefit consumers.

Chairman Lovas announced the names of those who signed up in support of the strike-everything amendment to HB2275 but did not speak:

Don Isaacson, State Farm Insurance

Gregory Harris, Lobbyist, Progressive Insurance

David Childers, Lobbyist, Property Casualty Insurers; Liberty Mutual

Norman Moore, Attorney, State Farm Insurance

Brett Jones, Vice President of Operations, Arizona Construction Association (AZCA)

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies

Stuart Goodman, Lobbyist, CSAA Insurance

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

Donald Isaacson, Lobbyist, State Farm Insurance

Wendy Briggs, American Insurance Association

Chairman Lovas announced the names of those who signed up as neutral on the strike-everything amendment to HB2275 but did not speak:

John Flynn, Arizona Fire District Association

Andrew Carlson, Executive Assistant for Policy Affairs, Arizona Department of Insurance

Question was called on the motion that the Lovas four-page strike-everything amendment to HB2275 dated 02/13/2013 (Attachment 17) be adopted. The motion carried.

Vice-Chairman Allen moved that HB2275 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 19).

HB2173 - unemployment insurance; omnibus - DO PASS AMENDED

Vice-Chairman Allen moved that HB2173 do pass.

Vice-Chairman Allen moved that the Lovas two-page amendment to HB2173 dated 2/18/13 (Attachment 20) be adopted.

Jeanine Jones, Majority Research Analyst, explained that HB2173 makes administrative and conforming changes to statutes governing unemployment insurance (Attachment 21). The Lovas two-page amendment to HB2173 dated 2/18/13 (Attachment 20) defines *adequately, pattern and timely* in relation to conditions under which an employer may not receive credit for charges for erroneous payments made to an ineligible claimant.

Farrell Quinlan, State Director, National Federation of Independent Business (NFIB), neutral on HB2173, related that many items in the bill align with requirements from legislation passed in 2011 by the U.S. Congress because of Arizona's history of overpayments to ineligible benefit recipients. The business community hopes this legislation passes so there is no interruption in the proper management of this important program. There is a difference of opinion on the language, which the amendment addresses. He said he would like to see the bill pass out of Committee in order to work on issues, such as a provision in the original bill allowing DES, by

rule, to define a pattern of failing, which should be in statute. DES agrees that a statutory definition is warranted; it is just a matter of working out the details.

Mr. Robson pointed out that the system was heading toward bankruptcy in 2011 because of the economy, so the business community negotiated a rate to shore up the system.

Representative Karen Fann, sponsor, commented this bill will be good for businesses and employers. A few issues arose in the last few days, which will be addressed by the time the bill goes to the Floor.

Kathy Ber, Director of Legislative Services, Department of Economic Security (DES), in support of HB2173, indicated that two of the provisions in the legislation are pursuant to federal law that need to be in effect by October 2013 in order to maintain the unemployment insurance program: the definition of an employer that has a pattern of failing to timely respond to DES and the 15 percent penalty on amounts received by claimants who fraudulently receive unemployment insurance benefits. Other provisions include a conforming change with what is already in practice with how limited liability companies (LLC) are treated for tax purposes.

Ms. McCune Davis asked if the business community requested the language stating that the person is not eligible to receive any benefits under this chapter until the total amount of the overpayment has been recovered or satisfied through a civil judgment. Ms. Ber answered that she understands that piece is included to comply with a provision in the federal Trade Adjustment Assistance Extension Act of 2011, but she will find out and let her know.

Chairman Lovas announced the names of those who signed up in opposition to HB2173 but did not speak:

Joseph Seelye, Legislative Political Action Team Coordinator, Communications Workers of Arizona, representing self
Rebekah Friend, Lobbyist, Arizona AFL-CIO

Chairman Lovas announced the names of those who signed up as neutral on HB2173 but did not speak:

Eric Emmert, East Valley Chambers of Commerce Alliance
Ellen Katz, Litigation Director, William E. Morris Institute for Justice
Jeff Gray, Legislative Liaison, Arizona Chamber of Commerce and Industry
Chad Heinrich, Greater Phoenix Chamber of Commerce

Question was called on the motion that the Lovas two-page amendment to HB2173 dated 2/18/13 (Attachment 20) be adopted. The motion carried.

Vice-Chairman Allen moved that HB2173 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 22).

HB2302 - workers' compensation premiums; payment - DO PASS

Vice-Chairman Allen moved that HB2302 do pass.

Jeanine Jones, Majority Research Analyst, explained that HB2302 establishes statutory guidelines governing the payment of deposit premiums for workers' compensation insurance (Attachment 23).

Representative Karen Fann, sponsor, said this is a pro-small business bill. For some reason, only three states in the nation are required to have deposits, including Arizona. This bill provides the ability to have the same privilege as other states.

Marcus Osborn, Public Affairs Specialist, Farmers Insurance, in support of HB2302, related that this bill provides flexibility for insurers to eliminate deposit requirements for workers' compensation payments. He is working with the Department of Insurance (DOI) on a Floor amendment to allow an insurer to request an exemption from the rule.

Chairman Lovas announced the names of persons who signed up in opposition to HB2302 but did not speak:

Joseph Seelye, Legislative Political Action Team Coordinator, Communications Workers of Arizona, representing self

Rebekah Friend, Lobbyist, Arizona AFL-CIO

Chairman Lovas announced the names of persons who signed up as neutral on HB2302 but did not speak:

Andrew Carlson, Executive Assistant for Policy Affairs, Arizona Department of Insurance

Names of persons who signed up in support of HB2302 but did not speak:

Kerry Hayden, Government Affairs Representative, Farmers Insurance Group of Companies

Wendy Briggs, American Institute of Architects

Question was called on the motion that HB2302 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 24).

HB2006 – ASRS; political subdivision entities – HELD BY CHAIRMAN

Chairman Lovas announced that HB2006 will be held.

Without objection, the meeting adjourned at 5:45 p.m.

Linda Taylor, Committee Secretary
March 19, 2013

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