

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

COMMITTEE ON JUDICIARY

Minutes of Meeting
Thursday, March 7, 2013
House Hearing Room 4 -- 10:00 a.m.

Chairman Farnsworth called the meeting to order at 10:03 a.m. and attendance was noted by the secretary.

Members Present

Mr. Allen	Mr. Hale	Mr. Pierce J, Vice-Chairman
Mr. Contreras	Mr. Orr	Mr. Farnsworth, Chairman
Mrs. Goodale	Mr. Quezada	

Members Absent

None

Committee Action

SB1003 – DPA (5-3-0-0)	SB1294 – DP (5-3-0-0)
SB1209 – DP (8-0-0-0)	SB1314 – DP (8-0-0-0)
SB1233 – HELD AT SPONSOR'S REQUEST	SB1441 – DP (5-3-0-0)

CONSIDERATION OF BILLS

SB1233 - limited liability companies; ownership interests - HELD AT SPONSOR'S REQUEST

Chairman Farnsworth announced that, at the sponsor's request, SB1233 will be held.

SB1209 - minors; tobacco-derived products - DO PASS

Paige Carr, Majority Intern, explained that SB1209 expands the list of tobacco-related products concerning minor offenses to include vapor products (Attachment 1).

Senator Adam Driggs, sponsor, explained that SB1209 is intended to address these products which are tobacco-derivatives that contain nicotine and to restrict their access to minors.

Leonard Clark, representing self, appeared as neutral on SB1209, stating that he agrees with restricting access to these products.

Norman Moore, Reynolds American Incorporated, explained his support for SB1209 and described vapor products in detail.

In answer to Mr. Hale's question, Mr. Moore confirmed that these products do contain nicotine.

Vice-Chairman Pierce announced the names of those who signed up in support of SB1209 but did not speak:

Don Isaacson, Reynolds American Incorporated

Kimberly MacEachern, Arizona Prosecuting Attorneys' Advisory Council

Jen Sweeney, Deputy Director, Arizona Association of Counties

Pat VanMaanen, representing self

Laura Magnus, Prime Time International

John Mangum, Altria Client Services, Arizona Food Marketing Alliance

Art Harding, Legislative Affairs Director, Attorney General's Office

Vice-Chairman Pierce moved that SB1209 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).

SB1294 - grand jury; length of term - DO PASS

Aaron Wonders, Majority Assistant Research Analyst, explained that SB1294 increases the maximum term a grand jury in a county with a population of fewer than 200,000 may serve from 120 to 180 days (Attachment 3).

Mr. Quezada asked which counties this would affect. Mr. Wonders replied that ten counties will be affected: Apache, Cochise, Coconino, Gila, Graham, Greenlee, La Paz, Navajo, Santa Cruz and Yuma.

Mr. Orr asked what was the current maximum term for the other Arizona counties. Mr. Wonders replied that the length would stay the same at 120 days.

Kimberly MacEachern, Arizona Prosecuting Attorneys' Advisory Council, testified in support of SB1294 which will give an option to the smaller counties to extend the grand jury period because of the lower frequency of meetings; this will allow for more experience to be gained by the grand jury members, thus improving service to the community.

Chairman Farnsworth asked about the frequency of meeting and the burden placed upon the individuals of increasing the length of the panel. Ms. MacEachern stressed that this is an option for the presiding judge to take into consideration.

Leonard Clark, representing self, stated his opposition to SB1294 because members of the grand juries are not paid enough as it is.

Vice-Chairman Pierce announced the names of those who signed up in support of SB1294 but did not speak:

Jen Sweeney, Deputy Director, Arizona Association of Counties

Todd Madeksza, Director of Legislative Affairs, County Supervisors Association

Jerry Landau, Arizona Supreme Court, Arizona Judicial Council

Vice-Chairman Pierce moved that SB1294 do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 4).

SB1314 - civil judgments; state; renewal - DO PASS

Magdalena Jorquez, Majority Research Analyst, explained that SB1314 expands the types of judgments that are exempted from the judgment renewal statute to include civil judgments obtained by the state (Attachment 5).

Art Harding, Legislative Affairs Director, Attorney General's Office, testified in support of SB1314 which addresses a recent issue regarding renewal of judgments.

Vice-Chairman Pierce announced the names of those who signed up as neutral on SB1314 but did not speak:

Leonard Clark, representing self

Vice-Chairman Pierce moved that SB1314 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 6).

SB1003 - technical correction; agricultural extension(now: early ballot voting; revisions) - DO PASS AMENDED

Paige Carr, Majority Intern, explained that SB1003 makes the following changes to laws governing early ballots (Attachment 7):

- directs the Secretary of State to select a unique color for all early ballot envelopes
- requires a voter to make a declaration if the voter gave the ballot to another for delivery
- makes changes regarding ballot abuse violations

Ms. Carr explained that the Farnsworth ten-line amendment dated 3/6/13 (Attachment 8) amends the section pertaining to ballot affidavits.

Jim Drake, Secretary of State's Office, testified in support of SB1003 which will reduce computation time and is the result of a meeting of election officials and election recorders after the 2012 election. He explained that SB1003 will color-code ballot envelopes and prohibit collection of ballots by third parties. He added that this legislation has been pre-cleared by the Department of Justice as required and that studies have been done on the effect on voter participation (Attachment 9).

Ms. Goodale asked how SB1003 might affect group collections at nursing homes or care facilities. Mr. Drake emphasized that the ballots would have been dropped off by the United States Postal Service and could be easily returned in the same manner.

Mr. Quezada asked if the intent is to improve computational time. Mr. Drake stated that the intent is two-fold: to reduce the time to tally votes and to increase the level of security. The more hands which touch ballots, the more opportunity for reduced security.

Mr. Quezada stated that it seems a dramatic change from allowing people to pick up and deliver ballots to making felons of those who do that; he asked if applying a time limit might improve the security. Mr. Drake replied that there would be no way to implement that idea.

Discussion ensued on the process of vote-by-mail. Mr. Drake reiterated that if the mail-in ballot is delivered to an address, whether rural or urban, then that ballot can be returned by mail, thereby eliminating a third party handling the ballots.

Doris Marie Provine, representing self, in opposition to SB1003, explained her concern that if ballots are held past the mail-in date then they must be hand-delivered. She stated that the bill will prohibit volunteer organizations from gathering ballots and she expressed curiosity about the exemption for candidates and spouses.

Brendan Walsh, Central Arizonans for a Sustainable Economy, testified against SB1003 because volunteer collections increase voting percentage. He stated that this bill will have a chilling effect on voting by creating "felons" carrying ballots and discourage new, young voters from getting involved in the process.

Sami Hamed, representing self, stated his opposition to SB1003 which will create an undue hardship on people with disabilities. Because he is blind and does not drive, he must rely on a third party to carry his vote.

Trey Williams, Legislative Liaison, Arizona Association of Counties, testified in favor of SB1033 with the Farnsworth amendment and informed the Members that all 15 county recorders are in support of SB1003.

Leonard Clark, representing self, appeared in opposition to SB1003, stating that it is an intimidation of poor people and minorities.

Barbara Klein, League of Women Voters of Arizona, explained her opposition to SB1003. She stated that it will burden voters and have a chilling effect on volunteers. She stated that the exception for candidates and their spouses was particularly unacceptable.

Karen Osborne, Elections Director, Maricopa County Elections, stated her support for SB1003. She discussed the two main features of the bill:

- 1) the color of ballot envelope – she stated that this seems acceptable to everyone testifying
- 2) the carrying of the votes – she described situations where people were going door-to-door and trying to carry ballots in a fraudulent manner such as pretending to be election officials or asking what the vote selection was in order to decide whether or not to carry it

In response to Mr. Orr's question about aiding disabled voters, Ms. Osborne explained that there is an affidavit as part of the envelope to allow assistance to a voter.

Mr. Quezada asked how SB1003 will affect the problem of people impersonating county elections officials. Ms. Osborne stated that this bill will be a deterrent. Mr. Quezada referred to existing statute that does prosecute fraud. Ms. Osborne said that current statute has not been enough to get this problem stopped. Discussion ensued.

Mr. Orr asked about the exemption for candidates and spouses. Ms. Osborne explained that they would be members of a campaign group under file with the state that are organized for the purpose of influencing the outcome of an election.

Senator Michele Reagan, sponsor, appeared to answer any questions on SB1003. There were none.

Vice-Chairman Pierce announced the names of those who signed up in support of SB1003 but did not speak:

Sadie Tomerlin, Gila County Recorder
F. Ann Rodriguez, Pima County Recorder
Judy Dickerson, Graham County Elections Director
Donna Hale, La Paz County Elections Director
Wendy John, Graham County Recorder
Jen Sweeney, Deputy Director, Arizona Association of Counties
Laurie Justman, Navajo County Recorder
Robyn Pouquette, Yuma County Recorder
Suzie Sainz, Santa Cruz County Recorder
Amy Chan, State Election Director, Secretary of State's Office

Vice-Chairman Pierce announced the names of those who signed up in opposition to SB1003 but did not speak:

Sam Wercinski, Arizona Advocacy Network
Christine McMaster, representing self
Alice Stambaugh, representing self
Emily Verdugo, representing self
Randall Holmes, representing self
Gini McGirr, representing self
Rachel Sulkes, representing self
Raquel Teran, representing self
Anne Mardick, representing self
Alison Marciniak, representing self
Jennifer Loreda, Arizona Education Association
Anjali Abraham, Public Policy Director, American Civil Liberties Union of Arizona
Alex Gibilisco, Border Action Network, Tucson
Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter

Vice-Chairman Pierce moved that SB1003 do pass.

Vice-Chairman Pierce moved that Farnsworth ten-line amendment dated 3/6/13 (Attachment 8) be adopted. The motion carried.

Vice-Chairman Pierce moved that SB1003 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 10).

SB1441 - marijuana; medical use; seizure; disposition - DO PASS

Aaron Wonders, Majority Assistant Research Analyst, explained that SB1441 requires forfeited or seized medical marijuana to be disposed of in the same manner as non-medical marijuana (Attachment 11).

Kimberly MacEachern, Arizona Prosecuting Attorneys' Advisory Council, stated her support for SB1441 which is in response to a court case that has come out of the Arizona Medical Marijuana Act. She stressed that SB1441 is not about seizure but about what to do with marijuana when law enforcement comes into possession of it; she stated that it is no longer medical marijuana at that point. If charges are not brought after seizure, then law enforcement is unable to return the marijuana because under federal law marijuana is contraband, not medical. She explained that the Arizona Medical Marijuana Act creates a parallel system and problems for law enforcement.

Mr. Orr asked for a scenario that medical marijuana would be seized. Ms. MacEachern explained that it would be seized only if probable cause exists; if a medical marijuana cardholder is stopped for a traffic violation, it would not be seized. Discussion ensued about unintended consequences.

Mr. Hale inquired about property rights in a medical marijuana seizure. Ms. MacEachern stressed that there is no deprivation of due process; SB1441 will clarify that law enforcement does not return contraband that has been seized.

Ms. MacEachern stated that, if no charges are brought, a claim can be made for compensation for seized property. In response to questions from Mr. Orr and Chairman Farnsworth, she explained that prescription drugs are not returned either and the claim process must be followed in that instance.

Leonard Clark, representing self, appeared as neutral on SB1441.

Melvin McDonald, representing self, testified against SB1441. He first described his involvement in writing national drug policy legislation in the 1980s. He then related a personal story wherein his son, in 1997, sustained massive brain injuries in a car accident and required marijuana for resultant epilepsy. He described how his wife would go out to obtain marijuana illegally which enabled his son to eat again. He added that SB1441 is an effort to negate the decision of the voters.

Anjali Abraham, Public Policy Director, American Civil Liberties Union of Arizona, explained her opposition to SB1441: the State Constitution requires the Legislature, when amending a law passed by a voter initiative, to further the purpose of the underlying initiative. She explained how SB1441 conflicts with key sections of the Arizona Medical Marijuana Act, particularly in allowing the destruction of medical marijuana. She stated that state law enforcement is immunized against federal prosecution in this situation.

Senator Kimberly Yee, sponsor, stated that SB1441 is about public safety and does not affect legal users as defined by the Arizona Medical Marijuana Act. She added that a three-quarter vote will be required from the Legislature to pass SB1441.

Chairman Farnsworth asked about the maximum amount allowed for medical marijuana. Ms. MacEachern stated that the amount allowed by law is 2.5 ounces every two weeks.

Kathleen Mayer, Pima County Attorney's Office, stated her support for SB1441 and explained that the cost of medical marijuana is \$303 per ounce plus tax. She explained that SB1441 is in furtherance of the Arizona Medical Marijuana Act as it is written for dispensaries and individuals with cards. If medical marijuana is seized in the course of a crime, it becomes contraband and is no longer legal.

Ken Sobel, Green Halo, explained his opposition to SB1441. He runs a dispensary in Tucson as a nonprofit endeavor.

Vice-Chairman Pierce announced the names of those who signed up in support of SB1441 but did not speak:

John Thomas, Arizona Association of Chiefs of Police

Sheila Polk, Yavapai County Attorney, representing self

Merilee Fowler, MATFORCE

Lyle Mann, Deputy Director, Arizona Peace Officer Standards and Training Board

Jen Sweeney, Deputy Director, Arizona Association of Counties

Vice-Chairman Pierce announced the names of those who signed up in opposition to SB1441 but did not speak:

Emily Verdugo, representing self

Doris Marie Provine, representing self

Anne Mardick, representing self

Andy Blackledge, representing self

Gretchen Jacobs, Attorney, Arizona Organix

Bill Myer, Director, Arizona Organix

Vice-Chairman Pierce moved that SB1441 do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 12).

Without objection, the meeting adjourned at 12:26 p.m.

Jane Dooley, Committee Secretary

April 11, 2013

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