

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

**COMMITTEE ON ENERGY, ENVIRONMENT
AND NATURAL RESOURCES**

Minutes of Meeting
Monday, March 18, 2013
House Hearing Room 4 -- 2:00 p.m.

Chairman Pratt called the meeting to order at 2:42 p.m. and attendance was noted by the secretary.

Members Present

| | | |
|---------------|-------------|-------------------------|
| Mr. Hale | Mr. Saldate | Ms. Fann, Vice-Chairman |
| Mr. Orr | Mr. Shope | Mr. Pratt, Chairman |
| Ms. Peshlakai | Mr. Thorpe | |

Members Absent

None

Committee Action

| | |
|--|------------------------|
| SB1321 – DPA FAILED (4-4-0-0) | SCM1001 – DP (4-3-0-1) |
| SB1469 – DP (6-2-0-0) | |

CONSIDERATION OF BILLS

SB1321 – residential energy efficiency; building codes – ~~DO PASS AMENDED FAILED~~

Vice-Chairman Fann moved that SB1321 do pass.

Aaron Wonders, House Majority Assistant Research Analyst, explained that SB1321 establishes criteria for a residential building to be deemed in compliance with any regulation or legal requirement by a city, town, county or other political subdivision relating to energy conservation or energy efficiency (Attachment 1). He explained the Home Energy Rating System Index (HERS) which measures the efficiency of a home's energy performance.

Mr. Wonders explained that the Shope two-page amendment dated 03/15/2013 (Attachment 2) deems residential homes which achieve the prescribed HERS scores to also be in compliance.

Mr. Wonders explained that the Hale five-line amendment dated 03/15/2013 (Attachment 3) adds a delayed repeal date of December 31, 2016.

Spencer Kamps, Deputy Director, Home Builders Association of Central Arizona, testified in favor of SB1321 and the Shope amendment. He stated that he opposes the Hale amendment and will discuss that with his stakeholders at a later time. He stated that SB1321 allows 100 percent performance-based compliance with 2012 energy code standards based on a HERS score of 73.

Mr. Kamps explained that codes have been around for a very long time and were primarily focused on safety but now have incorporated energy efficiency. He stated that the HERS standard of 73 in SB1321 is a much higher standard than in 2006 or 2009 codes.

Chairman Pratt informed the Members that the sponsor is expected to arrive at the meeting soon.

Vice-Chairman Fann asked for clarification of the "zones" referenced in the bill. Mr. Kamps explained that Arizona is separated into four zones and has adopted HERS codes for each zone. The different code components apply in different climate zones. He stressed that each town can adopt its own zone assignment.

Jeff Schlegel, Southwest Energy Efficiency Project (SWEET), testified against SB1321 because it will prohibit municipalities and counties from setting performance standards in their local communities by their locally elected officials by setting state-mandated standards. He stated that SB1321 will not result in more efficient homes because cities are already building to higher efficiency.

Mr. Schlegel opined that SB1321 will result in less affordable housing because of the costs to operate that home. He explained that the HERS index (Attachment 4) is run by a private firm and the average Phoenix-built 2012 home score of 65 was better than 73. He recommended a standard of 67, although for many municipalities this will represent a change from current systems to the HERS standard.

Mr. Thorpe asked if the HERS standard is a national one. Mr. Schlegel answered in the affirmative.

Ron Boose, Building Official, City of Tucson, voiced his opposition to SB1321 which will take away local control from the cities. He stated that SB1321 will prohibit cities from adopting more stringent efficiency standards.

Becky Hill, American Chemistry Council, testified against SB1321 stating that it will disrupt local priorities by adopting an older industry standard. She added that HERS is a for-profit proprietary system and that adopting a single standard precludes any flexibility.

Mr. Hale asked if it is possible for a city to be in more than one zone. Ms. Hill responded in the affirmative. Discussion ensued about confusing the efficiency of appliances with the efficiency of the home.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, explained her opposition to SB1321 which will not lead to improved performance and efficiency. She stated that this legislation will prohibit cities and towns from having the flexibility to address efficiency. She explained to the Members that utility costs are a large part of efficient homes and

owners with electricity bills that are upwards of \$400 per month are not living in affordable housing. She added that up-front installation costs will be recovered in reduced utility costs.

Benjamin Bitter, Management Analyst, City Manager's Office, City of Casa Grande, testified against SB1321 because it may lengthen the bureaucratic process waiting for certification of efficiency rating and will be more punitive to rural communities which may not have the home energy rating providers in the area. SB1321 will limit each community's ability to customize their energy guidelines.

Discussion ensued regarding who will be doing the rating.

Chairman Pratt stated that contractors in small towns often must customize for local building inspectors and asked if it is reasonable to establish uniformity in building from jurisdiction to jurisdiction. Mr. Bitter concurred but added that, in general, standards are fairly uniform in that they provide minimum standards.

Robert Lee, Fire Marshal, Town of Paradise Valley; Arizona Building Officials, explained his opposition to SB1321 which is a bill proposed by builders which will not benefit homeowners and local jurisdictions.

Forrest Fielder, representing self, appeared in opposition to SB1321 and asked the Committee to table this measure until next year to allow alternative approaches to legislation to regulate new home efficiency standards. A new code will be released in 2015 that may address most of these issues.

Lindsay Stovall, State Affairs, American Chemistry Council, stated her opposition to SB1321 saying that placing a specific HERS score in statute sets a bad precedent. She stressed the importance of building in efficiency at the outset because retrofitting a home down the road is very costly and cannot achieve the best efficiency.

Vice-Chairman Fann announced the names of those who signed up in support of SB1321 but did not speak:

Stan Barnes, Southern Arizona Home Builders Association
Allison Bell, Senior Government Affairs Representative, Arizona Public Service
Scot Mussi, Free Enterprise Club
Courtney Gilstrap LeVinus, Arizona Multihousing Association
Jeff Sandquist, Tucson Electric Power Company
Daran Wastchak, representing self

Vice-Chairman Fann announced the names of those who signed up in opposition to SB1321 but did not speak:

Angel Torres, representing self
Ariel LeBarron, representing self
Adriana Marinez, Intergovernmental Relations Coordinator, City of Tucson
Joni Bosh, representing self
Peter Bengtson, representing self
Donald Begalke, representing self

Elna Otter, representing self
Diane Brown, representing self
Brad Lundahl, Government Relations, City of Scottsdale
Jennifer Bonnett, Arizona Public Health Association
Jennifer Martin, Arizona Interfaith Power and Light
Bruce Ray, Governmental and Regulatory Affairs, Johns Manville
Pat VanMaanen, representing self
Ryan Peters, Intergovernmental Programs Administrator, League of Arizona Cities and Towns
Jack Hakim, Mayor, City of Bullhead City
Michael Racy, Pima County
Samantha Omev, Manager of Government Relations, Honeywell International
Jim Perkins, representing self

Vice-Chairman Fann moved that the Shope two-page amendment dated 03/15/2013 (Attachment 2) be adopted. The motion carried.

Vice-Chairman Fann moved that the Hale five-line amendment dated 03/15/2013 (Attachment 3) be adopted. The motion carried.

Vice-Chairman Fann moved that SB1321 as amended do pass.

Vice-Chairman Fann requested further discussion on the bill. She asked for additional information on the Hale amendment. Mr. Wonders stated that the Hale amendment has a delayed repeal date of December 31, 2016.

Vice-Chairman Fann then asked how the delayed repeal date may affect the new standards scheduled to be released in 2015 per Mr. Fielder. Mr. Wonders stated that after the repeal there will no longer be a state requirement to be deemed in compliance and local ordinances will maintain.

Mr. Hale added that he proposed the Hale amendment to allow the Legislature to have another look at the legislation, assess any unintended consequences and have the option to allow things to return to the way they are today.

Discussion ensued regarding local municipalities adopting codes, the effect of a state mandate, and the effect of waiting until 2015 for the updated codes.

Question was called on the motion that SB1321 as amended do pass. The motion failed by a roll call vote of 4-4-0-0 (Attachment 5).

SB1469 – applying aquatic poisons – DO PASS

Vice-Chairman Fann moved that SB1469 do pass.

Nicole Ealy, Majority Intern, explained that SB1469 requires the Game and Fish Department to submit an impact analysis report to the Arizona Game and Fish Commission before applying Rotenone or Antimycin A to a body of water (Attachment 6).

Thomas Hulen, representing self, explained his opposition to SB1469 which is an unnecessary bill because Rotenone is not causing a problem. This bill is crafted to slow down or eliminate native fish restoration efforts in Arizona; Rotenone removes invasive species.

Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter, testified against SB1469 noting that the Game and Fish Department had previously opposed the bill but now is in favor because the politics of the issue have changed.

Discussion ensued on the use of Rotenone for native fish recovery. Mr. Orr asked if this bill is a notification bill only.

Gina Kash, Majority Research Analyst, stated that the bill will require the Game and Fish Commission to do an impact analysis on the use of Rotenone, and that there is also a provision for a notification process.

Chairman Pratt stated that he cannot speak for the Game and Fish Department, who are not present today, but that they had indicated to him that they already are complying with most of the provisions in SB1469.

Mr. Saldate asked if this will create a situation where Game and Fish will regulate itself. Ms. Kash replied that is a policy question best answered by the sponsor.

Mr. Hale asked if these two chemicals are the only ones used to restore native fish. Ms. Kash replied that only Game and Fish can answer that question.

Patrick Bray, Arizona Cattlemen's Association, testified in support of SB1469 and explained that it is addressing a constituent concern. The intent of the bill is to ensure that there is an evaluation of each individual body of water in which the chemicals are used.

Mr. Bray addressed Members' questions, stating that the bill is about notification, not any increase in the use of the chemicals, and that it is a good faith effort by the agency to comply with public safety.

Vice-Chairman Fann announced the names of those who signed up in support of SB1469 but did not speak:

Jack Husted, Arizona Game and Fish Commission
Thomas Guice, representing self (Attachment 7)
Gretchen Guice, representing self (Attachment 7)

Vice-Chairman Fann announced the names of those who signed up in opposition to SB1469 but did not speak:

Peter Bengtson, representing self
Donald Begalke, representing self

Question was called on the motion that SB1469 do pass. The motion carried by a roll call vote of 6-2-0-0 (Attachment 8).

SCM1001 – technical correction; urging the president(now: clean air act) – DO PASS

Vice-Chairman Fann moved that SCM1001 do pass.

Gina Kash, House Majority Research Analyst, explained that SCM1001 requests Congress to amend the Clean Air Act to further clarify that states, not the Environmental Protection Agency (EPA), have the primary role in developing plans for regulating air pollutants (Attachment 9).

Vice-Chairman Fann announced the names of those who signed up in support of SCM1001 but did not speak:

Heather Bernacki Wilkey, Government Affairs, American Coalition for Clean Coal Electricity
Tom Dorn, Peabody Energy; American Coalition for Clean Coal Electricity

Vice-Chairman Fann announced the names of those who signed up in opposition to SCM1001 but did not speak:

Peter Bengtson, representing self
Donald Begalke, representing self
Diane Brown, representing self
Sandy Bahr, Conservation Director, Sierra Club - Grand Canyon Chapter
Thomas Hulen, representing self

Question was called on the motion that SCM1001 do pass. The motion carried by a roll call vote of 4-3-0-1 (Attachment 10).

Without objection, the meeting adjourned at 4:38 p.m.

Jane Dooley, Committee Secretary
April 26, 2013

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