

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

COMMITTEE ON JUDICIARY

Minutes of Meeting
Thursday, January 30, 2014
House Hearing Room 4 -- 10:00 a.m.

Chairman Farnsworth called the meeting to order at 10:09 a.m. and attendance was noted by the secretary.

Members Present

Mr. Allen	Mr. Orr	Mr. Pierce J, Vice-Chairman
Mr. Contreras	Mr. Quezada	Mr. Farnsworth E, Chairman

Members Absent

Ms. Goodale (excused)	Mr. Hale (excused)
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Committee Action

HB2091 – DP (4-2-0-2)	HB2312 – DP (6-0-0-2)
HB2164 – DP (6-0-0-2)	HB2314 – DP (5-0-0-3)
HB2196 – DP (4-2-0-2)	

CONSIDERATION OF BILLS

HB2196 – election law amendments; repeal... – DO PASS

Gina Kash, Majority Research Analyst, explained that HB2196 repeals HB2305, initiatives; filings; circulators, Laws 2013, Chapter 209 (Attachment 1). HB2305 required a political committee that files petitions to organize and group the signature sheets. The bill provided the ability of a political committee to increase the standard for challenging the validity of petition circulators by contracting for background checks by a private entity. The bill, as amended, added strict compliance to requirements for initiatives, referenda and recalls, prohibited the collection of early ballots by a political committee or volunteer and assessed a criminal penalty for a violation, removed registrants from the Permanent Early Voting List (PEVL) under certain circumstances, amended the number of signatures required for nomination petitions, defined terms and made other changes relating to elections.

Eleanor Eisenberg, representing the League of Women Voters, spoke against HB2196 as well as HB2305, the underlying bill. She stated that HB2305 runs counter to the right to participate in public life and politics as well as several guarantees in the Arizona and the U.S. Constitutions. She asked the sponsor whether he intends to reintroduce the provisions of HB2305.

Chairman Farnsworth stated that he does not intend to reintroduce HB2305 nor does he have knowledge of any concerted effort to reintroduce parts of the bill. It is possible that other individuals may sponsor portions of that legislation and stated that he believes there are sections of the bill that have to be addressed. He advised that he sponsored HB2196 to repeal HB2305 because it does not have the support of the public. Ms. Eisenberg said she prefers placing this matter on the ballot where the people can exercise their constitutional rights.

Chairman Farnsworth asked why a referendum is a better way to proceed than repealing HB2305 by this legislation. He noted that HB2196 repeals HB2305 without the added cost of an election, materials and time. Ms. Eisenberg responded that it is better to have the people speak; a referendum will make it clearer what the will of the people is. There would be no question about the intent of the people and voters will have exercised their constitutional rights. Chairman Farnsworth said he has made it very clear what his intent is. He said there is no ambiguity as to his intent. He reminded the public that he sponsored HB2305 last year; however, the bill was amended and, when passed, contained other provisions that were not in the original bill. He said he is trying to be responsive to the will of the people by repealing HB2305.

Jonathan Alanis, representing self, in opposition to HB2196, related that he, like many others, worked hard to collect signatures. The people should have the final decision on this bill. He asked that the measure be allowed to go to the ballot.

Vice-Chairman Pierce said that different people have expressed different feelings about HB2305. He asked Mr. Alanis what his position is. Mr. Alanis said he especially opposes the additional signature requirement for third-party candidates because it removes some choices and makes it more difficult for a third-party candidate to get on the ballot.

Chairman Farnsworth said that he does not want to get off track by discussing the underlying bill passed last year. The issue now is whether to repeal HB2305 through the Legislature.

Sandy Bahr, Chapter Director, Sierra Club-Grand Canyon Chapter, urged Members to reject HB2196. She said that she still opposes many of the provisions of HB2305; however, she does not want to see it repealed and reenacted piecemeal because that seems to be the direction that things are going. She said that preparing for a referendum is a lot of hard work. She does not think the small part that might be worthwhile saving is worth slapping the voters in the face and all the people who worked so hard. She asked that this be put on the ballot to let the people have their say.

Chairman Farnsworth reiterated that he has already made his intentions clear. This proposal repeals something that the people said they did not want in law and he has not seen any bills to reintroduce parts of the bill. He finds the comments made to be unsubstantiated, untrue and inflammatory to conclude something not in fact and say that this is a slap in the face to the voters.

Doris Marie Provine, representing self, spoke in opposition to HB2196. She said she is a member of the Arizona Advocacy Network and the Arizona Voters Coalition. The issue she opposes is the Permanent Early Voting List (PEVL) provision, taking occasional voters off the PEVL and criminalizing volunteers who deliver votes. She maintained that the PEVL is a great

Arizona innovation and should be kept. She urged Members to change the provision that criminalizes volunteers who get people to vote.

Chairman Farnsworth again reminded everyone that HB2196 does not have anything to do with those provisions; it repeals HB2305 in its entirety.

Jessica Tello, representing self, against HB2196, advised that she is a student and has been working with PEVL voters to help them vote for about two years. Many of the people she registered told her they would not have thought about voting if she had not talked to them. She said she does not want these people to be removed from the PEVL. She urged a no vote on this legislation because people want to be able to vote.

Jennifer Loreda, Arizona Education Association (AEA), testified that the AEA is asking for a no vote on HB2196. The concern is that AEA cannot get a definitive answer that this will not be broken and reintroduced. AEA has invested a lot of time and effort to ensure that this issue gets on the ballot. If this repeal is passed, AEA will lose its leverage and its voice to ensure that the areas of concern do not come back in other bills that may be introduced.

Julie Erfle, Chairman, Protect Your Rights to Vote Committee, spoke against HB2196. She commended the Chairman for being upfront in saying that he will not bring this back piece by piece; however, other Members have not been so forthright on the subject.

Chairman Farnsworth again stated that pieces of this issue need to be addressed; one area is the PEVL. Ms. Erfle agreed and said that the people who will be most affected by the PEVL will be independent voters. Because many people will ignore the postcard that asks them if they want to be taken off the PEVL, the effect will be fewer people voting. Chairman Farnsworth disagreed. He said people still have the choice to vote at the polls.

Chairman Farnsworth said he does not understand the opposition to the bill other than people believe that Proposition 105 will be applicable to this, which it is not. This bill repeals the whole package; however, he repeated that portions of the bill that the Secretary of State believes to be important will have to be dealt with in order for that Office to do its constitutionally-mandated job. Ms. Erfle said she believes it would be more difficult to come back piecemeal if the voters have spoken.

Jim Drake, Arizona Secretary of State's Office, in support of HB2196, answered questions.

Mr. Quezada asked the reasons for supporting HB2196. Mr. Drake related that the Secretary of State's Office originally approached the Chairman to sponsor a bill to make some changes to the election law; however, when it went through the legislative process, many ideas were added.

Mr. Orr brought up the scenario of this going to the ballot with the result that the referendum fails. In that case, he wondered whether HB2305 would be voter-protected under Proposition 105. Mr. Drake opined that might be challenging to implement.

Mr. Contreras asked whether supporting this repeal bill is against the will of the people who support a referendum. Mr. Drake said he sees this as being harmonious with the referendum concept. The referendum process is a check on legislative action.

Names of those who signed up in support of HB2196 but did not speak:

Scot Mussi, Arizona Free Enterprise Club

Garrick Taylor, Arizona Chamber Of Commerce and Industry

Christina Estes-Werther, Lobbyist, Arizona Secretary Of State

Names of those who signed up in opposition to HB2196 but did not speak:

Sam Wercinski, Lobbyist, Arizona Advocacy Network

Anthony Hessel, Lobbyist, Arizona Students Association

Rivko Knox, representing self

Gini McGirr, Legislative Chair, League of Women Voters of Arizona

Megan Fisk, representing self

MacKenzie Johnson, representing self

Ed Casper, representing self

Nick Collins, representing self

Alice Stambaugh, representing self

Robyn Prud'homme-Bauer, representing self

Steve Muratore, representing self

Kari Nienstedt, Arizona State Director, Humane Society of the United States

Ginny Dickey, representing self

Tory Anderson, Lobbyist, Arizona Alliance for Retired Americans

Barbarba Tellman, representing self

Casey Dreher, Arizona Students' Association

Karen Michael, Lobbyist, Animal Defense League of Arizona

Alison Marciniak , representing self

Martha German, Lobbyist, Humane Voters of Arizona

Leeann Wieser, Lobbyist, Arizona Federation of Teachers Union

Vice-Chairman Pierce moved that HB2196 do pass. The motion carried by a roll call vote of 4-2-0-2 (Attachment 2).

HB2091 – just compensation; tolling; time limitation – DO PASS

Rick Hazelton, Majority Research Assistant Analyst, stated that HB2091 makes changes to the time frame a property owner has to file a claim concerning just compensation (Attachment 3). The bill contains a Proposition 105 clause.

Representative David Livingston, sponsor, explained that this legislation cleans up language in statute. He noted that it has bipartisan support.

Mr. Quezada asked how often this situation occurs. Representative Livingston replied that it does not happen often but when it does, it affects business owners, land owners and property owners who feel they have not been treated fairly by a jurisdiction that delayed the process.

Nicholas Dranias, representing self, answered questions. He gave an example of a Flagstaff case that was litigated up to the Court of Appeals. The court's ruling puts everyone in jeopardy that might have this problem. He stated that when options have been exhausted, innocent people are finding themselves caught by a technicality.

Mr. Quezada said his research shows that the property owner lost the case because he failed to refile his claim in a proper manner, not because the statute of limitations ran out. Mr. Dranias disagreed. He said the law on the notice requirement was confusing, so the property owner was confused as to what he had to do.

Vice-Chairman Pierce moved that HB2091 do pass. The motion carried by a roll call vote of 4-2-0-2 (Attachment 4).

HB2312 – tampering with a witness – DO PASS

Brianna Laysner, Majority Research Intern, said that HB2312 expands the definition of tampering with a witness to include the attempt to induce a witness and the evasion of a summons or a subpoena (Attachment 5).

Vice-Chairman Pierce, sponsor, advised that this bill was heard last year in the House and was stalled in the Senate. The bill has bipartisan support.

Kathleen Mayer, Legislative Liaison, Pima County Attorney's Office, stated support of HB2312 and made herself available to answer questions.

Names of those who signed up in support of HB2323 but did not speak:

Shannon Rich, Lobbyist, Arizona Coalition to End Sexual and Domestic Violence
Kimberly MacEachern, Lobbyist, Arizona Prosecuting Attorneys' Advisory Council
John Thomas, Lobbyist, Arizona Association of Chiefs of Police
Art Harding, Lobbyist, Arizona Attorney General's Office
Jason Winsky, Lobbyist, Combined Law Enforcement Association of Arizona
Andrew LeFevre, Lobbyist, Arizona Criminal Justice Commission
Rebecca Baker, Lobbyist, Maricopa County
Jen Sweeney Marson, Lobbyist, Arizona Association of Counties

Vice-Chairman Pierce moved that HB2312 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 6).

HB2314 – prosecutor presence; interview of minor – DO PASS

Rick Hazelton, Majority Research Assistant Analyst, explained that HB2314 requires the presence of a prosecutor when a minor victim is being interviewed by a defendant, defendant's attorney or the defendant's agent even if the child's parent or legal guardian initiates contact with the defendant, the defendant's attorney or the defendant's agent (Attachment 7).

Vice-Chairman Pierce, sponsor, advised that this bill also passed the House last year and was stalled in the Senate.

Kathleen Mayer, Legislative Liaison, Pima County Attorney's Office, in support of HB2314, advised that this is designed to address a gap in the Victims' Rights statute which currently requires that a defendant may not initiate contact with a victim. The statute does not address those circumstances where parents of a minor may want to influence that witness by initiating contact with the defense attorney.

Names of those who signed up in support of HB2323 but did not speak:
Shannon Rich, Lobbyist, Arizona Coalition to End Sexual and Domestic Violence
Kimberly MacEachern, Lobbyist, Arizona Prosecuting Attorneys' Advisory Council
John Thomas, Lobbyist, Arizona Association of Chiefs of Police
Art Harding, Lobbyist, Arizona Attorney General's Office
Jason Winsky, Lobbyist, Combined Law Enforcement Association of Arizona
Andrew LeFevre, Lobbyist, Arizona Criminal Justice Commission
Rebecca Baker, Lobbyist, Maricopa County
Jen Sweeney Marson, Lobbyist, Arizona Association of Counties

Vice-Chairman Pierce moved that HB2314 do pass. The motion carried by a roll call vote of 5-0-0-3 (Attachment 8).

HB2164 – laser pointer; aircraft; violation – DO PASS

Gina Kash, Majority Research Analyst, stated that HB2164 prohibits aiming a laser pointer at an occupied aircraft and prescribes the following penalties (Attachment 9): Class 5 felony for aiming a laser pointer at an occupied aircraft; Class 4 felony if the act renders the pilot unable to safely operate the aircraft or causes serious physical injury to any person on board the aircraft.

Mr. Orr, sponsor, stated that this is a serious problem since a laser aimed at an aircraft can cause significant injury to a pilot's eyesight. There were over 3,000 laser strikes in Arizona last year; Phoenix is the worst county in the nation for this. He advised that he will be offering an amendment on the Floor to change the penalty. Under the current statute, this offense carries a Class 1 misdemeanor and prosecutors are not prosecuting this offense. The proposed amendment will move the penalty to a Class 6 felony to give prosecutors the opportunity to plea the offense down in some cases dealing with youth. He referred to a handout depicting a laser beam (Attachment 10).

Names of people who signed up in support of HB2164 but did not speak:
Levi Bolton, Arizona Police Association, Phoenix Law Enforcement Association
Dale Wiebusch, Legislative Associate, League of Arizona Cities and Towns
Jim Mann, Lobbyist, Arizona Fraternal Order of Police
Kathleen Mayer, Legislative Liaison, Pima County Attorney's Office
Jason Winsky, Lobbyist, Combined Law Enforcement Association of Arizona
Adriana Martinez, Lobbyist, City of Tucson

Vice-Chairman Pierce moved that HB2164 do pass. The motion carried by a roll call vote of 6-0-0-2 (Attachment 11).

Without objection, the meeting adjourned at 11:25 a.m.

Joanne Bell, Committee Secretary
February 6, 2014

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