

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

COMMITTEE ON COMMERCE

Minutes of Meeting
Wednesday, February 5, 2014
House Hearing Room 5 -- 10:00 a.m.

Chairman Forese called the meeting to order at 10:06 a.m. and attendance was noted by the secretary.

Members Present

Mr. Kwasman	Mr. Mesnard	Mr. Petersen
Ms. Mach	Ms. Miranda	Mr. Shope, Vice-Chairman
Ms. McCune Davis	Mr. Montenegro	Mr. Forese, Chairman

Members Absent

None

Committee Action

HB2260 – DP (9-0-0-0)	HB2274 – DP (9-0-0-0)
HB2262 – DP (9-0-0-0)	HB2446 – HELD
HB2263 – DPA (9-0-0-0)	HB2537 – DP (6-3-0-0)
HB2267 – DP (8-0-0-1)	HR2001 – DP (9-0-0-0)
HB2269 – DP (9-0-0-0)	

CONSIDERATION OF BILLS

HB2260 – small business bill of rights – DO PASS

Vice-Chairman Shope moved that HB2260 do pass.

Diana Clay, Majority Research Analyst, explained that HB2260 establishes a small business bill of rights that must be posted on each regulatory agency's website and given to each business prior to any regulatory enforcement. The bill of rights must contain disclosure information as noted in the statutes and agency rules, including the process for a person to file a complaint against an agency (Attachment 1). The McCune Davis six-line amendment dated 02/04/14 to HB2260 (Attachment 2) requires notice on the website and the bill of rights that provides consumers with information on the process for filing complaints with state agencies.

Chairman Forese, sponsor, stated the importance of protecting small business owners that make up more than half the jobs in the economy. He said, after several interactions with small business owners, it has been brought to his attention that it is necessary to prevent government

from preying on them. HB2260 is an opportunity to create a policy that extends to all departments, form a buffer of protection for small businesses and make it easier to deal with government.

Vice-Chairman Shope moved that the McCune Davis six-line amendment dated 02/04/14 (Attachment 2) be adopted.

Chairman Forese stated that he does not support the amendment to the bill.

Ms. McCune Davis explained that the purpose of a bill of rights is to help people understand what their rights are. In this case, it is an opportunity for businesses to have access to information as to what their recourse is if they are being treated improperly. The amendment adds the opportunity for state agencies to make consumers aware of what their rights are when dealing with a business.

Vice-Chairman Shope withdrew the motion that the McCune Davis six-line amendment dated 02/04/14 (Attachment 2) be adopted.

Ms. McCune Davis moved that the McCune Davis six-line amendment dated 02/04/14 (Attachment 2) be adopted.

THE MEETING RECESSED AT 10:12 A.M. TO THE SOUND OF THE GAVEL.

THE MEETING RECONVENED AT 10:22 A.M. ALL MEMBERS WERE PRESENT.

Question was called on the motion that the McCune Davis six-line amendment dated 02/04/14 (Attachment 2) be adopted. The motion failed.

Farrell Quinlan, State Director, National Federation of Independent Business, spoke in favor of HB2260 and stated that the intent of the bill is to create greater transparency and disclosure. He explained that large corporations have a team of in-house attorneys to highly guard their rights, small businesses do not. When a small business has a poor encounter with state or federal government they can feel like they are being treated unfairly or even bullied. HB2260 specifies that regulating agencies will provide businesses with a written document that outlines their rights. The bill also allows for greater government accountability.

Discussion ensued amongst Members on the importance of treating small businesses fairly and funding state agencies adequately.

Ann Heins, representing self, testified in support of HB2260 and gave an account of her real estate business experiences with an abusive city government. She stated that she believes there is a strong need for additional government oversight of city agencies due to their abusive tactics.

Sean Laux, Chief Legislative Liaison and Public Information Officer, Arizona Department of Revenue (DOR), appeared as neutral on HB2260. He advised the Committee that A.R.S. Title 42, posted on the DOR website, is a taxpayer bill of rights currently recognized in statute. A section of the bill of rights established a problem resolution officer who is charged with representing taxpayer interests. Complaints involving DOR auditors or collectors are

investigated by the problem resolution officer and any action towards the business is stopped during the investigation.

Ralph Heins, representing self, testified as neutral and stated that he is an elected precinct committeeman for Legislative District 18. He related that he believes HB2260 is a great bill; however, it is inadequate since there are zero consequences for an individual or agency in the event of bullying. It does not provide compensation to the business that has been injured.

Vice-Chairman Shope announced the names of those who signed up in support of HB2260 but did not speak:

Jose Borrajero, representing self

Steve Trussell, Lobbyist, Arizona Rock Products Association

Susan Mihalik, representing self

Richard Mihalik, representing self

Dave Kopp, Manager, Americans for Prosperity Arizona

Walter Dudley, representing self

Joyce Hill, representing self

Jim Staffnik, representing self

Bill Fathauer, Americans for Prosperity Arizona

Jeffrey Fleetham, representing self

Aimee Rigler, Lobbyist, Gilbert Small Business Alliance

Question was called on the motion that HB2260 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 3).

HB2262 – corporations; purposes; directors and officers – DO PASS

Vice-Chairman Shope moved that HB2262 do pass.

Diana Clay, Majority Research Analyst, explained that HB2262 enumerates powers of the corporation that make a positive impact on society or the environment and benefit the shareholders (Attachment 4). The bill revises the current standards of conduct and liability for boards of directors and officers and has an effective date of January 1, 2015.

Janna Day, Lobbyist, State Bar of Arizona, testified in support of HB2262. She provided background on the creation of a new corporation category entitled benefit corporation (B-Corp). This bill clarifies what directors and officers can do for existing for-profit corporations and attempts to fill in the gaps missed in last year's legislation.

Vice-Chairman Shope announced the names of those who signed up in support of HB2262 but did not speak:

Scott DeWald, representing self

Question was called on the motion that HB2262 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 5).

HB2263 – certified public accountants – DO PASS AMENDED

Vice-Chairman Shope moved that HB2263 do pass.

Amanda Barnes, Majority Research Assistant Analyst, explained that HB2263 reorganizes and makes various changes to the Certified Public Accountant (CPA) qualifications and requirements (Attachment 6). The bill clarifies that an applicant cannot have a certificate that is expired, relinquished or revoked when applying to the State Board of Accountancy. The Forese five-page amendment dated 01/31/14 to HB2263 (Attachment 7) includes legislative intent concerning the Board's registration late fees.

Marcus Dell'Artino, Lobbyist, Arizona Board of Accountancy, testified in support of HB2263. He stated that this is a clean-up bill to last year's HB2260 to clarify language and resolve inconsistencies.

Vice-Chairman Shope announced the names of those who signed up in support of HB2263 but did not speak:

Kevin DeMenna, Arizona Society of Certified Public Accountants

Ryan DeMenna, Lobbyist, Arizona Society of Certified Public Accountants

Walter Dudley, representing self

Vice-Chairman Shope moved that the Forese five-page amendment to HB2263 dated 01/31/14 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Shope moved that HB2263 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 8).

HB2267 – burial; instructions – DO PASS

Vice-Chairman Shope moved that HB2267 do pass.

Amanda Barnes, Majority Research Assistant Analyst, advised that HB2267 permits decedents, prior to death, to direct in writing the disposition of their remains and specify funeral goods and services to be provided (Attachment 9). The bill prohibits any modifications to the decedents' written instructions, except as required by law and mandates the decedents' written instructions be carried out, if both of the following requirements are met:

- Arrangements for payment are met, whether through trusts, insurance or commitments by others.
- The written instructions are clear and complete with details that preclude any material ambiguity.

Ron Johnson, Arizona Catholic Conference, spoke as neutral on HB2267 due to religious liberty concerns. He advised Members that stakeholders are working to address the issue and an amendment may be forthcoming.

Jay Kaprosy, SCI Arizona Funeral Services, Inc., testified in support of HB2267. He stated that if an individual, prior to death, made clear instructions in writing specifying burial procedures and provided the necessary means, the wishes of the individual should be honored.

Vice-Chairman Shope announced the names of those who signed up in support of HB2267 but did not speak:

Marilyn Purvis, Lobbyist, SCI Arizona Funeral Services, Inc.

Question was called on the motion that HB2267 do pass. The motion carried by a roll call vote of 8-1-0-0 (Attachment 10).

HB2269 – civil liability; damages; metal theft – DO PASS

Vice-Chairman Shope moved that HB2269 do pass.

Jason Theodorou, Majority Research Intern, advised that HB2269 allows for an affirmative defense in a civil proceeding if the defendant can prove that the claimant acted or attempted to act in violation of scrap metal theft laws (Attachment 11).

Nick Simonetta, Lobbyist, Arizona Scrap Recyclers Association, testified in support of HB2269. He stated that the bill focuses on the criminal element of metal theft in order to deter the crime which has become increasingly more dangerous as people take greater risks to obtain the metal.

Vice-Chairman Shope announced the names of those who signed up in support of HB2269 but did not speak:

Philip Bashaw, Lobbyist, Grand Canyon State Electric Cooperative Association (GCSECA)

Steve Trussell, Lobbyist, Arizona Rock Products Association

Matt Derr, Lobbyist, Southwest Gas Corporation

Chairman Forese related that while meeting with a group from the GCSECA last week, he asked how many people had been a victim of a metal theft; more than half in attendance stood.

Question was called on the motion that HB2269 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 12).

HB2274 – dealer tank wagon prices – DO PASS

Vice-Chairman Shope moved that HB2274 do pass.

Jason Theodorou, Majority Research Intern, advised that HB2274 removes language requiring the Arizona Attorney General to collect and compile data on the average dealer tank wagon prices in Phoenix and Tucson on a weekly basis (Attachment 13). The McCune Davis four-line amendment dated 02/04/14 to HB2269 (Attachment 14) reinserts the language that requires the Attorney General to collect data on the average dealer tank wagon prices for the cities of Phoenix and Tucson on a weekly basis.

Chairman Forese related that he does not support the amendment to this bill. He advised that it was not brought to his attention before the Committee meeting but that he has an open door policy any time a Member wants to discuss an amendment.

Art Harding, Lobbyist, Arizona Attorney General's Office (AG), testified in support of HB2274. He explained that the AG's Antitrust Unit began collecting data in the 1990s. The collection of data on the average dealer tank wagon prices or the wholesale sales of gasoline priced on a delivered basis to a retail outlet is contracted out to vendors. Recently, vendors advised the AG's office that they no longer have an accurate way to obtain data on the average dealer tank wagon prices. They have been using a derivation with unknown accuracy to produce figures. Mr. Harding stated that this bill does not change the requirement to provide data on the rack sale and will save the state around \$2,000 to \$3,000 annually.

Ms. McCune Davis requested history on when and why the data collection began. Mr. Harding deferred to Nancy Bonnell.

Nancy Bonnell, Antitrust Unit Chief, Arizona Attorney General's Office (AG), in reply to Ms. McCune Davis, stated that it is her understanding independent gas stations felt that branded dealer gas stations were getting an economic advantage over them by getting a discount on the branded dealer gasoline, i.e., Exxon, Chevron, Mobil, etc. The theory was that the AG could track the price the dealers were given by the upstream refiner to determine if they were getting a competitive advantage against the non-branded independent stations. Ms. Bonnell explained that for the past three or four years when the contract is put out to bid to get the pricing information, vendors state that there is no longer a way to get the data.

Ms. McCune Davis questioned if eliminating the language in the bill will diminish the tools the AG has to protect the interest of Arizonans. Ms. Bonnell answered in the negative.

Mr. Kwasman remarked that supply and demand plays a huge role in gasoline rates. It does not necessarily mean that Arizonans are being exploited when prices are higher.

Chairman Forese asked if Ms. McCune Davis wanted to move the McCune Davis four-line amendment dated 02/04/14 to HB2269 (Attachment 14). Ms. McCune Davis replied that the amendment is no longer necessary.

Question was called on the motion that HB2274 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 15).

HB2446 – scrap metal sellers; age requirement – HELD

Chairman Forese announced that HB2446 will be held.

HR2001 – Ash Fork; flagstone capital – DO PASS

Vice-Chairman Shope moved that HR2001 do pass.

Amanda Barnes, Majority Research Assistant Analyst, advised that HR2001 designates Ash Fork, Arizona as the Flagstone Capital (Attachment 16).

Marshall Trimble, representing self, testified in support of HR2001 and gave history on his hometown of Ash Fork, Arizona. He advised the Committee that he wrote a book about the town for *Images of America* several years ago and one of the largest assets of the area is its flagstone. Mr. Trimble requested Members to support the resolution.

Question was called on the motion that HR2001 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 17).

HB2537 – pawnbrokers; interest; military members – DO PASS

Vice-Chairman Shope moved that HB2537 do pass.

Jason Theodorou, Majority Research Intern, advised that HB2537 increases the interest rate a pawnbroker can charge and requires pawnbrokers to waive any unpaid interest and hold pledged goods for military members and their spouses for 60 days after returning from active duty deployment (Attachment 18).

Vice-Chairman Shope, sponsor, stated that the HB2537 has two components. The first allows pawn brokers to raise interest rates. The second is a military member component, which he is working on with Representative Sonny Borrelli.

Robert Palagi, Owner, North Phoenix Pawn, representing self, testified in support of HB2537. He said that his business is a staple in the community. Most people in the area do not have relationships with financial institutions and depend on pawn shops to borrow money. Interest rates for the pawn industry have not increased in 16 years but business expenses have increased 40 percent in the last ten years.

Ms. Mach asked what the contributing factors are to the increased business expenses. Mr. Palagi responded that payroll, rent, taxes and the cost of living are all contributing factors.

Vice-Chairman Shope announced the names of those who signed up in opposition to HB2537 but did not speak:

Ellen Katz, representing self

Vice-Chairman Shope announced the names of those who signed up in support of HB2537 but did not speak:

Brian Tassinari, Lobbyist, Cash America International, Inc.

Gary Primerano, representing self

Stacia Palagi, representing self

William Voorhaar, representing self

Michael Haener, Partner, EZCORP, Inc.

Ms. McCune Davis asked to hear additional testimony on the necessity for the interest rate increase.

Craig McCall, USA Pawn and Jewelry, representing self, testified in support of HB2537. He said that the pawn industry is unable to raise interest rates on its own and the Legislature has not reviewed the cap rate in 16 years. Surrounding states have much higher interest rates, i.e. Colorado has a 20 percent monthly cap rate, Nevada at 13 percent and Idaho and Utah have no monthly rate caps with market rates at 15 to 25 percent. Mr. McCall cited the following reasons for increased business expenses:

- Rental costs
- Building size - the pawn industry holds a large amount of collateral
- Healthcare insurance
- Labor intensive process - the average pawn loan is \$80
- Municipality requirements for technology - daily transaction downloads to the police departments

Mr. McCall stated that 80 percent of all pawn transactions are redeemed. The pawn industry provides a valuable financial service to the community as well as a retail side that purchases and sells used items.

Chairman Forese questioned the size of the pawn industry in Arizona. Mr. McCall responded that he is unsure. The industry association is no longer in existence.

Ms. McCune Davis stated that it is her understanding, after the closure of the payday loan industry, that pawn shops saw an increase in loans. In reply, Mr. McCall stated that theory is a reasonable assumption; however, the car title loan industry appears to have taken the place of payday loans.

Mr. Kwasman remarked that the pawn shop industry is much different than the payday loan industry. He explained the differences and stated that collateral is used in pawn shops while impending paychecks were used for a payday loan.

Ms. McCune Davis said that a collateralized loan is probably more profitable than other loans. HB2537 will allow for an increase in rate caps from 72 percent to 156 percent on a two-month loan and 132 percent beyond that.

Mr. Mesnard questioned if the average pawn shop loan is short- or long-term. Mr. McCall responded that the average loan is 60 days. Mr. Mesnard asked when the rate was last adjusted. Mr. McCall replied the last rate adjustment occurred in 1998. Mr. Mesnard inquired if clientele is forced to use the pawn industry. Mr. McCall responded in the negative.

Mr. Montenegro commented that pawn shop loans are comparable to a sale of items with the exception that the pawn shop provides the customer with an opportunity to purchase back the merchandise within 90 days.

Question was called on the motion that HB2537 do pass. The motion carried by a roll call vote of 6-3-0-0 (Attachment 19).

Without objection, the meeting adjourned at 11:45 a.m.

Abby Selvey, Committee Secretary
March 4, 2014

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