

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

COMMITTEE ON INSURANCE AND RETIREMENT

Minutes of Meeting
Tuesday, February 11, 2014
House Hearing Room 3 -- 2:00 p.m.

Chairman Lovas called the meeting to order at 2:27 p.m. and attendance was noted by the secretary.

Members Present

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

HB2060 – DPA (4-3-0-1) On Reconsideration	HB2487 – DP (5-3-0-0)
HB2069 – DP (4-3-0-1)	HB2552 – DISCUSSION ONLY
HB2394 – DPA S/E (7-0-0-1)	

CONSIDERATION OF BILLS

HB2394 – workers' compensation; deviation rate – DO PASS AMENDED S/E
S/E: self-insured employers; deviation; continuation

Casey Baird, Majority Research Assistant Analyst, explained that the Lovas eight-line strike-everything amendment dated 02/06/14 to HB2394 (Attachment 1) maintains the current deviation rate for the purposes of calculating taxes or assessments paid by self-insured employers (Attachment 2).

Representative Debbie Lesko, sponsor, stated that the strike-everything amendment to HB2394 continues the 10 percent deviation rate for the purposes of calculating taxes or assessments paid by a self-insured employer through calendar year 2020. She provided history on the calculation of taxes owed by a self-insured employer to the Arizona Industrial Commission. Since the State Compensation Fund (SCF) no longer exists, legislation was enacted that set the deviation rate at 10 percent through calendar year 2015. This legislation will continue the 10 percent rate through 2020.

Jeff Gray, representing Arizona Self-Insurers Association, in favor of HB2394, offered to answer questions.

Chairman Lovas announced the names of those who signed up in opposition to HB2394 but did not speak:

Leonard Clark, representing self

Chairman Lovas announced the names of those who signed up in support of HB2394 but did not speak:

Garrick Taylor, Arizona Chamber Of Commerce and Industry

Chad Heinrich, Lobbyist, Greater Phoenix Chamber of Commerce

Brent Stoddard, Director of Intergovernmental Programs, City of Glendale

Vice-Chairman Allen moved that HB2394 do pass.

Vice-Chairman Allen moved that the Lovas eight-line strike-everything amendment dated 02/06/14 be adopted (Attachment 1). The motion carried.

Vice-Chairman Allen moved that HB2394 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 3).

HB2060 – PSPRS oversight; rulemaking; procurement – DO PASS AMENDED
(On Reconsideration)

Casey Baird, Majority Research Assistant Analyst, stated that HB2060 removes the Public Safety Personnel Retirement System (PSPRS) Board of Trustees' exemption from state agency administration procedural rights and duties, and establishes a PSPRS administration account consisting of monies used for administrative purposes that are mostly subject to legislative appropriation (Attachment 4). The Robson three-page amendment dated 02/10/14 exempts investment-related contracts and legal expenses from the Arizona Procurement Code and further clarifies that investment-related expenses may be continuously appropriated without legislative approval (Attachment 5). The amendment requires PSPRS to submit a budget request for fiscal year 2016.

Mr. Robson related the amendment resulted from discussions with the sponsor.

Representative John Kavanagh, sponsor, advised that he has no problem with the amendment. It creates oversight that exists with the Arizona State Retirement System (ASRS); it reduces oversight to a certain extent while still keeping oversight in major areas which aids accountability. He referred to his statement made at the last hearing that the Board did nothing about the controversy over the land valuation prices and advised that the Board did take action.

Jim Hacking, Administrator, Public Safety Personnel Retirement System (PSPRS), opposed to HB2060, distributed a packet in response to concerns raised at the last hearing (Attachment 6). He reviewed total expenses, administrative expenses, asset allocations and valuations, diversification and equity exposure. He opined that this proposal will increase regulation, which will decrease efficiency and increase costs.

Brian Tobin, representing self, testified as neutral on HB2060. He related that he is a firefighter for the City of Phoenix and also Chairman of the Board of Trustees for the Public Safety Personnel Retirement System. He addressed concerns that were raised at the January 28 meeting of this Committee. He stated that the Board takes oversight of this system very seriously. Members volunteer their time to do the best they possibly can. As a result of concerns raised by investment staff regarding some valuation issues, the Auditor General determined in its report of November 13, 2013 that the Board complied with good business practices (Attachment 7).

Chairman Lovas announced the names of those who signed up in opposition to HB2060 but did not speak:

Michael Colletto, Professional Fire Fighters of Arizona
Don Isaacson, representing Arizona Fraternal Order of Police
Joseph Seelye, representing self
Greg Ferguson, representing self
Leonard Clark, representing self
Norman Moore, representing Arizona Fraternal Order of Police
Rebekah Friend, Arizona State AFL-CIO

Chairman Lovas announced the names of those who signed up in opposition to HB2060 but did not speak:

Jared Smout, Lobbyist, Public Safety Personnel Retirement System
Nicholas Ponder, Lobbyist, Arizona State Retirement System
Dianne McCallister, Lobbyist, Public Safety Personnel Retirement System

Representative Kavanagh referred to Mr. Hacking's comments that the changes in the bill may hamper investment ability. He claimed that investment activities will not be changed by this legislation in any way from the way investment practices are currently being done.

Mr. Hacking said his statements were made to address the overly restrictive statutes that regulated PSPRS in the past. He said that the statutes were finally changed and the system would have been better off had PSPRS had the ability to diversify its portfolios at that time. In addition, he pointed out that legal fees for noninvestment-related legal work will be subject to appropriations under this proposal.

Representative Kavanagh, in closing remarks, said he wants to make it clear that nothing in the bill will restrict the investment latitude that was given to PSPRS several years ago.

Vice-Chairman Allen moved that HB2060 do pass.

Vice-Chairman Allen moved that the Robson three-page amendment dated 02/10/14 be adopted (Attachment 5). The motion carried.

Vice-Chairman Allen moved that HB2060 as amended do pass. The motion carried by a roll call vote of 4-3-0-1 (Attachment 8).

HB2487 – insurance carriers; subcontractor audits – DO PASS

Marshall Young, Majority Research Intern, explained that HB2487 instructs an insurance carrier to report audit findings to the Registrar of Contractors (ROC) and the Industrial Commission of Arizona (ICA) if an audit reveals that a subcontractor is paying an individual who is not an employee (Attachment 9).

Lanny Hair, Lobbyist, Independent Insurance Agents and Brokers of Arizona, neutral on HB2487, testified that although he understands the objective of the sponsor to eliminate the practice of a contractor who does not declare the adequate amount for workers' compensation premium, he does have concerns. An insurance company, in a premium audit, may define an independent contractor, legitimate or not, in such a way that may require it to report the client to the ICA and the ROC. He said he would like to work with the sponsor to see if there is a solution to this issue; however, the bill addresses the difficult issue of premium audits and, as written, has many unintended consequences.

Representative Steve Smith, sponsor, related this bill was brought to him by contractors who have told him that they are losing their businesses because some contractors are hiring people illegally and paying them under the table. This bill says that if insurance carriers conduct an audit and if they find that names do not match on the payroll, they can send the information to the ICA and the ROC. He stated that he is amenable to tightening up the language to protect the workers who are just trying to make a living but sometimes are having difficulties based on some of the bad practices going on.

In response to Mr. Robson, Representative Smith advised that this legislation is aimed at discouraging employers who are illegally hiring workers and not listing them as employees. The statutes require contractors to comply with the statutes and rules governing social security, workers' compensation and unemployment insurance. An insurance audit is conducted on payroll or revenues of a policyholder to ensure that a policy reflects accurate rating information. Mr. Robson said he does not think this proposal will solve the problem. Representative Smith pointed out that there is no punishment in the bill and no mandate on the ROC and the ICA to do anything other than to ask for an explanation of the situation.

Mr. Mendez queried whether there is an appropriation in the bill to help with investigations and what an investigation will entail. Representative Smith answered that when the information is forwarded to the ROC, it can decide on the appropriate action.

Ms. Steele commented that this asks for an additional level of bureaucracy to regulate the ICA and the ROC. Representative Smith countered that this is trying to come up with a solution to help workers. He said that it is the job of the ROC and the ICA to ensure that there is proper oversight and accountability, and a level playing field.

Ms. McCune Davis declared that the agencies do not have the additional resources available to do this. Rather than placing additional burdens on agencies, she suggested putting an additional penalty on employers to create a disincentive to hire people improperly.

Tyler Palmer, Chief of Staff, Registrar of Contractors (ROC), neutral on HB2487, testified that the mission of the ROC is to protect the health, safety and welfare of the public through licensing

and regulation. He advised that the agency currently investigates complaints; however, if there is a major increase in the volume of complaints, the agency would have to discuss that further. He described the investigative process and how violations are handled. He said he would be happy to work with the sponsor and the stakeholders on questions relating to the mechanics of the bill.

Spencer Kamps, Lobbyist, Home Builders Association of Central Arizona, advised that the Association is neutral on HB2487 because it has concerns about the definition of "subcontractor," the type of information to be forwarded and what the investigation will entail.

David Jones, President/CEO, Arizona Construction Association, in opposition to HB2487, testified that the Association finds this legislation to be unworkable. He said an audit may take several days and may be disputed by the employer. The proposal does not put a time certain that the carriers have to make a report. It asks an insurance carrier to report a discrepancy made by its policyholder and he said that is not practical.

Chairman Lovas announced the names of those who signed up in opposition to HB2487 but did not speak:

James Stabler, Lobbyist, CopperPoint Mutual Insurance Company (formerly SCF Arizona)

Leonard Clark, representing self

Rebekah Friend, Arizona State AFL-CIO

Chairman Lovas announced the names of those who signed up as neutral on HB2487 but did not speak:

Amy Cronkhite, Lobbyist, Independent Insurance Agents & Brokers of Arizona

Lanny Hair, Lobbyist, Independent Insurance Agents & Brokers of Arizona

Vice-Chairman Allen moved that HB2487 do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 10).

HB2552 – retirement; return to work; restrictions – DISCUSSION ONLY

Courtney McKinstry, Majority Research Analyst, stated that HB2552 prohibits an employer under the Arizona State Retirement System (ASRS), Public Safety Personnel Retirement System (PSPRS) and the Correctional Officers Retirement Plan (CORP) from leasing or contracting a retired member to work within a year of retirement (Attachment 11).

Vice-Chairman Allen, sponsor, stated that he is concerned that some state employees are retiring and returning to their same jobs the following day, with no real intention of retiring. This bill does nothing but codify the intent of some of the original language codified in statute in 2000. This legislation makes it more difficult to return to the same job as a subcontractor. The issue is whether to go back to the original intent and have a one-year break from being employed at the original job.

Michael Colletto, Professional Firefighters of Arizona, testified in opposition to HB2552. He related that some fire captains and battalion chiefs will retire next year and will go to work for a smaller fire district in the state where they can take their skills and knowledge. This legislation will prohibit them from doing that. He said he would be happy if this would not apply to public safety personnel.

Vice-Chairman Allen said this does not stop them from taking a job with a smaller department; it just asks that they take one year away from service. Mr. Colletto contended that sometimes these opportunities are time sensitive.

Mr. Robson mentioned that the bill also does not allow for someone to be contracted. Additionally, he does not know if telling someone he cannot work for a year will hold up in a court of law. Vice-Chairman Allen said that violates the spirit and intent of the original law.

Kevin DeMenna, representing SmartSchoolsPlus, Inc., spoke against HB2552. He advised that his client has only a few hundred employees who are contracted out to local governments or school districts. These individuals are highly qualified and, in many cases, have worked 25 to 30 years. He noted that after 30 years, there is no financial benefit under the system for the employee to continue to work and contribute to the retirement system. This bill will prevent them from returning to service for one year. He maintained they should be allowed to go where the market forces want them. He pointed out that the system is held harmless under this bill.

Vice-Chairman Allen reiterated that this proposal just closes a loophole in statute relating to leasing or contracting. It puts back into force the one-year moratorium.

In response to Vice-Chairman Allen, Mr. DeMenna answered that when a person has 30 years of service, their retirement benefit stays at that 30-year limit; it does not increase.

Mr. Livingston wondered whether providing an incentive to someone with 30 years of service to stay on the job may be the solution. Vice-Chairman Allen responded that he does not believe that is conducive to good marketing. Mr. Livingston commented on the need to keep the most qualified workers in the market without jeopardizing their pensions.

Jared Smout, Lobbyist, Public Safety Personnel Retirement System (PSPRS), neutral on HB2552, advised that approximately 76 retired PSPRS employees have returned to work. He pointed out one of the differences between PSPRS and ASRS is that PSPRS comprises many different employers. He offered to answer questions.

Nicholas Ponder, Government Relations Officer, Arizona State Retirement System (ASRS), neutral on HB2552, advised that ASRS had 1,071 workers who were leased or contracted from July 1, 2012 to June 30, 2013. Those individuals contributed through the alternate contribution rate in excess of \$2.6 million.

Names of those who signed up in support of HB2552 but did not speak:

Antoinette Lane, representing self
Susan Mihalik, representing self
Ann Heins, representing self
Richard Mihalik, representing self
Antoinette Lane, representing self

Names of those who signed up in opposition to HB2552 but did not speak:

Janice Palmer, Arizona School Boards Association
Ryan DeMenna, Lobbyist, SmartSchoolsPlus, Inc.
Sande McClelland, representing self

Andy McClelland, representing self
Joe Brekan, representing self
Leeann Wieser, Lobbyist, Arizona Federation of Teachers Union
Leonard Clark, representing self
Joe Carter, representing self
Geoff Esposito, Arizona School Boards Association
Linda Lee Arzoumanian, representing self
Rebekah Friend, Arizona State AFL-CIO
Tim Carter, Yavapai County School Superintendent, representing self
Janice Palmer, Arizona School Boards Association

Chairman Lovas thanked Vice-Chairman Allen for bringing this issue forward. He said this is something that may be looked at in the future.

HB2069- ASRS; political subdivision entities – DO PASS

Courtney McKinstry, Majority Research Analyst, explained that HB2069 would make employees of *political subdivision entities* hired after the bill's effective date ineligible for Arizona State Retirement System (ASRS) membership (Attachment 12).

Representative Michelle Ugenti, sponsor, said she would like to take public subdivision entities out of those who can participate in ASRS. These entities are voluntary associations and are not statutorily created, do not have statutorily-prescribed duties and should not receive the benefit of the public retirement system.

In reply to Mr. Livingston, Representative Ugenti stated that there are a total of 15 entities, some of which are the Arizona Association of Counties, Arizona Prosecuting Attorneys' Advisory Council, Arizona Municipal Water Users Association, etc. She pointed out that this bill is prospective and will apply to any new employees of political subdivision entities; those who are already in the system will continue in the system.

Mr. Robson noted that the Maricopa Association of Governments has a regional planning role with respect to highways, etc. Some planning entities may need to be looked at further to see if they should be retained. He offered to work on the bill with the sponsor.

Stephen Slivinski, Senior Economist, Barry Goldwater Institute for Public Policy Research, expressed support of HB2069. Current law permits some nongovernmental entities to be a part of the pension system. This legislation will preclude broadening membership for groups who should not be part of the system.

Dennis Smith, Maricopa Association of Governments (MAG), in opposition to HB2069, advised that MAG was invited to participate in the state retirement system in 2004. This legislation divides MAG's retirement system; a new retirement system will have to be created for new employees. He related that MAG has statutory responsibility to set the freeway priorities and to do air quality planning. He distributed handouts on transportation responsibilities and air quality responsibilities (Attachments 13 and 14). He maintained that it is very important to retain quality employees in order to accomplish the extremely complicated work MAG does. This bill will severely hurt staff. He urged Members to look at the unintended consequences of the bill.

Nicholas Ponder, Government Relations Officer, Arizona State Retirement System (ASRS), neutral on HB2069, spoke about the impact of the bill on the ASRS fund. ASRS has in excess of 202,000 members; these 15 employers make up about 862 employees. An actuarial study showed that this bill will result in an excess of \$23 million in lost contributions over a 30-year period, and increased contribution rates for current employees. He said he will provide Members with information on when these 15 groups were added to ASRS.

Names of those who signed up in support of HB2069 but did not speak:

Scot Mussi, Arizona Free Enterprise Club

Victor Riches, Lobbyist, Barry Goldwater Institute for Public Policy Research

Names of those who signed up in opposition to HB2069 but did not speak:

Michael Racy, Lobbyist, Pima Association of Governments

Jen Sweeney Marson, Lobbyist, Arizona Association of Counties

Joseph Seelye, representing self

Greg Ferguson, representing self

Jeffrey Kros, Arizona Municipal Water Users Association

Trey Williams, Lobbyist, Arizona Association of Counties

Rene Guillen, Lobbyist, League of Arizona Cities and Towns

Leeann Wieser, Lobbyist, Arizona Federation of Teachers Union

Leonard Clark, representing self

Chris Fetzer, Northern Arizona Council of Governments

Jennifer Loreda, Lobbyist, Arizona Education Association

Craig Sullivan, Lobbyist, County Supervisors Association of Arizona

Rebekah Friend, Arizona State AFL-CIO

Molly McGovern, Lobbyist, Service Employees International Union, Arizona

Mr. Livingston moved that HB2069 do pass. The motion carried by a roll call vote of 4-3-0-1 (Attachment 15).

Without objection, the meeting adjourned at 4:10 p.m.

Joanne Bell, Committee Secretary

February 21, 2014

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