

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

**COMMITTEE ON PUBLIC SAFETY, MILITARY
AND REGULATORY AFFAIRS**

Minutes of Meeting
Wednesday, February 12, 2014
House Hearing Room 3 -- 9:00 a.m.

Chairman Pierce called the meeting to order at 9:20 a.m. and attendance was noted by the secretary.

Members Present

Mr. Borrelli
Mr. Cardenas
Mr. Farnsworth E

Mr. Gallego
Mr. Livingston
Ms. Peshlakai

Mr. Mitchell, Vice-Chairman
Mr. Pierce J, Chairman

Members Absent

None

Committee Action

HB2133 – DPA (5-3-0-0)
HB2309 – DPA (8-0-0-0)
HB2332 – DPA (7-0-0-1)
HB2336 – DP (7-1-0-0)
HB2403 – DP (8-0-0-0)

HB2443 – DP (8-0-0-0)
HB2457 – DP (8-0-0-0)
HB2541 – DP (5-3-0-0)
HB2547 – HELD BY CHAIRMAN
HCM2001 – DP (8-0-0-0)

CONSIDERATION OF BILLS

HB2547 – major event public safety reimbursement – HELD BY CHAIRMAN

Chairman Pierce announced that HB2547 will be held.

HB2403 – state parks; disabled veteran's pass.. – DO PASS

Courtney McKinstry, Majority Research Analyst, stated that currently the State Parks Department will issue a disabled veteran's pass at no charge to a veteran who has a 100 percent service-connected disability rating. HB2403 codifies the ability of the Arizona State Parks Board to issue a disabled veteran's pass and decreases the service-connected disability rating to 30 percent for an Arizona resident (Attachment 1).

Representative David Stevens, sponsor, said he is available to answer questions.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2403 but did not speak:

Terry Hill, representing self

Joyce Hill, representing self

Vice-Chairman Mitchell announced the names of those who signed up as neutral on HB2403 but did not speak:

Jay Ream, Lobbyist, Arizona State Parks

Vice-Chairman Mitchell moved that HB2403 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 2).

HB2443 – hunting and fishing licenses; military – DO PASS

Casey Baird, Majority Research Assistant Analyst, said that HB2443 permits a member of the armed forces of the United States who is stationed in Arizona to obtain a resident hunting or fishing license (Attachment 3).

Representative David Gowan, sponsor, advised that he wants to honor the service of veterans. He related that military personnel on temporary duty in Arizona who want to go fishing or hunting are required to pay out-of-state licensing fees. This legislation allows them to pay an in-state price for a license.

Terry Hill, representing self, on behalf of the more than 25,000 members of the Veterans of Foreign Wars in Arizona, stated strong support for this legislation. Many of the states allow military personnel in their state to purchase hunting and fishing licenses at their state rates. He recommended that Arizona provide the same benefit to servicemen in Arizona.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2443 but did not speak:

Jorge Canaca, Lobbyist, Arizona Game and Fish Department, Arizona Game and Fish Commission

Dave Kopp, Manager, Arizona Citizens Defense League

Joyce Hill, representing self

Vice-Chairman Mitchell moved that HB2443 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 4).

HB2332 – unclaimed remains; veterans; burial – DO PASS AMENDED

Courtney McKinstry, Majority Research Analyst, explained that HB2332 specifies procedures related to the verification and burial of the unclaimed cremated remains of a veteran or veteran's eligible dependent (Attachment 5). The Borrelli two-line amendment dated 02/11/14 makes technical changes (Attachment 6).

Representative Ethan Orr, sponsor, explained that he sponsored this proposal on behalf of a group he has been working with called *Missing in America Project (MIAP)*. Currently, there are about 7,000 cremated remains of individuals that cannot be identified as a veteran. He maintained that anyone who has served this country deserves an honorable burial. Many of these veterans have been abandoned by their community; this group gives them an honorable burial in a veterans' cemetery. This is at no cost to the state; the organization bears the entire cost of obtaining, identifying and burying the remains.

Mr. Farnsworth asked how one comes in possession of information relating to the remains. Representative Orr answered that many of the remains are homeless veterans and there are no next of kin to be notified. The remains are in funeral homes that are concerned about liability if they release information. Once the remains are identified as a veteran, the group assumes the next-of-kin power to take the remains and move them to a veterans' cemetery.

Shawn Pfund, Law Enforcement Liaison, Missing in America Project (MIAP) Southwest Chapter, in favor of HB2332, related that the objective of MIAP is to locate, identify and inter the unclaimed remains of America veterans. He said it is important for all veterans to have an honorable and dignified resting place with others who have served their country. MIAP and the funeral home will share the available information concerning the unclaimed remains. The information is treated confidentially with the U.S. Department of Veterans Affairs. MIAP becomes the surrogate family for the veteran. As of today, MIAP has identified and buried 120 veterans and three spouses. A pamphlet on the organization was distributed (Attachment 7).

Mr. Farnsworth brought up confidentiality of information of those who are not military. Mr. Pfund related that if the person is not identified as being a veteran, the information is returned to the funeral home. Mr. Farnsworth noted that this is an immunity bill. He commented that when immunity is given, there is the opportunity for abuse. Mr. Pfund advised that not everyone in the organization has access to the information; only four in his group share the information.

In response to Ms. Peshlakai's queries, Mr. Pfund related that this legislation exists nationwide. If the veteran is a Native American and MIAP has information about the family, the family is contacted as well as the tribe.

Terry Hill, representing Veterans of Foreign Wars, Arizona, said he strongly supports this bill. To have unclaimed remains of veterans is not the way to honor the dead who have served this nation. Other veterans' service organizations throughout the state provide burial honors when called upon.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2332 but did not speak:

Joyce Hill, representing self

Vice-Chairman Mitchell moved that HB2332 do pass.

Vice-Chairman Mitchell moved that the Borrelli two-line amendment dated 02/11/14 be adopted (Attachment 6). The motion carried.

Vice-Chairman Mitchell moved that HB2332 as amended do pass. The motion carried by a roll call vote of 7-0-0-1 (Attachment 8).

HB2336 – firearms; law enforcement officers – DO PASS

Casey Baird, Majority Research Assistant Analyst, explained that HB2336 removes language describing the type of licensed liquor establishment where a peace officer or retired peace officer is prohibited from carrying a firearm when consuming alcohol, specifically a liquor establishment that is operated by a political subdivision of this state (Attachment 9).

In response to Mr. Livingston's question about a political subdivision, Ms. Baird answered that it could include any intergovernmental entity, such as a city, town or county.

Representative Brenda Barton, sponsor, advised that HB2336 corrects language in statute. It allows peace officers to carry a firearm in a liquor establishment in the performance of their duty.

Mr. Farnsworth questioned the kind of establishment that is licensed for liquor sales that is operated by a political subdivision. Representative Barton said that cities do not license liquor establishments and that is why the language is being stricken.

Mr. Gallego asked whether this is fixing something that is rarely seen. Representative Barton answered in the affirmative.

John Wentley, Arizona Citizens Defense League, in favor of HB2336, related that this is correcting an archaic statute. There are no state- or municipal-owned liquor establishments in the state.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2336 but did not speak:

Dave Kopp, Manager, Arizona Citizens Defense League

Vice-Chairman Mitchell announced the names of those who signed up in opposition to HB2336 but did not speak:

Jaime Molera, Lobbyist, Arizona Sports and Tourism Authority

Lyle Mann, Lobbyist, Arizona Peace Officer Standards and Training Board

Jim Mann, Lobbyist, Arizona Fraternal Order of Police

Vice-Chairman Mitchell moved that HB2336 do pass. The motion carried by a roll call vote of 7-1-0-0 (Attachment 10).

HB2309 – firearms; prosecutors; law enforcement officers – DO PASS AMENDED

Courtney McKinstry, Majority Research Analyst, reviewed the provisions of HB2309 which permit a prosecutorial agency to issue a photo identification card that indicates a retired peace officer's status as a retired qualified law enforcement officer and provides definitions (Attachment 11). The Pierce ten-line amendment dated 02/10/14 clarifies that a municipal,

county or state prosecutor who is defined as a peace officer in the underlying bill must also meet the federal definition of a qualified retired law enforcement officer (Attachment 12). Prosecutors must also complete a training course approved by the Arizona Peace Officer Standards and Training Board.

Rebecca Baker, Legislative Liaison, Maricopa County Attorney's Office, testified in support of HB2309. She advised that the purpose of the bill is to provide clarity and consistency in Arizona statute regarding the implementation of the Law Enforcement Officers Safety Act as it relates to prosecutors. Under the federal law, the definition of a qualified law enforcement officer includes prosecutors; however, there is no reference to prosecutors in the state statute. She noted that a correction needs to be made to the Pierce amendment, which she will discuss with staff.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2309 but did not speak:

Jim Mann, Lobbyist, Arizona Fraternal Order of Police
Thomas Parker, Lobbyist, Arizona Fraternal Order of Police
Don Isaacson, representing Arizona Fraternal Order of Police
Norm Moore, representing Arizona Fraternal Order of Police
Jen Sweeney Marson, Lobbyist, Arizona Association of Counties
Trey Williams, Lobbyist, Arizona Association of Counties

Vice-Chairman Mitchell announced the names of those who signed up as neutral on HB2309 but did not speak:

Lyle Mann, Lobbyist, Arizona Peace Officer Standards and Training Board

Vice-Chairman Mitchell moved that HB2309 do pass.

Vice-Chairman Mitchell moved that the Pierce ten-line amendment dated 02/10/14 be adopted (Attachment 12). The motion carried.

Vice-Chairman Mitchell moved that HB2309 as amended do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 13).

HB2541 – federal land; emergency access – DO PASS

Marshall Young, Majority Research Intern, stated that HB2541 grants a state, county, city or town the authority to access federal land located in the state during an emergency situation (Attachment 14).

Representative Kelly Townsend, sponsor, explained that HB2541 was drafted to address the situation that occurred after the Monument Fire. Mudslides damaged Tombstone's 100-year old water pipe that went up the hill. The U.S. Forest Service did not allow repairmen to go up the hill to repair the pipe. The City of Tombstone filed a lawsuit against the federal government for denying access to federal land located in the state during an emergency situation. The purpose of this bill is to establish the state's right to make equipment repairs when there is an emergency.

In answer to Ms. Peshlakai's question whether this includes Native American Reservations as federal land, Representative Townsend said that language can be included to address Reservation land. She said she is supportive of any situation that occurs on Reservation land. When asked whether she supports legislation relating to Reservation land, Ms. Peshlakai said she would like to have more information before answering that.

Mr. Gallego queried whether a political subdivision can declare an emergency under this bill. Representative Townsend said the bill does not give a town the ability to declare an emergency; it gives them access to federal land with the necessary equipment to make the repairs when an emergency has been declared.

Vice-Chairman Mitchell announced the names of those who signed up in support of HB2541 but did not speak:

Jen Sweeney Marson, Lobbyist, Arizona Association of Counties
Richard Mihalik, representing self
Susan Mihalik, representing self
Joyce Hill, representing self

Vice-Chairman Mitchell announced the names of those who signed up in opposition to HB2541 but did not speak:

Sandy Bahr, Lobbyist, Sierra Club-Grand Canyon Chapter
Peter Bengtson, representing self

Vice-Chairman Mitchell moved that HB2541 do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 15).

HB2457 – mental health; veterans courts; establishment – DO PASS

Casey Baird, Majority Research Assistant Analyst, related that HB2457 permits the establishment of county veterans' courts or mental health courts (Attachment 16).

Mr. Farnsworth, sponsor, advised that this legislation is a continuation of something that was done with homeless court which seems to be working well. Some jurisdictions in the state have already established these courts successfully.

Amy Love, Legislative Liaison, Arizona Judicial Council, in favor of HB2457, thanked the sponsor for introducing this proposal. She deferred her time to Brigadier General Gregg Maxon who is working with the Supreme Court on the implementation of veterans' courts around the state.

Brigadier General Gregg Maxon, retired, representing self, spoke in support of HB2457. He related that he is working with the Administrative Office of the Courts as an advisor on the creation of veterans' courts. He said this bill is about judicial economy and partnering with the Veterans Administration to ensure their resources are made available to support the courts. Currently, there are six veterans' courts in Arizona. This bill is a mechanism to allow the presiding judge to establish these courts that have the expertise to address veterans' issues.

Ted Vogt, Director, Arizona Department of Veterans' Services, neutral on HB2457, advised that Arizona is leading the way in establishing veterans' courts at the federal level.

Terry Hill, representing Veterans of Foreign Wars, Arizona, in favor of HB2457, said there is a strong need for veterans' courts in the state. He recommended passage of this bill.

David Lucier, President, Arizona Veterans and Military Leadership Alliance, testified in support of HB2457. The Alliance's mission is to establish Arizona as the most veteran-supportive state in the nation in education, training, jobs, economic opportunities, and health and wellness. He said this bill is an essential building block in reaching the Alliance's goal of offering opportunities for success for Arizona veterans in the areas of health and wellness. Veterans' treatment courts in Arizona have achieved remarkable success. They have reduced costs to the state and have transformed veterans into productive, self-sustaining citizens.

Barry Aarons, Lobbyist, American Friends Service Committee, spoke in favor of HB2457. This bill helps deal with mental health in the judicial system. Mental health courts have already yielded good results around the state. He urged passage of this legislation.

Names of those who signed up in support of HB2457 but did not speak:

Julian Wyatt, representing self
Gene Crego, representing self
Carol Culbertson, representing self
Reggie Yates, representing self
Corey Harris, representing self
Joyce Hill, representing self
Onita Davis, representing self
Ed Davis, representing self

Names of those who signed up as neutral on HB2457 but did not speak:

Michael David Hampton, Lobbyist, Arizona Department of Veterans' Services

Vice-Chairman Mitchell moved that HB2457 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 17).

HCM2001 – POWs; MIAs; congressional committee – DO PASS

Marshall Young, Majority Research Intern, said that HCM2001 is a concurrent memorial urging the United States Congress to establish a Select Committee on Prisoners of War (POW) and Missing in Action (MIA) Affairs (Attachment 18).

Mr. Borrelli, sponsor, said that there are MIAs from as far back as World War II and he wants to ensure that this remains a priority issue for Congress. He asked for Members' support.

Terry Hill, representing self, testified in support of HCM2001. He would like the Joint Prisoner of War, Missing in Action Accounting Command (JPAC) to continue its work of identify the remains of military personnel. JPAC is a joint task force with the U.S. Department of Defense whose mission is to account for Americans who are listed as POW or MIA from all past wars

and conflicts. He urged Members on behalf of the Veterans of Foreign Wars to approve this measure.

Gene Crego, State Council President, Vietnam Veterans of America, urged Members to support HCM2001. He said his organization is currently working with North Korea to find approximately 5,000 servicemen killed on the north side of the Demilitarized Zone during the Korean conflict.

Names of those who signed up in support of HCM2001 but did not speak:
Joyce Hill, representing self

Vice-Chairman Mitchell moved that HCM2001 do pass. The motion carried by a roll call vote of 8-0-0-0 (Attachment 19).

HB2133 – peace officers; United States citizenship – DO PASS AMENDED

Courtney McKinstry, Majority Research Analyst, advised that HB2133 requires an applicant who applies for a position as a peace officer to be a United States citizen and provide proof of citizenship (Attachment 20). The Mitchell six-line amendment dated 02/04/14 clarifies the definition of peace officer (Attachment 21).

Vice-Chairman Mitchell, sponsor, said this legislation was brought to him by constituents in his district where the unemployment rate is 34 percent. They questioned why the Department of Corrections is hiring correctional officers who are not U.S. citizens when 34 percent of the area's population is unemployed. He stated that this bill extends the requirements of a peace officer to the Department of Corrections.

Mr. Gallego said this specifically excludes people legally in this country from jobs they currently are eligible for. Vice-Chairman Mitchell said the intent is to require U.S. citizenship for new hires. Mr. Gallego noted that many veterans are legal permanent residents and this will deny them the opportunity of applying for these jobs. Vice-Chairman Mitchell stated that the Arizona Peace Officer Standards and Training Board (AZPOST) requires legal citizenship for peace officers. This proposal streamlines the law.

Lyle Mann, Executive Director, Arizona Peace Officer Standards and Training Board (AZPOST), spoke in opposition to HB2133. It is clearly stated in statute that peace officers must be U.S. citizens; however, AZPOST does not certify correctional officers the same way it certifies peace officers. He questioned why the standard should be changed to require them to be citizens. Additionally, the definition in the amendment goes beyond correctional officers; it includes detention officers as well. He expressed concern that the enabling statute may be impacted by passage of this legislation.

Will Barnow, Arizona Department of Corrections (ADOC), neutral on HB2133, related that one of the Department's biggest challenges is recruiting and retaining qualified officers. ADOC currently has 450 open positions. It hires all types of individuals, including permanent residents who legally work in the United States. There are 400 correctional officers working at ADOC who are legal permanent residents. One of the impacts of this legislation is that it will limit the

pool of applicants. If the Department does not have officers to fill these positions, overtime will be mandated, positions will be left vacant, which creates a public safety risk, and morale among officers will be reduced.

Vice-Chairman Mitchell said he does not see this as a hiring problem. There is no shortage of labor in the state. An effort should be made to reach out to the community to give citizens priority in the hiring process.

Mr. Cardenas wondered whether legal residents are counted in the unemployment statistics. He said this is favoring one group of residents over another. He opined that being a bilingual officer would be preferable in the prison system.

Mr. Barnow advised that 40 percent of inmates are bilingual, so it is important to have bilingual correctional officers. In answer to a question, he clarified that veterans who are legal permanent residents would not be able to apply should the amendment be adopted.

Mr. Farnsworth mentioned that noncitizens are now excluded from certain jobs because of their mixed loyalties. The duties of correctional officers are being expanded to more reflect the duties of peace officers. He believes the Legislature has to look at the jobs and decide whether it makes sense to exclude legal residents based on the sensitivity of the job. He asked for the distinction for the exclusion of citizenship between a peace officer and a correctional officer. Mr. Barnow said that one distinction could be the arrest authority that law enforcement officers have.

Mr. Mann explained that in 1968, the Legislature decided that citizenship was required for peace officers. In the late 1980s, the Legislature put correctional officers under AZPOST but did not require citizenship because of their different duties and responsibilities. Peace officers are on the street dealing with the general population; correctional or detention officers deal with a different, regulated population. It takes 18 weeks to become a peace officer and 7 weeks to become a correctional officer. Whether veterans who have served their country should be excluded if they are not U.S. citizens is a policy decision this body should make.

Mr. Gallego reminded Members that the oath servicemen take does not make a distinction on whether they are a legal permanent resident or not. They take an oath to defend this country and uphold the Constitution.

Mr. Borrelli asked whether there is a hiring preference for veterans who apply at the Department of Corrections. Mr. Barnow replied that he does not believe the Department has a hiring preference for veterans but it does target veterans for its workforce.

Vice-Chairman Mitchell reiterated that economics is one reason for this proposal; another reason is the standard for peace officers. This is streamlining that process by applying that standard to correctional employees.

Vice-Chairman Mitchell moved that HB2133 do pass.

Vice-Chairman Mitchell moved that the Mitchell six-line amendment dated 02/04/14 be adopted (Attachment 21). The motion carried.

Vice-Chairman Mitchell moved that HB2133 as amended do pass. The motion carried by a roll call vote of 5-3-0-0 (Attachment 22).

Two Resolutions approved by the membership of the Veterans of Foreign Wars, White Mountain Area Post 9907, were distributed citing support of the veteran and military bills (Attachments 23 and 24).

Without objection, the meeting adjourned at 11:30 a.m.

Joanne Bell, Committee Secretary
February 24, 2014

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