

ARIZONA STATE LEGISLATURE
Forty-ninth Legislature – Second Regular Session

LEGISLATIVE COUNCIL

Minutes of Meeting
Wednesday, August 11, 2010
House Hearing Room 3 -- 9:30 a.m. or adj. Sine Die 9th Special Session

Chairman Adams called the meeting to order at 11:07 a.m. and attendance was noted by the secretary.

Members Present

President Robert Burns
Senator Jorge Luis Garcia
Senator Chuck Gray
Senator Linda Gray
Senator Linda Lopez
Senator Thayer Verschoor

Speaker Kirk Adams, Chairman
Representative Chad Campbell
Representative Steve Farley
Representative John McComish
Representative Andrew Tobin
Representative Steven Yarbrough

Members Absent

Senator Richard Miranda

Representative David Lujan

ADOPTION OF BALLOT ANALYSIS PURSUANT TO A.R.S. SECTION 19-124

secret ballot; employee representation

Mike Braun, Executive Director, Legislative Council, noted that the Members were previously emailed a copy of the Chairman's draft analysis relating to secret ballot; employee representation (Attachment 1) and opined that it meets the requirements of A.R.S. Section 19-124.

Representative Farley commented that the statute requires ballot arguments to be filed 60 days before an election. Mr. Braun agreed, but indicated that was discussed in his office and the Secretary of State's Office in preparation for the 9th Special Session. He said he believes the constitutional authority of the Governor and Legislature to call a Special Session and take action trumps the dictates of the statute. Additionally, the Secretary of State's Office believes it has the authority, pursuant to an Attorney General's opinion issued in 1986, to set a date for receipt of the ballot analysis and Pro-Con arguments, which has been done for 5:00 p.m. on Monday, August 16, 2010.

Senator Lopez asked if language in the Arizona Constitution states that it is a fundamental right for an employee to vote by secret ballot. Mr. Braun answered that "fundamental" is used only once in the Arizona Constitution and does not specifically relate to casting a secret ballot in any situation.

President Burns moved that the Committee adopt the language as presented by Legislative Council staff (Attachment 1).

Senator Lopez remarked that the language in the Chairman's draft analysis implies that the fundamental right to vote by secret ballot is in the Arizona Constitution when it is not, which can be remedied by striking "fundamental" on line 2 or striking "guarantee" and inserting "establish" on line 1.

Senator Lopez moved that the Chairman's draft analysis be amended as follows:

Line 2, strike "fundamental"

Speaker Adams asked if she would like to make all of the changes in one motion.

Senator Lopez moved a substitute motion to amend the Chairman's draft analysis as follows:

Line 1, strike "guarantee" and insert "establish"

Line 2, strike "fundamental"

Senator Linda Gray opposed the amendment, indicating that it is the duty of the Committee to adopt the language in HCR2001 that was recently passed.

Representative McComish stated that he is particularly opposed to striking "fundamental" because he does not believe it references a constitutional issue of a fundamental right; rather it is an adjective that is descriptive of the right.

Senator Chuck Gray conveyed opposition to the amendment. He remarked that the Ninth Amendment of the U.S. Constitution states that the enumeration in the Constitution of certain rights shall not be construed to deny or disparage others retained by the people. The fundamental right to a secret ballot may not be enumerated in the Arizona Constitution, but it is a fundamental right inherent of citizens.

Representative Farley spoke in support of the amendment, remarking that the Committee is charged with adopting a neutral and dispassionate analysis; to guarantee a fundamental right is not neutral or dispassionate.

Question was called on the substitute motion to amend the Chairman's draft analysis as follows:

Line 1, strike "guarantee" and insert "establish"

Line 2, strike "fundamental"

The motion failed.

Senator Lopez moved that the Chairman's draft be amended as follows:

Line 1, strike "guarantee" and insert "establish"

Senator Lopez said this amendment will clarify to voters that the right to a secret ballot in employee elections will be established in the Arizona Constitution.

Speaker Adams opposed the amendment. He conveyed that HCR2001 guarantees the right to secret ballot in employee elections and the Chairman's draft analysis is very descriptive of that measure. Representative McComish agreed.

Senator Chuck Gray stated that HCR2001 does not establish the right because it is already a fundamental right.

Question was called on the motion that the Chairman's draft analysis be amended as follows:

Line 1, strike "guarantee" and insert "establish"

The motion failed.

Question was called on the motion that the Committee adopt the language as presented by Legislative Council staff (Attachment 1). The motion carried by a roll call vote of 8-4-0-2 (Attachment 2).

Without objection, the meeting adjourned at 11:23 a.m.

Linda Taylor, Committee Secretary
August 12, 2010

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