

ARIZONA HOUSE OF REPRESENTATIVES  
Fiftieth Legislature – First Regular Session

**COMMITTEE ON MILITARY AFFAIRS AND PUBLIC SAFETY**

Minutes of Meeting  
Wednesday, March 16, 2011  
House Hearing Room 3 -- 9:00 a.m.

Chairman Gowan called the meeting to order at 9:12 a.m. and attendance was noted by the secretary.

**Members Present**

Mr. Dial  
Mr. Gallego  
Mr. Harper

Mr. Miranda R  
Mr. Smith D  
Mr. Stevens

Ms. Proud, Vice-Chairman  
Mr. Gowan, Chairman

**Members Absent**

Mr. Hale

**Committee Action**

SB1023 - DP (8-0-0-1)  
SB1054 - DP (7-0-0-2)  
SB1134 - DPA (8-0-0-1)  
SB1233 - DP (7-0-0-2)

SB1398 - DP (8-0-0-1)  
SB1424 - DPA S/E (8-0-0-1)  
SCR1006 - DP (6-2-0-1)

**PRESENTATION:**

**Naval Air Facility, El Centro**

Captain Russ Thompson, Commanding Officer, Naval Air Facility, El Centro, gave a presentation on “Supporting the Maritime Strategy” (Attachment 1). He reviewed the traditional naval core missions: forward presence, deterrence, sea control and power projection as well as the expanded core missions: maritime security, and humanitarian assistance and disaster response. He advised that the Asian-Pacific Theater is becoming very important to national security and noted that more than half of the world’s surface is part of the Pacific command. In the past, the Navy divided its forces equally between the Atlantic and Pacific coasts; now, 60 percent of naval forces are moving to the West coast to be able to deploy to the Pacific, which means that the western United States is becoming much more important to the Navy when it comes to the country’s national security mission.

Captain Thompson informed Members that the Navy has three facilities in Arizona: the Naval Operational Support Center in Phoenix, the Naval Operational Support Center in Tucson, both of which are Reserve Centers, and the Naval Observatory in Flagstaff. Dr. Paul Shankland will give a presentation on the Flagstaff Observatory.

Captain Thompson advised that 67 percent of the nation's military training airspace is in the southwest. He reported that a large part of the airspace used by the Navy for training is in Arizona, and the biggest issue of concern is encroachment. Development and statutes that interfere with the Navy's ability to use the current ranges and airspace cause a great deal of worry. With new weapons systems that are becoming a part of the Navy's inventory, the need for range space will grow, not shrink. Since it is difficult to grow range space, it is very important to retain what the Navy already has.

Captain Thompson introduced Dr. Paul Shankland, Director, Naval Observatory, Flagstaff. As the commanding officer of the Navy Air Facility in El Centro, he said he is responsible for ensuring that Dr. Shankland has everything he needs to accomplish his mission.

Dr. Paul Shankland, Director, Naval Observatory, Flagstaff, related that the U.S. Naval Observatory has been in existence since 1830 and is the oldest scientific institution in the country. The Naval Observatory's responsibility is assigned by the Secretary of Defense: to provide an astronomical reference frame for celestial navigation, and the orientation and location of space systems. The mission of the Naval Observatory is to make, analyze and interpret astrometric and photometric dark sky observations and to conduct a research program to improve the observational methods and accuracy of astronomical data required by the Department of Defense. He advised that there are 18,000 objects in orbit around the earth moving at 18,000 miles per hour, and the possibility for inadvertent collision or an adversary's covert or overt maneuver to threaten national security is high. The Observatory in Flagstaff builds celestial reference frames. It catalogs billions of stars and their positions in the sky have to be measured. One area of concern is light encroachment. Dark skies are needed to collect the faint star collections required to build the star maps. Coconino County and the City of Flagstaff have ordinances on the amount of lumens per acre and types of lighting which have helped them do their collections and continue their mission.

## **CONSIDERATION OF BILLS:**

### **SB1023 - enforcement of pretrial release conditions - DO PASS**

**Vice-Chairman Proud moved that SB1023 do pass.**

Justin Riches, Majority Research Analyst, reviewed SB1023 which authorizes adult probation officers in counties with a population over two million persons to serve warrants and make arrests on anyone who has violated a condition of pretrial release while under the supervision of the Pretrial Services Division (Attachment 2).

Zach Dal Pra, Deputy Chief, Maricopa County Adult Probation, in support of SB1023, explained that when a person is arrested, the judicial officer has the option to release the individual to

pretrial supervision. While the person is going through the court process, probation officers supervise them and enforce the conditions that the judicial officer has set. At this point, the person is not yet convicted and not yet placed on probation. This bill addresses the pretrial defendant who has been released from jail pending charges. When those individuals abscond from pretrial supervision, probation officers do not have the authority to arrest them. He said that the offense could range from a misdemeanor to Class 2 felony. He noted that, at any given time, there are approximately 1,600 offenders released from Maricopa County jails under pretrial supervision. Currently, probation officers do not have the authority to arrest those individuals under pretrial supervision; they must ask the court to issue an order for arrest and law enforcement must make the arrest under that warrant. This legislation changes the process so that probation officers can arrest a pretrial offender.

Chairman Gowan asked whether other counties do this. Mr. Dal Pra said he believes there are four other counties where pretrial services are under the authority of the probation departments.

Julianne Hill, Legislative Intern, Arizona Supreme Court, testified in support of SB1023. She advised that this issue came to the Arizona Judicial Council from Maricopa County and the Maricopa County Adult Probation Department. She advised that Adult Probation has a task force that consists of various law enforcement agencies and probation officers. The task force is responsible for apprehending defendants who fail to comply with the terms of probation or pretrial release or who fail to appear in court. Probation officers have the authority to arrest individuals who violate their probation but do not have the power to arrest those who are on pretrial release. This bill gives them the authority to arrest those who have violated their terms of pretrial release.

Jerry Landau, Government Affairs Director, Arizona Supreme Court, in support of SB1023, answered Chairman Gowan's query. He advised that Coconino, Yavapai, Pinal and Yuma Counties have a system set up where a person pending trial and placed on pretrial supervision is supervised by the probation department. This bill allows probation officers to go after those who violate their pretrial release terms.

Vice-Chairman Proud announced the names of those who signed up in support of SB1023 but did not speak:

Jen Sweeney, Government Affairs Director, Arizona Association of Counties

Richard Bohan, Legislative Liaison, Maricopa County Board of Supervisors

Vice-Chairman Proud announced the names of those who signed up in opposition to SB1023 but did not speak:

Anjali Abraham, Public Policy Director, American Civil Liberties Union of Arizona

**Question was called on the motion that SB1023 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 3).**

**SB1054 - waiver; intensive probation standards - DO PASS**

**Vice-Chairman Proud moved that SB1054 do pass.**

Joe DeMenna, Assistant Majority Research Analyst, stated that SB1054 expands the counties in which the Supreme Court may waive the probation ratio and team composition requirements of adult and juvenile intensive probation programs, thereby including counties that have a population greater than 300,000 (Attachment 4).

Ashley Dammen, Legislative Intern, Arizona Supreme Court, in favor of SB1054, said that this bill removes the population cap in which the Supreme Court may waive the probation ratio and team composition requirements for adult and juvenile intensive probation programs. She stated that the Court is confident that public safety will not be compromised by this legislation.

Vice-Chairman Proud announced the names of those who signed up in support of SB1054 but did not speak:

Kimberly MacEachern, Staff Attorney, Arizona Prosecuting Attorneys' Advisory Council  
Richard Bohan, Legislative Liaison, Maricopa County Board of Supervisors  
Jerry Landau, Government Affairs Director, Arizona Supreme Court

**Question was called on the motion that SB1054 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 5).**

**SB1233 - peace officers; at will employment - DO PASS**

**Vice-Chairman Proud moved that SB1233 do pass.**

Jonathan Bates, Majority Intern, advised that SB1233 excludes at will police chiefs or assistant police chiefs from disciplinary action (Attachment 6). The bill defines *at will employee* as a person who may be terminated at the will of either the employee or employer, at any time, with or without cause.

In answer to Mr. Smith, Mr. Bates explained that last year, SB1029 prohibited a law enforcement officer from being subject to disciplinary action except for just cause. This bill excludes police chiefs and assistant police chiefs from disciplinary action.

Ryan Harper, representing Town of Marana, spoke in support of SB1233. He said that police executives in a city or town work at the will of the Council. Prohibiting disciplinary action except for just cause creates an unequal standard for police chiefs and assistant police chiefs. This legislation clarifies last year's bill.

Vice-Chairman Proud announced the names of those who signed up in support of SB1233 but did not speak:

Norman Moore, Attorney, Fraternal Order of Police  
James Mann, Arizona Fraternal Order of Police

**Question was called on the motion that SB1233 do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 7).**

**SB1134 - adjutant general; annual report - DO PASS AMENDED**

**Vice-Chairman Proud moved that SB1134 do pass.**

**Vice-Chairman Proud moved that the Gowan 15-line amendment dated 2/28/11 be adopted (Attachment 8).**

Jonathon Bates, Majority Intern, explained that SB1134 modifies the annual reporting responsibilities for the State Adjutant General (Attachment 9). The bill requires that the annual report prepared by the Adjutant General of the Department of Emergency and Military Affairs (DEMA) be submitted by September 1 of each year to the President of the Senate and Speaker of the House of Representatives, and include the Camp Navajo Fund and the National Guard Tuition Reimbursement reports. The Gowan 15-line amendment dated 2/28/11 stipulates that officers and enlisted personnel of the Arizona National Guard, while on state active duty exceeding 30 consecutive days shall be considered employees of this state and eligible for health and accident insurance benefits, including dependents (Attachment 8). In addition, members of the National Guard traveling at any time under official orders shall be reimbursed for the cost of travel, and expenses for lodging and meals.

Mr. Harper mentioned that the Senate budget passed today provides that state employees will not receive any benefits for the first six months that they are employed.

Mr. Gallego asked what this legislation is attempting to fix.

Ed Flinn, Director of Joint Programs, Department of Emergency and Military Affairs (DEMA), testified in favor of SB1134. He explained that state active duty is designed as a short-term response to a Governor-declared emergency; however, sometimes the situation may turn out to be a long-term response. Currently, Guardsmen are only protected by Workers' Compensation Insurance. This legislation enables them to buy into the state medical and dental insurance plans for themselves and their dependents.

Vice-Chairman Proud announced the names of those who signed up in support of SB1134 but did not speak:

Andrew Carlson, Legislative Liaison, Department of Emergency and Military Affairs (DEMA)

**Question was called on the motion that the Gowan 15-line amendment dated 2/28/11 be adopted (Attachment 8). The motion carried.**

**Vice-Chairman Proud moved that SB1134 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 10).**

**SB1398 - photo enforcement; DPS equipment fund - DO PASS**

**Vice-Chairman Proud moved that SB1398 do pass.**

Jonathon Bates, Majority Intern, advised that SB1398 stipulates that 40 percent of remaining monies in the Photo Enforcement Fund, after all expenses and court costs that cover the

processing of photo enforcement violations and citations, not exceeding \$7 million, are to be deposited in the Public Safety Equipment Fund (Attachment 11).

In response to Mr. Miranda, Mr. Bates advised that currently there is over \$1 million in the Fund and SB1398 will require 40 percent of that money to be allocated to the Public Safety Equipment Fund.

Vice-Chairman Proud announced the names of those who signed up in support of SB1398 but did not speak:

Wayde Webb, Arizona Department of Public Safety  
Mike Williams, Arizona Police Association

**Question was called on the motion that SB1398 do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 12).**

**SB1424 - national guard; state active duty - DO PASS AMENDED S/E**  
**S/E: assessment for family offenses; stalking**

**Vice-Chairman Proud moved that SB1424 do pass.**

**Vice-Chairman Proud moved that the Proud two-page strike-everything amendment dated 3/14/11 to SB1424 be adopted (Attachment 13).**

Joe DeMenna, Assistant Majority Research Analyst, explained that the Proud two-page strike-everything amendment dated 3/14/11 to SB1424 (Attachment 13) requires municipal courts to collect \$50, while collecting any other penalties and fees that are paid by individuals convicted of domestic abuse, to be deposited into the Domestic Violence Shelter Fund (Attachment 14).

Mr. Miranda asked how the Domestic Violence Shelter Fund is currently funded. Mr. DeMenna related that it is funded through the Department of Economic Security (DES). He said he does not know where the money comes from but he will get that information. Mr. Miranda asked whether there is an estimate on how much will be collected. Mr. DeMenna said he can get the number of domestic violations situations that take place.

Jerry Landau, Government Affairs Director, Arizona Supreme Court, neutral on the strike-everything amendment to SB1424, stated that he can provide information on how much will be collected. He advised that he asked the sponsors for a Floor amendment to delay the effective date until January 1, 2012 in order to reprogram the computers to include all the additional assessments and surcharges at one time.

Mr. Miranda commented that he recognizes the need for more shelters being built; however, his concern is that he does not want to supplant how shelters are already being funded. Mr. Landau stated that this is not to supplant but to supplement current DES funding.

**Question was called on the motion that the Proud two-page strike-everything amendment dated 3/14/11 to SB1424 be adopted (Attachment 13). The motion carried.**

**Vice-Chairman Proud moved that SB1424 as amended do pass. The motion carried by a roll call vote of 8-0-0-1 (Attachment 15).**

**SCR1006 - border security plan - DO PASS**

**Vice-Chairman Proud moved that SCR1006 do pass.**

**Vice-Chairman Proud moved that the Miranda 21-line amendment dated 3/15/11 be adopted (Attachment 16).**

Jonathon Bates, Majority Intern, explained that SCR1006 expresses the Legislature's support for the Arizona Cattle Growers' Association's Restore Our Border (ROB) Plan (Attachment 17). The Miranda 21-line amendment dated 3/15/11 specifies that a person is exempt from prosecution for the person's presence in the United States if the person satisfies the following (Attachment 16):

- Has entered the United States before the age of 16.
- Has been in the United States for at least five consecutive years.
- Has graduated from a high school in the United States, has obtained a general equivalency diploma or has been accepted in an institution of higher education.
- Is between 12 and 35 years of age at the time of application.
- Is of good moral character.

The amendment also stipulates that only federal laws and those deemed legal are used in reference to "pursuit and apprehension" policies for law enforcement, and that all existing immigration laws are enforced if legally recognized.

Vice-Chairman Proud queried whether this relates to an individual who has illegally entered this country. Mr. Bates said it just exempts a person from prosecution; it does not speak to whether the person has unlawfully or illegally entered the country.

Mr. Gallego mentioned that he is the sponsor of the amendment and he will answer questions. In response to Vice-Chairman Proud's query, he said this relates to young people who were brought to the U.S. at a young age through no fault of their own and have no connection to the country in which they were born. He said his intent is to recognize the "Dream Act Kids" to clarify their status in this country and to help clarify that they are not being caught up in something over which they had no control. This does not deal with people illegally crossing the border.

Chairman Gowan asked whether the sponsor supports the amendment. Mr. Gallego related that he did not have the opportunity to speak to the sponsor about the amendment. He said he spoke to people from the Cattle Growers' Association and they do not support the amendment.

Chairman Gowan commented that he does not agree with the Dream Act in this area. The area he would be in support of is if they were to serve in the military honorably. Mr. Gallego said he did not have the opportunity to include that language in the amendment.

**Question was called on the motion that the Miranda 21-line amendment dated 3/15/11 be adopted (Attachment 16). The motion failed.**

Patrick Bray, Deputy Director of Government Affairs, Arizona Cattle Grower's Association (ACGA), testified in support of SCR1006. He advised that SCR1006 refers to the ACGA's ROB 18-point plan that was developed by several ranchers shortly after the murder of Rob Krentz who have seen traffic and drug cartel activity significantly increase over the past five years. He said that all 18 points are focused directly on the border and border security, not on the immigration debate. He asserted that the situation on the southern border is very serious and said that ACGA continues to work on this plan.

Mr. Gallego said he is glad to hear that this is still a work in progress. He agreed that the problem still exists on the border and said he would like to be a part of the solution in securing the border but in the correct manner.

Mr. Miranda asked about the Citizens Advisory Board's role. Mr. Bray answered that Nogales has a Citizens Advisory Board. Citizens meet once a month with the Border Patrol to exchange information between law enforcement and local citizens.

In response to Mr. Miranda, Mr. Bray said the laws that are referenced are laws that have passed the constitutionality test, not laws that have been or are being challenged.

Mr. Stevens commented that the National Guard will leave the border in 90 days. Mr. Bray said that is of concern to ACGA's members.

Mr. Gallego noted that there is no funding mechanism in the bill and recommended that funding be included in the future. He expressed concern about some of the counties being mandated to take on some of the duties that the federal government is supposed to handle. Mr. Bray said the plan has always been geared to make the federal government do its job. He stated that the federal government's job is to protect the people.

Jaime Farrant, Policy Director, Border Action Network, testified against SCR1006. He maintained that the Legislature should consider all interests on the border and said that the cattle ranchers are only one of the stakeholders who live in the region. This legislation does not acknowledge other border stakeholders; it does not consider people of bi-national heritage or other border residents; it seems to be solely limited to what the ranchers are proposing. Additionally, it continues to raise discourse that the border is dangerous and crime infested, and negatively impacts business and tourism in the area. He asked Members to vote against this Resolution.

Mr. Gallego asked Mr. Farrant what groups he would like to see represented in stakeholder meetings. Mr. Farrant advised that he would like to see the Border Action Network included in legislative stakeholder meetings. He explained that the Border Action Network is a coalition of southern border community members, including community organizations, business people and trade groups. He suggested that all different groups that live in the border region be invited to attend meetings to come up with solutions to this problem.

**Question was called on the motion that SCR1006 do pass. The motion carried by a roll call vote of 6-2-0-1 (Attachment 18).**



Without objection, the meeting adjourned at 10:31 a.m.

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Joanne Bell, Committee Secretary  
March 25, 2011

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