

ARIZONA HOUSE OF REPRESENTATIVES
Forty-seventh Legislature – First Regular Session

COMMITTEE ON JUDICIARY

Minutes of Meeting
Thursday, February 10, 2005
House Hearing Room 4 -- 8:30 a.m.

H.C.R. 2030, English as official language – DO PASS
AMENDED

Katy Proctor, Majority Research Analyst, stated that H.C.R. 2030 is a referendum measure to repeal Article XXVIII of the Arizona Constitution regarding English as the official language of Arizona (Attachment 16). The bill creates a new Article which provides that English is the official language, requires government officials to preserve the role of English, requires official functions of government to be conducted in English, and allows a person injured by a violation to get appropriate relief through civil action.

Ms. Proctor explained the Farnsworth four-page amendment dated 2/7/05 would require that government representatives preserve and enhance the role of English as the official language, require official action be conducted in English, provide that a person shall not be discriminated against or penalized because the person uses English in public or private communication, allows a person who resides or does business in this State to file a civil action for relief from an action that violates this Article and causes injury to the person, and provides that the Legislature may enact any measure designed to further the purpose of this amendment (Attachment 17).

Representative Russell Pearce, sponsor, stated H.C.R. 2030 confirms that American English is the official language of the State of Arizona. He said the mass immigration to this country comes with some challenges. There are 329 different languages spoken in this country. He pointed out that official English does not mean English only. 26 states have enacted laws making English the official language. Over 180 countries have official languages. He maintained that official English is commonsense government and

further the assimilation process. It does not limit communications. This protects all language. This provides that the official business will be conducted in English.

Mr. Gallardo questioned the need for this. Representative Pearce answered that hundreds of documents are being produced every day. Because of diversity throughout the country, people are encouraged to speak another language. He said that if people are not encouraged to speak English, that damages what brings everyone together as a nation.

Mr. Gallardo asked the cost to the taxpayers to print these documents. Representative Pearce advised he was awaiting an answer to a letter sent out to agencies asking about the documents they print, as well as the cost. Mr. Gallardo said he would be interested in that information. He said he fails to see how this Resolution will help people assimilate in our society. Representative Pearce stated the need to strengthen the Constitution. He pointed out this is official English. He disclosed that people overwhelmingly support this. Mr. Gallardo agreed that people in the State want to learn English because they understand that in order to be successful, they have to learn English. In looking at the details of the Resolution, he said he does not support the argument in terms of the polls that there is overwhelming support for this.

Mr. Miranda questioned whether the intent of the legislation is to ensure that everyone learn English within a given period of time. Representative Pearce replied in the negative. He said the intent is to help assimilation, to help uniformity and to recognize there are common bonds that Americans share, such as language.

Mr. Miranda asked Representative Pearce if he would favor an amendment to include adequate funding to make sure people have access to learning English. Representative Pearce replied he does not support that because the State now adequately funds education.

Mr. Downing brought up the *Flores* decision about funding English-learning in order to assimilate within society. He asked Representative Pearce if he supports that decision. Representative Pearce said he supports this body making decisions, not Tim

Hogan or the courts.

Chairman Farnsworth explained that Tim Hogan is the attorney who filed the *Flores* lawsuit against the State requiring schools to teach English. About four years under judicial pressure, this Legislature improperly succumbed to judicial pressure and ended up funding \$30 million a year for that. Mr. Miranda said that Tim Hogan is the reason the State has been obligated to constitutionally meet the requirement for educating every child in the State. To that point, Chairman Farnsworth said Mr. Hogan is not responsible for anything other than bringing the lawsuit. It is the courts that decide they are going to go outside the scope of what legislation is. He submitted that is true judicial activism.

Mr. Miranda asked Representative Pearce if he is aware there currently is a year and a half waiting list for adult education for English. Representative Pearce said it is not government's responsibility to accommodate a person from another nation.

Mr. Miranda brought up the language on page 2, line 12, regarding communication. Representative Pearce said that provision does not limit communication.

Mr. Miranda noted that practical applications and lack of funding make this proposal impossible to comply with.

Mr. Quelland pointed out that every country except two have an official language.

Mr. Downing asked the consequences if someone violates the law. Representative Pearce said there is no penalty. This is a constitutional provision. Mr. Downing raised the issue of an individual violating his oath of office. He said that is a serious offense.

Mr. Downing asked if this relates to official English or English only. Chairman Farnsworth answered it is official English. Representative Pearce explained that government records must have an official record that must be done in English. He stated that people can communicate in any language they choose.

Mr. Downing stated this bill affects the duties of Legislators and all people who work in the State. He said it has a wide scope. Discussion was held concerning Legislators or other officials conferring with or writing to constituents in another language. Representative Pearce again pointed out this legislation relates to government records.

Mr. Gallardo asked whether the provision on page 2, line 9, which excludes Native Americans, defeats the purpose of this bill. Representative Pearce answered that provision allows them to preserve the Native American culture and language. Mr. Gallardo commented a large portion of society is Mexican American, so it is important to preserve that culture as well.

Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union (ACLU), testified in opposition to H.C.R. 2030. She stated the language of the bill is ambiguous, overbroad and vague. It puts a serious crimp on the rights of free speech.

Persons in opposition to H.C.R. 2030 who did not speak:

Ron Johnson, Executive Director, Arizona Catholic Conference, Arizona

Marge Mead, representing herself

Jennifer Daily, Arizona Education Association

Joel Breshin, representing himself

Vice-Chairman Smith moved that H.C.R. 2030 do pass.

Chairman Farnsworth announced an omission was made when the amendment was drafted. He announced a motion is needed to suspend the Rules to amend the amendment.

Ms. Proctor advised that the Farnsworth two-line amendment dated 2/10/05 inserts “, PROTECT” after “PRESERVE” on page 3, line 7 (Attachment 18).

Discussion was held on suspension of the Rules. After conferring with the Rules Attorney, Chairman Farnsworth announced that the

four-page amendment will be moved and then the Rules will be suspended in order to offer the two-line amendment.

Vice-Chairman Smith moved that the Farnsworth four-page amendment dated 2/7/05 be adopted (Attachment 17).

Vice-Chairman Smith moved that the amendment deadline of the Judiciary Committee be suspended for the purpose of entertaining an amendment to _H.C.R. 2030. The motion carried.

Vice-Chairman Smith moved that the Farnsworth two-line amendment dated 2/10/05 to the four-page amendment be adopted (Attachment 18). The motion carried.

Vice-Chairman Smith moved that the Farnsworth four-page amendment dated 2/7/05 as amended be adopted (Attachment 17). The motion carried.

Vice-Chairman Smith moved that H.C.R. 2030 as amended do pass. The motion carried with a roll call vote of 6-3-0-0 (Attachment 19).