

# ARIZONA STATE SENATE

## 45TH LEGISLATURE SECOND REGULAR SESSION

### MINUTES OF COMMITTEE ON COMMERCE

**DATE:** February 6, 2002      **TIME:** 8:30 a.m.      **ROOM:** SHR 1

**CHAIRMAN:** Senator Verkamp      **VICE CHAIRMAN:** Senator Arzberger

**ANALYST:** Julie Szperling      **COMMITTEE SECRETARY:** Nancy L. DeMichele

**ASSISTANT ANALYST:** Dallas Gold

**INTERN:** Nathaniel Searing

#### ATTENDANCE

#### BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Burns	X			SB 1024	DPA/SE
Senator Hamilton	X			SB 1032	DP
Senator Mitchell	X			SB 1073	HELD
Senator Valadez	X			SB 1090	FAILED
Senator Arzberger, Vice Chair	X			SB 1153	HELD
Senator Verkamp, Chair	X			SB 1176	DPA
				SB 1204	DP
				SB 1206	DP

#### GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
Robert Charles Beck	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Susan H. Lynch	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Joana Daved Damos	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
William Lewis Lilly	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Donna Rae Neill	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Rita Carrillo	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION

Jim J. Davidson	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Shannon Wilhelmsen	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION
Roberto Corona Ruiz	Member, Neighborhood Preservation and Investment Commission	CONFIRMATION

Chairman Verkamp called the meeting to order at 8:36 a.m., and attendance was taken. For additional attendees, see Sign-In Sheet (Attachment A).

## **APPROVAL OF MINUTES**

Senator Verkamp announced, without objection, the minutes of the meeting of January 30, 2002, are approved as distributed.

### **Robert Charles Beck – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Robert Charles Beck** stated he spent five years on the Commission of Neighborhoods for the City of Glendale, and three and a half of those years as Chairman. He commented that he originally assisted in designing the program, which created a stronger and more viable neighborhood. He enjoys working with individuals to improve the quality of life in neighborhoods, and looks forward to serving on the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Robert Charles Beck, as a Member of the Neighborhood Preservation and Investment Commission.**

Senator Hamilton stated that it is a pleasure to vote for someone with the qualifications as that of Mr. Beck. He said he looks forward to working with Mr. Beck in his home town of Glendale, and will vote "aye."

**The motion CARRIED by a roll call vote of 5-0-1 (Attachment 1).**

### **Susan H. Lynch – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Susan H. Lynch** stated she has served on the Prescott City Council, and is familiar with the rural interests of neighborhoods. She was a State Representative three years ago, and served on the committee that was instrumental in creating the legislation for the Commission of Neighborhoods. She looks forward to serving as a member of the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Susan H. Lynch, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 2).**

### **Joana Daved Damos – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Joana Daved Damos** stated she is from Tucson. She said she is a retired attorney and has served on the Tucson Downtown Advisory Committee, which created the Downtown Development Corporation, and the City Industrial Development Authority Board. She also worked on historic preservation, and has served as chairperson of the Tucson-Pima County Historical Commission. She was instrumental in having her neighborhood enrolled as a historic district in the National Register of Historic Places. She is very interested in working with the inner city neighborhoods, and looks forward to serving on the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Joana Daved Damos, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 3).**

**William Lewis Lilly – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**William Lewis Lilly** stated he is from the City of Yuma, and currently is employed by the City as the Neighborhood Services Manager. He spent his entire professional career of 26 years in public service primarily in the community redevelopment arena. He believes that arena is best served at the neighborhood level with all the various entities working collaboratively together to address the issues. He looks forward to serving as a member of the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of William Lewis Lilly, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 4).**

**Donna Rae Neill – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Donna Rae Neill** stated she is chairperson of the Westwood Community and director of Nailem. She has traveled throughout the State, and believes she can bring her experiences of dealing with neighborhood issues to the Commission. She looks forward to serving as a member.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Donna Rae Neill, as a Member of the Neighborhood Preservation and Investment Commission.**

Senator Hamilton stated he has worked with Ms. Neill in the past on neighborhood issues, and appreciates her dedication to those issues. He is pleased to vote "aye."

**The motion CARRIED by a roll call vote of 5-0-1 (Attachment 5).**

**Rita Carrillo – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Rita Carrillo** stated she is the Executive Director of a non-profit organization called Neighborhood Housing Services of Phoenix. She said the mission of the organization is neighborhood revitalization primarily through creating home ownership opportunities in neighborhoods for low- and moderate-income families. In addition, she has spent many years working on economic and community development. As a native of Arizona, she is very interested in creating healthy, stable neighborhoods. She looks forward to serving as a member of the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Rita Carrillo, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 6).**

**Jim J. Davidson – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Jim J. Davidson** stated he resides in Mesa and currently serves on the Mesa City Council. He also serves as Vice Mayor for the City of Mesa, and his term expires at the end of May. He has worked with neighborhood community refinancing associations to secure funds for neighborhood revitalization. He has been involved with the Downtown Development Committee, which finds ways to develop the town's core. He said he looks forward to bringing his expertise and experiences to the Commission, focusing on affordable housing and sprawl issues.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Jim J. Davidson, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 7).**

**Shannon Wilhelmsen – Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Shannon Wilhelmsen** stated she is currently employed by the City of Tempe as Government Relations Director. She said she would be pleased to represent Tempe as well as to work with other cities throughout Maricopa County on redevelopment efforts and neighborhood revitalization issues. She looks forward to serving as a member of the Commission.

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Shannon Wilhelmsen, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 8).**

**Roberto Corona Ruiz - Member, Neighborhood Preservation and Investment Commission – RECOMMEND CONFIRMATION**

**Ann Lynch from the Governor's Office**, spoke on behalf of Roberto Corona Ruiz who could not be present today. Ms. Lynch stated that Mr. Ruiz is from Tucson and has owned an engineering firm in Tucson for many years. He has been very active in the community and has won several awards. The Governor's Office believes Mr. Ruiz is very qualified to fill the position as member of the Commission.

Senator Valadez stated he is acquainted with Mr. Ruiz, who is very well qualified to serve on the Commission. He will vote "aye."

**Senator Arzberger moved that the Committee on Commerce recommend to the full Senate the CONFIRMATION of Roberto Corona Ruiz, as a Member of the Neighborhood Preservation and Investment Commission. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 9).**

**CONSIDERATION OF BILLS**

**SB 1073 – liquor; direct shipment – HELD**

## **SB 1153 – health boards; business entities – HELD**

Senator Verkamp announced that SB 1073 and SB 1153 will be held at the requests of the sponsors.

## **SB 1090 – personal sick leave; family purposes – FAILED**

Tracey Landers, Assistant Research Analyst, explained SB 1090 requires an employer who provides paid sick leave to allow employees to use accrued sick leave to care for an ill child, parent or spouse. The bill also allows an employee to recover damages in a civil action against an employer that denies employees the right to use their sick leave. She indicated a Valadez amendment is being offered, which requires employees to give 30 days' notice of their intention to use sick leave, eliminates language regarding employer discrimination in a civil action, and defines terms.

Senator Burns asked whether an employee is qualified to use sick leave if a child is ill. Ms. Landers responded that the amendment would require a "serious health condition" defined by the federal government as prescribed in 29 United States Code Section 2611 as follows: "An illness, injury, impairment, or physical or mental condition that involves in-patient care in a hospital, hospice or residential medical facility, or a continuing treatment by a health care provider."

**Charles Huggins, Secretary-Treasurer, Arizona State American Federation of Labor and Congress of Industrial Organizations (AZ AFL-CIO)**, testified in support of SB 1090. He pointed out that SB 1090 is a family values issue, and he believes it is time for the State to do something to prove that it cares about family values. He explained the federal Family Medical Leave Act (FMLA) only covers employees who work for employers that hire more than 50 employees. This bill with the amendment would drop that number to 25 employees. He said there are 32 states that do something to enhance the FMLA. He noted that 6 states have paid family leave benefit laws, either elective or mandatory. He said FMLA does not cover many employees in Arizona, and he hopes the Committee will see the need to do something regarding family values in the State.

**Eleanor Eisenberg, Executive Director, Arizona Civil Liberties Union (ACLU)**, testified in support of SB 1090. She stated she would like to suggest an amendment that would include the words "or domestic partner" in each instance of the bill enumerating the individual being attended by the employee utilizing sick leave. She said if the amendment proposes to remove the prohibition against an employer discriminating against an employee taking sick leave, she would strongly oppose removing that language from the bill.

**David Selden, Attorney, Arizona Chamber of Commerce**, testified in opposition to SB 1090. He stated that he is Chairman of the Employee Relations Committee for the Arizona Chamber of Commerce. He commented that the Chamber also opposes the second half of the amendment, which eliminates the damages and remedies section of the bill. He explained that the employee leave issue is very complex with technical requirements under federal statutes and regulations. He pointed out that companies are already burdened with trying to comply with FMLA. Many companies have full-time FMLA administrators, whose exclusive job is to track employee leave issues. He emphasized that SB 1090 would add an additional burden of regulations from the State government, and will become a nightmare for large and small businesses. He indicated that the federal law applies to employers of 50 or more, and SB 1090 would extend coverage down to 25. Therefore, a category of employers from 25 to 50 would have to comply with SB 1090, but not the federal law. He said the federal law also provides that even for covered employers, the only employees who are covered are those who work within a 75 mile radius of 49 other employees of that employer. He

noted that SB 1090 does not have an equivalent provision. He said federal law allows employers three alternative methods of tracking leave accrual: on a calendar year basis, an anniversary year basis, or a rolling 12-month time period of the employee's service. He noted that SB 1090 mandates a calendar year accrual basis, which complicates the tracking issue with the federal law.

Mr. Selden stated the bill with the amendment applies only to serious health conditions and compensated leaves, whereas FMLA leave is generally uncompensated. He said it is unclear whether the definition of "sick leave" would include paid time off from work. He noted that most employers now use a paid time off (PTO) policy, which could be used for any reason.

Mr. Selden referred to the question raised by Senator Burns, and stated that the definition of a serious health condition under FMLA is a very complex subject. He pointed out that there is also the possibility of massive overtime liabilities for employers. He said the damages provision of the bill, as written, is dangerous and vague because of the language on page 2, line 1, where it states an employee may recover "actual" damages. He referred to the amendment, which strikes the damage portion in its entirety, and said it could have a very severe consequence.

Mr. Selden concluded his remarks by stating that employers are already struggling to comply with FMLA, the Americans Disabilities Act (ADA), and Workmen's Compensation. He noted that SB 1090 would add an additional overlay of problems. He said that the Chamber provides full-day seminars on FMLA, and many employers attend because they are struggling with existing laws. He believes the issue requires further careful study because the language presented in SB 1090 will present unintended consequences and difficulties for employers large and small.

Senator Mitchell stated that the issue is not as complicated as Mr. Selden has stated. He said the purpose of the bill is to add a category of employers with employees between 25 and 50. Employers with over 50 employees are already covered. He said the bill provides for employees with a sick leave policy to use the sick leave to attend to an ill child, spouse or parent.

Mr. Selden responded that the bill is well intended. However, if the legislation passes, there will be a category of employees who will exploit and abuse the sick-leave system. He said the issue is already complicated, and SB 1090 will add to the confusion. Senator Mitchell commented that if a company has a tremendous abuse of sick leave, then that company could eliminate the sick leave policy. Mr. Selden said employers and employees should be able to work out those issues without having policies mandated by the State.

Senator Burns stated there is no provision in the bill that includes compensation for loss of productivity or financial loss for an employer. Mr. Selden responded SB 1090 imposes an additional cost for employers because the regulation will make it difficult for employers to compete, which causes another burden on job creation. Senator Burns said she believes that government should not interfere, and the free market should be allowed to work. She noted that employees have greater choices now regarding sick leave policies than they would have if SB 1090 passes.

**Todd Bradford, Assistant State Director, National Federation of Independent Business (NFIB),** testified in opposition to SB 1090. He stated that NFIB represents 8,700 business owners throughout the State. He commented that last year he also opposed the bill, and this year the same bill is being presented along with the Valadez amendment. He said he appreciates the efforts of the Legislature; however, his memberships will not allow him to compromise to support the amended bill. He indicated the proposed legislation still represents a mandate on a voluntary benefit. He said SB 1090 will affect employers that are attempting to offer the most generous packages possible to employees.

As a result, many employers will be forced to discontinue the leave policy or face increased costs associated with offering such leaves. He pointed out that SB 1090 will create a record-keeping nightmare for small businesses, and will allow the usage of sick leave for a myriad of different purposes. Many companies that currently offer leaves will be forced to cease or drastically change their current leave policies. He emphasized that a small business is "family values personified" because they all work together for the success of the company and family values. He said that mandating additional costs and regulations on the employer is not in the best interest of the employer or employee. Mr. Bradford stated that it is not the time to impose this type of regulation on businesses in this period of economic uncertainty. The bill will have the same unintended consequences even with the proposed amendment.

Senator Arzberger stated she is inclined to agree with Senator Mitchell. She said the bill is basically a simple piece of legislation, and she will support the bill.

Senator Hamilton stated he understands the bill will only affect companies that have a sick leave benefit. Mr. Bradford replied that is correct. He pointed out that it will affect competitiveness in Arizona because many small companies will not be able to track the leave policy and afford the costs involved. Senator Hamilton asked whether it will be mandated for all employees in a company. Mr. Bradford responded it is unclear, and it could be interpreted differently. In response to Senator Hamilton, Mr. Bradford stated that businesses could also be subject to litigation and legal costs.

## **TAPE 1, SIDE B**

Senator Burns asked whether there are any employers in the State that offer child care facilities. Mr. Bradford responded there are such facilities at the employer's place of business. Senator Burns believes it is a good thing to encourage child-care services. Senator Burns believes this bill would provide a roadblock for employers to provide those types of services for employees.

Senator Valadez stated there are some very good small employers that take care of their employees, and there are also some that are not so good. He said this bill relates to the caring of a child, spouse or parent. He said this bill does not attempt to provide services as a governmental entity, but rather to ensure that employers have the ability to help employees take care of their parents, children or spouse. He said this legislation does not provide for an additional benefit, but simply refers to the use of leave time already accrued and documented. He said he will support the bill and amendment.

Senator Hamilton stated there appears to be many problems associated with SB 1090. He asked whether there is a way to bring both sides to an agreement. Mr. Bradford said that regrettably there is no compromise provided with this bill.

Senator Arzberger stated in her district there is generally no competition. She said that perhaps some protections need to be provided to people in those areas who are affected.

**Senator Hartley, bill sponsor**, stated she takes exception to the testimony of the previous speaker and would like to clarify some of those items. She explained that small businesses currently track sick leave; therefore, this bill would have very little impact on that aspect. She said she had distributed a document to the Committee that outlines the benefits as utilized in 32 states, the District of Columbia and Puerto Rico. Senator Hartley pointed out that the NFIB generally does not support government relations of any kind. She questioned why NFIB would care what their members do with their sick leave policies, which should be up to the individual members to make those decisions. She said the accrued leave time offered is up to the employer, and employees realize those terms when

accepting a position with the employer. A small business does not have to offer the sick leave. She noted that NFIB also lobbies for the repeal of FMLA, and opposes the minimum wage and other regulatory agency measures. She said this legislation is merely common sense and is not to the detriment of companies involved. She noted that there are no facts to support the arguments that businesses have closed due to the policies provided in 32 other states. She emphasized SB 1090 is a very friendly employer/employee piece of legislation, and is surprised at the amount of time utilized on this subject. She said it is a good bill, and hopes for its passage.

**Kirk Adams, President, The Adams Agency LLC, representing himself,** testified in opposition to SB 1090. He stated that his business consists of 25 employees. He said the small business community is a family consisting of employees and employers. He described his family-owned business and emphasized the importance and value of his employees. He said SB 1090 is wrong for small employers. He said he has discussed this issue with many owners of small businesses, and has yet to find any example of small businesses hurting employees through the sick leave policy. He questions the purpose of this bill, and believes that many small businesses will cease offering any sick leave policy. He noted that as a small business owner, he competes with major employers for his employees. His business recognizes that a good benefits program is essential to attract and retain high-quality employees. He urged the Committee to not make it more difficult for small business, the backbone of Arizona's economy, to compete in the marketplace.

Senator Mitchell stated he appreciates the relationship Mr. Adams has with his employees. As a result he cannot see where any abuse would take place with this bill. He pointed out that there are major businesses that cannot compete with small businesses because of the relationship that was indicated by Mr. Adams.

Mr. Adams said he appreciates the comments by Senator Mitchell; however, he said SB 1090 would inhibit his ability to compete because he would be forced to use mandatory regulations. He cited an example of a situation to which his company was able to comply. He said most small businesses will withdraw the benefits currently offered, if this bill passes.

**Jay Kaprosy, Lobbyist, Greater Phoenix Chamber of Commerce,** testified in opposition to SB 1090. He stated that the Chamber represents 4,600 businesses, and over 93% of those are small businesses. He said there is a great amount of confusion with this bill because of the simplicity, which is the downfall. He noted it is not an extension of FMLA into small businesses because it does not offer the protections provided by FMLA. He emphasized that the business climate in Arizona consists of small businesses within the range of employees being discussed. He pointed out there will be additional costs that will impact small businesses because those businesses will not be able to afford to offer the leave policies. He believes small businesses should be able to decide the policies that are suitable.

**Robert Shuler, Senior Vice President, Arizona Chamber of Commerce,** testified in opposition to SB 1090. He stated he is unsure of the document referred to earlier by Senator Hartley regarding the 32 states. He said the document provided by the staff lists several states and indicates changes that have been made in the leave arena. He wanted to clarify that the list he was given includes additional policies such as birth and adoption, pregnancy and disability, community service, or parenting leave. He noted there are other bills currently pending in the Legislature that would extend leave policies for schools. There may be interested parties who would have a different perspective, and perhaps sick leave is not the most important issue. He said SB 1090 would impose a policy that may not be in the best interest of everyone, and policies should be decided by the particular work force rather than the State.

Senator Verkamp announced the following individuals were present in support of SB 1090: **Sandra Junck, Lobbyist, City of Phoenix.**

Senator Burns stated if the bill passes the Committee, she would like to request a fiscal note of how it would impact government.

Senator Verkamp announced the following individuals were present in opposition to SB 1090: **Brent Frazier, Government Affairs Director, Arizona Association of Industries (AAI); Judith Allen, President, AAI; and Tom Remes, Assistant to the City Council, City of Mesa.**

**Senator Arzberger moved SB 1090 be returned with a DO PASS recommendation.**

**Senator Valadez moved the 22-line Valadez amendment dated 02/05/02, 10:52 a.m., be ADOPTED (Attachment B). The motion CARRIED by a voice vote.**

**Senator Arzberger moved SB 1090 be returned with an AS AMENDED, DO PASS recommendation.**

Senator Verkamp explained his vote. He said he agrees with Senator Burns with respect to directing the policies of State employees. When legislation is applied to private businesses, he has a problem with it because he believes there will be unintended consequences to the effect that it could result in many employers not being able to provide a sick leave policy. He commented that most small businesses tend to work with employees to be flexible on these types of issues. He said he will vote "no."

**The motion FAILED by a roll call vote of 3-3-0 (Attachment 10).**

**SB 1024 – telephone solicitations; technical correction – DO PASS AMENDED/STRIKE EVERYTHING**

**Julie Szperling, Research Commerce Analyst,** explained SB 1024 has a strike-everything amendment that changes the designation used by athletic trainers to denote licensure. It adds two new designations that persons or entities are restricted from using unless the athletic training services they provide are provided by or under the direct supervision of a licensed athletic trainer.

**Cedes Bruno Morgan, Executive Director, Arizona Board of Athletic Training,** testified in support of SB 1024. She stated that the Board is requesting the change because the National Athletic Training Association Board of Certification has a trademark on the current acronyms ATC and CAT. She indicated the Board would like to be in compliance with all federal regulations, and this is a technical correction.

**Senator Arzberger moved SB 1024 be returned with a DO PASS recommendation.**

**Senator Arzberger moved the 19-line Verkamp strike-everything amendment dated 01/31/02, 11:12 a.m., be ADOPTED (Attachment C). The motion CARRIED by a voice vote.**

**Senator Arzberger moved SB 1024 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-0 (Attachment 11).**

**SB 1032 – unsolicited fax advertisements – DO PASS**

Ms. Szperling explained SB 1032 requires vendors to include certain identifying information on unsolicited fax advertisements. It also allows the recipient to charge the vendor \$5 per faxed page received, if the vendor continues to send unsolicited commercial faxes to the recipient who has previously requested that no further faxes be sent.

Senator Verkamp announced the following individuals were present in opposition of SB 1032: **Todd Bradford, Assistant State Director, NFIB.**

**Senator Arzberger moved SB 1032 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 6-0-0 (Attachment 12).**

**SB 1176 – security guards; private investigators – DO PASS AMENDED**

Ms. Szperling explained SB 1176 is a Proposition 108 measure that makes various changes to statutes relating to private investigators and security guards to facilitate, clarify and strengthen the regulatory authority, compliance and enforcement process and procedures of the Arizona Department of Public Safety (DPS). She noted that the legislation modifies the budgeting process for private investigators and security guards, which diverts all revenues collected into a newly-established licensing fund to be administered by DPS as a non-appropriated fund. She pointed out that there is a similar bill in the House of Representatives, HB 2540. The only difference is that the Senate bill removes the authorization for legal residents to become security guards or private investigators. She indicated an amendment is being offered, which removes the exemption relating to proprietary security guards. She explained that since the guards are not currently covered in the bill, the exemption would be superfluous.

Senator Valadez asked for an explanation as to the difference in the Senate and House versions of the bill regarding the citizenship of security guards. Senator Hamilton responded that an interim committee dealt with those issues that resulted in the language for SB 1176. He explained a situation that an owner of a security business experienced relating to the September 11 incident.

Senator Valadez stated that although he values the opinion and concerns that arose from the episode, he argues that it would be more important to thoroughly screen employees. Senator Hamilton responded he believes an employer could then be accused of illegal discrimination, if a person with a certification card from the State is treated differently than someone else who has the same certification.

Senator Mitchell stated he was on the interim committee and basically agrees with the bill. However, he has a problem with the citizenship issue as well. He said there are different levels of qualifications and employment for security guards. He said he does not believe all security guards should have to meet similar restrictions. He commented he will support this bill.

Senator Hamilton stated that Senator Mitchell is correct in that not every single job in the security arena deals with secure information or high-risk situations. He understands it is a point of contention and he is willing to defend it on the floor, if anyone chooses to present a floor amendment. He feels

the bill should proceed to the floor because a lot of work has been expended in order to put it together.

**Mara Kelly, Lobbyist, International Council of Shopping Centers**, testified as neutral to SB 1176. She stated that she had participated in recent study committee meetings with Representative Gray and supports her bill. She noted that the Council has not yet looked into the effect of the citizenship requirement, but is in the process of researching that issue. In the meantime, the Council has to withhold support of SB 1176. She pointed out that the amendment appears to be technical. She said the concern is the exemption language currently in the bill that would be taken out by the amendment regarding the propriety guard issue. She believes everyone is in agreement on the concept; however, the concern is for that language to remain in the legislation. She said she will continue to work with staff and Representative Gray to ensure everyone is in agreement.

Senator Hamilton stated that the amendment has his name on it. He explained he was informed by staff that both bills would be the same with the exception of the citizenship requirement. He said the intent of the amendment is to accomplish the concerns, and was informed that this was the best way to handle it. He explained that by having the companies screen their own employees, those companies would take responsibility for any liability. He said he has no problem with that concept, and is not interested in changing the intent of this legislation from that which was discussed in the interim committee with the possible exception of the citizenship requirement.

Ms. Kelly responded she will work with staff and Representative Gray's office. If agreeable, the Council will have no problem with the amendment. Senator Hamilton stated if there is a problem, he would offer the amendment on the floor to handle those concerns.

**Molly Greene, Lobbyist, Salt River Project (SRP)**, testified as neutral to SB 1176. She stated that she would like to clarify comments that she had submitted regarding Senator Hamilton's amendment. She commented that she cannot quarrel with the explanation that the additional exceptional language is superfluous the way it is currently written. However, the proponents of the legislation, the majority of the members of the Joint Legislative Study Committee, and the DPS officer who participated intended on having the legislation apply to proprietary guards who are employed in-house. She said SRP initially was opposed, and extensive background checks were conducted. She commented that she believes an agreement was reached stating that under certain circumstances there should be a qualified exception to the regulation of proprietary guards. She indicated that although the bill as introduced is great for the consumer, general public and employers, she does not believe it was the intent of the drafters. She believes an amendment will be introduced to clarify the application to proprietary guards, and that is the reason for the exception language being carefully crafted. She said if the bill is amended to make the program applicable to proprietary guards, she would appreciate it. She also is committed to working with everyone on this issue.

Senator Verkamp announced the following individual was present, but neutral on SB 1176: **Laurence Burns, Commander, Licensing Bureau DPS, Arizona DPS Licensing.**

**Ed Wren, Legislative Liaison, Arizona Hotel & Lodging Association**, testified in opposition to SB 1176. He stated that the Association is against the bill because of the situation regarding proprietary guards versus the non-proprietary guards. He explained the screening situation being conducted by the hotels. He said the amendment relating to proprietary guards would be of great assistance, and he will work with staff and others regarding that issue. He said one of the Association's concerns is that if the bill passes, the handling of the registration of security guards would be under DPS. He said it is not known the costs involved in administering that program, but indications are that the program

would cost at least \$500,000. Since those costs would not be appropriated, the expense would be passed along to all proprietary entities.

## **TAPE 2, SIDE B**

Mr. Wren commented there would also be concern with the possibility of establishing a new bureaucracy to handle other issues involving security guards.

**Senator Hamilton moved SB 1176 be returned with a DO PASS recommendation.**

**Senator Hamilton moved the 3-line Hamilton amendment dated 02/04/02, 4:54 p.m., be ADOPTED (Attachment D). The motion CARRIED by a voice vote.**

**Senator Hamilton moved SB 1176 be returned with an AS AMENDED, DO PASS recommendation.**

Senator Valadez explained his vote. He stated he raised concerns earlier regarding the requirement that the guards be United States citizens. Other than that concern, he appreciates the work involved with this legislation and would like to have supported the bill. However, at this time he feels he cannot support the bill with the current provisions and will vote "no."

**The motion CARRIED by a roll call vote of 4-1-1 (Attachment 13).**

### **SB 1204 – industrial development bonds; rental property – DO PASS**

Ms. Szperling explained SB 1204. She stated that during the last legislative session, HB 2390 created a residential temporary allocation schedule for private activity bonds to allow a 10% allocation for qualified rental projects for calendar years 2002 and 2003. The legislation also created a study committee to look at various private activity bond issues. The study committee met during the interim period last year and recommended making the temporary allocation schedule for private activity bonds permanent, requiring the Arizona Housing Commission to establish a temporary committee to review the housing allocation process and to make recommendations to improve that system. She noted that SB 1204 codifies those recommendations.

Senator Verkamp announced the following individuals were present in support of SB 1204: **Courtney Gilstrap, representing herself; and John MacDonald, Partner, Jamieson and Gutierrez, Inc., Southwest Student Loans.**

**Senator Valadez moved SB 1204 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 5-0-1 (Attachment 14).**

### **SB 1206 – full service retirement housing – DO PASS**

Ms. Szperling explained SB 1206 expands the Condominium Act to allow for the establishment of a full-service retirement housing condominium consisting of condominium units restricted to persons who are at least 62 years of age, and it will offer support services.

**Tom Dorn, Lobbyist, The Ryerson Company,** testified in support of SB 1206. He explained that the bill establishes a market niche in senior living. He noted that there is increased demand in the marketplace for options for senior living. This bill would allow condominium projects to be handled by

an administrator as opposed to an association. He commented that some communities provide services with one particular difference. He pointed out that even if a project is a condominium community, an association must exist by law. If services are provided, the owner or developer currently has a contract with the unit owner. He noted that SB 1206 would take that step out of the process. He clarified that when someone chooses to live in this type of condominium project, it is understood that the administrator will provide those services. In response to Senator Mitchell, Mr. Dorn explained that the administrator could be the developer.

**Senator Cirillo, bill sponsor**, explained that these types of projects are not the same as where a developer builds a project, sells it, and then is no longer around. He said in that instance an association is needed. In this case, the facilities are rented, and it is an option that will be provided to retirees because they often do not have the financial capability to purchase that type of facility. The basic services will be provided and the developer will remain involved to provide those services.

Senator Mitchell commented that he agrees with the concept, but was curious as to the need because many facilities already provide those services.

Senator Cirillo responded that those facilities provide for health care. The distinction in this bill is that these facilities intentionally do not provide health care.

**Senator Arzberger moved SB 1206 be returned with a DO PASS recommendation.  
The motion CARRIED by a roll call vote of 5-0-1 (Attachment 15).**

There being no further business, the meeting adjourned at 10:50 a.m.

Respectfully submitted,

Nancy L. DeMichele  
Committee Secretary

(Tapes and attachments on file in the Secretary of the Senate's Office/Resource Center, Room 115.)