

# ARIZONA STATE SENATE

## 46TH LEGISLATURE FIRST REGULAR SESSION

### MINUTES OF COMMITTEE ON GOVERNMENT

**DATE:** February 11, 2003      **TIME:** 1:30 p.m.      **ROOM:** SHR 3

**CHAIRMAN:** Senator Tibshraeny      **VICE CHAIRMAN:** Senator Hellon

**ANALYST:** Nadine Sapien      **COMMITTEE SECRETARY:** Nancy L. DeMichele

**ASSISTANT ANALYST:** Dallas Gold

**INTERN:** Matt D'Anna

---

#### ATTENDANCE

#### BILLS

<u>Committee Members</u>	<u>Pr</u>	<u>Ab</u>	<u>Ex</u>	<u>Bill Number</u>	<u>Disposition</u>
Senator Cheuvront	X			SB 1088	DPA
Senator Garcia	X			SB 1236	DP
Senator Harper	X			SB 1257	DP
Senator Jackson	X			SB 1260	DP
Senator Mead	X			SB 1261	DP
Senator Mitchell	X			SB 1262	DPA
Senator Waring	X			SB 1268	DP
Senator Hellon, Vice Chair			X		
Senator Tibshraeny, Chair	X				

---

#### GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
Mary Elizabeth Bayless	Director, Arizona Department of Administration	CONFIRMATION

Chairman Tibshraeny called the meeting to order at 1:32 p.m. and roll call was taken.

## **APPROVAL OF MINUTES**

Senator Tibshraeny announced, without objection, the minutes of the meeting of February 4, 2003, are approved as distributed.

## **EXECUTIVE NOMINATION**

### **Mary Elizabeth Bayless, Director, Arizona Department of Administration (DOA) – CONFIRMATION**

**Mary Elizabeth Bayless** stated she has extensive public sector experience, both appointed and elected in State government. She also has local government experience as a Maricopa County Supervisor, and private sector experience as an investment banker. She indicated she previously served as Director of DOA a number of years ago. She explained DOA is comprised of eight divisions, and each is created to service other agencies of State government. She said it is her belief that a well-run, well-focused DOA will make it possible for State government to run well.

Senator Tibshraeny stated that Ms. Bayless was instrumental in turning around the budget situation of the Maricopa County Board of Supervisors. He said with the current budget problems, she brings a wealth of information and resources that will be very helpful at the State level.

**Senator Harper moved that the Committee on Government recommend to the full Senate the CONFIRMATION of Mary Elizabeth Bayless as Director of the Arizona Department of Administration. The motion CARRIED by a roll call vote of 7-0-2 (Attachment 1).**

## **CONSIDERATION OF BILLS**

### **SB 1268 – inmate health care; costs – DO PASS**

**Dallas Gold, Assistant Government Analyst**, explained SB 1268 increases the fee or co-payment a sheriff is allowed to charge an inmate for health care services or prescription drugs from \$3 to \$5.

Senator Mitchell asked if there is a co-pay for each ailment that an inmate has or is it only one co-pay for a health care visit. Mr. Gold said he would check on that issue and report back to the Committee.

**Senator Harper moved SB 1268 be returned with a DO PASS recommendation.**

**Senator Waring, bill sponsor**, explained SB 1268 will allow the county to be in alignment with the Arizona Department of Corrections (ADC), which now charges \$5 for co-pays. He said it is important to note that no one will be denied services, and the money generated with the extra \$2 fee will be put back into the system to keep up with the cost of doing business. He referred to Senator Mitchell's question and said he is informed that the cost will only be one charge for each visit. He said the \$5 prescription charge will remain the same.

**Dr. Joseph Scalzo, Director of Maricopa County Correctional Health Services**, testified in support of SB 1268. He stated that Correctional Health Services is an agency that provides health

care to inmates in Maricopa County jails, and is not part of the Maricopa County Sheriff's Office. He said this bill would allow the Maricopa County Board of Supervisors to have the option to charge up to \$5. He said currently it has the option to charge up to \$3 for a co-pay. He noted ADC has the authority to charge up to \$5 and Maricopa County is asking for an equal ability to charge that amount. Dr. Scalzo stated that the monies have been used over the past year to purchase medical equipment and beds, and any funds will go back into the system for that use. He said approximately \$60,000 to \$70,000 could be collected annually. He indicated it reduces an unnecessary request for health care. He emphasized that no one is ever denied health care or prescriptions regardless of the ability to pay.

Senator Waring clarified his earlier comment regarding co-pay. He said ADC already has the option to charge \$5, but is currently charging \$3.

**Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).**

**The motion CARRIED by a roll call vote of 8-0-1 (Attachment 2).**

**Eleanor Eisenberg, Arizona Civil Liberties Union (ACLU), testified in opposition to SB 1268.**

Senator Tibshraeny indicated to Ms. Eisenberg that her name did not appear on the speaker sign-in system prior to a vote being taken. Since the vote was already in progress, she testified after the vote was taken. He suggested that if anyone does not hear his or her name called, it would be helpful to let the Committee know prior to the vote being taken that he or she would like to address the Committee.

Ms. Eisenberg stated she believes an agreement has been reached with the County that there should be an amendment to clarify that the bill should also provide prescriptions, which will not be denied based on financial considerations. Senator Tibshraeny indicated that an amendment on that issue was not presented to the Committee, and that Ms. Eisenberg would need to work with the sponsor to introduce a floor amendment.

**SB 1088 – sex offender registration; DOC duties – DO PASS AMENDED**

**Matt D'Anna, Government Research Intern,** explained SB 1088 requires, rather than allows, the ADC in conjunction with the Arizona Department of Public Safety (DPS) and each county sheriff's office, to register all sex offenders upon release from incarceration. He explained a 5-line Tibshraeny amendment dated 2/10/03 at 11:59 a.m. is being offered that sets the effective date for January 1, 2004.

**Senator Martin, bill sponsor,** explained SB 1088. He said the only change is on page 2, line 3, changing the word from "may" to "shall." He explained the release requirements regarding this measure. He said the amendment is a compromise worked out with ADC to allow enough time to implement this change and process the paperwork. Senator Mead asked whether ADC is agreeable with the new 72-hour registration requirement. Senator Tibshraeny stated Liza Burns of ADC is present to testify.

**Senator Harper moved SB 1088 be returned with a DO PASS recommendation.**

**Senator Harper moved the 5-line Tibshraeny amendment dated 2/10/03 at 11:59 a.m. be ADOPTED (Attachment B).**

**Liza Burns, Legislative Liaison, ADC**, testified as neutral to SB 1088 and responded to Senator Mead's concerns. She stated originally there were concerns regarding liability. However, the County does not have any problem with liability issues, and ADC is also agreeable with the three-day registration requirement and the amendment.

**Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).**

**The motion CARRIED by a voice vote.**

**Senator Harper moved SB 1088 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 7-0-2 (Attachment 3).**

### **SB 1236 – public horizontal construction projects – DO PASS**

**Nadine Sapien, Government Research Analyst**, explained SB 1236 eliminates the \$10 million threshold for city and county transportation projects using the design-build and construction-manager-at-risk contract methods. She said the measure also delays the sunset date for the use of construction manager-at-risk, design-build or job-order-contracting to 2010. She said the bill allows cities and counties to use A+B bidding for transportation projects under traditional contracting methods, and requires the licensed contractor on the job to perform at least 50% of the work for construction under design-build or construction manager-at-risk.

**Senator Harper moved SB 1236 be returned with a DO PASS recommendation.**

Senator Tibshraeny explained the purpose of this bill is to implement more efficient ways to deliver construction to constituents to eliminate some of the delay time in road construction projects and other horizontal projects that impede traffic flow.

**Kevin Adam, Legislative Coordinator, League of Arizona Cities and Towns**, testified in support of SB 1236. He stated that these funding mechanisms have been used and have saved taxpayer dollars. In addition, construction time has been expedited especially during the growth being experienced in the State. He indicated that design-build that was used specifically for the widening of U.S. 60, expedited the project and saved taxpayer dollars. He said his organization strongly supports expanding the ability of cities and towns to use these funding mechanisms.

**David Martin, President, Arizona Chapter, Associated General Contractors**, testified in support of SB 1236. In response to Senator Harper he explained the reasons for the change. He provided background information regarding the design-build concept and bidding process. In response to Senator Harper, Mr. Martin stated this measure gives cities and counties flexibility to pursue qualification-based selection contracting. He said this legislation also helps eliminate conflicts because it brings the contractor and designer together to create and build the project, which benefits the constituency.

**Rory Hays, Maricopa Flood Control District**, testified in support of SB 1236; however, has concerns with some provisions. She said this has been an ongoing process to ensure this will work effectively. She indicated the only issue of concern is the requirement of design-build and

construction manager-at-risk projects. She said the Maricopa Flood Control District will continue to evaluate and ensure that sufficient competition takes place. Mr. Hays stated work will continue with major players to resolve any problems related to flood control.

**Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).**

**The motion CARRIED by a roll call vote of 7-1-1 (Attachment 4).**

**SB 1257 – loyalty oath; act of terrorism – DO PASS**

Mr. D’Anna explained SB 1257 prohibits, by mandatory signature of the written oath or affirmation, any officer or employee of the state or any of its political subdivisions to commit, aid or advocate any act of terrorism.

**Senator Brotherton, bill sponsor**, explained SB 1257 was brought to his attention last year in the House of Representatives after the September 11 event. He said he worked with the Arizona Attorney General’s Office (AG), and other Legislators on issues of modernizing criminal statutes regarding terrorism. He said this brings modernization to the measure and removes some archaic and unenforceable language in the oath.

**Senator Harper moved SB 1257 be returned with a DO PASS recommendation.**

**Eleanor Eisenberg, ACLU**, testified in support of SB 1257. She stated she is pleased this measure is being considered. She said although she does not support terrorism, last year ACLU objected to the definition of “terrorism” because it is broad and vague. She said although the definition of “terrorism” is signed into law in other statutes, ACLU still objects to that definition. However, she is pleased that after several years this legislation is being updated.

**The motion CARRIED by a roll call vote of 8-0-1 (Attachment 5).**

**SB 1260 – secretary of state; statute distribution – DO PASS**

Ms. Sapien explained SB 1260 repeals the requirement that the Arizona Secretary of State supply copies of the Arizona Revised Statutes (ARS) publications to various individuals.

**Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).**

**Senator Harper moved SB 1260 be returned with a DO PASS recommendation.  
The motion CARRIED by a roll call vote of 7-0-2 (Attachment 6).**

**SB 1261 – landlord tenant booklet; availability – DO PASS**

Ms. Sapien explained SB 1261 requires the Arizona Secretary of State to publish the Mobile Home Parks Residential Landlord Tenant Act on its website rather than supplying free paper copies of the Act to the public.

Senator Garcia wanted to know how the Arizona Secretary of State’s office became involved in this responsibility. Ms. Sapien responded the Secretary of State is the recordkeeper for the State. She

said the Landlord Tenant Act consists of the entire chapter of laws governing that Act, and she believes the responsibility was given to the Secretary of State's office when the Landlord Tenant Act was put into statute. In response to Senator Garcia, Ms. Sapien replied this legislation does not apply to apartment renters. Senator Garcia asked why the focus is only on mobile homes. Ms. Sapien indicated a representative from the Secretary of State's office is present to address any further questions.

**Senator Harper moved SB 1261 be returned with a DO PASS recommendation.**

**Scott Cancelosi, Acting Director of Public Services, Arizona Secretary of State**, testified in support of SB 1261. He stated the Secretary of State's office currently offers a Residential Landlord Tenant Act (Act). He indicated that based upon passage of this bill, his office would no longer publish the Act and would have it available on the Secretary of State's website. Senator Mead asked whether it was the intention to have any money saved to be sent to the general fund. Mr. Cancelosi said he is not able to answer that question at this time. In response to Senator Garcia, Mr. Cancelosi said this legislation pertains to renters of mobile homes or the land on which the mobile home is situated. He commented on the contents of the publication, and pointed out that the information is already available in ARS books available in libraries throughout the State. He said this is merely another means of providing the information to the tenant.

**Leila Lawrence, Staff Attorney representing Community Legal Services**, testified in opposition to SB 1261. She stated she represents mobile home park owners. She said her organization opposes this legislation because experience has proven that the low-income clients rely heavily on having copies of the Act. She said while there may be a savings in publishing the Act, there may be a loss or increased burden on the State in the future if failure to provide the Act results in increased litigation with people losing their mobile homes and becoming homeless. She commented that the elimination of paper copies puts a burden on managers and owners to publish and distribute the copies of the Act. In addition, smaller park owners may not have access to a computer, printer or internet in order to provide the Act to the tenant. She noted that lack of a copy of the Act could also open the door for abuse by either party as a result of the lack of knowledge of each party's rights and responsibilities under the Act.

In response to Senator Chevront, Ms. Lawrence stated that a copy of the Act is provided directly from the landlord to a prospective tenant. In response to Senator Mead, Ms. Lawrence clarified that she represents mobile home tenants. She explained that theoretically tenants would be in a stronger position if a copy of the Act was not supplied to them by the landlord; however, the reality is they could lose their home by the time they learned of their rights and responsibilities.

Senator Jackson asked whether everyone in the State has access to websites and wondered how they would be able to obtain copies of the Act without that access. Ms. Lawrence responded that was part of her objection because individuals, particularly in smaller mobile home parks, may not have access to the Internet.

**Michael Preston Green, Manufactured Housing Communities of Arizona**, testified in support of SB 1261 with a further floor amendment. He stated he is also speaking today on behalf of **Susan Brenton, Executive Director, Arizona Association of Manufactured Homeowners**, the residents of mobile home parks, who could not be present today. He provided some background on mobile home landlords and tenants. He said in the past the State provided copies of the Act in order to be acquainted with the law. Mr. Green commented that this measure shifts the \$240,000 cost from the State to the mobile home park owners because the statute has not been amended that requires

copies of the Act be given to tenants. He said the ultimate \$240,000 cost would be passed to the tenant. He said an amendment is being considered by the parties involved that would provide a summary of the laws in the Act in lieu of the entire Act that would be more applicable for the tenants. He said the summary would be a solution, while at the same time would eliminate the State's responsibility for printing the booklets.

Senator Tibshraeny commented it appears that the summary is an excellent idea. Mr. Green stated a notice would be included on a website, and a copy of the Act is always available at the Office of Building and Fire Safety to review.

Senator Mead wanted to know who would be responsible for printing the summary. Mr. Green responded the park owner would have that responsibility.

Senator Garcia asked Mr. Green whether he and Ms. Lawrence have discussed the proposed amendment. Mr. Green responded not at this point. He said the procedure is to work with the residents' association first. However, now that he has learned of Ms. Lawrence's concerns, he will be happy to meet with her to discuss those concerns and share the language of the summary.

Senator Chevront wanted to know who determines the language in the summary since it could be subjective. Mr. Green responded that is an excellent question. He explained in working through the process, the residents' associations and park owners through their attorneys have each prepared and developed a two-page summary. He said there is an ongoing process to meld the two summaries together in a manner that will be satisfactory to everyone prior to a final signoff.

**Joe Ryan, resident, Sun City West,** stated that too much money is being spent creating massive documents that people do not read. He suggested that Mr. Green has a great idea with respect to the summary. He said education of this nature should not be the responsibility of the government, but rather the people.

Senator Garcia asked Ms. Lawrence to comment on the idea of producing a summary. Ms. Lawrence responded her organization would not object to a summary as long as that summary was complete and included the rights and responsibilities of both parties under the Act.

Senator Tibshraeny asked Mr. Green to work on a floor amendment, and said it appears the summary is an excellent solution. He said the State would save \$240,000 expense, would still protect the tenants, and the landlords would only incur minimal costs.

Senator Mead explained his vote. He stated he will vote "aye" to move the bill forward. However, if an amendment is not introduced that eliminates \$240,000 from the Secretary of State's budget, he will vote "no" on the floor.

**The motion CARRIED by a roll call vote of 7-0-2 (Attachment 7).**

Senator Tibshraeny asked staff to work with the appropriate parties to work on the amendments for the floor.

**SB 1262 – supreme court; reports of decisions – DO PASS AMENDED**

Ms. Sapien explained SB 1262 transfers the distribution of the reports of decision requirements from the Secretary of State to the Supreme Court. She explained the 15-line Tibshraeny amendment

dated 2/10/03 at 2:20 p.m. requires the publisher to distribute the decisions of reports directly to recipients.

**David Sands, Administrative Office of the Courts**, testified in support of SB 1262. He said he is present to testify on the amendment. He explained the procedure regarding publishing of the reports each year. He said current statute prescribes that entities not specifically covered must apply to the Secretary of State to obtain copies and/or show the need to have additional copies. He said he is suggesting that if those entities wish to have copies, that they contact the publisher to arrange for those copies.

Senator Mead asked whether the Supreme Court would incur any additional costs with the distribution to various entities. Mr. Sands responded there would not be any additional costs involved, and that is the reason for suggesting that there be direct shipment from the publisher. However, his office would still arrange for the appropriate number of volumes to be published.

Senator Harper wanted to know who would follow up with the publisher to make sure the correct number of books was actually provided. Mr. Sands responded that the contract in the statute is actually an agreement between the publisher and the Supreme Court to publish 320 volumes each year to satisfy the statutory requirements. He noted that the publisher prints thousands of these volumes each year for courts, attorneys, and government agencies throughout the country. He said his Office's obligation is to ensure that the requisite number is published and available at the contract rate. He explained that if an entity requests additional copies, that cost would not be part of the budget of the Supreme Court.

**Kevin Tyne, Assistant Secretary of State, Secretary of State's Office**, testified in support of SB 1262. He stated this bill and others relating to this issue were requested by the Secretary of State for the reasons being discussed today regarding cost-saving measures. He pointed out that the cost for these measures fluctuate as far as any savings based on the number of subscribers.

Senator Tibshraeny asked whether his office has a line item in the Secretary of State's budget for these publications. Mr. Tyne responded there is no line item, but rather it is just a part of the administration budget. He said he believes there will be a cost savings. In response to Senator Mead, Mr. Tyne said the cost changes each year depending upon the number of subscribers. However, each year he said his office could report to the Committee on the number of subscribers. Senator Chevront asked whether there is an internal budget that would estimate the amount of these items. Mr. Tyne replied that issue will be considered in discussions regarding next year's budget.

**Senator Tibshraeny announced the individuals who registered their position on the bill (Attachment A).**

**Senator Harper moved SB 1262 be returned with a DO PASS recommendation.**

**Senator Harper moved the 15-line Tibshraeny amendment dated 2/10/03 at 2:20 p.m. be ADOPTED (Attachment C).**

**Senator Harper moved SB 1262 be returned with an AS AMENDED, DO PASS recommendation.**

Senator Mead explained his vote. He said he will vote “aye.” However, if he does not see an amendment taking \$5,000 off the Secretary of State’s budget, he will vote “no” when it reaches the Senate floor.

Senator Tibshraeny explained his vote. He said it is important that the savings be put back into the State general fund. However, he said he would not like to see agencies penalized for taking money from their budgets to put into the general fund because there may be considerations needed in other areas of their budgets.

**The motion CARRIED by a roll call vote of 7-0-2 (Attachment 8).**

There being no further business, the meeting adjourned at 2:59 p.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.)