

ARIZONA STATE SENATE

46TH LEGISLATURE FIRST REGULAR SESSION

MINUTES OF COMMITTEE ON GOVERNMENT

DATE: April 1, 2003 **TIME:** 1:30 p.m. **ROOM:** SHR 1

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			HB 2060	DP
Senator Garcia	X			HB 2349	DP
Senator Harper	X			HB 2367	DP
Senator Jackson	X			HB 2370	DP
Senator Mead	X			HB 2478	DPA
Senator Mitchell	X			HB 2479	DP
Senator Waring	X			HCR 2027	DP
Senator Hellon, Vice Chair	X			HB 2307	FAILED
Senator Tibshraeny, Chair	X				

GOVERNOR'S APPOINTMENTS

<u>Name</u>	<u>Position</u>	<u>Recommendation</u>
Christopher S. Cumiskey	Director, Government Information Technology Agency	CONFIRMATION
Gwendolyn J. Hatcher	Member, State Personnel Board	CONFIRMATION

Chairman Tibshraeny called the meeting to order at 1:37 p.m., and roll call was taken.

EXECUTIVE NOMINATIONS

Christopher S. Cummiskey – Director, Government Information Technology Agency (GITA) – CONFIRMATION

Christopher S. Cummiskey stated that GITA is basically tasked with the mission of planning, monitoring and oversight of State information technology (IT) projects. He said currently there are over 148 projects totaling \$500 million in different agencies across State government. He indicated the role of GITA is to ensure those projects stay on track and are accomplished in an efficient and appropriate manner consistent with legislative authority granted to the agencies. He noted that his years in strategic planning coupled with those at the Legislature in the Senate and the House of Representatives focused on telecommunication policy to the end result of efficiencies and saved costs. He said GITA will be able to participate in cost savings for the State by transferring services from paper to electronic means.

Senator Hellon moved that the Committee on Government recommend to the full Senate the CONFIRMATION of Christopher S. Cummiskey as Director of the Government Information Technology Agency. The motion CARRIED by a roll call vote of 9-0-0 (Attachment 1).

Gwendolyn J. Hatcher – Member, State Personnel Board - CONFIRMATION

Gwendolyn J. Hatcher stated she is pleased to be nominated for the position of Member of the State Personnel Board, and is available to answer any questions.

Senator Hellon stated she has known and worked with Ms. Hatcher on various projects, and she highly recommends her appointment.

Senator Hellon moved that the Committee on Government recommend to the full Senate the CONFIRMATION of Gwendolyn J. Hatcher as a Member of the State Personnel Board. The motion CARRIED by a roll call vote of 9-0-0 (Attachment 2).

CONSIDERATION OF BILLS

HB 2370 – fire districts; powers and duties – DO PASS

Nadine Sapien, Government Research Analyst, explained HB 2370 allows a fire district to provide ambulance service when authorized to do so by the Arizona Department of Health Services (DHS). She said the bill eliminates the requirements of a fire district to adopt a uniform fire code, and authorizes a fire district to change its name upon voter approval. Ms. Sapien explained an amendment was adopted in the Health Committee, which restores the requirement that a fire district adopt the uniform fire code. She outlined the major provisions of that amendment.

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

Senator Hellon moved HB 2370 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 9-0-0 (Attachment 3).

HB 2060 – performance based incentives; amount – DO PASS

Matt D’Anna, Government Research Intern, explained HB 2060 increases the maximum compensation amount in the performance-based incentive program from \$200 to \$250 per employee per month.

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

Senator Hellon moved HB 2060 be returned with a DO PASS recommendation. The motion CARRIED by a roll call vote of 9-0-0 (Attachment 4).

HB 2349 – public retirees; rural areas; insurance – DO PASS

Denisse Gee, Finance Research Analyst, explained HB 2349 allows an Arizona State Retirement System (ASRS), Public Safety Personnel Retirement System (PSPRS), Corrections Officer Retirement Plan (CORP) or Elected Officials’ Retirement Plan (EORP) retired member or survivor to participate in an employer’s health care insurance program for active members. She indicated that the Finance Committee passed an amendment that extends the temporary health care subsidy for two additional years through June 30, 2005, and she explained the provisions of that amendment.

Representative Konopnicki, bill sponsor, stated HB 2349 is a companion bill to one sponsored by Senator Arzberger. He said HB 2349 adds the requirement that there would be a minimum payment by members for participation. Senator Mead asked whether a retiree living out of the State would receive benefits. Representative Konopnicki responded it is a complicated issue; however, those individuals would receive the first benefits that all retirees receive. He explained this bill addresses the issue of the difference in prices between Maricopa County, Pima County and the balance of the State; therefore, those members would not receive this additional subsidy.

Senator Arzberger stated HB 2349 is extremely important to State retirees living in the rural areas. She said the Senate passed the companion bill, SB 1036. She commented that after researching the way the subsidies were implemented, it was discovered that there were loopholes. She said those loopholes were closed to make it more equitable, which saved \$9 million annually.

Dennis Miller, Arizona Retiree’s Healthcare Consortium, testified in support of HB 2349. He stated that the Health Maintenance Organizations (HMO) option is not available in rural Arizona. He indicated that monthly health insurance premiums are as high as \$1,500, while the average retirement check is below that amount.

Lindy Funkhouser, Health Policy Consultant, Maricopa County, testified in opposition to HB 2349. He stated Maricopa County opposes HB 2349, but supports the bill as amended in the Senate Finance Committee. He explained that the amendment on the bill in the Finance Committee eliminated some requirements related to health insurance, and shifted costs of ASRS retirees onto the active employees. He said the cost shift of health insurance coverage from retirees of ASRS to Maricopa County and other counties represents a \$32 million hit to the budget for Maricopa County over five years, which only adds to the existing budget problems. He noted that Maricopa County currently is looking at \$93 million in cost shifts under the Joint Legislative Budget Committee (JLBC)

budget. He said in order to meet the obligations set forth by JLBC, Maricopa County is looking at cutting unmandated services such as the general fund monies for the county hospital, as well as curtailing some mandated services such as public safety and criminal justice.

Mike Colletto, Executive Director, Professional Firefighters, testified in support of HB 2349. He stated that the Firefighters also support the amendment presented in the Finance Committee. He emphasized the importance of this measure to the retired members in rural Arizona needing health care coverage.

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

Senator Hellon moved HB 2349 be returned with a DO PASS recommendation.

Senator Harper explained his vote. He stated that he understands the needs of retirees in rural areas, but this measure will put an added burden on the retirement system and the general fund. He said he will vote “no.”

Senator Waring explained his vote. He stated he would like to see this bill move forward with the opportunity to debate the Finance Committee amendment on the floor. He said he will vote “aye” at this time.

Senator Hellon explained her vote. She said she will vote “aye” as long as the amendment discussed will be part of this issue on the floor.

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

HB 2367 – block grants; procurement code exemption – DO PASS

Senator Tibshraeny explained a bill has already passed out of the Senate that addresses this issue. He said if this bill moves forward, it will be a strike-everything amendment in the Family Services Committee on Thursday.

Barbara Guenther, Family Services Research Analyst, explained the subject of the strike-everything amendment is “public employees disclosure gifts.”

Senator Tibshraeny stated that the strike-everything amendment is emanating from the Treasurer’s Office, which will be presented by Senator Anderson. Ms. Guenther replied that is correct.

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

Senator Hellon moved HB 2367 be returned with a DO PASS recommendation.

Senator Tibshraeny explained his vote. He said every item that was passed from the House to the Government Committee was posted on an agenda. He noted that HB 2367 was Representative Loredó’s bill, who indicated it was okay for it to be posted on this agenda. He said he will vote “aye.”

The motion CARRIED by a roll call vote of 6-3-0 (Attachment 6).

HB 2478 – water status report; DWR – DO PASS AMENDED

Ms. Sapien explained HB 2478 requires the Director of the Arizona Department of Water Resources (ADWR) to present a water supply status report to the relevant committees of each new Arizona Legislature. She explained the 3-page Tibshraeny amendment dated 3/31/03 at 11:40 a.m. temporarily allows transportation of groundwater away from the groundwater basin to drought stricken areas, if the Governor declares an emergency due to a lack of rainfall or water shortage. She said the groundwater may only be withdrawn from and transported to the regions outside active management areas (AMAs) and may only be used for domestic purposes, stock watering or potable municipal water services. All transfers must be approved by the Director of ADWR and are subject to payment of damages. Mr. Sapien highlighted other major provisions of this amendment.

Representative O'Halleran, bill sponsor, stated the amendment is critical for the future. He explained this bill was passed a couple of years ago, and he is very comfortable with the process of the emergency clause in preparation for a possible drought this summer. He referred to the bill and said that not enough attention is being paid to the water supplies of this State, particularly with all the growth throughout the State. He emphasized it is critical that the Legislators be made aware and fully understand the water issues in the State on a continual basis.

Senator Mead commented it appears that the amendment is overly restrictive, particularly during a firefighting emergency. Representative O'Halleran responded that it is possible today to transport water for emergency situations, especially in the areas where there is a groundwater basin boundary. He explained this measure is more of an ongoing process to relieve drought situations. He said the reason for the restrictive measures relate directly to the impact of the groundwater code in rural Arizona.

Herb Guenther, Director, ADWR, testified in support of HB 2478. He stated that the Governor recently signed an executive order for the Drought Task Force, and one of the first efforts is to determine whether there is any municipal water provider that will not have sufficient potable water this summer. He said in order to mitigate those possible shortages, he is implementing a drought mitigation plan. He indicated it was noted that the session law had expired; therefore, it is necessary to come back to the Legislature to address this session law to avoid any problems this summer or in the future.

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

Senator Hellon moved HB 2478 be returned with a DO PASS recommendation.

Senator Hellon moved the 3-page Tibshraeny amendment dated 3/31/03 at 11:40 a.m. be ADOPTED (Attachment B). The motion CARRIED by a voice vote.

Senator Hellon moved HB 2478 be returned with an AS AMENDED, DO PASS recommendation. The motion CARRIED by a roll call vote of 9-0-0 (Attachment 7).

HB 2479 – forest status reports – DO PASS

Dallas Gold, Assistant Government Research Analyst, explained HB 2479 requires the State Forester, in collaboration with other agencies, to present information on forest management, wildfire prevention and fire suppression to relevant legislative committees.

Representative O'Halleran, bill sponsor, stated that at a 1997 meeting in the House of Representatives he listened to the forest ranger describe in detail the status of forests in Arizona at that time and, unfortunately, nothing was done to deal with the forest issues. He said it is critical that the Legislators know more about the forest issues both from an economic standpoint and quality of life issue for the citizens of Arizona.

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

**Senator Mitchell moved HB 2479 be returned with a DO PASS recommendation.
The motion CARRIED by a roll call vote of 9-0-0 (Attachment 8).**

HCR 2027 – missile defense – DO PASS

Mr. D'Anna explained HCR 2027 declares legislative support for a national missile defense system and recommends that the President of the United States and Congress fund the plan beyond 2005.

Senator Waring explained he sponsored the Senate version of this legislation that passed through this Committee previously, and he said he would ask for a vote again on HCR 2027.

Senator Mitchell moved HCR 2027 be returned with a DO PASS recommendation.

Senator Chevront explained his vote. He said since resources are limited, he would prefer to see the money be directed to education. He said he will vote "no."

Senator Harper explained his vote. He said the Strategic Defensive Initiative or what is commonly called "star wars" is not meant to win a war, but rather to neutralize a rogue nation. He said he will vote "aye."

The motion CARRIED by a roll call vote of 6-2-1 (Attachment 9).

HB 2307 – homeowners' associations; judgment liens (now: homeowners' associations; liens – FAILED

Ms. Sapien explained HB 2307 allows a homeowners association (HOA) to place a lien on a unit for penalties, fees and charges unrelated to assessments only after a judgment in a civil suit and prohibits the foreclosure on a lien for penalties. She said the measure also requires a seven-year waiting period before a foreclosure on a lien for assessments. She explained three amendments are being proposed:

- The 5-line Harper amendment dated 3/31/03 at 11:02 a.m. reduces the waiting period to foreclose on a lien for assessments from seven years to ninety days.
- The 8-line Mitchell amendment dated 3/31/03 at 3:22 p.m. allows timeshare associations to foreclose on any lien in the same manner as a mortgage.

- The 12-line Mead amendment dated 3/31/03 at 12:30 p.m. limits the rental unit's representation on an HOA board to the proportion that rental units represent in relation to the total number of units in a planned community HOA.

Representative Farnsworth, bill sponsor, explained that under current law an HOA has an automatic lien if a violation occurs according to the covenants, conditions and restrictions (CCRs). He said the lien is then attached to the home and foreclosure proceedings begin. He noted that the purpose of this bill is to separate the fines and assessments, and he explained the differences and remedies available. He commented he believes this measure is a reasonable compromise, and he agreed to a three-year waiting time period to foreclose on a lien. He said this bill does not change any contractual provisions, but rather only changes the statutory provisions. Representative Farnsworth explained that in 1996 when the law passed, an HOA was moved from being an unsecured creditor to a secured creditor behind government liens and mortgages. He said the result was that the homestead exemption no longer applied. He said HOAs need to continue to operate, and this measure would balance property rights in a dispute.

In response to Senator Harper, Representative Farnsworth commented on the amendments. He said he is willing to compromise on a waiting time period to three years. He said Sun City West, one of the major opponents, was willing to be neutral on the bill. He said he does not like the ninety-day waiting period, and believes it makes that part of the bill basically worthless. He referred to the Mead amendment and indicated he would prefer not to include that amendment on this bill. He said he is okay with the Mitchell amendment.

Senator Waring commented on a situation that occurred with his property, which ultimately turned out to be an issue concerning another property rather than his property. He asked whether his home could have been foreclosed in that mistaken situation. Representative Farnsworth said he believes that would be the case because it would be an automatic lien that legally attaches to the home.

In response to Senator Mead, Representative Farnsworth responded that this measure does not affect the contract, but rather modifies the statutory language that was established in 1996. He commented that the foreclosure scenarios are different because mortgages are purchase money security interests whereas an HOA provides benefits for dues paid.

Senator Mead wanted to know the percentage of Arizonans who are covered by HOAs versus those who are not in an HOA. Representative Farnsworth replied he does not have an exact number, but it is substantial.

Senator Tibshraeny announced there are several individuals signed in to speak on this issue, and testimony will be limited to three minutes each.

Fred Fischer, T.O.G. Congress of Neighborhoods, HOA board member, testified in support of HB 2307. He provided a copy of his testimony (Attachment C) and pointed out that a fine cannot be disguised as an assessment. He said much work needs to be done in this area, and the owner should not be burdened with losing property through foreclosure over matters that have little or nothing to do with property values.

David Withey, testified in opposition to HB 2307. He said he is president of an HOA in Tempe, and his concern relates to the impact this bill would have on his HOA. He commented on a situation where an individual did not pay the HOA assessments over a period of three years. He said that water restriction is the only way to limit the services by an HOA to a condominium member. He

pointed out that he believes the bill is fundamentally flawed because it does not distinguish between condominiums and planned communities, and he explained the differences. In response to Senator Waring regarding his situation, Mr. Withey stated he believes it is important to distinguish between the assessments and penalties imposed. He said in his HOA's case, a payment agreement was reached for paying the money owed. He strongly encouraged preserving the ability to foreclose on assessments according to current law. He noted that if a board does not do a good job, then the homeowners should vote on a new board as in any democracy. He said when an individual homeowner does not pay, then it creates problems for the rest of the homeowners resulting in increased assessments for everyone.

Kevin DeMenna, Community Associations Institute (CAI), testified in opposition to HB 2307. He stated that CAI comprises approximately 250 HOAs and 300,000 residents across the State. He commended staff for an excellent fact sheet on this issue. He said he believes the sponsor has put forth a great effort on this issue, but CAI disagrees with the provisions in the bill. He pointed out CAI is not necessarily opposed to the amendments, but he urged defeat of the legislation. Mr. DeMenna said CAI disagrees with the sponsor's assertion that this measure will not modify existing contracts or CCRs. He said he has discussed this matter with various attorneys and the consensus is that CCRs will change if this bill becomes law. He said this measure is enabling cost shifting because other residents in the HOA would be forced to pay someone's bills, which is wrong.

Senator Chevront asked Mr. DeMenna whether he would support the bill if the time period was changed from seven years to ninety days. Mr. DeMenna responded after discussing this with CAI members, they believe that the ninety-day time period could possibly change again. He said CAI believes a cautious approach is necessary, which is to encourage the bill's defeat.

Anne Stewart, testified in support of HB 2307. She stated she lives in a condominium HOA in Sun City. She commented on her personal situation, and presented a petition signed by 130 Sun City homeowners who are upset with the power being wielded by volunteer board members who spend millions of dollars without limitation. She indicated there are more homeowners who would have signed the petitions, but were reluctant to do so. She noted that the board and homeowners have a conflict of interest, and the homeowners are being forced to pay fees to attorneys who are protecting the board. Ms. Stewart stated she has started a website to organize homeowners on this issue, and encouraged the passage of HB 2307.

Ray Cox, President, Tapatio Community Association, testified in opposition to HB 2307. He indicated the Tapatio Community comprises 740 members governed by an HOA. He said there are bad HOAs throughout the State, but believes those are the exceptions rather than the rule. He indicated that foreclosures on individual homeowners for non-payment of assessments are rare. He said that HB 2307 is legislation aimed at protecting a statistically insignificant number of homeowners, and any such legislation should work to the benefit of the majority of homeowners and protect the rights of individuals in the HOA. He cited a situation that occurred in his HOA by an individual homeowner, resulting in lower property values of properties in the immediate vicinity. He commented that the unintended consequences of HB 2307 far outweigh any merits, and urged its defeat.

Senator Mead asked Mr. Cox if he knew how many foreclosures have occurred in the past year in HOAs. Mr. Cox responded his HOA has experienced only one foreclosure in the past 18 years.

Elaine Bachman, HOA board member, testified in opposition to HB 2307. She said this bill does not segregate the planned communities. She said she lives in a condominium, which thrives on homeowners responsibly paying their bills. She emphasized that this bill is not fair to reputable

homeowners who pay their fees and have to carry the “deadbeats.” She noted that in 23 years her HOA has never foreclosed on anyone, but they do use the lien process. She said when it comes to that final point of foreclosure, the “deadbeat” generally pays the past due assessments.

George Staropoli, testified in support of HB 2307. He stated he is the founder of “Citizens Against Private Government HOAs” and distributed a handout (Attachment D). He addressed the issue of foreclosure rates as outlined in his handout.

Bobby Huff, testified in opposition to HB 2307. He said he lives in an HOA. He noted HB 2307 groups all HOAs together, and there is a vast difference of responsibilities between a condominium association and planned community association. He said prior to 1965 HOAs had a difficult time with enforcement. However, today’s laws work very well for HOAs and the homeowners. He commented that the bill is entirely wrong, and he particularly does not like the seven-year waiting period to foreclose. He commented that if individuals do not wish to abide by the contract and rules of the HOA, they should not live in that kind of environment.

Pat Scherr, President, HOA #3, Sun Lakes, testified in opposition to HB 2307. She stated she represents 6,500 homeowners in one of several HOAs in that community. She outlined the reasons she opposes HB 2307. She said that monies derived from HOA dues pay for maintaining the infrastructure of the community, such as road repair, sidewalks, common areas and the upkeep of the facilities, which eliminates the burden on the county and city. She indicated the problems of an HOA are similar to those of operating a town, and contractors expect prompt payment for services rendered. She noted that bills can only be paid if there is a steady predictable source of funds from HOA dues. Ms. Scherr commented that homeowners know they are responsible for payment of dues when they move in to the project. She said HOAs are an asset to Arizona because they maintain property values. She referred to the Harper amendment, and said the ninety-day period is probably acceptable. However, she strongly recommends that the bill be defeated.

Pat Haruff, Coalition of HomeOwners for Rights and Education (CHORE), testified in support of HB 2307. She said she has heard testimony today that a homeowner “knew what he was signing” when he signed the contract. She commented that is not true in all instances because she did not receive a copy of the CCRs and bylaws when she purchased her home. She said the homestead exemption for an HOA homeowner was removed in 1996 by the Legislature, which is not disclosed anywhere in a sale. Ms. Haruff said the HOA board members also signed the same contract to abide by the CCRs and the bylaws, such as agreeing to open meetings and agreeing to provide records upon request. However, she said the boards are not abiding by the rules, and there is nowhere for homeowners to go for help. In response to Senator Mead’s question, she said there are over one million homeowners who live in the 10,000 HOAs in the State. She provided signed petitions to the Committee, and a folder of various documents (Attachment E).

Matthew Korbeck, President, Hamilton Homes Tempe HOA, testified in opposition to HB 2307. He stated that according to a 1998 Arizona Court of Appeals ruling, the HOA boards have an affirmative responsibility to implement the CCRs. He noted that this bill will present an impossible situation for HOAs, and he urged its defeat. He suggested having an ombudsman or transfer tax because some people have real problems to resolve.

Toni Oberle, Alta Mesa Community Association, testified in opposition to HB 2307. She stated she is on the board of a large planned community association with over 2,600 units. She said she is speaking on behalf of the treasurer, who has difficulty collecting dues from homeowners. She pointed out she has attended several seminars and classes concerning HOAs, and suggested that

homeowners would benefit by attending those types of classes. She said HB 2307 is bad legislation because it would make it impossible to recover unpaid assessments. She explained the process for collecting dues and paying bills. She noted that only a couple of foreclosures have occurred within the past two and a half years in her HOA. She commented that if HB 2307 passes, all the remaining homeowners would be responsible to pay for the few delinquent homeowners.

Joe Cook, Vice President of Operations, 1230 Homeowners, testified in opposition to HB 2307. He distributed a handout explaining why members do not like HB 2307 (Attachment F). In response to Senator Mead, he stated that there are over 8,000 HOAs and 1.2 million members in Arizona, and the number of foreclosures last year was less than twelve. He said although Senator Harper's suggestion for the ninety-day rule is a good one, it will not survive on the floor. He commented that people pay extra for and enjoy living in an HOA. He said there is a lack of "homework" on this bill, and he cited various scenarios. He suggested changing the seven-year period to three years as Representative Farnsworth proposed. He said the HOA cannot pay its bills if it cannot collect the assessments.

Patricia Schneider, Vice President, Board of Directors, Sun Lakes Phase 2 HOA, testified in opposition to HB 2307. She said her community comprises 7,000 people, and is essentially a small city. She said her HOA does not provide services such as water or trash pickup. She said her HOA provides co-ownership of a number of specific amenities, such as golf course, pools, and tennis courts. She noted that the HOA dues support the amenities through common ownership. She indicated that the Sun Lakes bylaws limit the amount of dues increases that can be imposed upon the HOA members. She pointed out that the restricted limitation results in a major financial impact to maintaining the common facilities. Ms. Schneider emphasized that HB 2307 will result in a detriment to the co-owners of the HOA, and she urged its defeat.

Jeffrey Kanig, Sun City Grand, Surprise, testified in opposition to HB 2307. He said he is a member of the HOA, and director of community standards. He presented a petition signed by 1,512 homeowners in Sun City Grand opposed to this bill, representing 100% of the people approached in Sun City Grand. He referred to the alternate fuel issue, and said this bill gives the people in Arizona the legal right not to pay their HOA dues.

Dennis May, homeowner, testified in opposition to HB 2307 and stated this is a bad bill throughout. He wanted to know who selects the fair market value price of a property when that property is foreclosed. He said the fair way is to foreclose with bidders at a sheriff's sale, and the balance should go to the homeowner after the liens are paid. He noted that individuals live in an HOA by choice and they take personal responsibility. He emphasized that people need to read all the documents prior to moving into an HOA in order to make a qualified decision.

Bear Shimmin, Founder, Sun City Grand Community Stewards, Surprise, testified in opposition to HB 2307. She said she knew what she signed when she moved into an HOA, and she is very pleased with her HOA. She commented that people who enter into an agreement have an obligation and it is incumbent upon them to be aware of the actions of the board and budgets. If the homeowners are not satisfied with the board, then that board should be removed.

Walter Hair, President, Sun Lakes HOA #1, testified in opposition to HB 2307. He stated he has lived in that facility for the past 24 years and is currently the President of HOA #1. He said there are 4,000 members in the HOA, which has been in operation for 30 years with no foreclosures. He said HB 2307 is detrimental both to the HOA and its members who adhere to legal documents and rules established by the HOA, and who pay their dues. He emphasized that the number of complaints with

HOAs is a relatively small percentage in Arizona. He indicated that this measure would set a precedent for homeowners to defer paying their dues, if one homeowner decides not to pay. He commented that homeowners in HOAs pay higher property taxes because of the higher value of the HOA properties, which helps the State. Mr. Hair noted that HOAs also provide services to homeowners that otherwise would have to be supported by the State. He said the proposal that would provide a seven-year waiting period to foreclose is too long. He indicated that HB 2307 is a dangerous bill that will harm the community and cause significant problems.

Lily Gresham testified in support of HB 2307. She said despite the testimony today, she believes this bill needs to pass. She commented on a personal situation regarding her home in an HOA.

Richard Dionne, Sun City Grand, Surprise, testified in opposition to HB 2307. He stated he opposes the bill for reasons previously expressed. He said some HOAs have abused their authority, and this bill does not help the situation.

Gary Keller, HOA board member, Chandler, testified in opposition to HB 2307. He said his HOA comprises 103 homes, which is one of 190 HOAs in the City of Chandler. He noted that within the past twenty years, over 48,000 homes have been built in Chandler that equates to an \$8 billion investment. He commented that from a monthly standpoint, millions of dollars are spent to support the ongoing maintenance of the communities through the use of monthly HOA assessments. He said this bill will directly impact the way services are provided to individual homeowners, and also will impact the value of the homes. Mr. Keller pointed out that a major problem is that there is an increasing number of HOA homes turning into rental properties, which demands attention by fellow homeowners to ensure those homes are kept within the CCRs. He said many of the actual owners do not live in the State. He emphasized he has discussed this problem with 60 HOA boards within the past several weeks, and they will be filing bankruptcy if their assessments are disrupted by this bill.

Scott Eisenhart, testified in opposition to HB 2307. He said he resides in an HOA in Gilbert and has been a resident of Arizona for over 25 years. He said he is a homeowner, board member, licensed active real estate agent in Arizona, and an HOA manager. He commented that since some of the topics were already covered earlier he would focus on his role as a licensed real estate agent. He said he has witnessed and documented the benefits that homeowners receive from HOAs in the forms of consistently higher than average increases in sale prices of homes, lower market times, and specific requests by buyers for planned communities. He remarked that all these items are beneficial to the State both in appearance and economically. Mr. Eisenhart commented that there are challenges facing HOAs, and changes do need to take place. He noted that HB 2307 is not the bill to facilitate those changes, and he urged defeat of this measure.

Mark Kinna, Vice President, Vineyards HOA, testified in opposition to HB 2307. He stated that he is treasurer of his HOA, and clarified that board members are also impacted as homeowners. He noted that those homeowners pay dues and fines, and also put forth an additional effort to spend time serving on the board. He commented on the situation of small HOAs. He said his HOA has been in existence since 1995 and comprises 104 homes with an annual budget of \$24,000. He emphasized that the impact of HB 2307 would be devastating to his particular HOA because of the lack of resources to wait seven years, which sometimes results in a legal battle. He pointed out that the automatic lien is beneficial to his HOA because of the size, and he stressed the importance of homeowners reading their contracts. He said homeowners have the option to work with the board in resolving minor violations. He urged the Committee to vote against HB 2307 because the passage of this measure could force his HOA to file bankruptcy.

Senator Tibshraeny announced that several people have testified on both sides of the issues and he believes most of the arguments have been heard. He stated that Committee discussion would now take place.

Senator Hellon moved HB 2307 be returned with a DO PASS recommendation.

Senator Harper moved the 5-line Harper amendment dated 3/31/03 at 11:02 a.m. be ADOPTED (Attachment G).

Senator Harper offered an explanation of his amendment. He stated that the current seven years appears to be a long time for homeowners to not pay their HOA assessments. He indicated this bill passed out of the House, and the impression was that reducing the period of time to three years was a consensus of the entire Sun City community. He said that was not the case, and he thought that ninety days would be better. He noted that if the ninety day time period passed and an individual did not pay the mortgage payment, that homeowner typically would be foreclosed upon by the lender. He said that same payment obligation should also be applied to HOAs. He indicated that although the bill has other problems, he believed this amendment was necessary in the event the bill passed.

Senator Tibshraeny commented he agrees because the amendment provides a safeguard in the event the bill passes.

Senator Hellon brought up two points. She wondered whether the bill without the amendments would cause an HOA to not qualify for Veterans Administration (VA) and Federal Housing Administration (FHA) financing. She also was concerned regarding the homestead exemption rights after seven years.

The motion CARRIED by a voice vote.

Senator Chevront commented that he believes the Harper amendment is a good one for clarification. However, he said his confidence of the period of time remaining at ninety days is questionable.

Senator Mitchell moved the 8-line Mitchell amendment dated 3/31/03 at 3:22 p.m. be ADOPTED (Attachment H). The motion CARRIED by a voice vote.

Senator Mead moved the 12-line Mead amendment dated 3/31/03 at 12:30 p.m. be ADOPTED (Attachment I).

Senator Mead explained his amendment. He said there are a number of HOAs in District 20 that have homeowners in apartments. He explained those homeowners receive proxies and then are able to attend homeowners' meetings with a significant number of votes. He said he is attempting to address the issue that a board should not reflect a vote percentage that is different from the makeup of the HOA population.

The motion CARRIED by a voice vote.

Senator Hellon moved HB 2307 be returned with an AS AMENDED, DO PASS recommendation.

Senator Chevront explained his vote. He stated he has very few HOAs in his district; however, he believes this bill goes too far. He said although HOAs have problems, he believes the boards should be able to resolve the problems of individuals who do not conform to the rules and regulations. He said he will vote “no.”

Senator Garcia explained his vote. He stated he understands the concerns of both sides, however, he will vote “no” at this time because there appears to be no middle ground to resolve the problems.

Senator Harper explained his vote. He stated that Representative Hubbs indicated the Sun City community would be neutral and go along with the three-year period; however, he said not everyone was happy with that prospect. He said that Representative Farnsworth makes some good points regarding giving up a homestead exemption in an HOA; however, the community is more concerned with the appearance than with the homestead exemption issue. He said he is representing his community and they are more interested in maintaining the nice appearance in his district. He said he will vote “no.”

Senator Mead explained his vote. He said he agrees with Senator Chevront that if this legislation is adopted with the amendments, the amendments will get stripped off very quickly. He said he would like to pursue Mr. Korbeck’s idea of an ombudsman and a transfer tax. He commented that some of that idea has merit and he would like to work on that issue for next session. He said at this time he will vote “no.”

Senator Waring explained his vote. He stated it appears this legislation is not going to pass. He commended everyone for being present today and for serving on the HOA boards as part of their communities. He said he has spent several hours in an attempt to resolve his own personal situation with HOAs, which has been somewhat irritating. However, he respects the fact that some people find themselves in various predicaments, despite the fact they are doing what is right and paying their assessments. He commented that he will vote “aye” as more of a protest vote.

Senator Hellon explained her vote. She stated that she is also grateful to everyone for participating today. She said she lives in an HOA and she appreciates everything that is done; however, she understands the problems that can arise in these situations. She referred to Senator Mead’s comments, and believes it is a good idea to have an ombudsman or board for people to voice their complaints. She commented that she has talked to a number of agencies, but the HOA issue is a difficult one to take on because it would require some funding. She said she believes HB 2307 goes too far, and she will vote “no.”

Senator Jackson explained his vote. He stated there was a similar bill the other day, and the HOA issue is complicated. However, he said he will vote “aye” at this time.

Senator Tibshraeny explained his vote. He thanked everyone for appearing today and expressing interest in this issue. He said there is a lot of passion and concerns on this issue from both sides. He indicated his constituents as well as those throughout the State have also expressed concerns. He noted that this Committee and other legislators have received more correspondence and information on this bill than any other bill this session. He said there are always problems to be corrected; however, he believes this bill goes too far. He commented he will support his constituents and vote “no” at this time.

The motion FAILED by a roll call vote of 2-7-0 (Attachment 10).

There being no further business, the meeting adjourned at 4:13 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.