



2014 End of Session Report

Arizona politics is anything but predictable. But, there does seem to be one thing we can always count on: the annual legislative assault on the laws governing Arizona's homeowners associations (HOAs). This phenomenon has become a perpetual aspect of every session.

It isn't too difficult to understand why this occurs. This is one area of law where legislators have the ability to directly impact what goes on in our homes, and in our neighborhoods. And, for many of them, the temptation to override local control is simply irresistible.

For Arizona HOAs, the best news may be what didn't happen.

By directly engaging policymakers, both during session and out of session, the Community Association Institute's (CAI) Legislative Action Committee (LAC) has eliminated many problems before they take the form of legislation. In just a short time, this year-round approach to legislating has reduced the number of bills with a direct impact on HOAs. For example, in 2012 the LAC identified at least 36 bills impacting HOAs. In 2013, the number declined to 29, and in the session that just ended, the number dropped to 17.

That's the good news. The bad news is that, despite the reduction in the overall number, many of the bills that are eventually introduced by lawmakers are still quite onerous. In 2014, the most compelling example was SB 1334.

SB 1334 would have prohibited the award of attorney fees to a HOA in administrative hearings. The passage of SB 1334 would have reversed the "loser pays" rule in HOA litigation, and opened the floodgates for frivolous lawsuits. HOAs unable to recover attorney fees would, in turn, be forced to look to their residents to foot the bill in the form of increased assessments. The bill was defeated in the Senate and, after being revived as the result of some parliamentary maneuvering, was defeated yet again in the House.

Of the bills that became law this year, the most significant changes can be found in SB 1482. This bill specifies that local municipalities cannot require the establishment of planned communities, allows employees of an association to perform specific functions in small claims court, makes changes to voting in community elections, establishes rules for homeowners that rent their units, and regulates the display of political signs in planned communities, amongst other provisions. The content of this measure should be familiar, as similar provisions were added to an elections-related bill in the final hours of the 2013 legislative session. The courts ultimately struck down those provisions after concerns were raised that the bill violated the Arizona Constitution's "single-subject" rule, which specifies that legislation must "embrace but one subject and matters properly connected therewith..." So, we needed a "do-over."

The legislature successfully passed, and the Governor ultimately approved other HOA-related measures dealing with golf carts, common area valuation, resale disclosures, and "ranchette" communities. These bills, as well as SB 1482, became effective 90 days after final adjournment of the legislative session. This year, most of Arizona's new law becomes operational on July 24, 2014.

Every legislative session, the LAC and its lobbying team strive to ensure that HOA-related legislation is both sensible and functional. As an advocate for HOAs and their residents, CAI's reputation continues to grow. The organization has set itself apart as one that supports straightforward and understandable HOA policy; a refreshingly unique approach acknowledged by both Arizona's policymakers and their staff.

These days, Arizona politics is much more of a "blood sport." In looking back at this and other recent sessions, it's almost impossible to overlook those instances in which today's legislators would have benefitted from the presence of legislative giants that – at one time – dominated the process.

Stan Turley, perhaps the last of these giants, passed away shortly after the Arizona Legislature adjourned in late April. Turley, the only Arizonan to serve as both Speaker of the House and President of the Senate since the late 1940s, was known for his rare ability to see issues through the eyes of others. The Republican lawmaker from Snowflake never considered his Democrat counterparts to be political enemies; they were colleagues and friends.

He would often describe his four-part philosophy to policymaking: "If it's a moral issue, if it's gambling, if it's drugs, if it's alcohol, if it's what I consider to be a moral issue, I'm going to do whatever I feel like for myself. I don't care what anybody else thinks or feels. I'm going to do what I want to do. Then I want to look at the state's interest. I think if you identify a state interest that's where you should be. Then you go to a district interest, your district where you represent. And then you go to your party. The Republicans don't much like a guy putting the party down to number four but that's my priority. I can get away with it because that's just what it is."

Imagine the impact that this type of philosophy would have in eliminating the "one-size-fits-all" approach to HOA policymaking!

It's sometimes difficult to identify the impact that legislative giants like Stan Turley had on the process. However, it's probably safe to say that SB 1062 – the most significant "crisis" of the 2014 session – would have been unlikely to occur under Turley's leadership. The bill would have effectively given businesses the right to claim a religious objection to providing service to customers. And after garnering national attention, the measure basically paralyzed the state legislature.

Confusion over the bill's impact fueled the controversy, and Arizona was – once again – thrust into the national spotlight. Companies ranging from Apple to American Airlines asked Governor Brewer to veto the legislation. The NFL even threatened to find a new location for the 2015 Super Bowl.

The Governor ultimately vetoed the bill, but the Arizona Legislature never fully recovered. For weeks, lawmakers and staff struggled to return to the familiar rhythm of the process, until a budget proposal for the coming fiscal year was introduced – almost a month later.

Budget negotiations carried on for weeks, and in early April, legislators successfully passed a budget proposal for fiscal year 2015 that met with the Governor's approval. Typically, the successful passage of the budget signals the end of the legislative session. This year, however, there were still over 250 bills in the Senate, and 150 bills in the House remaining to be processed.

In the waning days of the 2014 session, there was a flurry of legislative activity on bills still in the pipeline that kept lawmakers working well into the night. Lengthy debates on issues ranging from redefining the regulation of taxi services to prohibiting anyone from aiming a laser pointer at an aircraft absorbed

multiple hours of legislative action. While these proposals are not exactly cutting edge policy, these are the types of issues that occupy endless amounts of legislative floor time each year.

After 101 days, the Senate and House ended Arizona's 51st Legislature, 2nd Regular Session on Thursday, April 24, 2014, at 1:46 AM.

In all, lawmakers introduced 1,205 bills. Of these, 303 received legislative approval and were transmitted to the Governor for her consideration. Governor Brewer ultimately signed 278 bills into law, while the remaining 25 were met with her veto stamp.

The LAC's legislative efforts, reinforced by their lobbying team, do not often produce tangible results. But CAI should be proud that the organization successfully worked to ensure that a number of shortsighted proposals were defeated – and many never saw the light of day. The overall reduction in the number of HOA-related measures introduced every session also speaks directly to the LAC's constituent-driven efforts, aimed at tackling HOA-related issues at the local level, before they take the form of legislation.

As we look ahead to the 2015 session, it's important to keep in mind that there will be a new Governor, and over one third of the Arizona legislature will be new to the process.

It is critical to educate these new policymakers about the best way to tackle HOA-related issues, while simultaneously preparing for the next legislative assault on the laws governing Arizona's HOAs.

Finally, it is important to recognize that the successes of each session would not be possible without the volunteers that serve on the LAC, and the time they dedicate to crafting better public policy.