



LEGISLATIVE BULLETIN

Issue 7 – February 22, 2019

Legislative Update

Today is the 40th day of session. Committees in both chambers wrapped up the first round of hearings in time before the deadline; however, the Appropriations Committees will have an additional week to hear legislation. As a result, bills that were not heard in standing committees to which they were assigned will not be moving forward, including some that the League was monitoring very closely.

For example, HB2108 real estate signs; cities; counties, restricting municipalities from regulating placement of real estate signs on private property and within rights-of-way, and HB2635 prohibition; photo radar, prohibiting cities and towns from utilizing a photo radar enforcement, will not be moving forward this session.

However, there are still several problematic bills remaining in the process, including legislation exempting certain software products from taxation, requiring voters to retain municipal judges, mandating city and town elections to be partisan, among others. Next week is crossover week, which means many of these bills will be moving to the floor for debate and a vote. Now is the time to speak with your delegation and ask they vote **NO** on these measures.

CALL TO ACTION – Short-Term Rentals

As previously reported, the League has been working with Representative John Kavanagh (R-Fountain Hills) on a bill to provide cities and towns an enforcement tool to control the problems caused by short-term rentals. That bill is HB2672 vacation rentals; short-term rentals; regulation, which was heard in House Government this week.

Throughout this process the League has been working with the sponsor to address the concerns of other stakeholders and to build strong bipartisan support for the measure. In addition to the sponsor, the bill currently has 55 co-sponsors, including 29 Republicans (19 in the House, 10 in Senate), 26 Democrats (16 in the House, 10 in the Senate), the Speaker of the House and the President of the Senate.

During the hearing legislators and other stakeholders raised several concerns, most frequently the occupancy limits established by the bill, arguing that larger homes should be allowed a higher occupancy and that these restrictions would unduly harm responsible short-term rental owners. From the League's perspective, the most important provisions of the bill are: 1.) allowing cities and towns to receive, share internally, and use TPT license information about these properties and their owners; and 2.) having a forceful mechanism to stop bad actors from continuing to allow their transient renters to be a nuisance to the community. The League will continue to work with the sponsor and other stakeholders to ensure our members' top priorities are addressed but that we have the political support to ensure passage.

After a very lengthy discussion on the bill, it passed out of committee on a mixed vote of 8 ayes, 2 nays, and 1 legislator voting present. The League has agreed to work with the other stakeholders to address their concerns to alleviate the concerns that legislators expressed during committee. The League will be meeting with the legislators on the committee and other members of the House majority to continue building support.

The League asks that you reach out to your House members and emphasize how important this legislation is to your community. While we are confident that the final bill will be a reasonable compromise that provides substantial relief for cities and towns, we want to ensure a strong vote on the House floor as the bill continues to move through the process.

Distracted Driving

SB1165 S/E: texting while driving; prohibition, sponsored by Senator Kate Brophy McGee (R-Phoenix), passed the Senate Transportation and Public Safety Committee 7-1 on Wednesday. The committee members listened to testimony from victims of traffic accidents caused by distracted drivers – including the family of the Salt River Police officer who was struck and killed by a distracted driver while conducting a traffic stop. The League testified in support and provided for the committee's record letters of support signed by mayors from across the state.

The bill is an emergency measure that establishes a statewide hands-free law that bans holding a wireless device while driving, with certain exceptions. Drivers may operate their device by a single tap or swipe to activate a feature or while using hands-free features, such as talk-to-text or Bluetooth accessories. The law will establish an education period to expire in January 1, 2021 allowing drivers to adapt to the new requirements. During this time, law enforcement will only be issuing warnings for violations.

The bill will preempt local distracted driving ordinances; however, cities, towns and counties will have the option to continue enforcing their existing hands-free ordinances

and penalties until January 1, 2021 when the new state law and penalties take effect or amend their existing ordinance to mirror SB1165.

The bill has been assigned to a Rules Committee hearing next Monday and could soon move to the full Senate for debate and a vote.

HURF Distribution

On Wednesday night the House Appropriations Committee considered HB2047; HURF distribution; cities, towns, counties, sponsored by Representative David Cook (R-Globe) that directs an initial \$18 million to rural counties and cities before calculating the additional funds based on the traditional formula.

The League testified in opposition, indicating that the root cause of the HURF funding problem is that the available pool of money is too small because the gas tax has not been raised since 1991. The current gas tax of 18 cents, adjusted for inflation, is 33 cents in today's dollars, and the purchasing power of the pool of HURF funds will continue to decline if not addressed. This year the League is supporting legislation proposed by Representative Noel Campbell (R-Prescott), HB2536 fuel; electric cars; hybrids; taxes that, among other provisions, would gradually increase the state's tax on gas and diesel sales, and thereafter be adjusted by changes in the GDP implicit price deflator.

Now that HURF sweeps have been eliminated in the Governor's proposed budget, rural and urban cities and counties would all be better served by addressing the lack of overall funds in HURF and HB2536 provides that solution. Unfortunately, HB2047 was voted out of committee 9-1.

Online Lodging Marketplace Collections

HB 2027: online lodging marketplace; local taxation, sponsored by Representative John Kavanagh (R-Fountain Hills), passed out of the House Ways and Means Committee Wednesday on a unanimous vote. The bill fixes a technical problem relating to the authority of the Department of Revenue to collect taxes from online lodging marketplace companies such as Airbnb and VRBO and remit them to cities and towns. Its next stop is the House Rules Committee.

Wayfair Implementation

The bill that implements the US Supreme Court's *Wayfair* decision in Arizona, HB 2702: TPT; marketplace facilitators; nexus, sponsored by Representative Ben Toma (R-Peoria), moved out of the House Ways and Means Committee on an 8-2 vote. The bill establishes an "economic nexus" for out of state sellers doing business in Arizona at 200 transactions or \$100,000 a year. Once an online seller crosses that line, they are

required to collect state and local taxes on all future transactions. Most online sellers are already complying with this process under the previous “physical nexus” test. The bill provides for a single point of collection, the state Department of Revenue, and does not apply retroactively. In-state brick and mortar businesses, business organizations, shopping center operators and online sellers such as Amazon, all testified in support of the bill in committee. To further implement this decision, the Municipal Tax Code Commission met on Friday and adopted amendments to the Model City Tax Code that conform the MCTC definition of retail transactions with the state definition. The League thanks Rep. Toma for his leadership on this very important topic.

Municipal Food Tax

HB 2638: municipal tax; exemption; food, sponsored by Representative Shawna Bolick (R-Phoenix), was approved by the House Ways and Means committee on a 6-4 vote. This version of the bill has a population threshold that means it would only apply to the City of Phoenix, which currently does not have a tax on food for home consumption, but it could be easily amended to apply to some or all other cities and towns. This tax is a critical source of revenue for many cities and towns, particularly in rural and tourist areas. The state does not tax food, so the rate of this tax is low, usually around \$1 in tax for every \$50 grocery sale. It provides more than \$115 million in revenue to cities and towns across the state. Please ask your House members to oppose this bill.

Reconstruction Contracting/Land Deduction

On Wednesday morning the House Ways & Means Committee considered HB2357; reconstruction contracting; local tax; exemption, sponsored by Representative Ben Toma (R-Peoria). A mirror bill, SB1367; reconstruction contracting; local tax; exemption, sponsored by Senator J.D. Mesnard (R-Chandler), was heard Wednesday afternoon in Senate Finance Committee. The bills were originally drafted to address some issues developers had identified with a lack of clarity in the speculative builder section of the Model City Tax Code.

Over the past two weeks the League has met with proponents of the bill to identify their issues and understand the intent of the legislation. Through that process, the League identified that builders had been incorrectly assessed taxes on certain speculative builder projects and that we could resolve the industries’ issues with some simple amendments at the Municipal Tax Code Commission (MTCC).

In addition to the changes where the League and proponents identified incorrect application, the builders also included language in the bill requiring cities to select Option N under the speculative builder code resulting in a 20% land deduction for each speculative builder property sale. The impact of this change for the cities and towns

without Option N would be a 20% decrement in revenue totaling approximately \$6.8 million per year.

The League testified in opposition, indicating that many of the issues of the industry would be satisfied at the next meeting of the MTCC. However, if the industry were to pursue further the land deduction portion of the bill, cities and towns were collectively opposed. We believe, now that the MTCC has made the industry-desired changes unrelated to the land deduction, there is a high likelihood the proponents will no longer pursue the additional language on the bill.

Unfortunately, despite our testimony in opposition, HB2357 passed out of House Ways & Means on strict party line vote 6-4 and SB1367 passed out of Senate Finance 9-1.

Legislative Bill Monitoring

All bills being actively monitored by the League [can be found here](#).