



Issue 5 – February 12, 2021

Legislative Update

Today is the 33rd day of session and 1,707 bills and 113 memorials or resolutions have been introduced. The period to introduce legislation is now over for both chambers. Except for budget bills, no new legislation can be introduced. Next week is the last week to hear bills in the chamber of origin, which means that committees for the week will have lengthy agendas as legislators try to get their bills heard before the deadline.

The legislature continues to move swiftly. So far, the Governor has signed 18 bills, while 12 await his signature or veto.

Utility Condemnation

This week the Senate Commerce discussed a strike-everything amendment to SB1154 related to eminent domain, sponsored by Sen. J.D. Mesnard (R-Chandler), but did not take a vote on the bill. It has been rescheduled for a hearing in next Wednesday at 2 p.m. in the same committee. The striker amendment would require a city or town exercising eminent domain to file one or more appraisals with the superior court that support the proposed compensation for the condemnation. The League testified in opposition in committee because the current statutes already require cities and towns to obtain and deliver an appraisal to the utility being condemned, but the appraisal itself is not admitted in the superior court case due to procedural rules. The amendment isn't clear about how the court is supposed to handle the appraisal once its filed, which will likely lead to increased attorneys' fees to litigate over the role of the appraisal in the court case.

HB2049 eminent domain; existing contracts, sponsored by Representative Jeff Weninger (R-Chandler) passed the House 34-24. It waits for committee assignment in the Senate. The bill requires cities and towns exercising eminent domain on a public utility to assume all the assets and contractual obligations of the utility. This would require the assumption

of private contracts under any circumstance, regardless of their provisions and whether it is legal for municipalities to assume under the state Constitution and laws.

State Aviation Fund – Aircraft Registration Fees

The Transportation and Technology Commerce passed on a party line vote SB1406 aircraft registration fees; taxation; repeal, sponsored by Senator Warren Petersen (R-Gilbert). The bill would repeal the aircraft registration fee and license tax, which are deposited into the State Aviation Fund and distributed to cities and towns that operate airports. A [fiscal note](#) on the bill suggests it would result in a revenue reduction of \$2.9M to the State Aviation Fund and \$1.2M for local governments. This is a critical funding source for grant funding for airports. Removing this source of revenue will also impact the ability to draw down federal matching grants for capital improvements.

The League signed in opposition to the bill and will be reaching out to lawmakers on its negative impacts.

Fireworks

The Senate Commerce Committee discussed but did not take a vote on SB1334 fireworks; aerial devices, sponsored by Senator David Gowan (R-Sierra Vista). The bill would allow the sale and use of multiple-tube aerial devices, fireworks that shoot in the air, in the state's two largest counties on days that fireworks are permissible. The League testified in opposition because of increased fire danger and injuries if used by those that are inexperienced. Also concerning are the increased complaints from citizens over the rampant use of fireworks, which cities and towns experienced during New Years Eve. Any expansion would certainly lead to more complaints.

The bill is likely dead for the session.

COVID Liability

On Thursday the Senate Judiciary Committee passed on a party line vote SB1377 civil liability; public health pandemic. It would provide cities and towns, including other governments, nonprofits and businesses, an affirmative defense against a negligence claim that arose prior to December 30, 2022 and during the state of emergency declared by the governor if the city or town can show that it reasonably relied on and attempted to comply with applicable published guidance. The League signed in support of this measure. It will proceed to the Rules Committee.

Noise Violations

Identical bills were heard this week that will require prosecutions for violations of noise ordinances to include an accurate recording and measurement of the noise made by a peace officer or code enforcement officer using a sound meter device. SB1502 and HB2618

public nuisance; noise; evidence, sponsored by Senator Kelly Townsend (R-Apache Junction) are a repeat from a bill introduced last year that died due to the suspension of session. The bill is problematic because it is an unfunded mandate and because the devices that the bill would require do not register bass. It is possible that a resident may complain about a noise (due to a loud party for example or cars playing loud music) that still is a nuisance but that may not register on the device and making it impossible to prosecute such violations. The bills passed their committee assignments and will now proceed to the Rules Committee in each chamber.

Short Term Rentals

This week's Government & Elections committee heard HB2481 short term rentals; enforcement; penalties sponsored by John Kavanagh (R-Scottsdale). If passed, the measure would provide cities and towns the ability to adopt reasonable zoning for short term rentals (STRs), as well as allow municipalities to license and register them. The committee adopted an amendment to clarify provisions related to reasonable zoning and multifamily structures. HB2481 passed 8-5 and now awaits the Rules committee. The proliferation of short-term rentals has severely impacted communities throughout the state, affecting property rights, quality of life and housing availability. The League is engaging with stakeholders that have concerns with the legislation and hopes to pass meaningful legislation to return some local control to municipalities in the STR arena.

Public Posting Requirements

On Thursday, the House passed HB2400 municipal ordinance; posting sponsored by Representative Joanne Osborne (R-Buckeye) with unanimous support. This is a League resolution to modernize public posting requirements for ordinances that have a penalty associated with them. The measure was amended in Committee of the Whole to address concerns raised in committee. As amended, the bill require that municipalities post penal ordinances at:

- At least one public location within the municipality such as a city or town hall or other public locations;
- On the city or town's website;
- A paper of local circulation and any additional notice as is reasonable & practicable.

The bill now moves onto to the Senate for consideration.

Law Enforcement Budgets

SB1333 law enforcement; budget reduction; prohibition sponsored by Senator David Gowan (R-Sierra Vista) passed the Senate Appropriations committee with a 6-4 vote. The measure prohibits municipalities from reducing their law enforcement budgets by any amount below the previous year's budget. If a municipality is found to have reduced their law enforcement budget, the State Treasurer is then required to withhold from the municipality monies in the same amount the law enforcement budget was reduced. A committee amendment was added to allow, rather than require DPS to make an offer of

employment to an officer that was terminated as a result of a decrease in a department's operating budget.

The League opposed the bill in committee because of the preemption it places on municipality budgets. This preemption would hurt other municipal departments that may suffer a greater budget reduction if budget cut were necessary.

Concealed Weapons Exemption

HB2551 sponsored by Representative John Kavanagh (R-Scottsdale) exempts those with a concealed weapons permit from any weapon prohibitions in a public establishment or event. This would impact any municipal building that did not have the proper security requirements outlined in the bill such as metal detectors which is why the League is signed in opposed. The bill was heard in the House Government & Elections committee this week and passed on a party line vote.

Private Attorney Preemption

SB1487 introduced by Senator Leach (R-Marana) prohibits cities and towns from entering into a contract with a private attorney unless the city attorney can provide written proof that the contract is in the best interest of the public. The bill will impact how municipalities retain private attorneys for class action lawsuits, as it sets up a prohibitive structure and makes municipalities unattractive participants in class action lawsuits such as opioid related litigation. The League opposed the bill in committee as Arizona municipalities sparingly use contingency fee contracts and only do so in the interest of the taxpayer. The bill passed the Senate Government committee with a vote of 5-3.

Legislative Bill Monitoring

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