



LEGISLATIVE BULLETIN

Issue #3 – January 26, 2018

Legislative Overview

Today marks the 19th day of the legislative session. In response to Governor Ducey's call to action regarding the opioid epidemic, the legislature broke into a special session this week with the ultimate goal of passing legislation to combat the crisis. Late Thursday night, the legislature achieved this goal with the successful passage of expansive, bipartisan reform. The vote was unanimous - 30-0 in the state Senate and 58-0 in the Arizona House of Representatives

This upcoming Monday, January 29th will be the final day for Senate bills to be introduced without special permission. The deadline for House bills to be introduced will be the following Monday, February 5th.

To date, the legislature has posted 908 bills, with no bills passed.

Call to Action

Next week two bills that restrict our authority to regulate home-based businesses will be heard. SB1002 home-based businesses; regulations; municipalities, sponsored by Senator David Farnsworth (R-Mesa), will be heard in the Senate Government committee on Monday afternoon. HB 2333 home-based business; local regulation, sponsored by Representative Jeff Weninger (R-Chandler), will be heard the following day in the House Commerce committee. This bill, along with an identical Senate bill, SB1175, was drafted by the Free Enterprise Club.

We want to foster entrepreneurship and innovation in our communities. We also understand home-based businesses are a reality and cities and towns are currently managing these with their existing ordinances. If a business is operating in a home, it is not likely that the municipality gets involved unless there are complaints made by the neighbors who live adjacent to or near these businesses. However, the Free Enterprise Club has taken a few anecdotes and convinced some legislators that the state needs to preempt cities' and towns' authority to regulate what is happening in their communities.

Senator Farnsworth has a long history of working on the issue of home-based businesses and successfully negotiated a bill last year with the counties. He reached out to us this year and has expressed an interest in working through a similar negotiation on a bill that would establish some statutory guidelines for home-based businesses to operate in cities. We have been working with him and he plans to offer an amendment in committee that addresses some of our concerns. At this time, we will continue to oppose the bill because all of our issues have not been resolved but we also want to continue to work to see if we can find agreement.

There has been no negotiation with the sponsor of HB2333 or the Free Enterprise Club and we will oppose the bill in committee because none of our concerns have been addressed.

We need you to call your legislators and express your concerns about these bills. It is also important that you have any of your neighborhood organizations weigh in with their concerns. We are hopeful that any home-based business bill that makes it out of the legislature will continue to give us the authority to protect the property rights of people who want to run businesses but also the property rights of the people who want the quiet enjoyment of their residential neighborhoods.

Statute of Repose – Dedicated Property

The League testified in opposition to HB 2116 limitations of actions; dedicated property sponsored by Rep. Anthony Kern (R-Glendale). The bill passed the House Judiciary and Public Safety Committee on Wednesday. It will limit a developer's liability on a project that received a permit from a city or town to eight years from the date of substantial completion. If anyone that worked on the project that later suffers a long-latency injury that was discovered after the eight-year statute of repose (such as a mesothelioma case) and files a lawsuit against the city or town, the developer would no longer be required to indemnify the municipality. As a result, this will subject cities and towns to liabilities they did not cause or have any control over.

If cities and towns cannot be indemnified against these claims and are forced to pay damages, this could be financially disastrous, especially for smaller communities.

This issue has been brought to the legislature by the Home Builders Association of Central Arizona (HBACA) and is related to an Arizona Supreme Court Case from last year (City of Phoenix v. Glenayre Electronics). The court held that the existing statute of repose for projects based in contract does not apply to developers whose relationship with the city is as a permittee. HBACA proposed this bill to specifically limit their liability to eight years for projects permitted by a municipality.

We need to get the word out about the negative impacts this bill will have and the potential for smaller communities to go bankrupt if they are ever forced to defend

themselves in court and pay millions of dollars in damages for injury- or illness-related claims as a result of the conduct of a developer.

Fire Flow Requirements

Last year Sen. Sylvia Allen (R-Snowflake) introduced SB 1329 fire flow requirements; rural applicability, which would have allowed for a waiver of the fire flow requirements in single-family home developments in rural areas. That bill successfully passed the full Senate and made it through House committee before it was finally held in Rules after Sen. Allen agreed to have stakeholder meetings over the interim to discuss the issue further.

Unfortunately Sen. Allen has moved ahead, without local government input, and introduced SB 1153 fire flow requirements; rural applicability which would exempt new single-family home developments from the fire flow requirements and even includes an intent clause stating it is the jurisdiction's responsibility to provide the infrastructure necessary for adequate water flow to those homes, not the developer.

Not only does this bill put our firefighters in danger by requiring fire protection services in areas without sufficient water for fire suppression but also makes clear the sponsor's intent to shift the financial burden for providing infrastructure which developers have always been responsible for to taxpayers that have no personal or public interest in developments. The League as well as the Arizona Fire District Association and the Arizona Fire Marshalls Association are opposed to the bill and will be testifying in Senate Natural Resources Energy and Water on Monday at 2pm.

Fair Justice for All

The Fair Justice for All Task Force was established by the AZ Supreme Court to make recommendations for criminal justice reforms for minor offenses to increase compliance and promote equal justice for individuals struggling economically. The Task Force included many local officials including municipal judges from Phoenix, Tucson, Gilbert and Payson, as well as city prosecutors and police.

Last year a package of bills that came from the Task Force's recommendations were introduced but were held in House Judiciary and Public Safety without explanation. This year, the chair of that committee has agreed to hear these bills and has even sponsored some of them.

The recommendations are practices that Phoenix and many other cities have already instituted and provide additional options for municipal judges to handle cases involving those who are economically disadvantaged. The Task Force found that these reforms would ultimately increase the payment of fines, reduce unnecessary court/police actions

that waste taxpayer money and negatively impact the public, but still fairly punish those who break the law or disobey the courts.

HB 2169 driving violations; restricted licenses; penalties is one of this year's Fair Justice bills that aims to reform the suspended and restricted driver license statutes as well as the fines and penalties associated with those violations. The League is considering supporting HB 2169 to highlight our members' commitment to justice in our courts. If you have any comments or concerns regarding the bill please contact Alex Vidal at avidal@azleague.org.