



ISSUE 4 - JANUARY 28, 2011

## Attack on City and Town Revenue

Two bills that are potentially very harmful to city and town budgets were introduced in the Arizona Senate this week. SB 1220 (uniform local sales tax base) was introduced by Senator Steve Pierce (R-Prescott) on January 24. Among other things, the bill:

- repeals the Model City Tax Code as of June 30, 2012;
- forces all cities and towns to have the same tax base and definitions as the state;
- repeals any local taxes that are not part of the state code, even if voter-approved; and
- requires the state to perform all tax collections and audits for municipalities.

Combined, these changes would result in millions of dollars of revenue lost to cities and towns, with no benefit to the state government.

Where there are different definitions between the state code and the Model City Tax Code, cities and towns would have to yield to the state definition. The only exceptions would be that cities and towns could continue to impose a local transaction privilege tax on residential and commercial rental property, food and advertising - items which the state does not tax.

This proposal could cost cities and towns millions of dollars in revenue—we are still working on determining estimated amounts—and it would eliminate the ability of city and town councils to respond to local conditions, forcing a one-size-fits-all tax scheme on the entire state.

There are many additional questions about the impact of the bill that are still being researched, including the role of mayors and councils in setting tax rates, the scope of authority of the Department of Revenue as it relates to local taxation, and a number of other issues. In the coming days we will be asking you for input regarding the impact of specific changes to your own community revenue.

SB 1221 (urban revenue sharing; distribution freeze), also sponsored by Sen. Pierce, imposes a "freeze" on the amount of urban revenue sharing to be distributed to cities and towns for the next 20 years. The annual distribution would be approximately the level of this upcoming fiscal year's revenue sharing fund - approximately \$424 million. The bill redirects any future increase in funds to pay off debt that the state incurred last year to balance its budget. Proponents are saying that the borrowing was done in order to protect cities and towns, although that was never part of last year's budget discussion.

This bill represents a major breach in the longstanding relationship between cities and the state, and it would create significant difficulties for city and town budgets. Just two years ago, the amount of urban revenue sharing was more than \$200 million greater than it is today. Assuming the state economy turns around sometime in the next 20 years, cities and towns would be losing out on multiple millions of dollars that would otherwise be distributed through the 15% formula.

Neither of these bills have been assigned to committee. If they are scheduled for a hearing, we will be sure you have the information necessary to register your strong objections. Meanwhile, please let your Senators and Representatives know that local control over city and town budgets is fundamental to our system of government and critical to our future.

## Legislative Overview

Arizona's 50th Legislature revved up to full speed during the week of January 24. During a full week of legislative activity, budget hearings proceeded apace and House and Senate standing committees considered a raft of individual bills and resolutions. To date (the 19th day of the legislative session), 923 bills have been introduced in the Legislature. Of those, the League has identified 190 with potentially significant impacts on cities and towns. A number of such bills were considered this week, as detailed below. Monday, January 31 is the last day that bills may be introduced in the Senate without special permission. Monday, February 7 is the bill introduction deadline in the House.

## Residential rental taxes

On Thursday, January 27, the Senate Finance Committee considered SB 1160 (city sales tax; residential rental). The legislation (introduced last year as SB 1239) provides that any increase in residential rental tax levied by a city or town must be approved by popular vote. The League of Arizona Cities and Towns testified in opposition to the bill on the basis that it reduces local control, creates special tax treatment for one industry and reduces the ability of mayors and councils to approach budgeting in a comprehensive way. Despite those objections, and the opposition registered by several individual municipalities, the bill was approved by a vote of 4-1. The League will continue to vigorously oppose this legislation as it proceeds through the legislative process.

## Federal Patent Easements

HB 2009 (disclaimer of federal patent easements), sponsored by Rep. Jack Harper (R-Surprise), would make changes to the process by which municipalities abandon their interests in General Land Office (GLO) patent easements. The bill requires a city or town to obtain written release from all affected parties before disclaiming such an interest and further prohibits any municipality from allowing or approving any permanent structure on a GLO patent easement. In addition to limiting local control over public lands and possibly infringing upon personal property rights, the bill contains undefined terms and would have a direct negative impact on the development and improvement of property for a number of municipalities.

The League registered its opposition to this bill at a January 25 hearing of the House Government Committee, as did representatives from the utility and homebuilding communities. The chief proponent of the bill, a private landowner, was permitted to speak at length. Upon the conclusion of the presentation, the bill was held indefinitely. The League will continue to monitor and oppose this bill should it appear again in the legislative process.

## Commercial Lease Sales Tax Exemption

The House Committee on Ways and Means conducted a hearing on HB 2230 (commercial lease; tax exemption) on Monday, January 24. The bill provides that commercial leases of real property between two corporations, 80% of whose voting shares are owned by the same shareholders, are exempt from any municipal sales or use tax.

In testimony opposing the bill, the League of Arizona Cities and Towns emphasized the legislation's potential impacts on the municipal tax base and requested an opportunity to work with the bill sponsor to ensure that no unintended consequences result from its passage. The sponsor of HB 2230 (Rep. John Kavanagh, R-Fountain Hills) indicated in testimony that the bill is intended as protection for small businesses and sole proprietorships and not as a tax avoidance device for large corporations.

The bill was reported out of committee on a 6-3 vote, but Rep. Kavanagh agreed to work with the League to address outstanding concerns before the measure proceeds to the Committee of the Whole. Accordingly, the League has drafted amendatory language limiting the bill's application to small businesses and is scheduled to meet with Chairman Kavanagh to present our proposal next week.

Companion legislation (SB 1166) was heard in the Senate Committee on Finance on Thursday, January 27. The League presented testimony at the hearing and secured a commitment from the chairman (Sen. Steve Yarbrough, R-Chandler) to

consider potential amendments pending action on the Senate floor. The bill was approved by the committee on a 4-1 vote.

## Subdivisions

On January 18, the House Committee on Government initiated consideration of HB 2005 (subdivisions; acting in concert). As introduced, the bill makes a number of changes to Arizona subdivision law and provides that, for subdivisions of 10 or fewer lots, municipalities *shall* either waive preliminary plat requirements or expedite their processing. The bill also requires that, for smaller subdivisions, municipalities *shall* reduce infrastructure standards or requirements proportional to the impact of the subdivision.

When it became clear during the January 18 hearing that the bill faced the strong opposition of municipalities and counties, the chairman suspended consideration of the measure and gave interested parties one week to achieve consensus agreement on the various issues addressed by the bill. Accordingly, the League participated in a stakeholder meeting on the bill on Friday, January 21. The League successfully negotiated away the bill's principal impact on municipalities by making the waiver, expedited review, and infrastructure-reduction language permissive rather than mandatory (i.e., the word "shall" was replaced by "may" in the provisions discussed above).

New language incorporating the agreement of stakeholders was included in an amendment to the bill considered by the House Committee on Government during its January 25 hearing. Despite reservations of the Arizona Department of Real Estate regarding certain enforcement standards, the amendment passed by a voice vote and the bill as amended was reported out of committee by a vote of 7-2.

## Homeowners' Association Authority Over Roadways

On Wednesday, January 26, the Senate Committee on Government Reform heard SB 1170 (homeowner's associations; public roadways). Sponsored by Rep. Nancy Barto (R-Phoenix), the bill prohibits a homeowners' association from enforcing such Covenants, Conditions and Restrictions as they relate to public roadways. This measure could impose higher demands on already over-tasked police departments and could negatively impact the response times of emergency service providers. Due to these potential harmful consequences, the League registered its opposition to the measure. After exhaustive testimony and discussion, the bill was held.

## Pension Reform Update

On Thursday, January 20, the Senate Finance Committee passed two bills effecting changes to the Arizona State Retirement System (ASRS): SB 1106 (ASRS; definitions; service credits) and SB 1107 (ASRS; transfers; distributions; DRO payments). On Thursday, January 27, the Senate Finance Committee heard SB 1167 (ASRS; comprehensive amendments). Taken together, these bills contain the majority of the ASRS legislative agenda and include many of the same provisions as the ASRS bills heard in the House Committee on Employment and Regulatory Affairs two weeks ago. As the topic of pension reform continues to attract headlines and legislation, the League has assembled a workgroup to formulate proposals to modify the state's pension systems for the mutual benefit of both employers and beneficiaries. Additionally, the League was asked to participate in a stakeholder group assembled by the Senate to work collaboratively on pension reform. That task force, comprised of both employer and employee groups, will work to develop meaningful legislation to ensure the future solvency of Correctional Officers Retirement Plan (CORP), Elected Officials Retirement Plan (EORP), and the Public Safety Personnel Retirement System (PSPRS). The League appreciates the opportunity to be at the negotiating table and is optimistic that the end product will rectify the systemic problems with EORP and PSPRS.

## Residential Fire Sprinklers

On Tuesday, January 25, the House Committee on Government heard HB 2153 (municipalities; counties; fire sprinklers; code). The legislation prohibits municipalities from adopting a code or ordinance requiring the installation of fire sprinklers in new residential construction. Proponents of the bill advocated its passage on the basis of personal choice -i.e., individuals should be able to choose whether or not they have sprinklers in their homes. Opponents testified that the legislation was contrary to the value of safety for homeowners, neighbors and firefighters. Despite the factual presentation by professional fire personnel and the opposition of the League, the bill passed by a vote of 6-3.

## Spice Update

HB 2167 (dangerous drugs; definition; synthetic) classifies the synthetic marijuana commonly known as "Spice" as a dangerous drug. The bill, supported by the League, was favorably reported by the House Committee on Rules earlier this week and will soon be scheduled for consideration by the Committee of the Whole. A companion bill in the Senate (SB 1202), sponsored by Senator Linda Gray (R-Glendale), will be heard on Monday, January 31 in the Senate Committee on Judiciary.

## Apartment Trash Collection

The House Committee on Environment is scheduled to hear HB 2104 (trash collection; multifamily housing) on Tuesday, February 1 at 2:00 p.m. The purpose of the bill is to mandate that private waste haulers have the opportunity to contract for removal of trash from apartment complexes - a right that has already been legislatively conferred with respect to commercial complexes. Counterpart legislation (SB 1204) has been introduced in the Senate.

Those Arizona cities and towns that have made substantial investments in the provision of such service could be negatively impacted by this legislation. Accordingly, the League opposes the bill and will coordinate committee testimony with other municipal experts. The League will keep you apprised of the status of this legislation.

## Third Party Sales Tax Administration

SB 1165 (municipal taxes; auditors and collectors) was scheduled to be heard in the Senate Committee on Government earlier this week. Due to a change in committee assignment (from Senate Government to Senate Finance), the bill was not heard. SB 1165 is identical to a measure that was defeated three separate times last year. This bill would prohibit cities and towns from using a third party contractor to:

- Audit any sales tax levied by the city or town on a contingency fee basis
- Collect, administer or process any sales tax levied by the city or town

A League resolution currently in effect opposes any measure that would rescind the authority of cities to self-collect sales tax. Accordingly, the League will continue to oppose this initiative and will alert you at such time as it is placed on a committee agenda or otherwise appears in the legislative process.

## Moving the Model City Tax Code Website to the Arizona Department of Revenue

HB 2336 (city tax code; official copy) proposes to move the official version of the Model City Tax Code from the League of Arizona Cities and Towns to the website of the Arizona Department of Revenue. We are not sure why this change has been proposed. Since the inception of the Model City Tax Code, the League has maintained the official version. Over the years, the League has made multiple improvements to the site (several of which have been recommended by the business community) to enhance its user-friendliness. The League strives to keep the code accurate and timely. If discrepancies are reported, we make appropriate changes immediately. We have received no complaints about our maintenance of the site to date. The League feels that it has demonstrated responsible stewardship of the Code over the years, and we are puzzled by the proposed change. HB 2336 is scheduled for a hearing before the House Committee on Ways and Means on Monday, January 31.

## Legislator Profile - Representative Eric Meyer

Having walked down a narrow spit in the outback of Alaska, Representative Eric Meyer turned around to find that a grizzly bear had parked itself on the trail back to camp. With his only route to civilization blocked by a dangerous ursine beast, Rep. Meyer was otherwise surrounded by the frigid sea. What did he do in this perilous situation? "I just talked to him until he went away."

Such powers of persuasion will be desperately needed as the Democratic representative from Paradise Valley fights for his legislative priorities in a chamber dominated by the opposition party. Though legislative victories may be scarce this session, the easygoing and level-headed representative of District 11 takes it all in stride. He finds peace of mind in working hard, making reasoned decisions, educating people where he can, and recognizing that certain things are beyond his control.

Rep. Meyer grew up in Scottsdale and graduated from both Cocopah Elementary School and Chaparral High School. Following graduation from the University of Southern California, where he studied economics, Rep. Meyer enrolled in medical school at the University of Arizona. There he met Sarah Snell: a graduate of Arcadia High School, the daughter of Richard Snell (a scion of the Snell and Wilmer legal empire), granddaughter of Arizona legend Frank Snell, and, significantly, his future wife.



The good doctors embarked on a "couples match" residency in Portland, Oregon, where Rep. Meyer eventually became Director of the Providence Hospital Emergency Center. Meanwhile, his wife launched a successful obstetrics and gynecology practice that continues to this day.

By and large, the rain clouds and wet weather of the Pacific Northwest steered the couple back to sunny Arizona, where Rep. Meyer's unusual path to elective politics commenced. Upon his return to the Valley, Rep. Meyer intended to take a sabbatical from his medical practice and immerse himself in a major home remodeling project. He successfully completed the project, performing the carpentry, wiring and plumbing work himself. "I'm not a professional," Rep. Meyer confesses. "I just watched a lot of episodes of This Old House."

Having inched away from his medical practice, Rep. Meyer's sabbatical led to his reinvention as a stay-at-home dad. This in turn provided him with exposure to, and insight on, the state's public education system. Questioning why children in Arizona lacked the educational opportunities of those in Oregon, he became active in school politics. He served as president of a parent teacher organization, became the legislative liaison of the Scottsdale Parent Council, and was elected to the governing board of the Scottsdale School District.

Rep. Meyer was persuaded to run for the House as a write-in candidate in 2008 when one-term Representative Mark DeSimone withdrew his name from the ballot. Having won that race and the general election that followed, he was re-elected to represent District 11 in 2010. District 11 is one of only two legislative districts in the state represented by members of different political parties in the House. (His seatmate is freshman Republican Representative Kate Brophy-McGee.)

Rep. Meyer is one of only two medical doctors in the Arizona Legislature. Although he no longer practices, he remains board-certified, and his colleagues continue to seek his advice. "During flu season, there's a line of legislators outside my door," he quips.

Focused on the issues of education and health care, Rep. Meyer is also a passionate defender of cities and towns. He recognizes that cities have been deeply affected by the economic downturn and that any reduction in state shared revenue would visit further harm upon municipal services, including police and fire protection, libraries, transportation, parks, assistance to the elderly and athletic leagues. He observes that these critical services and amenities are essential to the attraction of business and economic development, which in turn are necessary for the state's recovery.

What does Rep. Meyer like to do when he's not facing down grizzlies, creating policy, dispensing medical advice or rebuilding houses? Adventuring is high on the list, as the entire Snell/Meyer family travels to remote locations to kayak, hike and fish for salmon. The doctors have two children, who are quite literally following in their parents' educational footsteps. 17-year-old Sophie is a senior at Arcadia High School, and son Clay is a freshman at Chaparral. "The boys go to Chaparral and the girls go to Arcadia," Rep. Meyer simply explains. It's no surprise that the kids inherited the smarts of their brainiac parents: Sophie has already been accepted on an early admissions basis to Stanford University.

Rep. Meyer is currently planning his family's next trip to the wilderness. During their last trip to Alaska, they kayaked twenty miles along Pack Creek to a spot where grizzlies congregate. "If you don't do stupid things, you'll be relatively safe," advises Rep. Meyer. By that standard, the doctor's own prognosis is for bright skies and smooth sailing ahead.

