



ISSUE 6 - FEBRUARY 11, 2011

Legislative Overview

Consideration of House and Senate bills continued at a torrid pace during the week of February 7. Monday, February 7 was the last day that bills could be introduced in the House (the corresponding deadline in the Senate was January 31). Legislators have introduced a combined total of 1,334 bills in the two chambers. Of these, the League has identified approximately 200 that have potentially significant impacts on cities and towns. In addition, legislators do have at their disposal a number of parliamentary maneuvers (such as strike-everything amendments) to move their ideas even after formal bill deadlines. The deadline for committee hearings on bills in their house of origin is Friday, February 18, 2011, unless extended by the Speaker of the House or President of the Senate.

No Action on Revenue Sharing Freeze

SB 1221 (urban revenue sharing; distribution freeze) was not heard in the Senate Committee on Finance as scheduled on Thursday, February 10. The committee had a lengthy agenda and acted on a limited number of bills. Chairman Steve Yarbrough (R-Chandler) told committee members that next Thursday's meeting would contain bills that did not get a hearing this week and that members should expect a long session stretching into the evening hours. This bill would freeze urban revenue sharing at its current rate for the next 20 years, a devastating blow to cities and towns in Arizona.

Impact Fees

A sweeping new bill that rewrites many provisions of the statutes relating to development impact fees passed out of the Senate Government Reform Committee on Wednesday, February 9. In testimony, the homebuilders claimed that they support the concept of impact fees, but that Arizona's statutes were hampering the industry. They said that this new bill, SB 1525 (city; town; development fees), is modeled on statutes in Texas, Nevada and New Mexico, which the industry prefers. They also mentioned court decisions that have gone against the industry as reasons for needing to change the law. The League pointed out that, in every year since at least 2005, the homebuilders have introduced bills that change and limit impact fees. Despite many hours of negotiations that have produced consensus changes in the past, the industry always comes back for more. The key features of the bill were summarized in last week's edition of the *Legislative Bulletin*.

Residential Rental Taxes

On Tuesday, February 8, the Arizona Senate voted on SB 1160, a bill requiring that the imposition of any tax increase on residential landlords be approved by a vote of the people. Despite the opposition of the League (which argued that the bill reduces local control, creates special tax treatment for one industry, and diminishes the ability of mayors and councils to approach budgeting in a comprehensive way), the bill passed by a vote of 25-4. The legislation now proceeds to the House of Representatives for consideration.

Commercial Lease Tax Exemption

Despite the League's vocal opposition, legislation to exempt taxes on certain commercial lease transactions between related corporations (SB 1166: municipal tax exemption; commercial lease) passed the Senate on Tuesday, February 8 by a vote of

21-8. Identical legislation (HB 2230) was considered in the House Committee of the Whole on Thursday, February 9. During debate on the bill, Representative Steve Farley (D-Tucson) offered an amendment presented by the League to limit the bill's application to small business and prevent its abuse by large corporations as a tax avoidance device. The amendment failed by voice vote, and the bill passed by a majority vote. HB 2230 now proceeds to the Third Read calendar of the House.

Managed Competition

A bill to require competitive bidding for most city services for cities with populations exceeding 200,000 was approved by the Senate Committee on Government Reform on Wednesday, February 9 by a vote of 5-2. Sponsored by the committee chairman, Sen. Frank Antenori (R-Tucson), SB 1322 (cities; services; managed competition) would require that any city service costing more than \$50,000 be put out for competitive bids. There are a few exceptions for jobs such as police officers and firefighters. The League testified that cities already have the authority to bid out services-and in fact do so for many things-and that state legislation is unnecessary. The bill is supported by Phoenix City Councilman Sal DiCiccio and The Goldwater Institute. They claim it would bring private-sector innovation to local government and save taxpayers millions of dollars. Under the provisions of the bill, city departments could submit bids and the city would not be required to accept the lowest bid for services. The city would, however, be required to post bid documents and to explain to the public why the selection was made. Proponents pointed to Indianapolis, Indiana and Chicago, Illinois as cities in which managed competition has brought efficiencies to city government.

City Personnel and Compensation Limits

On Wednesday, February 9, the Senate Committee on Government Reform passed a pair of bills to impose limits on the number and compensation of municipal personnel in Arizona's two largest cities. SB 1345 (cities; number of employees; compensation) provides that, with specified exceptions, the number of city employees may not exceed the number of filled positions existing at the beginning of fiscal year 2012 for that city. It further provides that, beginning in 2014, the number of employees shall not exceed 0.4 percent of the population of the city *and* that the average compensation of municipal employees shall not exceed the average salary of private sector employees in that community. SB 1347 (cities; compensation baseline) rolls back municipal pay grades to the fiscal year 2007 level. By limiting the bills' application to cities with a population of at least 500,000, they apply only to Tucson and Phoenix.

The League testified against both bills, arguing that the substitution of the Legislature's judgment for that of mayors and councils is inappropriate. Nevertheless, the bills passed out of committee on a 5-1 vote.

Third Party Collection of Municipal Taxes

On Thursday, February 10, the Senate Committee on Finance considered SB 1165 (municipal taxes; auditors and collectors), a bill that was defeated three separate times in the Legislature last year. The measure prohibits cities and towns from using a third party contractor for contingency fee-based auditing and sales tax administration. A current League resolution supports the authority of cities and towns to conduct sales tax administration operations through a third-party contract. Accordingly, the League opposes the bill and has been working with stakeholders to achieve an acceptable outcome.

An amendment to the bill offered by Senator Ron Gould (R-Lake Havasu City) would preserve the third party contract option but prohibit predatory auditing practices. The amendment was defeated by voice vote and the bill passed the committee by a vote of 5-2.

Emergency Response Services Fees

HB 2003 (emergency response services fees; prohibition) prohibits emergency response agencies from charging fees for their services except under limited and extraordinary circumstances. The automobile insurance industry is promoting the legislation, as cities in other states have enacted such fees as a way of offsetting costs.

The bill was heard before the House Committee on Transportation on Thursday, February 10. The League testified against this limitation on municipal authority and noted that no city in the state currently charges such emergency response fees. An amendment offered by Representative Nancy McLain (R-Bullhead City) permits rural communities to recoup some of their costs for emergency response outside their jurisdictional boundaries. The amendment was adopted and the bill passed by a vote of 9-0.

Pension Reform Update

On Monday, February 4, House Speaker Kirk Adams (R-Mesa) introduced HB 2726 (public retirement system; plan design), which makes changes to the State's pension systems. The bill effects sweeping changes to the Public Safety Personnel Retirement System (PSPRS), the Correctional Officer Retirement Plan (CORP), and the Elected Official Retirement Plan (EORP). The proposal would eliminate all current and future pension increases (known as a Permanent Benefit Increases in the Arizona State Retirement System and Cost of Living Adjustments in the PSPRS plans). The measure would also phase in increases to the employee contribution rate in the PSPRS plans until each plan was funded with matching employer-employee contributions. These two major changes are accompanied by a raft of other revisions. HB 2726 has been placed on Tuesday's agenda of the House Employment and Regulatory Affairs Committee.

As was previously reported in the *Legislative Bulletin*, the League has been participating in stakeholder meetings in the Senate to participate in the development of a pension reform package. We have been informed that the product of those discussions will be introduced as a strike-everything amendment to SB 1316, which will be considered in Sen. Yarbrough's Finance Committee on Thursday. We have not seen what the amendment will contain, but its scope will be limited to the systems managed by PSPRS. The League appreciates the time and contributions invested by the employer and employee groups involved, as well as Sen. Yarbrough's willingness to tackle such a difficult task.

Apartment Trash Collection

Representative Amanda Reeve (R-Phoenix), chair of the House Committee on Environment, decided not to hear HB 2104 (trash collection; multifamily housing) during this session of the 50th Legislature. Companion legislation in the Senate (SB 1204), however, is scheduled for a hearing on Monday afternoon in the Senate Committee on Natural Resources and Transportation. We are working with the Arizona Multifamily Housing Association on amendment language and hope to reach a consensus prior to the hearing.

Jobs Package / Economic Development

During the past two weeks, both the House and Senate have considered a number of bills aimed at stimulating business growth in Arizona. The League is supportive of proposals that make Arizona a more inviting environment for business investment. Any attempts to stimulate Arizona's economy, however, must be considered within the larger context of the state's current budget crisis. The immediate and cumulative effect of these bills on local revenues would be significant and place additional strain on already substantially reduced budgets. In a previous edition of the *Legislative Bulletin*, the provisions of SB 1161, SB 1162, SB 1163, and SB 1164 were outlined in detail. A synopsis of measures considered this week follows:

1. *HB 2503 (reduce corporate income tax rate):* Introduced by Rep. Seel (R- Phoenix), this bill, as amended, would lower the corporate income tax rate from 6.968% to 4.9% over five tax years (TY), beginning in TY2013.
2. *HB 2504 (capital gains tax phase-out):* As amended, HB 2504 subtracts the net capital gains from individuals' Arizona gross income over the next three tax years.
3. *HB 2339 (commercial, agricultural property assessment reduction):* The bill, sponsored by Rep. Justin Olson (R-Mesa), lowers the assessment ratio for commercial property from 20% to 15% over TY2012 through TY2016, and lowers the assessment ratio for agricultural property from 16% to 14% from TY2012 through TY2015.

Firearms

On Monday, February 7, SB 1201 (firearms omnibus) was heard in the Senate Committee on Judiciary and passed by a vote of 6-2. Several sections were removed by an adopted amendment, but bill still restricts a municipality's authority to address firearms issues within its jurisdictional boundaries. The committee removed language providing for the award of a municipal official's vehicle for violation of an individual's gun rights. The bill, however, still includes problematic provisions regarding multiple gun check points and secured storage requirements. It now awaits action by the Rules committee.

Money from Moving Violations

SB 1353 (moving violations) adds an additional charge to certain driving offenses in order to aid local governments and recoup losses from termination of the state photo enforcement system. Under the legislation, \$10 will be assessed for specified offenses. Half of the revenue generated by these fees would be deposited into an equipment replacement fund

within the jurisdiction in which the violation occurred and the other half would be deposited with the State. The bill passed unanimously in the Senate Committee on Government Reform Committee on Wednesday, February 9.

Subdivision Lot Splits

On February 10, the House Committee of the Whole passed by voice HB 2005 (subdivisions; acting in concert). As passed, the bill includes language that permits, but does not require, municipalities to waive preliminary plat requirements or expedite processing for subdivisions of 10 or fewer lots. Likewise, it permits (but does not require) municipalities to reduce infrastructure standards or requirements proportional to the impact of smaller subdivisions. The bill will next proceed to Third Read in the House.

Spice

HB 2167 (definition of dangerous drugs; synthetic), legislation to outlaw a synthetic type of marijuana, passed the House by a unanimous vote last week. Its Senate counterpart, SB 1202, likewise passed the Senate Committee of the Whole earlier in the week. Because the legislation as passed is identical in both chambers, it will proceed directly to the Governor for approval or veto. This will likely occur within days.

Maintenance of the Model City Tax Code

The League has maintained the official copy of the Model City Tax Code (MCTC) ever since the latter's inception in 1988. The official copy of the MCTC is maintained on the League's website. HB 2336 (city tax code; official copy) transfers authority for maintenance of the MCTC to the Department of Revenue. The sponsor of this bill argues that, because the League is a private entity, it cannot be held responsible for the content and accuracy of the MCTC. The League believes that this is both unnecessary (especially because the proponents cite no specific evidence of errors or omissions in the MCTC) and duplicative. The League is officially neutral on this bill, largely because it plans to continue to maintain the MCTC website for the convenience of its members. The legislation passed out of the House Ways and Means Committee unanimously.

Local Transparency

On Thursday, February 10, the House passed HB 2422 (local government budgeting; posting; publication) out of Committee of the Whole. The bill would require local governments to post tentative and adopted budgets on their websites within given timeframes and retain that information for five years. The sponsor of the bill, Rep. Kimberly Yee (R-Phoenix), sponsored a floor amendment to address technical concerns that the League had raised regarding implementation of the legislation. The amendment was adopted and the bill will now move to Third Read. The League is very appreciative of the sponsor's willingness to work with us on this issue.

Hunting within City Limits

As introduced, SB 1334 (hunting within city limits) permits hunting within city limits under certain circumstances. An amendment adopted by the Senate Committee on Natural Resources and Transportation, however, struck the provision prohibiting municipalities from enacting rules or ordinances to prohibit such hunting. The bill as amended does require any such hunting, if approved by a city or town, to abide by state Game and Fish Commission rules. The bill passed committee by a vote of 4-2.

Consumer Fireworks

SB 1388 (consumer fireworks; regulation), introduced by Senator Steve Pierce (R-Prescott), vice-chair of the Senate Committee on Natural Resources and Transportation, modifies a governing body's authority to regulate the use and sale of *permissible consumer fireworks* by municipalities and counties. The bill adds certain authority for an incorporated municipality to regulate the *sale* of permissible consumer fireworks within its corporate limits. Currently, incorporated municipalities may only regulate the *use* of permissible consumer fireworks. The bill passed in committee by a vote of 6-0 on Monday, February 7.

Replacing Private Land

Two land disposition bills affecting municipalities were heard by legislative committees this week. HB 2485 (government

land; replacing private land) sponsored by Representative David Gowan (R-Sierra Vista) was before the House Energy and Natural Resources Committee, and SB 1319 (government land; restoring private land) sponsored by Senator Gail Griffin (R-Hereford) was considered by her Committee on Water, Land Use and Rural Development. These two bills require the State Land Commissioner to dispose of public land any time the subject landholder purchases additional private land. The companion bill in the House (HB 2485) provides that government entities may opt to make in-lieu payments to the affected taxing jurisdictions rather than requiring disposal of the land.

HB 2485 was discussed and held on February 7. SB 1319 was likewise held on February 9. Amendments have been prepared that would exempt special taxing districts from the bill. The League is opposed to the measures and the proposed amendments on the basis that the legislation would severely inhibit the ability of municipal government to provide adequate infrastructure without effectively addressing the issue at hand (the large amount of publicly held land). HB 2485 is on the February 14 agenda of the House Committee on Energy and Natural Resources.

Ambiguity

On Wednesday, February 9, the House Committee on Government passed HB 2501 (rules; laws; ordinances; interpretation). This bill provides that that if any rule, law or ordinance adopted by a state agency, local government or political subdivision is ambiguous and challenged, it must be interpreted in favor of the challenger. An adopted amendment applies the bill only to rules, laws and ordinances that relate to permit approval or disapproval, license approval or disapproval and zoning approval or disapproval. The League opposes this measure to the extent it is nebulous and grants too great an advantage for challengers.

At-Will Law Enforcement Officers

On Wednesday, February 9, the Senate Committee on Public Safety and Human Services heard SB 1233 (peace officers; at will employment). The bill clarifies that legislation enacted last year prohibiting the discipline of law enforcement officers without just cause does not apply to at-will employees, such as police chiefs. The League registered its support of the bill, which passed in committee by a vote of 4-0.

Law Enforcement and Discipline

On Wednesday, February 9, the Senate Committee on Public Safety and Human Services passed SB 1235 (law enforcement officers; disciplinary procedures). As amended, the bill makes a variety of changes designed to assist officers who are subject to discipline for alleged violations of agency policy or law. The bill provides such officers an opportunity to learn how discipline was applied to similarly situated officers (while protecting the identity of those other officers). It also provides for the assignment of alternate hearing officers through interagency agreements if jurisdictions are too small to conduct fair hearings.

City Council Vacancies

HB 1318, (city council; vacancy; appointment; election) requires non-charter cities and towns to fill council vacancies through elections instead of appointment if there are more than 30 days remaining before candidate nomination petitions are due for the next election. The League is currently opposed to this bill (which applies to cities with four-year terms for their elected officials) because of potential costs and challenges associated with candidate recruitment in smaller communities. The bill passed unanimously out of the Senate Committee on Government Reform. Senator Gail Griffin (R-Hereford), a prime sponsor the bill, has pledged to work with the League to address continuing concerns.

Administrative Rulemaking

SB 1339 (administrative rules; repeal; legislative action) passed out of the Senate Government Reform Committee on Wednesday. The measure, introduced by Sen. Frank Antenori (R-Tucson), prohibits state agencies from enacting rules that impact the private sector, requiring instead that such provisions be enacted through statute. Effective January 1, 2013, the bill would repeal any agency rule that has an impact on the private sector. The League is concerned that enactment of the bill could result in indirect negative impacts on cities and towns. The League will continue to monitor the legislation as it moves through the process.

Liquor Omnibus

A striker amendment (liquor omnibus) to SB 1460 (liquor licensees; records) was heard on Wednesday, February 9 by the Senate Committee on Economic Development and Jobs Creation. Four provisions of the legislation directly affect cities and towns:

- The Liquor Department is no longer required to notify municipalities of a change in control of a license;
- Cities and towns cannot charge a fee for a sampling privilege license;
- Municipalities cannot enact ordinances that are in conflict with statute or rule on licensing; and
- Cities and towns cannot raise fees on liquor establishments that are above fees raised on any other business.

The League is in discussions with liquor industry representatives to address these issues of concern. The bill passed in committee by a vote of 4-2.

Fire Sprinklers

HB 2153 (municipalities; counties; fire sprinklers; code) prohibits a city, town or county from adopting an ordinance that mandates the installation of fire sprinklers in single family homes. Fire sprinkler ordinances adopted prior to December 31, 2009 are grandfathered. Despite spirited opposition, the bill passed the Committee of the Whole in the House earlier this week. The League and several firefighter groups registered their opposition to the bill, based on local control and safety arguments. The bill now proceeds to the Third Read calendar of the House.

Class Nine Property Tax

For the second week in a row, the Senate Finance committee held SB 1281 (property tax; class nine). The bill, sponsored by Senator Steve Yarbrough (R-Chandler), was discussed at length, but ultimately held for consideration next week. The bill changes the definition of property that would fall into the class nine category and is intended to ensure that, in light of a recent Court of Appeals decision, certain properties remain in class one (commercial property) rather than be reclassified as class nine (certain improvements on public property). The assessment ratio on those properties would decrease from 20% to 1%. Although the legislation would conceivably prevent a reduction in property tax revenue, it could also eliminate a potential economic incentive for attracting businesses. The League has not expressed a formal position on the bill, but will continue to monitor its progress through the legislative process.

Legislator Profile - Senator Frank Antenori

If one had to come up with a one-word description for the fast-talking senator representing Arizona's 30th legislative district, that word might well be "fearless." Where others might take a more cautious approach in their first full Senate term, Senator Antenori exhibits no timidity, and isn't afraid to speak candidly with party leadership and his southern Arizona constituents.

Senator Frank Antenori operates in one gear: driven. He is a man who came to the Legislature to get things done and isn't content to sit in idle or wait his turn. "I didn't come here to just push a button," he explains. As chair of the Senate Committee on Government Reform, he has shepherded a raft of bills through his committee during the first session of the 50th Legislature. Prolific and energetic, he is the prime sponsor of 80 bills and resolutions and a cosponsor of scores more.



Senator Antenori, a proud Italian who converses eloquently with his hands, needed all the courage he could marshal on April 6, 2003, when he served as a Special Forces sergeant in Iraq. Leading an elite unit of 24 troops, Sgt. Antenori happened upon a massive convoy of Iraqi troops and armor traversing Iraq's Highway 2, a vital artery for the movement of military personnel, armaments and materiel. Seriously outmanned and outgunned, the Americans took the fight to the enemy, and in the course of a fierce 3½-hour fire fight, obliterated a passel of tanks, armored personnel carriers and Iraqi troops. On the American side, two troops were wounded and none were killed. Listening to Senator Antenori recall the events of that day is like hearing the audio version of a gripping war movie.

Senator Antenori has, in fact, authored a book about the engagement at Debecka Pass in northern Iraq. Entitled *Roughneck Nine-One* (the call sign of his operational team), the book evolved from the detailed after-action report that Senator

Antenori authored for top brass at the Pentagon.

Sergeant Antenori's reinvention as Senator Antenori began when he broke part of his foot following a routine parachute jump. Knowing that he wanted to leave the military on a high note and not devolve into "a fat desk sergeant," the future Arizonan packed his gear and retired. He was fully prepared to take a job as director of emergency services training in Luzerne County in his native Pennsylvania. All that changed, however, when he opened a letter from Raytheon offering a job in Tucson. He and his wife started packing before he could finish reading the letter.

Persuaded to engage in another form of public service, Senator Antenori ran for the U.S. House of Representatives from Arizona's eighth congressional district in 2006. Although he lost in the primary, he bounced back to win a seat in the Arizona House of Representatives in 2008. In March of 2010, he was appointed by the Pima County Board of Supervisors (on a 4-1 vote) to fill the vacancy created by Senator Jonathan Paton's resignation from the Senate to run for Congress.

Senator Antenori has an especial affection for the smaller communities in his legislative district, and believes that they should be largely left to manage their own affairs - so long as they refrain from building up bureaucracies and infringing upon individual liberty. And if they don't, Sergeant Antenori won't be afraid to tell them what he thinks.

Legislative Bulletin is published by the League of Arizona Cities and Towns.
Forward your comments or suggestions to league@azleague.org.