



LEGISLATIVE BULLETIN

Issue 6 – February 15, 2019

Legislative Update

Today is day 33 of the legislative session, marking the end of a very busy week at the Capitol. Next week will be even busier with committee agendas packed with numerous bills to get a hearing prior to the deadline. Floor action in both chambers is expected to increase substantially in the coming weeks. Legislators will spend many hours debating, amending, and voting on bills before transmitting to the opposite chamber for further consideration.

League staff will be at the Capitol for most of next week testifying in committees and meeting with legislators. We may be sending out Action Alerts calling upon our members to reach out their elected officials to inform them of the impact certain measures will have on cities and towns. Many issues of priority will be discussed in next week's committees, including regulation and taxation of peer-to-peer car sharing, distracted driving, short-term rentals, construction sales tax, taxation of remote retail sales, and food truck regulations, municipal grocery tax exemption, and the Highway User Revenue Fund, just to name a few.

CALL TO ACTION - Digital Goods

During the summer and fall of 2017, the legislature convened the Ad Hoc Joint Committee on the Tax Treatment of Digital Goods and Services. The League, along with the Arizona Tax Research Association, the Arizona Department of Revenue, and other tax experts participated in the committee. The stated objectives by the co-chairs was to find a revenue neutral way to provide clarity, uniformity, and accountability to the business community on how to handle the taxability of products delivered digitally.

While the League was originally encouraged by the stated objectives of the policymakers on the committee, the legislation proposed in 2018 reflected 8 new exemptions from tax and a \$48M annual hit to cities and towns.

The League successfully defeated both digital goods bills last session but this year it has returned in a new form. The 2019 bill, SB 1460, sponsored by Sen. Michelle Ugenti-Rita (R-Scottsdale), makes certain digital products taxable while exempting from tax products that are received over the web or through cloud computing. The League opposes SB 1460 because we believe the taxability of an item should not change based simply upon how that product is delivered to the consumer, regardless if that delivery is via the cloud.

While it is incredibly difficult to calculate the revenue loss of this bill, the League is confident there will be a loss, something Sen. Ugenti-Rita acknowledged in the committee hearing. Many cloud computing companies are currently paying taxes because the Department of Revenue recognizes these products as being in the category of rental of tangible personal property. Additionally, as more products convert from a physical form to the cloud, the potential revenue losses for cities and towns – as well as the state, counties, and Proposition 301 – will only get bigger in future years.

The bill passed out of the Senate Finance committee on a strict party line vote, 6-4. The League would request a call to action that you reach out to your senators, particularly Senator Sean Bowie (D-Phoenix), Senator Heather Carter (R-Phoenix), Senator Frank Pratt (R-Casa Grande), Senator Tyler Pace (R-Mesa), Senator Rick Gray (R-Peoria), Senator Sine Kerr (R-Buckeye), Senator David Gowan (R-Sierra Vista), Senator Paul Boyer (R-Phoenix), and Senator Sonny Borrelli (R-Lake Havasu City). SB 1460 has the potential of going through Rules, Caucus, and Committee of the Whole next week.

Defensive Driving School

This week HB 2005 moving violations; defensive driving school, sponsored by Representative John Kavanagh (R-Fountain Hills), advanced out of the House Public Safety committee on a 5-2 vote. The bill would allow a driver cited for a moving violation to opt for defensive driving school *after* being found responsible by the court. Currently, a driver must choose between completing defensive driving school seven days before their court date (which results in a dismissal of the ticket) or going to court. This is a fair trade off and works the same as all other pre-trial diversion programs. These programs save court resources while offering the option of a lesser penalty for the accused.

The change in HB 2005 upends the current process without furthering public safety or the principles of fair justice. The biggest concern is that it will lead to more drivers choosing to go to court in the hopes of having the ticket dismissed, with the knowledge that they can still choose defensive driving school to avoid getting points on their

license. This increase in traffic cases would add strain to both our court and police resources, as officers are required to show for court to substantiate their tickets. As you are aware, police time is a precious resource and not something for drivers to try to “game” by seeing if the officer will show up for court. The bill also adds more complexity and cost to the court data sharing system, without providing any real benefit to the public, except to those with the extra money to pay the cost of a traffic ticket and defensive driving school.

Representatives Anthony Kern (R-Glendale) and Noel Campbell (R-Prescott) expressed concerns with the bill because of its potential impact on police and the courts but voted to let the bill move out of committee. The League will continue to lobby legislators to oppose the bill but we ask that you let your delegations know that you oppose the bill.

Municipal Judges

Virtually all cities and towns in Arizona with a municipal court appoint their municipal judge and have the authority to remove or retain the judge based on their performance. While they are evaluated at fixed intervals by the council, they are mostly overseen by the Administrative Office of the Courts (a state agency under the purview of the Arizona Supreme Court). The evaluations done by councils are based on how the judge has performed in following proper procedure and managing the courts resources. Some have argued, without evidence, that this can lead to political pressure on judges to collect more fines for the city. What these proponents fail to mention is that courts use much more in general fund revenue than they collect in fines but, like police and fire service, are an absolute necessity that must be provided regardless of the cost. Court fines are in no way tied to court funding and the penalties imposed by municipal judges are meant to punish/correct bad behavior that endangers the public, not fund the court. In fact, some communities use volunteer judges to reduce court costs without cutting service. These judges provide a vital public service for free.

HB 2043 municipal judges; terms; retention election, sponsored by Representative John Kavanagh (R-Fountain Hills), would require municipal judges to stand for a retention election every four years, instead of simply being reappointed by the council. The proponents of the bill argue that most state judges stand for retention elections and that municipal judges should also. However, state judges are covered by the Judicial Performance Review Commission, which uses considerable time and resources to provide voters with information on these judges' performance. Municipal judges are not covered by the commission, so the bill would ask voters to decide whether a judge has done well or not without any objective information.

In addition to forcing judges to participate in the political process (anathema to most judges) this bill would in many cases ask a person that receives no compensation to spend time and money to get reelected to provide a public service for free. Additionally, many jurisdictions have consolidated courts, where a single judge may serve as both the municipal judge and the Justice of the Peace. These judges would have to stand for two elections to continue serving in their current roles.

Finally, the length of the ballot has often been raised as an issue by voters. With some communities having up to eight magistrates the bill could significantly increase the length of the ballot, adding costs for local elections. In fact, in places like Maricopa County it could extend the ballot onto a second page. This bill would make the ballot longer, for an office that most cities have chosen not to make political, based on no information on which the voter can decide. The League requests those communities with municipal courts that would be negatively affected by this bill to contact their legislators and urge opposition to HB 2043.

Photo Radar

HB 2587, sponsored by Representative John Kavanagh (R-Fountain Hills), would have required cities and towns with photo radar enforcement to conduct speed studies every two years under very restrictive, and unrealistic, circumstances. Fortunately, the Town of Paradise Valley, the City of Mesa and the League provided convincing testimony that led to the committee voting the bill down 6 to 1. If they represent your district, please thank Representatives Richard Andrade (D-Glendale), Leo Biasiucci (R-Lake Havasu City), Noel Campbell (R-Prescott), Rosanna Gabaldon (D-Sahuarita), Arlando Teller (D-Chinle) and Bob Thorpe (R-Flagstaff) for voting no.

State Liquor Board

Cities and towns regularly make recommendations to the State Liquor Board about whether a liquor license applicant, or the location where they plan to operate, would serve the best interests of the community. The State Liquor Board, composed of seven members (two of which have a financial interest in the liquor industry), regularly ignores such recommendations, even when they raise serious concerns. Cities and towns are not generally opposed to liquor licensees, as their businesses (bars, restaurants, clubs) can generate revenue, boost tourism and add to the quality of life of our residents. However, some liquor establishments also come with the potential for trouble. Strip clubs have had problems with violence, prostitution, and drugs.

To ensure that licensees are acting responsibly, it is important that the State Liquor Board fully vets all applications and reflects the full range of interests and perspectives of the community. Currently the board has two industry representatives but only one person representing neighborhoods. After discussing the issue in the League's Public Safety, Military Affairs and the Courts policy committee, a resolution was forwarded and approved by the full Resolutions Committee at the Annual Conference to add more representation on the board for cities and towns. As a result, Representative Anthony Kern (R-Glendale) has sponsored HB 2473. The bill passed out of the House Commerce committee this week on a unanimous vote with no one signing in or speaking in opposition. It will now move to the Rules committee on its way to a floor vote. The League supports this bill and thanks Rep. Kern for his sponsorship.

Improper Use of Public Resources

This week the House Government and Elections committees heard HB2026 public resources; influencing elections; penalties, sponsored by Rep. John Kavanagh (R-Fountain Hills). Among other provisions, it would establish a right to action for any resident to initiate a lawsuit in superior court against a city or town believed to be in violation of state law prohibiting use of public resources to influence an election.

The League testified in opposition to this legislation since there are already existing processes for the public to file complaints if they believe public resources were improperly used. The county attorney and the attorney general have the resources to investigate these claims to see if there is enough evidence the law has been violated before filing an action in court. HB2026 allows for this process to be circumvented, which may lead to lawsuits being filed without cause.

Please reach out to your legislators and request they oppose this unnecessary legislation.

Economic Development

SB 1147, sponsored by Senator Vince Leach (R-Tucson), requires the governing body of a city or town to appoint an independent appraiser to determine the valuation of any land or building sold for economic development activities if the land or building is valued at more than \$50,000. The bill also requires that the governing body make the valuation report available to the public for 4 weeks before completing the agreement for sale or lease and requires the governing body to provide all details of the impending transaction to the public in advance of the economic development agreement. Finally, the bill indicates that economic development is something strictly of statewide concern.

The League opposed SB 1147 because we believe it would be an impediment to economic development. Cities and towns often engage in transactions for economic development that take many factors into consideration including the value of the land or building, the development that will be created in its place, the industry the development might attract, and the overall public benefit. Many of these conversations are had at the council level, often in executive session.

The bill passed Senate Government on a party like vote, 4-3. However, Senator Pratt and Senator Borrelli expressed significant concerns with the bill. Please encourage your senators, including Mr. Borrelli and Mr. Pratt to oppose SB 1147 as bad for economic development.

Legislative Bill Monitoring

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