



ISSUE 12 - MARCH 25, 2011

## Legislative Overview

Today is the seventy-fifth day of the first session of the 50th Arizona Legislature. Accordingly, if the House and Senate comply with the 100-day session deadline established by rule, then the session is three-fourths complete. The 100th day of session would be April 19th.

This past week provided the final opportunity for committees to conduct hearings on pending legislation. (The appropriations committees constitute an exception, as it is standard practice for Appropriations to continue to hear bills after the regular committee deadline.) Accordingly, the universe of bills with which the League is actively engaged has narrowed somewhat. Still, an unusual number of bills detrimental to the interests of Arizona municipalities remain in play. On Tuesday, for example, the House Government Committee heard seven bills that the League has actively opposed this session. Of the seven, four were amended to accommodate League concerns, but three were approved in their objectionable form and continue to move through the process.

## Budget

Three-way negotiations regarding the FY 2011-12 state budget are reported to be underway between the Office of the Governor and House and Senate leadership. Governor Brewer's budget proposal, introduced in January, was the starting point for Senate and House deliberations this year, but the plan that passed the Senate contains substantially deeper cuts and negatively impacts cities and towns by an additional \$26 million.

Some members of the League Executive Committee met with Governor Brewer and her staff on Monday and reiterated the League's support for her budget proposal. They thanked her for her outspoken protection of the shared revenue system, and pointed out that cities and towns have been her reliable allies on items such as Proposition 100, a ballot measure to enact a temporary increase in the state sales tax. Beyond merely supporting this controversial measure, cities and towns voluntarily sacrificed their ordinary share of the supplemental sales tax collections.

House leadership met throughout the week with small groups of Representatives to discuss the competing budget proposals. Because legislative leadership intends to complete the session within one-hundred days of its commencement, it is possible that a compromise budget proposal will emerge sometime in the next two weeks.

## Impact Fees

On Tuesday, the House Government Committee considered SB 1525 (city; town; development fees). A city-supported amendment to the bill was offered by Representative Steve Urie (R-Gilbert), but it was not adopted by the committee. Instead, the committee adopted an amendment authored by the homebuilders and offered by Representative Tom Forese (R-Gilbert). That amendment makes minor and cosmetic changes to the bill, improving it only slightly. Even with the amendment, SB 1525 guts the current impact fee system. Among other things, the legislation requires municipalities to completely redo their Infrastructure Improvement Plans and development fee studies in an unreasonably short time frame, potentially costing millions of dollars. The bill has the effect of shifting the infrastructure costs of new growth from the

impact fee system to existing residents.

The League will continue its good-faith participation in such stakeholder meetings as are scheduled. Many legislators, however, appear to be upset that the homebuilders continue their inexorable mission to pass a sweeping rewrite of impact fee laws this session, particularly because more than a year remains on the current statutory impact fee rate freeze. The homebuilder-drafted amendment adopted by the House Government Committee does not make the bill acceptable to cities and towns-and we ask you to tell your House members to oppose the bill. It is unfair to taxpayers and is not beneficial to the economy.

## Managed Competition

On March 22, the Senate Government Committee heard and approved SB 1322 (managed competition; city services) by a vote of 5-4. The League delivered testimony in strong opposition to this legislation, which mandates comprehensive private competition for city services. The bill provides that, with certain exceptions, all city services valued in excess of \$75,000 must be subject to private sector competition. By establishing a population threshold of 500,000, the measure currently applies only to Tucson and Phoenix. In testimony before the committee, however, the bill's principal sponsor testified that he hopes the legislation can be applied to other cities in the future. The legislation now moves to the House Rules Committee and party caucuses. All cities and towns, regardless of size, are encouraged to ask their Representatives to oppose SB 1322 as a massive and improper interference in matters of purely local concern.

## Residential Rental Taxes

SB 1160 (city sales tax; residential rental), requiring that the imposition of any tax increase on residential landlords be approved by a vote of the people, was approved by the House Committee of the Whole without discussion on March 23. The bill, which previously passed the Senate, now proceeds to third reading in the House. The League remains opposed and requests that you urge your Representatives to vote "no" on final passage.

## Commercial Lease Tax Exemption

SB 1166 (municipal tax exemption; commercial lease), legislation to exempt taxes on certain commercial lease transactions between related corporations, passed the House Ways and Means Committee on Monday, March 21 by a vote of 5-3. The League has unsuccessfully attempted to work with proponents of the legislation to limit the scope of the measure, which was previously passed by the Senate. Accordingly, the League remains opposed.

Identical legislation, HB 2230, is scheduled to be heard in the Senate Appropriations Committee next week. The measure, which previously passed the House, will be used as a strike-everything vehicle for legislation unrelated to municipal governance.

## Deannexation and Incorporation

On Tuesday, the House Government Committee passed SB 1333 (cities; towns; deannexation; incorporation) by a vote of 7-2. Pursuant to efforts of the League, provisions of the bill creating a statewide process for deannexation were removed by amendment. The bill was also amended to clarify a technical issue regarding large incorporations in Pima County. With these changes, the League is neutral on the bill and thanks Senator Frank Antenori (R- Tucson) for working with us to address our concerns and Representative Steve Urie (R- Gilbert) for sponsoring the amendments. The League has committed to work with Sen. Antenori on an ongoing basis to address issues pertaining to incorporation and deannexation.

## Apartment Trash Collection

On Tuesday, the Senate majority and minority caucused SB 1204 (trash collection; multifamily housing). The legislation, however, was pulled from the consent calendar, as stakeholders continue to meet to develop compromise language rendering the bill acceptable to interested parties. The legislation mandates that private waste haulers be given the opportunity to contract for the removal of trash from apartment complexes. The League is confident that an agreement can be reached in short order.

## Consumer Fireworks

On March 22, the House Government Committee passed SB 1379 (now: consumer fireworks; regulation). This bill limits the extent to which cities and towns may regulate the use of fireworks. Among other things, it mandates that cities may not prohibit the use of consumer fireworks during the periods of June 15 to July 5 and December 12 to January 2. However, the bill would prohibit the sale of fireworks in a county with a population of less than 500,000 people and containing between 2.5 and 5 million acres of federal land. The Committee also passed an amendment offered by the chair, Representative Judy Burges (R-Skull Valley), prohibiting the sale of consumer fireworks in an area that is zoned for residential use. The bill now proceeds to House Rules.

## Emergency Response Fee Prohibition

On Thursday, the Senate Committee of the Whole amended and passed HB 2003 (emergency response services fee; prohibition). With certain exceptions, this bill precludes political subdivisions from charging for the recovery of costs incurred for responding to motor vehicle accidents.

The League successfully promoted the amendment that was adopted by the Committee of the Whole. That amendment ensures that the bill's prohibition does not apply to services rendered under intergovernmental agreements between cities and towns. Pursuant to a previous amendment, cities and towns in counties with populations of less than one million are also exempt from the provisions of the legislation. HB 2003 now proceeds to third reading in the Senate.

## Regulatory Reform

This week the Legislature considered a trio of bills aimed at enacting regulatory reform. On Wednesday, HB 2501 (rules; laws; ordinances; interpretation) was approved by the Senate Government Reform Committee on a vote of 4-1. The bill requires that any rule, ordinance or law related to permitting, licensing or zoning that is ambiguous be interpreted in favor of the party challenging its clarity. The League strongly opposes the measure.

On Tuesday, the House Committee on Government passed SB 1286 (counties; cities; permits; time limits), which establishes a 60-day time limit for local action on permit applications. The bill, opposed by the League, was amended to provide for applicant-requested extensions and to require local governments to disclose to unsuccessful applicants information regarding approved applications.

In the same hearing, SB 1598 (cities; counties; regulatory review) was approved with a consensus amendment developed through extensive stakeholder negotiations. The measure applies the Regulatory Bill of Rights (currently governing state agencies) to local government; it also makes changes to the general plan statutes regarding aggregate resources. SB 1598 represents a more manageable approach to regulatory reform than alternative measures moving through the legislative process. The League is neutral on the bill and thanks the sponsor, Senator Lori Klein (R- Anthem), for her cooperation and work on the compromise amendment.

## Photo Radar

On Wednesday, the House Appropriations Committee adopted a strike-everything amendment to SB 1398 (photo enforcement; DPS equipment fund). The amendment contains language from SB 1353 (moving violations; assessment; enforcement; equipment), which eliminates the state photo radar enforcement system and imposes a supplemental \$13 assessment on every traffic fine for specified purposes. The amendment also contains modified provisions of SB 1354 (photo enforcement; violator identification; response), which provides that persons receiving a photo radar notice of violation are required to neither identify the driver in the photo nor respond to the complaint.

The strike-everything amendment was further amended in committee to remove the SB 1354 provisions - with the understanding that certain elements of SB 1354 regarding notice of violations will be reworked to address the concerns of the League and others. The League will participate in a stakeholder process to negotiate compromise language.

On Thursday, the House Transportation Committee considered a strike-everything amendment to SB 1354 to eliminate local authority to use photo radar for speed enforcement. A number of witnesses appeared before the committee to oppose the

amendment. In addition to the League, opponents included representatives from the photo radar industry, a traffic school instructor and the Safer Arizona Roads Alliance. The bill ultimately failed on a vote of 3-5. The League gratefully acknowledges Representatives Karen Fann (R- Prescott) and Nancy McLain (R- Bullhead City) for highlighting the importance of local control when casting their "nay" votes.

## Utility Charges

Two bills related to delinquent utility charges went in different directions this week. SB 1157 (now: wastewater and garbage charges) became a vehicle for a strike-everything amendment regarding candidate qualifications (*n.b.* the striker does not affect municipalities). In contrast, HB 2193 (municipal water charges; responsibility) passed the Senate Water, Land Use and Rural Development Committee. This bill prevents municipalities from seeking recovery of utility charges from anyone (e.g. a property owner) other than an individual who has contracted for the service (e.g. a tenant) and has resided at the service address. The League is working on an amendment that would, at a minimum, remove wastewater charges from the bill, because the termination of sewer service is far more difficult and costly than that of water service.

## Liquor

SB 1460 (now: liquor omnibus) passed the House Commerce Committee on March 23. The bill was previously amended to permit municipalities and counties to protest the transfer of an existing liquor license to a new business owner, a provision that was crucial to the League. The League continues to work with bill proponents to further improve the measure.

## Firearms

The House Judiciary Committee heard and passed HB 1201 (firearms omnibus) on Thursday. Although a number of unacceptable provisions have been removed from the bill, it still requires public entities that ban firearms from their buildings to provide metal detectors, lock boxes for storage and armed personnel at their entrances. The committee adopted an amendment offered by Representative Doris Goodale (R-Kingman) to exclude public buildings that house judicial departments, law enforcement and prosecutorial agencies from this requirement. Other public buildings, however, remain affected, and compliance would be extremely expensive for many cities. We will continue to oppose this bill unless and until our concerns are satisfactorily addressed.

## Pension Reform

This week the House Employment and Regulatory Affairs Committee approved a heavily amended version of SB 1609 (retirement systems; plans; plan design). The bill as amended represents a compromise between Speaker of the House Kirk Adams (R-Mesa) and Senator Steve Yarbrough (R-Chandler). The League supports this comprehensive pension reform bill and is committed to helping enact the meaningful and necessary reforms embodied in the legislation. [Point your browser here](#) for a chart illustrating the pension reform changes effected by the bill.

## Legislator Profile

Watch this space for a profile of Representative Katie Hobbs (D-Phoenix) in next week's *Legislative Bulletin*.

*Legislative Bulletin* is published by the League of Arizona Cities and Towns.

Forward your comments or suggestions to [league@azleague.org](mailto:league@azleague.org).