NOTICE OF A REGULAR MEETING OF THE
LEAGUE OF ARIZONA CITIES & TOWNS
EXECUTIVE COMMITTEE

Wednesday, August 22, 2018 at 11:45 a.m.
The Phoenician Resort, Camelback H
6000 E Camelback Rd, Scottsdale, AZ 85251

Notice is hereby given to the members of the Executive Committee and to the general public that the Executive Committee will hold a meeting open to the public on August 22, 2018 at 11:45 a.m. Members of the Executive Committee will attend either in person or by telephone conference call. The Executive Committee may vote to recess the meeting and move into Executive Session on any item on this agenda. Upon completion of Executive Session, the Executive Committee may resume the meeting, open to the public, to address the remaining items on the agenda. A copy of the agenda is available at the League office building in Suite 200 or on the League website at www.azleague.org.

Agenda

All items on this agenda are scheduled for discussion and possible action, unless otherwise noted.

1. Review and Adoption of Minutes
2. Legislative Policy Overview and Update
3. Discussion of Wayfair Decision and Next Steps in Digital Goods Legislation
4. League Position on Proposition 126, "The Protect Arizona Taxpayers Act"
5. Latest SB 1487 Claims and Update
6. Report from Executive Director
7. Resolutions of Appreciation
8. Executive Session pursuant to A.R.S. 38-431.03(A)(1) - Executive Director Performance Evaluation

Additional informational materials are included in the agenda packet but are not part of the agenda.
Item #1  Review and Adoption of Minutes

Summary: Minutes of the previous meeting are enclosed for your review and approval.

Responsible Person: President Jay Tibshraeny

Attachments: May 11, 2018 Executive Committee Minutes

Action Requested: Approval
MINUTES

LEAGUE OF ARIZONA CITIES AND TOWNS

EXECUTIVE COMMITTEE MEETING

Friday, May 11, 2018 at 10:00 a.m.
League of Arizona Cities and Towns
1820 W. Washington St.
Phoenix, Arizona

MEMBERS

President
Jay Tibshraeny, Mayor, Chandler
Thomas L. Schoaf, Mayor, Litchfield Park
Ed Honea, Mayor, Marana
John Giles, Mayor, Mesa

Vice President
Mark Nexsen, Mayor, Lake Havasu City*
Satish Hiremath, Mayor, Oro Valley*
Cathy Carlat, Mayor, Peoria

Treasurer
Christian Price, Mayor, Maricopa
Daniel Valenzuela, Councilmember, Phoenix*
Gail Barney, Mayor, Queen Creek+
W.J. "Jim" Lane, Mayor, Scottsdale

Doug Von Gausig, Mayor, Clarkdale*
Daryl Seymore, Mayor, Show Low

Lana Mook, Mayor, El Mirage*
Rick Mueller, Mayor, Sierra Vista

Coral Evans, Mayor, Flagstaff
Sharon Wolcott, Mayor, Surprise*

Linda Kavanagh, Mayor, Fountain Hills
Mark Mitchell, Mayor, Tempe

Jenn Daniels, Mayor, Gilbert
Bob Rivera, Mayor, Thatcher

Jerry Weiers, Mayor, Glendale
Jonathan Rothschild, Mayor, Tucson*

Georgia Lord, Mayor, Goodyear
Douglas Nicholls, Mayor, Yuma*

*Not in Attendance
+ Attended via phone

President Jay Tibshraeny called the meeting to order at 10:03 a.m. He invited Mayor Price to lead the Executive Committee in the Pledge of Allegiance.

President Tibshraeny presented items 1 and 2 under a consent agenda.

1. REVIEW AND ADOPTION OF MINUTES
2. BMO HARRIS P-CARD RESLUTION

Mayor Bob Rivera moved to approve the consent agenda; Mayor Rick Mueller seconded the motion and it carried unanimously.
3. LEGISLATIVE POLICY DISCUSSION AND UPDATE

President Jay Tibshraeny welcomed League Executive Director Ken Strobeck who informed the Executive Committee that the second regular session of the 53rd Arizona Legislature adjourned Sine Die on May 4 at a little after midnight. He then welcomed League Legislative Director Patrice Kraus to provide a policy discussion update.

Legislative Director Patrice Kraus thanked staff, including League contract lobbyists, public relations as well as intergovs, the Executive Committee and those who participated in the Monday morning legislative calls.

Ms. Kraus informed the Committee the general effective date will be August 3 and that with over 1,200 bills introduced this session, League staff tracked over 200. Ms. Kraus then discussed some of the larger issues that were brought up during the session. She indicated that several major issues including teacher pay, digital goods, VLT/HURF funds, opioids and school safety had been addressed.

Legislative Director Patrice Kraus discussed a number of bills concerning from the 2018 session regarding HURF funds. Highway Safety fee was created which is anticipated to generate $91 million in VLT to fund DPS. With this fee, HURF sweeps will drop from $99 million to $15 million in FY19. The net increase to cities and towns is $12 million, which is $6.7 million more than last year.

TPT, digital goods and services:
Ms. Kraus then discussed bills pertaining to TPT, digital goods and services (SB 1392 and HB 2479). Deputy Director Tom Belshe and League Tax Policy Analyst Lee Grafstrom were a part of an interim committee where the goal was to produce a bill that was revenue neutral and wanted to update legislation on what is and what is not taxable in terms of digital goods. When the bill was introduced there were eight new exemptions that were established in the bill leaving a net potential loss of $48 million to cities and towns and $121 million to the state and Prop 301 funds to schools. Ms. Kraus informed the committee how difficult this data is to gather, Lee and his team did a great job. She also noted that the cities were instrumental in getting us information in a timely fashion giving us the ability to provide numbers. These numbers were met with stark criticism; however no one had better numbers and could not provide numbers. We did offer a couple of compromises throughout the year, but those were rejected by the Arizona Tax Research Association (ATRA) and leadership. One of those would have clarified what is taxable and would have been revenue neutral. The issue that was outstanding would have been in regard to data centers. Currently, data centers are exempt from the majority of taxes other companies must pay. The League hopes to use this interim to conduct an economic analysis on data centers so we are prepared for this issue next year.

Prime Contracting:
Ms. Kraus explained there have been complaints from contractors that it is very difficult to comply with the law because of MRRA (maintenance, repair, replacement and alteration). SB 1409 would have that eliminated “alteration” altogether. This bill ran into problems because the House Rules attorney said this would trigger a Prop 108, therefore needing a super-majority vote in both chambers. It also garnered opposition from ATRA, the homebuilders, multi-housing, etc.
The final version of the bill ended up eliminating the qualifiers on “alterations” which means all commercial contracts under $750,000 are considered an alteration. There may be a small impact to cities and towns but Staff are hopeful this change will put the issue to rest. Ms. Kraus also noted that Representative Regina Cobb received an appropriation of $75,000 to study the issue of non-compliance in construction sales tax. Depending on the outcome of the study, this may or may not be the end of the issue of construction sales tax.

**Home-based Businesses:**
This bill was brought forward by the Goldwater Institute, Free Enterprise Club, Institute for Justice and Americans for Prosperity. These organizations were very organized this session and brought forth a number of bills including this one regarding home-based businesses. This bill would have created a two-tier system for home-based businesses. If you were considered a “no-impact” business, which was defined in the law, the city/town would have no regulatory authority over the business except for public health and safety. It was said noise or nuisance ordinances could be used to regulate this issue, but because there was another level of the type of business, employers could move between the two levels by adding or eliminating an employee. Ms. Kraus thanked the City of Phoenix and Tempe for engaging their neighborhood groups on this issue. Staff believes putting state statutory authority on home-based businesses would invite lawsuits and new SB 1487 claims and the League also believes neighborhoods are more properly in the purview of local communities.

**Food Trucks:**
Another issue that this new coalition brought forward was food trucks. Legislative Associate Tom Savage was the lead on this bill and worked create some standardization that food truck operators could rely from city to city on certain baseline requirements they had to meet. The League did try to maintain local control regarding residential areas and also worked on some issues with parking. Ms. Kraus noted that are issues may need to be revisited; one of those issues being the fingerprinting requirement some cities have, and how to make the licensing process more efficient. Representative Kevin Payne, a food truck owner himself, has committed to work closely with the League if there need to be changes with this bill in the future.

**Occupational Licensing:**
This issue came about in the 2017 session and would have preempted cities and towns from issuing any new occupational licenses or collecting any type of licensing fees. Due to the last minute nature of this bill, the League was able to defeat the 2017 version with the commitment to work on the issue moving forward. This year a compromise was reached that requires cities and towns to hold a “sunrise hearing” on new occupational licenses they want to impose and demonstrate that the regulation is necessary for public health and safety. Then we have to revisit these new ordinances in a “sunset” process every five years to ensure they are still relevant. It was also agreed that any existing licenses will be reviewed in that five year period. This bill has passed and is awaiting the signature of the Governor.

**Cable Operators:**
Next, Ms. Kraus discussed a bill brought forth by Cox Communications which established a uniform video service license and allows cable companies to terminate existing franchise license agreements. After January 1, 2020, it essentially establishes a license that is pro-forma and does
not require any kind of council approval process and moves any cable-related disputes to the Office of Administrative Hearings. The bill did maintain control of the right-of-way and most cities saw this as the most critical issue. This bill has passed and is awaiting the Governor’s signature.

**SB 1487 Reforms:**
Ms. Kraus explained that the League believes SB 1487 needs reform and worked with the Attorney General’s office to craft a package of reforms. The intention was to increase the timeline for the Attorney General and cities/towns to respond, give cities/towns access to the courts in the event of a “does violate” finding whereas currently only the Attorney General can take an action to the Supreme Court under a “may violate” finding and lastly, that the legislator making the claim must come from the district in which the city is located so they would be responsible to their own voters. This provision was rejected immediately in committee, and in fact the bill did not even make it out of its Senate committee. There was a later attempt by the AG to amend the language to provide more time for preparation of a response to a claim, but it ultimate failed also. The League plans to work on this issue in the future.

**Municipal Court Bills:**
Legislative Director Patrice Kraus reminded the Executive Committee of an investigative report the Goldwater Institute had published last year. While the findings were flawed and based primarily on experiences outside of Arizona, the report resulted in a number of bills this legislative session. One of these bills would have allowed any municipal court decision to be appealed. Another bill would have taken funds that were in excess of an arbitrary cap. A third bill would have required municipal court judges to be retained like those of the Superior Court. All of these bills failed it pass but it is possible we will see similar bills in the next legislative session.

**PTSD Counseling:**
Ms. Kraus explained that League Pension Policy Analyst Nick Ponder worked on this issue. The original bill was extremely broad and would have required employers to pay for unlimited counseling visits, pay the salary of an employee who is unfit for duty for an indeterminate amount of time, and an employee could also take up to two paid years off of work prior to the determination of a diagnosis with PTSD. Ms. Kraus informed the Committee that the final language of the bill would increase the number of employer-paid visits from 12 to 36, limit the types of doctors who could perform treatment to psychiatrists and psychologists and public safety employees can take up to 30 days off with pay but must first exhaust all other existing leave before that is available. This bill has been signed by the Governor.

**RESOLUTIONS**

**Sober Living Homes:**
Ms. Kraus reminded the committee that this has been an issue in local governments for years and is difficult to regulate since it is protected by federal housing laws and other statutes. An interim task force generated pressure to achieve a statewide licensing scheme through DHS which is what this bill does. It has been signed by the Governor.
Local Campaign Filings:
Legislative Director Patrice Kraus informed the committee this resolution was brought forward by the City of Peoria. Local candidate races usually result in spending small amounts of money and the previous statute was written to say no reporting was required until $1100 has been spent in a race, with that figure increasing along with the rate of inflation. This bill lowers the threshold to $500 and that does not escalate over time. In addition, there had been a fee for using the campaign finance system at the Secretary of State’s office which is non-operational, and has now been eliminated. This bill has been signed by the Governor.

Campaign Fund Transfers:
Ms. Kraus informed the committee this resolution was brought forward by the City of Maricopa. This bill would have allowed local elected officials to use their campaign funds for races at the State level. She noted this bill had gained some traction despite serious opposition but in the end failed to pass.

Street Light Improvement Districts:
The League has been working to get consolidated street light improvement districts for many years with opposition from the Arizona Tax Research Association (ATRA). This bill reduces costs to taxpayers and this year, Legislative Associate Tom Savage worked with ATRA on a compromise to allow for the consolidation of street light improvement districts or the ability to add an additional territory to an existing street light improvement district. This bill has been signed by the Governor.

Special Event Liquor License Approvals:
Ms. Kraus informed the Committee that this resolution was brought forward to make the process for approving special event liquor licenses more efficient for the clerks by not requiring the approval of the council. Legislative Associate Alex Vidal was able to work this provision into the Liquor Omnibus and negotiate other items in the omnibus to be sure the League was in support. This bill has been signed by the Governor.

Legislative Director Patrice Kraus mentioned a number of bills the League worked to fix over the 2018 Legislative Session including issues on private school zoning, civil traffic violations and government property abatement (slum and blight). She also highlighted a number of bills that failed to pass this session such as; Partisan Municipal Elections (HB 2032), Photo Radar Ban (HB 2208), Fire Flow (SB 1153) and Fire Sprinklers (SB 1093). Ms. Kraus noted several other bills of interest including TPT Online Lodging equity, EORP Employer Contributions, and Local Food Tax/Discriminatory Soda Tax. Ms. Kraus also informed the committee of issues to be aware of for next session such as Elections, Impact of Voter Initiatives and Potential 1487 Claims.

Executive Director Ken Strobeck then welcomed League General Counsel Christina Estes-Werther to provide a brief update on SB 1487.

General Counsel Estes-Werther informed the Executive Committee that Representative Darin Mitchell had filed a SB 1487 claim last month against the City of Sedona for their business license requirements for short-term rentals. Representative Mitchell’s claims that the City of
Sedona’s is in violation of state law because short-term rentals were not treated the same as their long-term rentals.

The Attorney General found the business ordinance in Sedona does not actually violate the short-term rental statute; however, the AG did feel there was enough of a connection that there was a violation in state law under the long-term rental statute.

Ms. Estes-Werther informed the Executive Committee that the City of Sedona had approximately three weeks to resolve the issue and indicated that through discussions with their city attorney, the Sedona City Council would be meeting to discuss and they would likely not fight the AG’s decision. She reminded the Executive Committee that this situation exemplifies one of the challenges of SB1487, which does not provide any recourse for a city or town to contest the decision of the Attorney General.

Ms. Estes-Werther also reminded the Executive Committee that at the February meeting she had mentioned a claim that had been filed against the City of Tempe and that the Attorney General had yet to file a special action on this.

**4. FY 19 LEAGUE BUDGET**

President Jay Tibshraeny welcomed Mayor Thomas Schoaf, Budget Subcommittee Chairman to present on the proposed FY19 League Budget.

Mayor Schoaf reminded the Executive Committee that at the February Executive Committee Meeting, they had received and reviewed a copy of the working FY19 budget. The proposed budget has not changed since that time.

Mayor Schoaf informed the Committee that the FY18 budget had originally budgeted for a deficit of $33,000. However, the budget ended up having excess revenue of $250,000 over expenditures, specifically because the Annual Conference revenue received was much higher than anticipated.

In FY19, the proposed budget shows an expected $172,000 deficit. He reminded the Executive Committee that there had been prior discussions regarding the League building and the cost of renovation or repair. The Executive Committee had previously discussed putting funds aside within the budget items to allow for necessary repairs. This year, the current HVAC system being used for the League building will need to be replaced. The Budget Subcommittee is proposing a $180,000 reserve fund expenditure to cover the cost of the HVAC system. Because of this one-time expenditure, the budget currently sits at $172,109 in expenditures over revenue.

Mayor Schoaf indicated that this budget still leaves League reserves greater than what was anticipated for 2017.

Mayor Schoaf motioned to approve the FY19 League Budget as presented; Mayor Ed Honea seconded the motion and it carried unanimously.
5. LEAGUE CONFERENCE

President Tibshraeny welcomed League Communication and Education Director Matt Lore to present an update on the 2018 League Annual Conference.

Mr. Lore informed the Executive Committee that the 2018 League Annual Conference would be held at the Phoenician Resort this year, the first time the League Annual Conference had been held at this particular location.

He said that registration for the Annual Conference and the room block at the conference hotel would be open the week of May 21. He reminded the Executive Committee that registration materials will be sent to the Executive Committee and staff members first. He encouraged Committee members to register and secure rooms as soon as they receive information that they are available as the conference hotel room block does fill up quickly.

In addition to registration, Mr. Lore discussed the Annual Conference Sponsorship Program. He indicated that the target sponsor revenue is $200,000 and that revenues received from sponsors thus far have reached nearly half this amount. He reminded the Committee that Annual Conference revenue is the second-largest revenue source for the League and sponsorship is a large component, as it helps keep costs for the conference down as well as League dues.

Mr. Lore asked the Executive Committee that if they had any organizations within their cities and towns they felt would be interested in sponsoring the League Annual Conference, to reach out and provide them with the sponsorship brochure or forward their information to League staff.

Mayor Honea asked Mr. Lore about the rooming at the conference hotel and what availability might be like. Mr. Lore informed the Executive Committee that it was likely it would be easier to secure rooms at the Phoenician than it had at the Hilton El Conquistador in 2017, as the hotel has more rooms and the conferences in the Valley typically do not see as many room reservations. Mr. Lore suggested putting together a Committee to discuss the rooming process for future conferences.

6. REPORT ON INCORPORATION

President Tibshraeny invited League Deputy Director Tom Belshe to provide a report on incorporation presentations by League staff.

Mr. Belshe told the Executive Committee that incorporation assistance is just another service that the League provides and he wanted to share with the Committee the process for how incorporation presentations occur. He indicated that there is not a state agency that provides this service or is familiar with the incorporation process, so the League decided many years ago to fill the void and provide this service as we serve as an accurate and unbiased source of information.
Mr. Belshe informed the Committee that the process of providing incorporation information to an area usually begins with an inquiry from a proponent wanting incorporation in a particular area. After the initial outreach, League Staff will travel to the area to address a larger group of proponents and often includes a public meeting. During this meeting, the League will address the process and methods of incorporation, responsibilities of a new city or town, revenue structure and the pros and cons of incorporating a particular area.

Mr. Belshe noted that after incorporation, the League will assist communities with starting up, offering assistance with providing necessary ordinances and providing sales tax, staffing and budgeting information. He also provided information on the various communities where the League had previously provided incorporation presentations.

Following Mr. Belshe’s presentation, League Executive Director Ken Strobeck provided the Executive Committee with a full list of incorporated cities and towns in Arizona and their years of incorporation.

Seeing no further business, President Tibshraeny adjourned the Executive Committee meeting at 11:34 a.m.
Item #2 Legislative Policy Overview and Update

Summary: Nick Ponder, the League’s Legislative Director, is leading our legislative team in preparation for the 2019 session. There will be new leadership in the Senate and the House and the political makeup of both chambers is the subject of ongoing speculation among observers. The League is working on various interim projects including analysis of the impact of data centers, additional research on home-based businesses, implementation of the new law relating to state licensing of sober living homes, development of a new social media strategy and other projects.

Responsible Person: Ken Strobeck

Attachments: 2018 Legislative Road Show Schedule
Road Show presentation
2018 Legislative Road Show Schedule

April 18 – Tri-City Council Meeting
Lake Havasu City

April 19 – Apache-Navajo Mayors & Managers
Show Low

June 13, 10:00 a.m. – Globe
Globe City Council Chambers
150 N Pine Street

June 21, 10:00 a.m. – Quartzsite
Riggles RV Community Center
240 North Riggles Ave

July 11, 10:00 a.m. – Marana
Marana Municipal Complex - 2nd Floor Conference Center
11555 W Civic Center Dr

July 11, 2:00 p.m. – Sierra Vista
Council Chambers
1011 N Coronado

July 16, 10:00 a.m. – Prescott
Prescott Public Library - Founders Suite
215 E Goodwin Street

July 17, 10:00 a.m. – Sedona
Sedona City Hall - Auxiliary Meeting Room
102 Roadrunner Drive
2018 Legislative Overview

Session at a Glance

- Adjourned *sine die* on May 4, 2018; 116 days (122 days in 2017)
- Special session for opioid epidemic legislation
- General Effective Date: August 3, 2018
- 1,208 bills introduced (1,079 in 2017)
- 370 bills sent to the Governor (355 bills in 2017)
- 347 bills signed (344 signed in 2017)
- 23 vetoes (11 in 2017)
- League staff tracked more than 200 bills
Major Legislative Issues

- Teacher Pay
- Digital Goods
- VLT/HURF funds
- Opioids
- School Safety

League Focus

- Local Control
- Protection of Shared Revenue
- Honest Broker/Reliable Data
- Pre-session Work
- Resolutions
- Additional Bills Impacting Cities
Major Issues: Budget/Revenue

  - HB 2166 (vehicle fees; alternative fuel VLT) creates a Highway Safety Fee that is estimated to generate $91 million in VLT for FY 2018-2019
  - By funding DPS with fee, HURF sweeps drop from $99M in FY18 to $15M in FY19; of the $84 million dollars that is freed up in HURF, $42 million goes to cities, towns and counties and $42 million to the State Highway Fund
  - SB 1529 - A one-time appropriation of $30 million to cities, towns and counties. ($14.4 million to cities distributed the same as one-time HURF last year)
  - SB 1520 - $12 million dollars to cities, towns and counties through regular HURF distribution ($6.7 million to cities)
  - Small overall increase over last year
  - (SIGNED)

Major Issues: Budget/Revenue

- Additional Budget Items Impacting Cities (Kavanagh: Yarbrough)
  - SB 1522 allocated $18.8 million from the State Aviation Fund to plan, construct, develop, and improve state, county, city or town airports as determined by the State Aviation Board (SIGNED)
  - SB 1523 allows the Concealed Weapons Permit Fund to be used for the Arizona Peace Officers Standards and Training Board (SIGNED)
  - SB 1529 requires that cities and towns continue to pay their proportionate share of $20.8 million to fund the Department of Revenue operations (SIGNED)
Major Issues: Budget/Revenue

  - Defined “digital goods” in a way that restricted taxability
  - Defined “digital services” in a way that created at least eight new exemptions compared to historical tax treatment
    1) Did not view software as tangible personal property
    2) Characterized hardware rental as an exempt service
  - League projected ongoing revenue losses: Cities = $48M; State = $121M; Prop 301 Schools = $14.5M
  - Despite sharp criticism, no alternative cost estimates provided
  - League offered alternative bill to codify existing practices; revenue-neutral
  - (FAILED TO PASS)

- Major Issues: Budget/Revenue

- TPT, Prime Contracting, Alteration, Replacement – SB 1409 (Sen. Fann)
  - Excludes contractors that qualify for the ROC license “handyman” exclusion from Prime Contracting
  - Changes the definition of “Alteration” for Commercial projects by removing the limit of not more than 40% of the existing footprint being impacted and no more than 10% of added square footage.
  - Keeps MRRA in place, with limits of 25% of FCV for Residential; all contracts <$750,000 for Commercial
  - (SIGNED)
Major Issues: Local Control

- Home-Based Businesses - SB 1002 (Farnsworth); SB 1175 (Farnsworth); SB 1387 (Griffin/Weninger); HB 2333 (Weninger)
  - This bill would have restricted a city’s or town’s ability to regulate home-based businesses.
  - A municipality would have been prohibited from permitting, licensing or otherwise regulating the operation of a “no-impact” home-based business.
  - Would have limited the authority municipalities currently have over other home-based businesses.
  - Would have likely invited lawsuits and SB 1487 claims
  - (FAILED TO PASS)

- Food Trucks – HB 2371 (Rep. Payne)
  - Establishes statewide food and health safety licensing standards for and standardizes local regulation of food truck operations
  - Cities and towns may continue to enforce current regulations and zoning codes unless prohibited by law; restricts operation in residential areas and at locations with insufficient parking capacity, among others
  - Local licensing requirements maintained
  - (SIGNED)
Major Issues:
Local Control

• Occupational Licensing – SB 1404 (Sen. Smith)/HB 2532 (Rep. Payne)
  – SB 1404 would have prohibited cities, towns or counties from imposing new licensing requirements, levying new occupational fees or increasing any existing occupational fees on an individual (FAILED TO PASS)
  – HB 2532 was the compromise bill that requires a local government to hold a public hearing to demonstrate necessity before adopting an occupational licensing requirement on any occupation, trade or profession and to review existing licenses within five years of the effective date of the legislation and then every five years thereafter (SIGNED)

  – Establishes a uniform video service license and allows cable companies to terminate existing franchise license agreements after January 1, 2020
  – Prohibits public hearing and council action on license; cost recovery for license application; buildout and line extension requirements; and regulation beyond license issuance and ROW management
  – Cable-related disputes overseen by the Office of Administrative Hearings
  – (SIGNED)
Major Issues: Courts

- SB 1487 Reforms - SB 1374/HB 2120 (Sen. Brophy-McGee)
  - League proposed modifications to SB 1487:
    - Increased timeline for AG and municipality responses
    - Requirement that claims against municipalities may only come from a legislator who has all or a portion of that municipality within their legislative district
    - Municipality given access to courts for a “does violate”
    - Reimbursement for municipality fees and costs for a “does not violate”
    - Elimination of bond requirement for a “may violate”
  - (FAILED TO PASS) - SB1374, (FAILED TO PASS) - HB2120

Major Issues: Public Safety

  - In 2016 the Legislature approved a bill requiring employers to provide 12 counseling visits for employees who may have PTSD
  - Original version of 2018 legislation created PTSD presumption, tolling of workers’ compensation, unlimited counseling visits, employer payment of salary when employee is unfit for duty, prohibition from employer doing independent medical exam, etc.
  - Negotiated version increases visits from 12 to 36, focuses on treatment from psychologists and psychiatrists only, provides up to 30 days of employer-paid salary and benefits if employee is determined unfit for duty and exhausts all other benefits
  - (SIGNED)
Major Issues: Resolutions

- **Sober Living Homes - SB 1465 (Sen. Brophy McGee)**
  - Establishes a licensing system under the Arizona Department of Health Services for all sober living homes
  - Rules to take effect January 1, 2019
  - (SIGNED)

- **Local Campaign Filings - HB 2078 (Rep. Finchem)**
  - 1) Lowers the threshold amount that triggers candidate committee registration from $1,100 to $500 for city and town candidates, 2) exempts the $500 threshold from the biennial increase every two years; and 3) removes the fee assessed to a city or town for opting into the Secretary of State’s campaign finance system (not yet operational for local governments).
  - (SIGNED)

- **Campaign Fund Transfers - HB 2182 (Rep. Coleman)**
  - Would have allowed a candidate committee for a municipal office to transfer contributions to that same candidate’s committee for a statewide or legislative office.
  - State law currently allows county and statewide candidates to transfer these contributions.
  - (FAILED TO PASS)

- **Street Light Improvement Districts - SB 1281 (Sen. Kavanagh)**
  - Allows the consolidation of two or more SLIDs that have contiguous boundaries and allows the addition of new territory into an existing SLID
  - (SIGNED)
Major Issues: Resolutions

- Special Event Liquor License Approvals - HB 2334 (Rep. Weninger)
  - Allows City/Town Clerks to approve special event liquor licenses if authorized
  - Further amended to allow cities/towns to receive special event liquor licenses directly without having to contract with a non-profit
  - Worked with stakeholders to avoid unintended consequences of changing definition of “acts of violence” as it relates to liquor establishments
  - (SIGNED)

Bills We Helped Fix

- Private School Zoning - HB 2461 (Rep. Leach)
  - Would have exempted all private schools from zoning requirements
  - Amended bill to allow private schools to locate on parcels of under one acre or less
  - (SIGNED)

- Civil Traffic Violations - SB 1455 (Sen. Petersen)
  - Would have voided all traffic citations that required certain technical amendments (date, time, location)
  - Amended bill to restate the current Rules of Civil Procedure for Traffic
  - (SIGNED)
Bills We Helped Fix

• Gov’t Property Abatement, Slum & Blight - HB 2126 (Rep. Leach)
  – Restricts the size of a central business (CBD) for purposes of Government
    Property Lease Excise Tax (GPLET) to the greatest of:  a) the existing total land
    area of the central business district as of January 1, 2018; b) 2.5% of the total
    land area within the exterior boundaries of the city or town; or c) 960 acres.
  – Provides for automatic termination of a slum or blighted area within a CBD
    that was originally designated prior to October 1, 2018, after 10 years, unless
    formally renewed or modified by the city or town
  – Requires a city or town to review a slum or blighted area within a CBD before
    the 10th anniversary of its designation and to renew, modify or terminate the
    designation pursuant to the review. If modification or renewal of the original
    slum or blighted area designation occurs, subsequent reviews must occur
    every 10 years.
  – (SIGNED)

Bills That Failed to Pass

• Partisan Elections - HB 2032 (Rep. Lawrence)
  – Would have required cities and towns to print the party designation for all
    candidates for the office of mayor or city or town council on the ballot

• Statute of Repose, Dedicated Property - HB 2116 (Rep. Kern)
  – Would have limited 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

• Assumed Rate of Return - SB 1262 (Sen. Petersen)
  – Would have required PSPRS, EORP, and CORP plans to reduce assumed rates of
    return to 4.7%, increasing contribution rates by >30% per employer

• Photo Radar Ban - HB 2208 (Rep. Grantham)
  – Would have banned ALL photo enforcement (e.g. red lights, school zones)
Bills That Failed to Pass

• Disposition of Public Roadways - HB 2632 (Rep. Rivero)
  – Would have required municipalities to give public roadways to adjacent owners at no cost when being abandoned, if the original title/price could not be established

• Municipal Land Acquisition - HB 2325 (Rep. Thorpe)
  – Would have repealed law passed last year that requires counties to coordinate with the city/town when acquiring land within the city’s/town’s boundaries

• Subdividing Land - HB 2396 (Rep. Thorpe)
  – Would have allowed property owners to subdivide their land based on unworkable rules, resulting in wildcat subdivisions

• GPLET Tax Limit HB 2330 (Rep. Leach)
  – Would have required the state treasurer to withhold shared revenues and that these monies would be used to pay an affected school district for additional state aid

• Municipal Economic Development, Sale/Lease HB 2005 (Rep. Leach)
  – Would have required a city or town to appoint an appraiser to determine the valuation of any sold or leased land or building valued over $50,000 and to sell or lease land only at a public auction to the highest responsible bidder

• Prop 207 Change – SB 1252 (Sen. Kavanagh)
  – Would have extended the timeline for a property owner to file a Prop 207
  – Based on one case that was fully litigated in which owner was found at fault
Bills That Failed to Pass

• Notice of claim - HB 2386 (Rep. Rivero)
  – Would have moved from strict compliance of notice of claim statute to substantial compliance, making it easier for individuals to sue cities/towns, counties, school districts and state without providing full and final settlement offer

• Fire Flow - SB 1153 (Sen. Allen)
  – Would have exempted builders from ensuring sufficient water quantity/pressure is available per the fire code in counties under 500K
  – More dangerous than last year’s proposal allowing for an individual waiver

• Fire Sprinklers - SB 1093 (Sen. Griffin)
  – Would have prohibited cities from enforcing fire sprinkler requirements on single family residences IF their ordinance did not apply to ALL single family residences of the municipality

Bills That Failed to Pass

• Public Employee Comp. Cap - HB 2273 (Rep. Thorpe)
  – Would have limited public employee compensation to two times the salary and benefits of the governor or eight times the salary and benefits of a legislator, whichever is less

• Food Producers; Prohibited Ordinances – SB1250 (Sen. Farnsworth)
  – Would have prohibited local governments from restricting the rights of an owner, proprietor or tenant of agricultural lands, orchards, farms and gardens, including residential and community gardens, to produce food products
  – Food products would have included every product of the soil, in addition to beef, swine, fowl and dairy as well as livestock raised for production or use
Bills That Failed to Pass

• County Excise Tax for Transportation - HB 2165/SB 1147/HB 2162 (Rep. Campbell, Sen. Worsley)
  – Would have allowed small counties to submit to the voters a transportation plan and supplemental excise tax for approval
  – Would have allowed Maricopa, Pinal and Pima counties to, upon voter approval, renew and extend their transportation excise tax

  – Would have added an exemption for in-place leases and other intangibles
  – Non-legislative solution: changing the MCTC to add a workable exemption

• Real Estate Signs - HB 2500 (Rep. Grantham)
  – Would have allowed a property owner to advertise property for sale or rent with a sign within a public or private right-of-way

Bills That Failed to Pass

• HURF Distribution, Cities/Towns, Counties - HB 2514 (Rep. Cook)
  – Would have altered the Casa Grande Accord distribution by taking $18M from HURF funds and distributes those funds to cities with a population of less than 7,500 and counties with a population of less than 250,000

• Emergency Services Statistics Reporting - HB 2562 (Rep. Grantham)
  – Would have required every city/town to post certain crime and fire statistics, as well as response times for various categories of events

• Municipal Seals, Restricted Use - HB 2625 (Rep. Clodfelter)
  – Would have prohibited the use of municipal seals for promoting “commercial purposes” such as community and sporting events, public/private partnerships, tourism, etc.
Other Bills of Interest

• ASRS Non-Participating Employer - SB 1054 (Sen. Fann)
  – Requires an employer to pay their accrued liabilities in ASRS if the employer
  meets certain criteria to be defined as a non-participating employer
  (SIGNED)

• Photo Radar Review - SB 1110 (Sen. Borrelli)
  – Requires a peace officer to review each photo radar ticket before issuance
  (SIGNED)

• TPT Online Lodging - SB 1382 (Sen. Kavanagh)
  – Starting in tax year 2019, requires all online lodging market places to
  register with DOR for a TPT license (SIGNED)

• Personal Delivery Devices – HB 2422 (Rep. Townsend)
  – Defines a personal delivery device as an electronically powered device that
  is primarily operated on sidewalks and within crosswalks; operated at a
  maximum speed of 7 mph with a weight of less than 200 pounds, excluding
  cargo. Stipulates a PDD has all the applicable rights and duties of
  pedestrians; allows limited local regulations. (SIGNED)

• Public Meetings; Definition; Penalties- HB 2065 (Rep. Leach)
  – Allows the Attorney General to commence a suit against an individual of a
  public body who knowingly violates open meeting law. Prohibits a public
  body from paying a civil penalty on behalf of an individual against whom a
  civil penalty has been imposed. Expands the definition of meeting to
  include electronic communications that proposes legal action, including
  one-way communications from one member to a quorum of members of a
  public body or an exchange of electronic communications
  among a quorum of members of a public body; requires
  recording of vote of each person on each vote. (SIGNED)
Other Bills of Interest

• EORP, Employer Contributions – SB 1478 (Sen. Fann)
  — Removes the employer contribution rate cap in EORP from 23.5% to the rate as determined by the actuary; for FY19 the employer rate will be 61.5% (SIGNED)

• Community Facilities Districts - SB 1499 (Sen. Smith)
  — Corrects a drafting error in last year’s community facilities district legislation and provides for the designation of subsequent board members upon term expiration or vacancy caused by death, resignation or an inability to discharge duties (SIGNED)

• Pension Funding Policy Requirement - HB 2097 (Rep. Livingston)
  — Requires all employers participating in PSPRS to approve an annual funding policy indicating how the employer intends to pay their unfunded liabilities (SIGNED)

• Police/Fire Leave of Absence Definition of “Day” - HB 2412 (Rep. Shope)
  — Defines “day” for the purposes of police and fire personnel who take a leave of absence for military duty, as the shift of work for that individual (SIGNED)

• Prime Contracting Study Appropriation – HB 2416 (Rep. Cobb)
  — Appropriates $75,000 for an independent study of the rate of non-compliance in the Prime Contracting classification (SIGNED)

• Local Food Tax/Soda Tax - HB 2484 (Rep. Shope)
  — Requires cities/towns to only impose one rate on Food for Home Consumption [groceries] and one rate on food for consumption on premises [Restaurant & Bar] (SIGNED)

• Consolidated Elections – HB 2604 (Rep. Mesnard)
  — Requires Cities and Towns to hold elections on a statewide election date if its previous elections on a non-statewide election date resulted in a significant decrease in voter turnout (SIGNED)
Next Session

- Elections
  - Statewide Offices
  - All 90 legislators
- New Senate/House Leadership
- Impact of Voter Initiatives
- Budget Sustainability
- Potential 1487 Claims
- Influence of Anti-Government Groups

League Policy Committees

- Participation in five League Policy Committees is the opportunity for city/town elected officials and staff to research and discuss issues that become the basis for League legislative policy
- Compressed meeting schedule: One meeting per month May-July
- Issues forwarded by Policy Committees are discussed and adopted at the League Annual Conference

- Budget, Finance and Economic Development
  Chair: Mayor Daryl Seymore of Show Low, League Staff: Tom Savage
- General Administration, Human Resources and Elections
  Chair: Mayor Lana Mook of El Mirage, League Staff: Tom Belshe
- Neighborhoods, Quality of Life and Sustainability
  Chair: Mayor Linda Kavanagh of Fountain Hills, League Staff: Alex Vidal
- Public Safety, Military Affairs and Courts
  Chair: Mayor Jerry Weiers of Glendale, League Staff: Alex Vidal
- Transportation, Infrastructure and Public Works
  Chair: Mayor Bob Rivera of Thatcher, League Staff: Tom Savage
League Programs and Tools

- League Annual Conference, August 21-24, Phoenix
- Publications, webinars, training classes, implementation guidelines, model city tax code, annexation and incorporation
- Affiliate organizations
- Legislative Resources
  - Monday Legislative Calls
  - Legislative Bill Monitoring
  - Legislative Bulletin
  - Legislative Alerts

Questions?

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<table>
<thead>
<tr>
<th>Agenda Item #3</th>
<th>Discussion of <em>Wayfair</em> Decision and Next Steps in Digital Goods Legislation</th>
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**Summary:**
In a historic decision last June, the US Supreme Court overruled the *Quill* decision requiring physical nexus for taxation of online retail sales and replaced it with an “economic nexus” test. League staff will report on what next steps need to be taken by cities, towns and the state to fully implement the decision and what is currently being done under DOR authority and the Model City Tax Code.

**Responsible Person:** Ken Strobeck & League Staff

**Attachments:** South Dakota v. Wayfair Summary

Background
In 1992, the U.S. Supreme Court in Quill Corp. v. N. Dakota By & Through Heitkamp, 504 U.S. 298, 112 S. Ct. 1904, 119 L. Ed. 2d 91 (1992) held the state’s action to impose taxes on an out-of-state company without physical presence in the state was a violation of the dormant Commerce Clause because it was an unconstitutional burden on interstate commerce. Therefore, it has been well established for fifty years that states and localities cannot impose a tax on entities that do not have a physical presence in the state. Additional background information is available in the March 2018 Legal Corner article.

Opinion
In 2016, the South Dakota Legislature enacted a law that requires the collection of sales tax on sellers with no physical presence in the state to directly challenge the previous Supreme Court’s Commerce Clause decisions. South Dakota then filed a declaratory judgment action seeking to overturn the existing law, but the court adhered to precedent and enjoined the state from enforcing the 2016 legislation. The State appealed and the state supreme court affirmed the decision. State v. Wayfair Inc., 2017 S.D. 56, ¶ 1, 901 N.W.2d 754, 756, cert. granted sub nom. S. Dakota v. Wayfair, Inc., 138 S. Ct. 735 (2018). The U.S. Supreme Court accepted cert to review the decision and in its June 21, 2018 decision, overturned previous court precedent in Quill and Bella Hess.

Justice Kennedy wrote for the majority, which included Justices Ginsburg, Alito, Gorsuch and Thomas. The Court reiterated that the primary principles of the Commerce Clause are that state regulations may not discriminate against interstate commerce; and states may not impose undue burdens on interstate commerce. However, the previous court decisions are contrary to these principles because Quill gives out-of-state businesses an advantage over in-state retailers.

The Court found that Quill is flawed because the physical presence rule is not required in order to show a substantial nexus; instead of resolving “market distortions,” it produces them; and it “imposes the sort of arbitrary, formalistic distinction” that is contrary to the Commerce Clause. The Court stated that Quill has come to serve as “a judicially created tax shelter for businesses that decide to limit their physical presence and still sell their goods and services to a State’s consumers...” and has had the effect of discouraging physical presence in multiple states. Here, Quill “treats economically identical actors differently, and for arbitrary reasons.”

The Court disputed the hardship arguments by Wayfair, stating that “there is nothing unfair about requiring companies that avail themselves of the States’ benefits to bear an equal share of the burden of tax collection. Fairness dictates quite the opposite result.” Further, the Court addressed criticism for overturning case precedent by stating that the Court created this problem and has the ability to fix it especially since “[t]he Internet’s prevalence and power have changed the dynamics of the national economy.”

Lastly, the Court addressed concerns that overturning Quill will harm small businesses that cannot understand or adhere to multiple tax regulations in various states. In this case, the South Dakota Act only taxes remote sellers who delivered more than $100,000 of goods or services into the state or engaged in 200 or more separate transactions. Therefore, the Court found this concern was unwarranted since it would not impact small retailers. Also, South Dakota did not make the law retroactive so there is no concern about double taxation of retailers and consumers for the same product; and South Dakota is a party to the Streamlined Sales and Use Tax Agreement, which standardizes taxes to reduce administrative and compliance costs.

Moving forward the Court reiterated that future Commerce Clause analysis’ relies on whether there is a substantial nexus with the taxing state – does the taxpayer or collector avail itself of the substantial privilege of carrying on business in that jurisdiction? According to the Court, a substantial nexus exists here based on both economic and virtual contacts with the state.

Concurrences
Justice Thomas concurred and merely stated that previous court cases “can no longer be rationally justified.”

Justice Gorsuch concurred and reiterated that the court has “enforced a judicially created tax break for out-of-state Internet and mail-order firms at the expense of in-state brick-and-mortar rivals” and this decision ends “the paradox of condemning interstate discrimination in the national economy while promoting it ourselves.”

Dissent
Justices Robert, Breyer, Sotomayor and Kagan dissented. The primary reason for their dissent is the belief that this issue should be addressed by Congress and not the Court, stating that this decision “may have waylaid Congress’s consideration of the issue...” and states will now focus “their attention from working with Congress on a national solution, to securing new tax revenue from remote retailers.” The dissent also stated that it believes any harm to the states is “receding with time” and points to Amazon’s voluntary collection and remittance of taxes as an example. Lastly, the dissent argues that the majority “disregards the costs that its decision will impose on retailers” who have to juggle over 10,000 jurisdictions each with different tax rates, rules, categories and standards.

Full Opinion
League Position on Proposition 126, "The Protect Arizona Taxpayers Act"

Summary: Proposition 126 is a Constitutional Amendment that will be on the ballot this November. If passed, it would permanently prohibit the imposition of any kind of tax on services. This initiative measure was promoted by the Arizona Association of Realtors and follows their successful initiative that prohibits Real Estate Transfer Taxes.

Responsible Person: Ken Strobeck

Attachments: Taxes on Services Prohibited Initiative Language Discussion Points on Proposition 126 - 2018 Election Resolution in Opposition

Action Requested: Adopt League position in opposition to Proposition 126
The undersigned intends to circulate and file an initiative petition and hereby makes application for the issuance of an official serial number to be printed in the lower right-hand corner of each side of each signature sheet of such petition. Attached hereto is the full title and text, in no less than eight point type, of the measure or constitutional amendment intended to be initiated at the next general election.

This measure would amend the Arizona Constitution to prohibit the state government, as well as county, municipal and other political subdivision governments and taxing districts, from imposing or increasing any transaction-based taxes, fees, stamp requirements, or assessments on any service performed in Arizona, on the gross receipts of sales or gross income derived from any service performed in Arizona. The amendment does not repeal or nullify any tax, fee, stamp requirement, or assessment that was in effect as of December 31, 2017.

Holly Mabery  
Name of Applicant  
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City State Zip  
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Citizens for Fair Tax Policy  
Committee Name  
201800333  
Committee ID No.  
Holly Mabery  
Chairperson  
Kent Simpson  
Treasurer  
516 East Willetta Street  
Committee Address  
Phoenix AZ 85004  
City State Zip  
(602) 625-2750  
Committee Telephone Number  
tom@farleypublicaffairsgroup.com  
Committee E-mail Address

By submitting this Application for Serial Number and checking all boxes below, I acknowledge the following:

☑️ That I have read and understand the accompanying Instructions for Statewide Initiatives, including the Secretary of State’s recommended best practices for printing copies of the Statewide Initiative Petition to be circulated.

☑️ That at the time of filing, I was provided instructions regarding accurate completion of the electronic Statewide Initiative Petition form.

March 9, 2018  
Applicant Signature  
Office of the Secretary of State  
700 W. Washington Street  
Phoenix, Arizona 85007  
Date  
Rev. 06/01/2017
OFFICIAL TITLE

THE PROTECT ARIZONA TAXPAYERS ACT

A CONSTITUTIONAL AMENDMENT INITIATIVE MEASURE


TEXT OF PROPOSED AMENDMENT

Be it enacted by the People of the State of Arizona:

Section 1  Title

This constitutional amendment shall be known and may be cited as the Protect Arizona Taxpayers Act.

Section 2  Findings and Intent

(a) Each day millions of Arizonans pay for an array of services integral to daily life, ranging from medical treatments and auto repairs to haircuts and childcare, and much more.

(b) In their unending quest to extract more money from citizens, politicians in other states have started taxing these vital everyday services, thereby making them more expensive and increasing the financial strain on working families.

(c) These taxes are not only unfair to hardworking citizens, but they also impose a crippling burden on small businesses, making it more difficult for them to create well-paying jobs. The end result is more unemployment and less take-home pay for workers.

(d) To protect Arizonans from these regressive and inequitable taxes, this initiative measure amends the Arizona Constitution to prohibit the state and its political subdivisions from imposing any new taxes on services.

Section 3  Article IX, section 6, of the Arizona Constitution is amended as follows:

Section 6.  Local assessments and taxes

EXCEPT AS PROVIDED BY SECTION 25 OF THIS ARTICLE, incorporated cities, towns, and villages may be vested by law with power to make local improvements by special assessments, or by special taxation of property benefited. For all corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes.
Section 4 Article IX of the Arizona Constitution is amended as follows by adding section 25:

Section 25. PROHIBITION OF NEW OR INCREASED TAXES ON SERVICES

THE STATE, ANY COUNTY, CITY, TOWN, MUNICIPAL CORPORATION, OR OTHER POLITICAL SUBDIVISION OF THE STATE, OR ANY DISTRICT CREATED BY LAW WITH AUTHORITY TO IMPOSE ANY TAX, FEE, STAMP REQUIREMENT, OR OTHER ASSESSMENT, SHALL NOT IMPOSE OR INCREASE ANY SALES TAX, TRANSACTION PRIVILEGE TAX, LUXURY TAX, EXCISE TAX, USE TAX, OR ANY OTHER TRANSACTION-BASED TAX, FEE, STAMP REQUIREMENT OR ASSESSMENT ON THE PRIVILEGE TO ENGAGE IN, OR THE GROSS RECEIPTS OF SALES OR GROSS INCOME DERIVED FROM, ANY SERVICE PERFORMED IN THIS STATE. THIS SECTION DOES NOT REPEAL OR NULLIFY ANY TAX, FEE, STAMP REQUIREMENT, OR OTHER ASSESSMENT IN EFFECT ON DECEMBER 31, 2017.

Section 5 Article XIII, section 2, of the Arizona Constitution is amended as follows:

2. Charter: preparation and proposal by board of freeholders; ratification and approval; amendment

Section 2. Any city containing, now or hereafter, a population of more than three thousand five hundred may frame a charter for its own government consistent with, and subject to, the Constitution and the laws of the state, in the following manner: A board of freeholders composed of fourteen qualified electors of said city may be elected at large by the qualified electors thereof, at a general or special election, whose duty it shall be, within ninety days after such election, to prepare and propose a charter for such city. Such proposed charter shall be signed in duplicate by the members of such board, or a majority of them, and filed, one copy of said proposed charter with the chief executive officer of such city and the other with the county recorder of the county in which said city shall be situated. Such proposed charter shall then be published in one or more newspapers published, and of general circulation, within said city for at least twenty-one days if in a daily paper, or in three consecutive issues if in a weekly paper, and the first publication shall be made within twenty days after the completion of the proposed charter. Within thirty days, and not earlier than twenty days, after such publication, said proposed charter shall be submitted to the vote of the qualified electors of said city at a general or special election. If a majority of such qualified electors voting thereon shall ratify such proposed charter, it shall thereupon be submitted to the governor for his approval, and the governor shall approve it if it shall not be in conflict with this Constitution or with the laws of the state. Upon such approval said charter shall become the organic law of such city and supersede any charter then existing (and all amendments thereto), and all ordinances inconsistent with said new charter. A copy of such charter, certified by the chief executive officer, and authenticated by the seal, of such city, together with a statement similarly certified and authenticated setting forth the submission of such charter to the electors and its ratification by them, shall, after the approval of such charter by the governor, be made in duplicate and filed, one copy in the office of the secretary of state and the other in the archives of the city after being recorded in the office of said county recorder. Thereafter all courts shall take judicial
notice of said charter.

The charter so ratified may be amended by amendments proposed and submitted by the legislative authority of the city to the qualified electors thereof (or by petition as hereinafter provided), at a general or special election, and ratified by a majority of the qualified electors voting thereon and approved by the governor as herein provided for the approval of the charter.

NOTWITHSTANDING ANY PROVISION OF THIS SECTION TO THE CONTRARY, NO CHARTER SHALL PROVIDE A CITY WITH ANY POWER TO VIOLATE ARTICLE IX, SECTION 25, WHICH PREEMPTS SUCH POWER.

Section 6 Severability

If a provision of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect any other provisions or applications of this Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 7 Submission to the Electorate

The Secretary of State shall submit this initiative measure to the qualified electors of the State of Arizona at the next general election, as provided by Article IV, Part 1, Section 1 of the Arizona Constitution.

Section 8 Standing & Fee Shifting

(a) The People of the State of Arizona desire that this initiative measure, if approved by the voters and thereafter challenged in court, be defended by the State of Arizona. In the event that the Attorney General fails to defend this Act or fails to appeal an adverse judgment against its validity or application, in whole or in part, in any court, any resident of the State of Arizona shall have standing to initiate or intervene in any action or proceeding to enforce the terms of this Act.

(b) A court shall award fees and expenses to any resident who initiates or intervenes in, and prevails on the merits of, any action or proceeding to enforce the terms of this Act pursuant to subsection (a). As used in this section, “fees and other expenses” includes without limitation the reasonable expenses of expert witnesses, the reasonable cost of any study, analysis, report, test, or project found by the court to be necessary for preparation of the party’s case, and reasonable and necessary attorneys’ fees.
Discussion Points on Proposition 126 - 2018 Election

- Constitutional prohibition on all future taxes of any kind of services
- Direct preemption of city authority and city charters
- Preamble language denigrates elected officials and does not recognize the need for tax revenue to pay for essential public services
- Legislative Council estimates the potential revenue foregone by the proposal is more than $5 billion per year
- It is unwise to make public policy on tax and revenue matters by initiative. This provision can never be changed without another statewide vote on a Constitutional Amendment.
- Most experts agree that the best tax policy is to impose taxes on a broad base at a low rate. But, this initiative takes the largest and fastest-growing segment of the economy off the table, leaving only retail transaction of tangible goods. (Rental tax is prohibited by the proposition unless in place as of December 31, 2017.)
- Arizona is already over-dependent on retail TPT taxes and this proposition only increases pressure on that sector.

![Figure 3: Goods and services in the U.S. as a share of personal consumptions expenditures, 1952-2008](image)
RESOLUTION IN OPPOSITION TO 2018

Proposition 126, “The Protect Arizona Taxpayers Act”

WHEREAS, PROPOSITION 126 is a Constitutional Amendment prohibiting all future taxes on any kind of services, and can never be changed except by another statewide vote of the people on a new Constitutional Amendment; and

WHEREAS, PROPOSITION 126 is a direct preemption of municipal authority and particularly city charters; and

WHEREAS, the Preamble language to PROPOSITION 126 denigrates elected officials, describes these taxes as “unfair” and “crippling,” and does not recognize the need for adequate tax revenue to pay for essential public services; and

WHEREAS, most experts agree it is unwise to make irrevocable tax policy by ballot initiative such as PROPOSITION 126; and

WHEREAS, PROPOSITION 126 limits the ability of local elected officials by taking the fast-growing service sector of the economy off the table and putting more pressure on the diminishing retails goods sector; and

WHEREAS, broad-based, low rate taxes have the least overall impact on all taxpayers but PROPOSITION 126 prohibits state and local governments from ever implementing those kinds of tax policies;

NOW, THEREFORE Be It Resolved, that League of Arizona Cities and Towns stands in opposition to PROPOSITION 126 and urges Arizona voters to vote “NO” on it at the November, 2018 election.
Agenda Item #5  Latest SB 1487 Claim and Update

Summary: The City of Sedona has been the subject of another complaint filed under the authority of SB 1487. This latest one, filed by Sen. Judy Burges (R-Sun City West), challenges the city’s use of room tax proceeds to support the tourism efforts of their local Chamber of Commerce. In their response, the city strongly defended their ordinance and pointed out the constitutional, statutory and local laws the uphold their use of these funds.

Responsible Person: Christina Werther, League General Counsel

Attachments: SB 1487 Claim Response from the City of Sedona
News Article regarding Rep. Thorpe and Sedona Claim
July 25, 2018

Oramel H. (O.H.) Skinner
Chief of Government Accountability &
Special Litigation Unit
Office of the Arizona Attorney General
2005 N. Central Ave.
Phoenix, AZ 85004

Re: Written Response to Legislator Request for Investigation Pursuant to A.R.S. § 41-194.01

Dear Mr. Skinner:

This letter is written, pursuant to the Notice of Submission of Legislator Request for Investigation Pursuant to A.R.S. § 41-194.01; Request for Written Response; and Public Records Request, dated July 17, 2018, as the City of Sedona’s formal response.

Although we understand the obligation of the Attorney General’s Office to investigate this matter under A.R.S. § 41-194.01, it should be noted once again how patently flawed this process is when a legislator from a district that has no relationship with or accountability to the municipality being investigated is given unlimited authority to allege wrongdoing by that municipality.

The process is made all the more difficult when the conduct of the complainant is something less than genuine. In this case, the material submitted in support of the allegations omitted critical facts and documentary evidence that was damaging to the Complainant’s argument. Specifically, the copy of the City’s contract with the Sedona Chamber of Commerce & Tourism Bureau provided by the Complainant as an attachment in support of a specific allegation was incomplete, with the most relevant parts (e.g. performance metrics, reporting, auditing and financial review, etc.) not included. This is an egregious abuse of an already difficult process and it is most unfortunate that some penalty is not available against complainants in circumstances like this where documents appear to have been withheld in a deliberate attempt to skew the facts.
Background

The Legislator Request for Investigation (Complaint) in this matter focuses on the collection of a discriminatory transaction privilege tax by the City of Sedona (City), the City’s Tourism Promotion and Visitor Services Agreement with the Sedona Chamber of Commerce and Tourism Bureau (Chamber), and the acquisition of certain real property by the Chamber in the mutual interest of both the City and the Chamber. These activities, it is alleged, all have occurred in violation of Article IX § 7 of the Arizona Constitution. The fatal flaw in the Complaint is that it alleges a violation of state law when, in fact, all of the actions complained of are pursuant to and in strict conformance with state law.

As will be described in greater detail below, the City adopted what is known as a discriminatory transaction privilege tax on hospitality industry businesses (commonly referred to as a “bed tax”) at the time of incorporation in 1988. Since 1988, revenue generated from the bed tax has been used to promote tourism.

The City has had a longstanding relationship with the Sedona Chamber of Commerce & Tourism Bureau (Chamber) whereby the Chamber and City have worked cooperatively to promote tourism through destination marketing and product development efforts. The most recent contract which documents the City/Chamber relationship was approved by the Sedona City Council on April 11, 2017.

In conjunction with the City and Chamber efforts to promote tourism through destination marketing and product development, the parties executed a Memorandum of Understanding (MOU) in July of 2017 wherein the Chamber agreed to acquire certain real property for uses consistent with the Destination Marketing and Development Plan approved by the Sedona City Council.

Each of the preceding activities are alleged by the Complainant to be in violation of the Gift Clause identified in Article IX § 7 of the Arizona Constitution. The balance of this correspondence will explain why those allegations are not supported by the facts, circumstances and applicable legal authorities.

---

1 See Ordinance No. 88-04 attached hereto as “Exhibit 1”
2 A destination marketing organization is a non-profit entity charged with marketing and providing visitor services locally. Source: Destination Marketing Association International
3 See Tourism Promotion & Visitor Services Agreement attached hereto as “Exhibit 2”
4 See Memorandum of Understanding attached hereto as “Exhibit 3”
Relevant Authorities

Ariz. Const. Art. IX, § 7, in part provides:

"Neither the state, nor any county, city, town, municipality, or other subdivision of the state shall ever give or loan its credit in the aid of, or make an donation or grant, by subsidy or otherwise, to any individual, association, or corporation, or become a subscriber to, or a shareholder in, an company or corporation, or become a joint owner with any person, company, or corporation..."

The City was incorporated in 1988. Shortly after its incorporation, a series of ordinances were adopted so as to allow for the general operations. One of these ordinances was Ordinance No. 88-04, which adopted the City Tax Code and became effective on March 1, 1988. Included in the adopted City Tax Code in 1988 was Section 447 relating to rental, leasing, and licensing for use of real property. Section 447 states as follows:

"In addition to the taxes levied as provided in Section 8-445, there is hereby levied and shall be collected an additional tax in an amount equal to three percent (3%) of the gross income from the business activity of any hotel engaging or continuing within the City in the business of charging for lodging and/or lodging space furnished to any transient. "Transient" means any person who, for any period of not more than thirty (30) consecutive days, either at his own expense or at the expense of another, obtains lodging or the use of any lodging space in any hotel for which lodging or use of lodging space a charge is made.

From the time of implementation of Ordinance No. 88-04 and its associated Section 447, the additional tax levied on transient lodging activities has been commonly referred to as the "bed tax."

Sedona’s bed tax remained at 3% from 1988 until 2013, at which time the City adopted Ordinance No. 2013-17 which increased the bed tax from 3% to 3.5%. The ordinance further designated that a minimum of 55% of the total revenue generated from the 3.5% bed tax would be dedicated to destination marketing and the promotion of tourism. The purpose, as stated in the ordinance, was "to attract greater numbers of visitors and tourists and thereby generate increase sales and bed tax revenues thus adding to the strength and economic vitality of the City and its citizens."

5 See Ordinance No. 2013-17 attached hereto as "Exhibit 4"
The adoption of Ordinance No. 2013-17 was preceded by several months of discussions between the Sedona Chamber of Commerce, the Sedona Lodging Council, representatives of the business community, local elected officials and City staff. These discussions were designed to measure support for increases in the bed tax and the sales tax and to study options for increasing expenditures for destination marketing activities. The ultimate recommendation from the aforementioned group was to increase the bed tax by 0.5% and, further, that the City should set a minimum funding level for destination marketing activities at 55% of the total bed tax revenue collected.6

In 1990, the Thirty-Ninth Legislature in its Second Regular Session enacted HB 2681 relating to cities and towns, providing for promotion of tourism and prescribing the use of certain tax proceeds. 1990 Ariz. HB 2681. The legislative intent of HB 2681, codified as A.R.S. § 9-500.06, included as findings "... that tourism is one of the most important industries to the entire state of Arizona...", and declared that "the subject of fair transaction privilege taxes and fees by municipalities on hospitality industry businesses to be an issue of statewide concern." 1990 Ariz. HB 2681.

In pertinent part, A.R.S. § 9-500.06, as enacted in 1990, stated:

"On or after April 1, 1990, if a city or town establishes a discriminatory transaction privilege tax or increases its existing discriminatory transaction privilege tax on hospitality industry businesses greater than any increase imposed on other types of businesses in the city or town, the proceeds of the established discriminatory transaction privilege tax...and the increase above the existing discriminatory transaction privilege tax shall be used exclusively by the city or town for the promotion of tourism..." A.R.S. § 9-500.06(B).

The original language excluded cities or towns with populations of fifty-five thousand persons or less according to the 1980 United States decennial census. A.R.S. § 9-500.06(E).

The population-based exclusion was eliminated in a revised version of A.R.S. § 9-500.06 enacted through SB 1460 in 2011.

Further amendments were enacted in 2012 through HB 2606, which added language limiting any increase in fees on hospitality businesses by no greater than a five year consumer price index comparison. A.R.S. § 9-500.06(B); and, specified that a

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6 See Sedona City Council Agenda Bill 1683 and minutes from meeting dated October 8, 2013 attached hereto as "Exhibit 5"
discriminatory transaction privilege tax is adopted by ordinance or charter amendment by a governing body or council or by a public vote. A.R.S. § 9-500(C).

Most importantly, the enabling legislation clearly specifies how revenues generated by a discriminatory transaction privilege tax on hospitality industry businesses must be spent. A.R.S. § 9-500.06(D) states:

For the purposes of subsection C, expenditures by a city or town for the promotion of tourism include:

1. Direct expenditures by the city or town to promote tourism, including but not limited to sporting events or cultural exhibits.
2. **Contracts between the city or town and nonprofit organizations or associations for the promotion of tourism by the nonprofit organization or association.**
3. **Expenditures by the city or town to develop, improve or operate tourism related attractions or facilities** or to assist in the planning and promotion of such attractions and facilities.

A.R.S. § 9-500.06(D) (Emphasis added).

The effective date of A.R.S. § 9-500.06 is also significant in that revenues generated by a discriminatory transaction privilege tax adopted **after April 1, 1990**, and any increases to such a tax which occurs after April 1, 1990, must be used for the purposes described in the statute. A.R.S. § 9-500.06(C). (Emphasis added)

The result of the City's adoption of its 3% bed tax prior to April 1, 1990, and the subsequent increase of the bed tax to 3.5% in 2013, considering the application of A.R.S. § 9-500.06 to the 3.5% bed tax, is that all of the 0.5% increase (which occurred after April 1, 1990) must be used for the promotion of tourism. The original 3% bed tax adopted in 1988 is not so restricted.

**Gift Clause**

The Complaint urges the Attorney General to find that the City has violated the Constitutional Gift Clause in each of the three (3) circumstances described in the Complaint. Accordingly, a brief summary of Arizona gift clause jurisprudence is necessary in order to compare the City's actions against an objective legal standard.
In *Wistuber v. Paradise Valley Unified School District*, 141 Ariz. 346, 687 P.2d 354 (1984), the Arizona Supreme Court set forth a two-pronged test in analyzing Gift Clause challenges, holding that "a governmental expenditure does not violate the Gift Clause if (1) it has a public purpose, and (2) in return for its expenditure, the governmental entity receives consideration that 'is not so inequitable and unreasonable that it amounts to an abuse of discretion, thus providing a subsidy to a private entity.'" *Id.* at 349, 357.

In *Turken v. Gordon*, 223 Ariz. 342, 224 P.3d 158 (2010), the Arizona Supreme Court, in expounding on *Wistuber, Supra*, noted that "cases interpreting the Gift and Tax Clauses have struggled to define 'public purpose.'" *Turken* at 346,162. The *Turken* Court further recognized that "although determining whether governmental expenditures serve a public purpose is ultimately the province of the judiciary, courts owe deference to the judgments of elected officials." *Turken* at 346,162. *Wistuber* also stated that "courts must not be overly technical and must give appropriate deference to the findings of the government entity. *Turken* at 347,163; See also *Wistuber* at 349, 357.

With respect to the second prong of the *Wistuber* test, *Turken* ultimately held that "the most objective and reliable way to determine whether the private party has received a forbidden subsidy is to compare the public expenditure to what the government receives under the contract. When government payment is grossly disproportionate to what is received in return, the payment violates the Gift Clause." *Turken* at 348, 164.

The Complaint urges the Attorney General to consider the persuasive authority of *Smith v. Pigeon Forge*, 600 S.W.2d 231 (Tenn. 1980) to support the allegation that no direct benefit is received by the City in the various circumstances described in the Complaint and, therefore, the Gift Clause is violated. The Complaint's reliance on *Smith, Id.* is misplaced. Aside from the fact that *Turken, Supra*, gives binding guidance on the evaluation of public expenditures for Gift Clause purposes in Arizona, the Complainant fails to understand a critical distinction in *Smith* that renders its application inappropriate to Complainant's argument. In fact, *Smith* actually supports the conclusion that the City implicitly complied with the public purpose element of the *Wistuber* analysis.

Although the conclusion in *Smith, Supra* was that the lack of a direct benefit to the public at large resulted in a violation of Tennessee's Gift Clause, the Court also distinguished that result from *McConnell v. City of Lebanon*, 203 Tenn. 498. 314 S.W.2d, 12 (1958), and *Mayor and Aldermen of the City of Fayetteville v. Wilson*, 212 Tenn. 55, 367 S.W.2d 772 (1963). In each of those cited cases, the Court found that the expenditures were authorized pursuant to clearly established public policy of
the State..." *Smith at* 6-7 (emphasis added). This distinction not only renders the Complainant’s reliance on this authority useless to support its allegations, as will be shown below it thoroughly validates the City’s expenditures in the circumstances.

**Discussion**

In applying the foregoing legal precedents to the issues that are the subject of the Complaint, each of the allegations must fail. All of the actions complained of have been taken pursuant to the express delegation of authority given to cities and towns by the Arizona Legislature or the Arizona Constitution.

**Bed Tax**

The City’s bed tax is the product of the express authority granted to cities and towns by virtue of A.R.S. § 9-500.06. The legislature recognized in enacting A.R.S. § 9-500.06 that tourism is one of the most important industries in our state. This is especially true in the City of Sedona, a community of approximately 10,000 residents which welcomes over 3.5 million visitors each year.

Since its incorporation, the City has adapted to the demands placed on its resources by tourism, and has developed processes by which to nurture and manage the industry. A critical component to the overall management process is the bed tax. It is an allowable, discriminatory tax because it achieves the fairness that the Legislature described in enacting the enabling legislation. In essence, tourism helps to financially manage tourism by the additional tax levied on hospitality industry businesses.

As it relates to the Gift Clause analysis, the public purpose for the City’s bed tax is evidenced by the enactment of A.R.S. § 9-500.06. The Legislature declared in enacting the statute that fair transaction privilege taxes and fees by municipalities on hospitality industry businesses is a matter of statewide concern.

Because bed taxes are expressly authorized in statute, providing any justification for the amount collected does not appear relevant to this discussion. The amount of any discriminatory transaction privilege tax on hospitality industry businesses is a matter to be determined by the particular city or town. Had the Legislature intended to limit the amount that can be collected, it would have included such a limitation in A.R.S. § 9-500.06. Instead, the Legislature simply took care to ensure that the expenditure of such revenues was appropriately made.
Chamber Contract

As mentioned in the introductory comments of this correspondence, the contract document provided by the Complainant in support of the allegations is grossly deficient. While the Complaint alleges the absence of any specific performance metrics by which the Chamber is accountable to the City, the Complaint conveniently did not include pages 4-8 of the contract which specifically and in great detail outline the performance metrics required under the agreement. It can only be inferred that this was an intentional omission done to misrepresent the facts and mislead the investigation. Regardless, the City not only has nothing to hide in its account of the relationship it has with the Chamber, but the City is duly proud of the accomplishments achieved in the promotion of tourism through said relationship.

As the City has evolved and grown its tourism efforts, the Chamber has been a critical resource. The Chamber is the only accredited destination marketing organization in the greater Verde Valley. They have a specialized knowledge of what attracts tourists to Sedona and what tourists expect to experience while in Sedona. The Chamber also understands the specific markets from which the City desires to attract visitors.

As a nonprofit organization, the Chamber fits squarely into the definition of entities with which cities may contract for the promotion of tourism as described in A.R.S. § 9-500.06(D)(2).

The scope of the tourism promotional activities required of the Chamber through its contract with the City is well defined. The contract requires the City and Chamber to collaborate each year, in a joint work session, to set specific goals and objectives for tourism. It is the City Council which identifies priorities and policy direction to assist the Chamber in accomplishing the outcome desired by the City. While the Chamber develops the destination marketing and product development plan, it is based on the expected results identified by the City.

Interestingly, the Complaint seems to focus on the fact that 55% of the revenues generated by the bed tax must be distributed to the Chamber pursuant to its contract with the City. As has been previously stated, the 55% figure resulted from a public and comprehensive stakeholder process in which all interests were welcome to participate.

What the complainant appears to disregard is the fact that had the City adopted its bed tax after April 1, 1990, rather than in 1988 as it did, 100% of the bed tax would be spent on the promotion of tourism, either through the Chamber pursuant to A.R.S. § 9-500.06(D)(1), or through some other means identified in A.R.S. § 9-500.06(D)(1)-(3).
As with the bed tax issue previously mentioned, the identified purpose for contracting with a nonprofit organization or association for the promotion of tourism is expressly given to cities and towns by the Legislature through A.R.S. § 9-500.06. However, it is worth reinforcing the fact that only slightly more than half of the bed tax collected is actually expended through the Chamber for the promotion of tourism.  

On the question of the value received by the City through its contract with the Chamber, that is reviewed and assessed annually by the City Council through the joint work session process. It is at that time each year that the City determines whether or not the results achieved by the Chamber are of sufficient value as related to the expenditure. Absent some “gross disproportionality,” that is a decision appropriately left to the City. Further, the Chamber appears before the City Council and delivers quarterly reports with an in-depth statistical analysis of tourism promotion activities and the benefits received by the City through the contract. A sample of this is provided in the form of the most recent presentation made by the Chamber to the City Council.  

During more recent discussions regarding the appropriate amount of funding to be directed toward destination marketing, as opposed to product development, the decision has been made to share the product development responsibilities on an ad hoc basis determined by whether the City or the Chamber is most qualified to undertake any given activity. This approach is the most fiscally responsible way of ensuring that an appropriate balance is achieved and the potential negative aspects of destination marketing (overcrowding) can be avoided.

**Jordan Rd. Property**

The acquisition by the Chamber of the real property located at 401 Jordan Rd. in Sedona was the result of an innovative concept whereby the Chamber could assist the City in developing the products that attracts visitors to Sedona. Without the infrastructure necessary to handle the high volume of tourists visiting Sedona each year, the City would likely lose both return visitors and the word-of-mouth referrals that augment the overall marketing efforts.

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7 By comparison it is worth noting that the Tucson Convention & Visitors Bureau receives approximately $5 million annually from the City of Tucson bed tax (34% of the base bed-tax plus revenue sharing on the City’s $4 nightly surcharge, $3.2 million from Pima County (50% of base bed-tax revenue in unincorporated Pima County), and $300,000 from Oro Valley in the form of a flat investment (equal to 23% of the Town’s bed-tax collection). Source: Brent DeRaad, President & CEO, Visit Tucson
8 See “Exhibit 5” attached hereto
9 See “Exhibit 2” at 2.3.5
The Memorandum of Understanding (MOU) that reflects the intentions of both the City and the Chamber with respect to the Jordan Rd. property was based on two (2) critical premises. First, because the funds used by the Chamber to acquire the property were in the form of bed tax revenues, the City must ultimately have the option of receiving the property by donation from the Chamber at a specifically identified point in time. Second, any interim use of the property by the Chamber must be consistent with destination marketing and development plan approved by the Sedona City Council. With each of these latter described conditions, the City retained exclusive control over how the Jordan Rd. property will be used. Further, any revenue generated by the use of the property must be used by the Chamber to reduce its indebtedness related to the financing of its acquisition until any encumbrance is satisfied.\(^{10}\)

Again, at the most basic level the acquisition of the Jordan Rd. property is both authorized by and consistent with A.R.S. § 9-500.06. Expenditures by a city or town to develop, improve or operate tourism related attractions, facilities or to assist in the planning and promotion of such attractions and facilities is authorized in A.R.S. § 9-500.06(D)(3).

The high volume of transient visitors coming to Sedona each year generates more vehicle traffic than the current City infrastructure can handle. The parking lot at the Jordan Rd. property has already been designated as one of the City’s public lots as a strategy to help with the City’s overall parking shortage.\(^{11}\) It is anticipated that the structures currently on the 401 Jordan Rd. property will eventually be utilized in such a manner as to further alleviate traffic congestion and parking problems. This may be in the form of a multi-modal facility, or something of that nature, but will again result from the priorities established by the City Council through its joint work sessions with the Chamber.

Ultimately, it is the residents of and visitors to Sedona that will benefit from the 401 Jordan Rd. property. The Chamber will realize no identifiable benefit from this arrangement outside the scope of its continuing relationship as the City’s partner in tourism promotion. As with the City/Chamber contract generally, the value received by the City is appropriately determined by the City Council unless it is grossly disproportionate to the expenditure of bed tax funds.

Because the benefit received through use of the Jordan Rd. property is exclusively public, the expenditure of public funds is appropriate and there can be no Gift Clause violation associated with it.

\(^{10}\) See Memorandum of Understanding
\(^{11}\) See City of Sedona Uptown Parking Map attached hereto as "Exhibit 6"
Conclusion

The City is fortunate to have a local, accredited destination marketing organization which understands the dynamics involved with Sedona’s tourism industry. The residents of Sedona demand an appropriate balance between sharing Sedona’s abundant natural attractions and maintaining a livable community. This is not an easy task, as is evidenced by the present complaint and the force driving it.

The relationship that has evolved over the years between the City and the Chamber is not only appropriate; it is absolutely consistent with the requirements of the law as handed down by our Legislature.

Whether it is the bed tax generally, the tourism promotion contract between the City and the Chamber, or the acquisition of an asset desperately needed to support the infrastructure demand resulting from tourism, the City has acted in a fiscally responsible and legally mandated manner in all circumstances at issue.

For the foregoing reasons, the City cannot be found to have violated any state law.

Sincerely,

Robert L. Pickels, Jr.
City Attorney

CHRISTOPHER FOX GRAHAM / JULY 27TH, 2018

From: Bob Thorpe
Sent: Thursday, June 28, 2018 11:53 AM
To: Greg Jernigan
Cc: Judy M. Burges
Subject: SB1487 complaint per the City of Sedona and the Sedona Chamber of Commerce

Hi Greg:

Sen. Burges has agreed to file a SB1487 complaint concerning possible financial / economic improprieties between the City of Sedona and the Sedona Chamber of Commerce. The below text has been reviewed by council and should not require any additional editing. Please use the below text (as is) to develop and file a SB1487 complaint with the Attorney General’s office as soon as possible, and please include in the filing the attached supporting documents. Of course, ask Sen. Burges to review the complaint prior to filing it with the AG.

Many thanks,
The Senate Bill 1487 complaint filed against the city of Sedona for its destination marketing contract with the Sedona Chamber of Commerce did not originate with Arizona Sen. Judy Burges [R-District 22], the senator who filed it. Instead, it came to her from Arizona Rep. Bob Thorpe [R-District 6], who represents Sedona.

In a phone interview Wednesday, July 25, Thorpe denied having any emails containing the word “Sedona” between May and July.

However, a June 28 email, written by Thorpe to Greg Jernigan, general counsel to the Senate, has the subject line: “SB1487 complaint per the City of Sedona and the Sedona Chamber of Commerce.”

In it, Thorpe wrote to Jernigan, “Hi Greg: Sen. Burges has agreed to file a SB1487 complaint concerning possible financial / economic improprieties between the City of Sedona and the Sedona Chamber of Commerce. The below text has been reviewed by council and should not require any additional editing.”

"Please use the below text (as is) to develop and file a SB1487 complaint with the Attorney General’s office as soon as possible, and please include in the filing the attached supporting documents. Of course, ask Sen. Burges to review the complaint prior to filing it with the AG. Many thanks, Rep Bob Thorpe. Cell: 928-310-8811.”

A July 20 public records request fulfilled by Burges indicated Thorpe sent the text of the Sedona complaint to Jernigan on June 28 and requested it be filed under Burges’ name.

In an email to Burges on July 2, Jernigan wrote, “Rep. Thorpe indicates that you have agreed to filing this with the [Arizona Attorney General’s Office]. Would you please review this to determine if you approve of filing this as is with the AG. If you approve we will need a letter signed by you requesting the AG to investigate this matter pursuant to [Arizona Revised Statute] Sec. 41-194.01.”
The statute number refers to the state law passed as SB 1487.

"I did agree to sponsor this letter," Burges wrote. "Your opinion as to legal content is most appreciated."

"I think the request is a legitimate legal issue for the AG to investigate," Jernigan wrote. "Suggested language for the letter to request that the AG investigate is in the e-mail below."

Burges’ complaint filed to the Attorney General is verbatim what Thorpe sent to her, including the same typographical, spacing and punctuation errors and anomalies.


Regarding a public records request, Thorpe claimed he has no record of any emails regarding Sedona.

When asked why Thorpe asked Burges to file the complaint instead of filing it as it involves a city in his legislative district, he said, "Cause there’s a number of, well, she, she said she would file it. Hey, um, because this is an ongoing investigation, I really don’t have any comment."

While the question was not about the investigation itself but how the complaint was filed, when asked for comment to explain to his constituents as to why he asked a senator from another district to file a complaint against a city in his district, Thorpe stated, "OK, well it’s an ongoing investigation, so I don’t have any comment on it."

On Monday, July 23, the Sedona Red Rock News filed a public records request with Thorpe’s office.

The request asked for all emails "containing the words ‘city of Sedona,’ ‘Sedona Chamber of Commerce’ or ‘Sedona’ in either the subject line or the body of the email," to or from his email address or any email address of his staff between May 4 and July 20.

Nearly identical records requests were filed with the offices of Arizona Rep. Brenda Barton [R-District 6] and Arizona Sen. Sylvia Allen [R-District 6]. Barton and Allen have yet to reply.

Email records indicate Thorpe opened the public records request July 23, but he did not supply any emails, per the request.

Thorpe stated that he has no emails with "Sedona" in the subject line or body over the 77-day period in the request. However, Sedona is in Thorpe’s district and he has voters in the region. "I did a search, looking for any Sedona emails and I didn’t find any," Thorpe said.

Burges provided several of her emails to the NEWS containing the keywords asked for the public records request, including the email on June 28 that Thorpe wrote and sent to Jernigan containing two of the keyword phrases.

"Then you have something I no longer have," Thorpe said.

Legislators’ emails are public records under Arizona state law. When asked if Thorpe deleted public records by deleting emails, Thorpe stated, "I looked through my email, I did a search."

When informed the NEWS had a copy of an email he sent to Jernigan on June 28, Thorpe said, "OK, if you have that email ... I did a search, and I didn’t find emails. I did a search for a number of different keywords and I didn’t find it, so I don’t know what to tell you. If you got it, you got it."
Thorpe then asked if the NEWS had filed a public records request. Thorpe earlier acknowledged he had received the request on July 23, prior to him searching for the keywords the NEWS had requested.

Thorpe redirected the NEWS to file the request again with Arizona House of Representatives Public Records Counsel Justin Riches.

Riches is currently working on providing the material requested from Thorpe and Barton. The NEWS also filed a request for Allen’s emails with the senate public records counsel. A followup story on this issue will be published in a later edition.

From Bob Thorpe
Sent: Thursday, June 28, 2018 11:53 AM
To: Greg Jernigan
Cc: Judy M. Burger
Subject: SB1487 complaint per the City of Sedona and the Sedona Chamber of Commerce

Hi Greg:

Sen. Burgas has agreed to file a SB1487 complaint concerning possible financial / economic improprieties between the City of Sedona and the Sedona Chamber of Commerce. The below text has been reviewed by counsel and should not require any additional editing. Please use the below text (as is) to develop and file a SB1487 complaint with the Attorney General’s office as soon as possible, and please include in the filing the attached supporting documents. Of course, ask Sen. Burgas to review the complaint prior to filing it with the AG.

Many thanks,

Rep Bob Thorpe
Cplt: 928-310-8811

Pursuant to A.R.S. § 41-134(L), the undersigned state legislator demands that the Office of the Attorney General investigate the City of Sedona, Arizona for a violation of the Arizona Constitution’s restriction of and requirement of taxation for “public purposes only,” AZ Const. Art. 9 § 1, under the permissive precedent of Smith v. City of Pigeon Forge, 500 S.W.2d 231 (Tenn. 1976), and its violation of the Arizona Constitution’s Gift Clause, AZ Const. Art. 9 § 7, under Turken v. Gordon, 223 Ariz. 342 (2010), i.e:

(1) Failing to pay tax under Ordinance No. 2013-07, executed October 8th, 2013, of which 55% of the revenues must be distributed to the Sedona Chamber of Commerce, a private nonprofit corporation (a genuine copy of said ordinance is attached hereto); and/or

(2) Entering into a marketing contract/Tourism Promotion & Visitor Services Agreement on April 11th, 2017 with the Sedona Chamber of Commerce, a private nonprofit corporation, in which 55% of all transient bed tax revenues was promised to be paid and/or has been paid to said Chamber for tourist and meetings promotional programs, serving of visitors and to pursue tourism product development initiatives in Sedona, based on a generalized invoice submitted in advance of any performance, without any specific guarantee of the revenue consideration to be furnished to the City in return, i.e. without any contractual terms defining and guaranteeing fulfillment of key performance indicators, metrics or outputs or otherwise requiring any evidence of consideration being furnished in exchange for the city’s payment of public funds), without any auditing of the Chamber’s performance, without any practice of requiring or receiving line item detailed reporting or invoicing of the Chamber’s performance, and with such payments being grossly disproportionate to any consideration given to the city (a genuine copy of said marketing contract is attached hereto); and/or

(3) Entering into a partnership and/or joint ownership venture agreement / Memorandum of Understanding with the Sedona Chamber of Commerce, executed July 18, 2017, (attached hereto is a genuine copy of said contract), authorizing, acknowledging and ratifying the Chamber’s acquisition and development of certain real property located at 403 Jordan Rd, Sedona, AZ, and creating a contractual and co-ownership relationship between the city and Chamber related thereto, with the city expending public funds in the estimated amount of $50,000, to improve said property without resolving any consideration in return (which expenditure functioned either as a de facto equity investment or a gratuity).

NEXT ARTICLE
Brock Delinski: Sedona can have a sustainable future (/news/82623-brock-delinski-sedona-can-have-a-sustainable-future)

ONLINE POLL
How many forums and debates will you attend this election cycle?

- Three or more
- Two
- Just one

Agenda Item #6  Report from Executive Director

Summary: The pace of League staff activities continues throughout the year, even when the legislature is not in session. It is the season of updates, road shows, affiliate group meetings, research reports, the League Annual Conference and many other activities. This agenda item will include an update on many of those events.

Responsible Person: Ken Strobeck

Attachments: Executive Director Report
Executive Director Report

- Staff Changes
  - Patrice Kraus, retired from Legislative Director position
  - Nick Ponder named Legislative Director
  - Summer Interns: APS Summer Intern Mykelin Myers and Legal Intern Matt Stone

- Publications
  - New Laws Report
  - Updated: Elections Manual, Budget & Finance Manual, Salary and Benefit Survey, Model City Tax Code. All other standing League publications reviewed for updating with statutory and other changes
  - League Magazine, summer edition focusing on Phoenix sustainability

- League and Affiliate Groups/Meetings and Conferences
  - League Conference
  - ACAA (City and Town Attorneys)
  - ACMA (City, Town and County Managers)
  - GFOAz (Finance Directors)
  - AMCA (Municipal Clerks)
  - Women Leading Government Conference

- City Assistance
  - Open Meetings/Public Records/Elections Training
  - Contracted with two experts to update all city and town tax codes
  - Usual inquiries regarding municipal best practices, statutory compliance, etc.
  - Newly Elected Officials Program, December 6-7

- Staff travel/conferences
  - Samantha Womer, Emily Webb-NLC Staff Workshop
  - Ken Strobeck- NLC Mutual Board Meeting, League Directors Annual Workshop
  - Tom Belshe-ICMA
  - Christina Werther-IMLA

- Best of the Capitol Award
  - Finalists in categories of Best Industry Trade & Professional Association and Best Government Lobbyist
• League Amicus Briefs-2018

  • McDonald/Ryan v. Napier: This case is in response to the Division Two opinion that a person can sue a police officer for his or her negligent evaluation/decision to use force, contrary to years of established law. This is the case where an officer released a K-9 on a suspect. The suspect alleged the officer’s evaluation and ultimate decision to use force (before actually using force) was negligent and therefore, the use-of-force justification statutes do not apply to negligence claims and cannot be used as a defense. Unfortunately the court agreed, circumventing our immunity statutes and essentially criminalizing thought. The brief includes AZ Association of Chiefs of Police, AMRRP, and all the county sheriffs.

  • Lake Pleasant 5000 - Circle City Water Company and the City of Surprise: The City had a May election scheduled to acquire Circle City Water via friendly condemnation; however, Lake Pleasant 5000 LLC (developer) filed an action at the Corporation Commission to halt the condemnation because it is claiming it has rights to the water allocation. In February, the Corp. Comm. immediately placed this issue on its docket (within a day of the request by the developer) and after researching the issue decided that they had jurisdiction and are requiring Circle City Water to file an application with Corp. Comm. regarding the proposed sale. The city has argued that the Corp. Comm. has no jurisdiction in this matter because 1) as a condemnation action, once electors approve the sale, the courts have proper jurisdiction; and 2) the developer is claiming a potential breach of contract, which again is not under the jurisdiction of Corp. Comm., but instead must be addressed by the courts. Further, Surprise is concerned that the Corp. Comm.’s actions are establishing a dangerous precedent that future city condemnations involving utilities will require their permission. This has not been the case in the past so it is unclear why they are now asserting jurisdiction. Surprise voters approved the election to make the purchase.

  • Schires et al. v. Carlat et al.: The City of Peoria was sued by the Goldwater Institute who alleged that the city’s economic development agreements with a university and commercial developer violated the constitutional gift clause. The court granted the city’s motion for summary judgment and Goldwater is filing an appeal. The city is asking the League to provide an amicus to 1) demonstrate other economic development projects in other municipalities that might be jeopardized if Goldwater prevails; 2) implore the court to maintain the current “public purpose” test instead of deferring to Goldwater’s broader view that any expenditure can be attacked; and 3) argue against Goldwater’s definition of “indirect benefits” which is much more narrow and would make it difficult for future municipalities to engage in these agreements. The opening brief is due September 4, 2018 and Peoria will respond in early October. Goldwater’s reply would be late October and the League amicus brief will be due in late November.
Agenda Item #7  Resolutions of Appreciation

Summary: Resolutions of Appreciation for Mayor Linda Kavanagh of Fountain Hills, former Councilmember Daniel Valenzuela of Phoenix, and Vice President Mayor Mark Nexsen of Lake Havasu City are enclosed for action by the Executive Committee.

Responsible Person: President Jay Tibshraeny

Attachment: Resolutions of Appreciation
RESOLUTION OF APPRECIATION FOR

Linda Kavanagh

A RESOLUTION EXPRESSING THE APPRECIATION OF THE EXECUTIVE COMMITTEE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS TO LINDA KAVANAGH FOR HER DEDICATED SERVICE TO LOCAL GOVERNMENT IN ARIZONA.

WHEREAS, LINDA KAVANAGH has served the citizens of the Town of Fountain Hills as Mayor for 6 years; and

WHEREAS, LINDA KAVANAGH has provided outstanding service to the League as a member of the Executive Committee from 2014-2018; and

WHEREAS, LINDA KAVANAGH served on the League Resolutions Committee, the League Nominating Committee and other special League committees; and

WHEREAS, LINDA KAVANAGH was an active participant in League meetings and Conferences as a speaker and a presiding officer; and

WHEREAS, LINDA KAVANAGH was actively engaged with legislators about League issues of importance to cities and towns and made it a priority to participate in the weekly League Monday Legislative Update calls; and

WHEREAS, LINDA KAVANAGH was always just a text or phone call away for many special requests from League staff to transmit urgent messages to a certain closely-related key legislator;

NOW, THEREFORE BE IT RESOLVED, that the grateful appreciation of the League of Arizona Cities and Towns be extended to LINDA KAVANAGH for her service to municipal government in Arizona and to the League.
RESOLUTION OF APPRECIATION FOR

Daniel Valenzuela

A RESOLUTION EXPRESSING THE APPRECIATION OF THE EXECUTIVE COMMITTEE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS TO DANIEL VALENZUELA FOR HIS DEDICATED SERVICE TO LOCAL GOVERNMENT IN ARIZONA.

WHEREAS, DANIEL VALENZUELA has served the citizens of the City of Phoenix on the council for 7 years; and

WHEREAS, DANIEL VALENZUELA has provided outstanding service to the League as a member of the Executive Committee from 2015-2018; and

WHEREAS, DANIEL VALENZUELA served on the League Resolutions Committee and other special League committees; and

WHEREAS, DANIEL VALENZUELA was an active participant in League meetings and Conferences and NLC meetings as a speaker and a presiding officer; and

WHEREAS, DANIEL VALENZUELA was actively engaged with legislators about League issues of importance to cities and towns;

NOW, THEREFORE BE IT RESOLVED, that the grateful appreciation of the League of Arizona Cities and Towns be extended to DANIEL VALENZUELA for his service to municipal government in Arizona and to the League.
RESOLUTION OF APPRECIATION FOR

Mark Nexsen

A RESOLUTION EXPRESSING THE APPRECIATION OF THE EXECUTIVE COMMITTEE OF THE LEAGUE OF ARIZONA CITIES AND TOWNS TO MARK NEXSEN FOR HIS DEDICATED SERVICE TO LOCAL GOVERNMENT IN ARIZONA.

WHEREAS, MARK NEXSEN has served the citizens of the City of Lake Havasu City as Mayor for 12 years; and

WHEREAS, MARK NEXSEN has provided outstanding service to the League as a member of the Executive Committee from 2008-2018; and

WHEREAS, MARK NEXSEN served as an officer of the League from 2014-2018 beginning with the post of Treasurer in 2014 and as Vice President from 2016-2018; and

WHEREAS, MARK NEXSEN served on or chaired the League Resolutions Committee, the League Nominating Committee, the League Budget Subcommittee and other special League committees; and

WHEREAS, MARK NEXSEN was an active participant in League meetings and Conferences as a speaker and a presiding officer; and

WHEREAS, MARK NEXSEN was actively engaged with legislators about League issues of importance to cities and towns, meeting consistently with legislators from his district; and

WHEREAS, MARK NEXSEN was always available to take calls and requests from League staff and make it a priority to transmit important messages to his legislative delegation;

NOW, THEREFORE BE IT RESOLVED, that the grateful appreciation of the League of Arizona Cities and Towns be extended to MARK NEXSEN for his service to municipal government in Arizona and to the League.
Additional Informational Materials
Not Part of the Agenda

League Budget Report *(Preliminary FY17-18)*

Property Corporation Budget Report *(Preliminary FY17-18)*

Article – Nick Ponder: Man about cities and towns and lobbying
# League of Arizona Cities & Towns

**FY 2017-2018 Budget vs. Actual**  
**July 2017 through June 2018**

<table>
<thead>
<tr>
<th>Income/Expense</th>
<th>Jul '17 - Jun ...</th>
<th>Budget</th>
<th>$ Over Budget</th>
<th>% of Budget</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ordinary Income/Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Income</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4000 · Affiliate Group Contribution</td>
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<tr>
<td>4010 · Dues</td>
<td>2,044,236.00</td>
<td>2,046,956.00</td>
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</tr>
<tr>
<td>4020 · Miscellaneous</td>
<td>14,667.74</td>
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<tr>
<td>4030 · Risk Pool</td>
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</tr>
<tr>
<td>4035 · Seminars &amp; Meetings</td>
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<td>30,000.00</td>
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<tr>
<td>4016 · Partnership Programs</td>
<td>26,005.23</td>
<td>72,900.00</td>
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<tr>
<td>4040 · Interest Income</td>
<td>39,128.68</td>
<td>4,000.00</td>
<td>35,128.68</td>
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<tr>
<td>4050 · Special Assessment</td>
<td>55,893.00</td>
<td>0.00</td>
<td>55,893.00</td>
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<tr>
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<td>2,958,649.91</td>
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<tr>
<td>Expense</td>
<td></td>
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<tr>
<td>5005 · Annual Conference (Expense)</td>
<td>247,547.76</td>
<td>230,000.00</td>
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<tr>
<td>5010 · Benefits</td>
<td>492,614.37</td>
<td>558,000.00</td>
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</tr>
<tr>
<td>5015 · Capital Outlay</td>
<td>17,168.58</td>
<td>20,000.00</td>
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<tr>
<td>5025 · Contingency</td>
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<tr>
<td>5030 · Equipment Rental &amp; Maintenance</td>
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</tr>
<tr>
<td>5035 · Executive Committee</td>
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</tr>
<tr>
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</tr>
<tr>
<td>5055 · Postage &amp; Shipping</td>
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<td>6,000.00</td>
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</tr>
<tr>
<td>5057 · PR &amp; Communications</td>
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<tr>
<td>5060 · Printing</td>
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<tr>
<td>5065 · Professional Services</td>
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<tr>
<td>5070 · Rent</td>
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<td>105,000.00</td>
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</tr>
<tr>
<td>5071 · Salaries</td>
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<td>-51,117.94</td>
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</tr>
<tr>
<td>5075 · Seminars and Meetings</td>
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<tr>
<td>5085 · Subscriptions &amp; Dues</td>
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<tr>
<td>5090 · Supplies</td>
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<tr>
<td>5095 · Telecommunications</td>
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</tr>
<tr>
<td>5100 · Travel</td>
<td>16,625.42</td>
<td>25,000.00</td>
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<tr>
<td><strong>Total Expense</strong></td>
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<td>2,876,000.00</td>
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<td>95.3%</td>
</tr>
<tr>
<td><strong>Net Ordinary Income</strong></td>
<td>218,873.75</td>
<td>-33,194.00</td>
<td>252,067.75</td>
<td>-659.4%</td>
</tr>
<tr>
<td><strong>Net Income</strong></td>
<td>218,873.75</td>
<td>-33,194.00</td>
<td>252,067.75</td>
<td>-659.4%</td>
</tr>
<tr>
<td>Ordinary Income/Expense</td>
<td>Jul '17 - Jun 18</td>
<td>Budget</td>
<td>$ Over Budget</td>
<td>% of Budget</td>
</tr>
<tr>
<td>------------------------</td>
<td>-----------------</td>
<td>---------</td>
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</tr>
<tr>
<td><strong>Income</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4000 · Rental Income</td>
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<td>119,400.00</td>
<td>-5,143.80</td>
<td>95.7%</td>
</tr>
<tr>
<td>4005 · Miscellaneous</td>
<td>1,696.18</td>
<td>50.00</td>
<td>1,646.18</td>
<td>3,392.4%</td>
</tr>
<tr>
<td>4010 · Interest</td>
<td>36.52</td>
<td>1,500.00</td>
<td>-1,463.48</td>
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<tr>
<td><strong>Total Income</strong></td>
<td>115,988.90</td>
<td>120,950.00</td>
<td>-4,961.10</td>
<td>95.9%</td>
</tr>
<tr>
<td><strong>Expense</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5000 · Maintenance Services/Agreements</td>
<td>34,906.15</td>
<td>35,000.00</td>
<td>-93.85</td>
<td>99.7%</td>
</tr>
<tr>
<td>5015 · Utilities</td>
<td>33,383.12</td>
<td>34,000.00</td>
<td>-616.88</td>
<td>98.2%</td>
</tr>
<tr>
<td>5020 · Repairs and Maintenance</td>
<td>18,901.36</td>
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<td>6,901.36</td>
<td>157.5%</td>
</tr>
<tr>
<td>5025 · Operating Expenses</td>
<td>10,245.81</td>
<td>6,250.00</td>
<td>3,995.81</td>
<td>163.9%</td>
</tr>
<tr>
<td>5030 · Accounting and Auditing</td>
<td>7,370.00</td>
<td>7,200.00</td>
<td>170.00</td>
<td>102.4%</td>
</tr>
<tr>
<td>5035 · Insurance</td>
<td>5,409.00</td>
<td>5,500.00</td>
<td>-91.00</td>
<td>98.3%</td>
</tr>
<tr>
<td>5040 · Capital Outlay</td>
<td>8,787.50</td>
<td>21,000.00</td>
<td>-12,212.50</td>
<td>41.8%</td>
</tr>
<tr>
<td><strong>Total Expense</strong></td>
<td>119,002.94</td>
<td>120,950.00</td>
<td>-1,947.06</td>
<td>98.4%</td>
</tr>
<tr>
<td><strong>Net Ordinary Income</strong></td>
<td>-3,014.04</td>
<td>0.00</td>
<td>-3,014.04</td>
<td>100.0%</td>
</tr>
<tr>
<td><strong>Net Income</strong></td>
<td>-3,014.04</td>
<td>0.00</td>
<td>-3,014.04</td>
<td>100.0%</td>
</tr>
</tbody>
</table>
Nick Ponder: Man about cities and towns and lobbying

By: Paulina Pineda  July 2, 2018

Nick Ponder (Photo by Paulina Pineda/Arizona Capitol Times)

Nick Ponder, the new legislative director at the League of Arizona Cities and Towns, said his goal is to reintroduce the organization to the Capitol community. He said for a long time the league has been seen as a Democratic-centric organization, which has cost it votes from some of the more conservative members of the Legislature. But he plans to change that image.

Ponder, who worked as the group’s pension policy analyst, took over for Patrice Kraus in early June after she retired. Previously, he worked for the Arizona State Retirement System and for the Fire Department of New York Pension Bureau.

How did you get into lobbying?

I never envisioned myself in lobbying or government relations or anything like that. But the government relations officer at the State Retirement System left in November or December 2013 and the director of the State Retirement System asked me if I would be interested in applying for the job. And we had a conversation and it was just sort of, you know, things just sort of fell into place and I found something that I enjoyed and hopefully something that people think that I’m good at – and that’s how I got here.

Some lobbyists have one client or one cause they represent. You represent 91 cities and towns. Is that difficult?

Our view at the league is that, you know, Peoria is different than Tempe, and Prescott is different than Bisbee. The politics of those cities are different. We believe the government closest to the people governs best and that is one of our main principles here. We do not care if it is Peoria or Tempe, those councils are well positioned to respond to the desires of the citizens that choose to live there and we believe they should have autonomy of self-government, which makes that city or town unique. And so for things that impact cities universally on sort of a local control matter, it’s actually pretty easy to come to an agreement.

You mentioned that the league has a reputation of opposing bills.
I think that the league has been sort of pigeonholed into a box in recent years, and I don’t fault anybody on this, but where people have said the league doesn’t want to negotiate on anything or we just say no, and that couldn’t be further from the truth. We helped negotiate the “small cell” (technology) bill two years ago and we were the first state in the country that did that. ... So there’s major pieces of legislation that we’ve, you know, (post-traumatic stress disorder) bill or the food trucks bill, that we’ve negotiated every year. It’s just that there are certain times where we do have to say no and stand in defense of our cities.

What are some of the hardest bills you’ve worked on?

There are two bills that were significantly challenging this year that I worked on. I think one is the PTSD (post-traumatic stress disorder) bill for police and fire. It ultimately ended up being HB2502. And you know that was a bill that was driven by a lot of passion on both sides. The cities want to take care of their police and fire folks because these are our employees, they’re our neighbors, but at the same time the cities have to be sensitive to being careful stewards of government money and so we had to figure out what was the best way to marry those two things to come up with a compromise bill. And then the other one was the digital goods legislation that I jumped in on sort of at the tail end of that but was helping out throughout the session with not only responses and research but ultimately sort of lobbying at the end.

The U.S. Supreme Court ruled earlier this month that states can collect sales taxes on internet purchases. How do you think that will affect Arizona?

I think from our perspective at least, the world is no different than it was a couple of weeks ago. We have always said that we thought taxes would be permissible on these items. This sets up a level playing field or ensures a level playing field between brick and mortar businesses versus online businesses.

Do you think the digital goods bill (on taxing internet sales) will come back next session?

You know, it depends on what the industry wants to do about that. But I would envision that we might hear some conversation about it coming up in the next few months. But again, I think from our perspective, it’s not going to be this huge windfall of funds for cities because a lot of these folks have already been withholding taxes like Amazon and Walmart and Target and these other entities.

If it does come back, will the league oppose it?

I think it certainly depends on what form it comes back in. If it came back in the same form as it did this year, the league would certainly be opposed because these are revenues that cities have been relying on to provide public safety and other services to our citizens.

It may be too early to say but what do you think will be some of the big issues next session?

Quite frankly I think the biggest question is what’s the makeup of the Legislature going to look like next year? And so I think there’s a lot of things that are up in the air right now. ... I think there’s a chance we could see, if not digital goods, something at least addressing that subject, something sort of small addressing that subject. I think we’ll see obviously more stuff around education and the potentially available money that’s out there. There’s certainly going to be something to do with transportation. I think the interesting thing is that every year is a surprise and we just have to be prepared for that.

Do you think a different makeup would make your job easier or harder?

We’ve sort of been put in this box where we’re viewed as a Democratic-centric organization. People say Democrats are more favorable to us. They have voted more in our favor but I don’t think it’s a fair representation. We have Republicans that we work with all the time. And even though most of our cities have nonpartisan elections, I think if you asked most of our council members they’re probably from the conservative party. And so we might get more favorable votes from Democrats, but I don’t think we’re reliant on any one group.