



LEGISLATIVE BULLETIN

Issue No. 4 – February 2nd, 2018

Legislative Overview

Today marks the 26th day of the legislative session. Much of this week in the House was consumed with the report on sexual harassment allegations and the resulting vote on Thursday to expel Rep. Don Shooter (R-Yuma), the first time a legislator has been expelled in 27 years.

To date, the legislature has posted 1059 bills, with no bills passed. This upcoming Monday, February 5th will be the final day for House bills to be introduced without special permission.

Food Truck Stakeholder Meeting

League staff met with a coalition of food truck owners, restaurant industry and local government representatives this week to discuss HB 2371 mobile food vendors; state licensure. The bill as introduced will limit local regulation of food trucks and allow access to public property (city hall, public parks, etc.) and any parking spaces (street parking included) without a permit from the city or town. The bill also attempts to streamline health and safety standards that will apply statewide.

The food truck owners indicated that differing regulations and the varying enforcement in cities and towns have made it difficult for the industry to operate successfully. While their intent is to have a streamlined, statewide regulatory framework to provide consistent regulation, we believe their bill as written goes well beyond their stated goal.

We have committed to the industry and the sponsor, Rep. Kevin Payne (R-Peoria), to continue to work on refining the language so that it is acceptable to both the food truck operators and local governments.

SB 1374 – state law; local government violations

SB1487, passed in 2016, allows any legislator to allege a city or town has violated a state law and initiate an investigation by the Attorney General. Legislators have used the law eight times since it became law, and many seem to like having the ability to challenge local government decisions without having to go court.

As much as cities and towns would like to see the entire law repealed, that appears to be out of the question for the foreseeable future. Therefore, we approached Senator Kate Brophy McGee (R-Phoenix) to sponsor a bill to make changes to SB1487 we believe will make the law more transparent and equitable.

She agreed and introduced SB1374 which, among other things, requires a city or town to be at least partially in the district of the legislator initiating the complaint, allows cities the same direct access to the Arizona Supreme Court that the law gives the Attorney General and extends the time for both the AG and city to respond to claims. But, while the bill has been introduced, it has not received its official “readings” in the Senate and has not been assigned to any committee.

It is very disappointing that local government is not being given the opportunity to even have discussions about this bill and, unfortunately, it sends the message that our legislators are not interested in our concerns.

We will continue to try to get the bill a hearing but time is rapidly running out for SB1374 to be considered.

Home-based Business Bills

The second of three bills relating to home-based businesses passed out of the House Commerce Committee this week on a party line vote. HB2333 – home-based businesses; local regulation, is sponsored by Representative Jeff Weninger (R-Chandler).

An identical Senate bill, SB1175, sponsored by Senator David Farnsworth, was scheduled to be heard next Monday in the Senate Commerce and Public Safety Committee, but has removed from the agenda. It is likely to be back on the agenda during the last week to hear bills in the chamber of origin. This committee has already passed another bill on this topic, SB1002 – home-based; regulations; municipalities, which was also sponsored by Senator Farnsworth.

All of these bills limit municipal authority to regulate home-based businesses. While some statutory framework may be acceptable, these bills, in their current form, go too far in tying the hands of local governments. Neighborhoods are the heart of our

communities and we need to be able to protect the quality of life our residents expect and deserve.

In the last few years, we have seen an influx of short-term rentals and sober-living homes begin operating in our neighborhoods. State and federal statutes already limit our ability to address the problems these types of businesses create. We already allow most home-based businesses and we know that a changing economy and the development of technology will mean that even more people are going to be working from their homes. While most operate without disturbing their neighbors, we still need to maintain the authority to deal with bad actors. Please contact your legislators and let them know that you do not want them to support any legislation that will undermine our neighborhoods.

City/Town Campaign Funds

In 2016 the legislature adopted a ban on city/town candidates transferring their excess campaign funds to legislative or state-wide campaign committees should they decide to run for those offices. This same ban does not prohibit a state legislator or state officer from transferring their campaign funds to local races.

The ban has made it more difficult for locally elected officials to bring their experience to the capitol. Many current and former legislators and officers began their careers and gained their experience as city/town councilmembers and we believe today's local elected officials should have the same opportunity.

Last year the City of Maricopa proposed and successfully moved a League Resolution to repeal this ban and Rep. Doug Coleman (R-Apache Junction), himself a former mayor, agreed to sponsor HB 2182 campaign finance; candidate committee; transfers, which passed out of committee this week on a 4-3 vote.

While the League and our members are strongly in support of equalizing the playing field for locally elected officials, the bill has not been as well received as we would have liked. We encourage you to reach out to your legislators to ask that they support a level playing field for potential candidates with local government experience.

Fire Flow & Fire Sprinklers

Last week we discussed SB 1153 fire flow requirements; rural applicability, sponsored by Sen. Sylvia Allen (R-Snowflake) which would exempt all new single-family homes in rural communities from local fire flow requirements (the necessary water pressure for suppressing fires). This week the League, along with the Arizona Fire Marshalls Association and the Arizona Fire District Association testified in opposition to the bill because of its detrimental impact on fire safety. The bill was held in committee but

could still be voted out if the chair (Sen. Gail Griffin, R-Hereford, Sierra Vista) places it back on an agenda.

A related bill, sponsored by Senator Griffin, is SB 1093 mandated fire sprinklers; prohibition; applicability, which would pre-empt any city or county ordinances that include fire sprinkler requirements unless those ordinances apply to all single family residences and residential buildings. In 2011 the League negotiated with the Home Builders Association for language in HB 2153 that would protect city ordinances that were in place before January 1, 2010.

There aren't any cities we could identify that require fire sprinklers on all residential buildings and single family homes and as a result Senator Griffin's bill pre-empts the League's past negotiations and any city fire sprinkler ordinances in place at this time. Additionally, this bill does not resolve the concerns of the developer bringing forward this legislation. The League, as well as Glendale, Scottsdale, Peoria, and Maricopa, opposed this bill but it passed out of committee on a strict party line vote, 4-3. The bill was scheduled for COW on February 1st but was retained on the calendar while the parties discuss the implications of this bill. The two bills have become intertwined because they both originated from the same issue in Camp Verde.

Notice of Claims

This past week the League testified in opposition to HB 2386 notice of claims; requirements sponsored by Representative Rivero (R-Peoria). The bill passed the House Judiciary and Public Safety Committee on Wednesday with a 7-2 vote. HB 2386 will move the Notice of Claims statute from one that is clear, concise, and supported by significant judicial precedence to one that is ambiguous and does not provide public entities with any assurance of being able to settle future claims.

The current notice of claims statute requires strict compliance with the law in that a claimant must provide an amount for which the claim can be settled with the public entity and the claimant must provide facts substantiating those amounts. In *McDonald v. Deer Valley Unified School District* (2007)-AZ Supreme Court and again with *Yahweh v. City of Phoenix* (2017)-Court of Appeals, the courts threw out notice of claims against these public entities because the claimant's attorneys did not follow the law with strict compliance and did not provide the public entity with a sum certain amount for which the claim could be settled. The courts explicitly said "compliance with notice-of-claim statute is not difficult" and "Requirement under notice-of-claim statute that claimants present facts supporting amount for which they will settle claim against public entity ensures that claimants will not demand unfounded amounts that constitute quick, unrealistic, exaggerated demands."

HB 2386 proposes to only require "substantial compliance" with the statute and seemingly releases the public entity only if the amount in the claim is paid in full. Based

on the language changes and ambiguity this could present a substantial financial burden on cities by making it easier for claimants to litigate and by not requiring the claimant to provide a sum for which the claim can be settled. We encourage you to contact your legislators and register your opposition to this bill.

Legislative Bill Monitoring

Due to changes made on the legislature's website this year, we are experiencing difficulties updating the League's [Legislative Bill Monitoring](#) (LBM) page and providing a direct link to information related to the bills listed there. You may still access the LBM page to see our summaries of the bills that we are tracking; however, you will need to click on this [LINK](#) and type in the bill number to access the current status, vote count, bill and amendment texts.