



ISSUE 5 - FEBRUARY 4, 2011

Legislative Overview

Legislative activity continues at a furious pace in both the Arizona House and Senate. Monday, January 31 was the deadline for introduction of bills in the Senate. The corresponding House deadline is Monday, February 7. To date, a total of 1,233 bills have been filed in the two chambers combined. Of these, the League is actively monitoring 260 that involve identifiable and significant impacts on cities and towns.

An unusually high number of "anti-city" bills have been introduced so far in the 50th Legislature. A discussion of several such measures follows.

Bill Proposes Major Changes to Impact Fees...Again

Despite the fact that cities and towns are still in the middle of a three-year freeze on development impact fee rates, the homebuilding industry has had a new, large bill introduced that significantly rewrites nearly all the rules. The bill, SB 1525 (city; town; development fees), is sponsored by Senate President Russell Pearce (R-Mesa) and has many additional co-sponsors from the House and Senate.

Following last year's negotiations on impact fees (which resulted in extending the current rate freeze for nearly another year), the homebuilders were asked to accept a "freeze" on introducing new impact fee bills. That obviously did not happen.

This bill undoes many items that have been agreed to during hours of negotiations between the homebuilding industry and cities and towns over the last six years. Among other things, the bill:

- limits the number of things for which impact fees can be charged;
- changes how the fees are to be calculated;
- redefines which developments must benefit from impact fees and the process for updating a city's infrastructure improvement plan;
- creates a new "advisory committee" in each city or town that must have at least 60 percent of its members from the real estate and homebuilding industries;
- sets up an extensive "offset" provision for other taxes and revenues collected from homeowners making it unlikely any impact fees could even be assessed;
- establishes a refund provision;
- greatly extends timelines for adoption of fee schedules; and
- extends the "grandfather" provision for freezing rates on approved developments from two years to five years.

Taken together, these huge changes move us substantially away from the fundamental principles that new growth should pay for itself and that costs of new development should not be shifted onto existing residents.

Residential Rental Taxes

SB 1160 (city sales tax; residential rental) requires that any increase on residential landlords go to a vote of the people. The bill passed the Senate Committee of the Whole on Thursday, February 3 and will likely go to Third Read next week. The League strongly opposes the measure and encourages you to contact your senators to urge a "no" vote. Among other things, the bill:

- Represents the epitome of special interest legislation, mandating special treatment for one group of taxpayers;
- Reduces the flexibility of mayors and councils to manage municipal budgets; and
- Creates a terrible precedent for other special interests seeking legislative protection from taxes.

Apartment Trash Collection

Tuesday's House Environment Committee heard but held HB 2104 (trash collection; multi-family housing). This bill would mandate that private waste haulers be given the opportunity to contract for removal of trash from apartment complexes - a right that has already been legislatively conferred with respect to commercial complexes. The Chair of the committee, Rep. Amanda Reeve (R - Phoenix), took testimony but did not allow a vote on the measure. The League and city public works officials testified as to the adverse effects of the bill, including the potential for revenue loss to municipalities and decreased service to residential rental properties.

The bill will return to the committee in a couple of weeks, after the League and the proponents of the bill - the Arizona Multi-Housing Association - have an opportunity to meet and try to negotiate a compromise. The companion bill in the Senate, SB 1204, has not yet been scheduled for a hearing.

Commercial Lease Tax Exemption

SB 1166 (municipal tax exemption; commercial lease) passed the Senate Committee of the Whole on Thursday, February 3. It is likely to proceed to Third Read early next week.

The bill exempts from taxation certain lease transactions between related corporations. Companion legislation in the House, HB 2230, passed the Rules Committee and may be considered by the House Committee of the Whole next week.

The League opposes the legislation in its current form because:

- The bill's financial impact on cities and towns remains unknown;
- We are concerned that large corporations will be able to exploit the legislation as a tax avoidance device, even though sponsors of the bill have stated that it is intended as a protection to small businesses and sole proprietorships; and
- We seek an opportunity to continue negotiations regarding the addition of a limitation ensuring that the legislation applies only to small businesses.

Fire Sprinklers

HB 2153 (municipalities; counties; fire sprinklers; code) passed the Rules Committee this week. The function of the Rules Committee is to review legislation to determine whether it is constitutional and in proper form. The bill was scheduled for discussion in Caucus meetings, but was pulled from the Majority Caucus calendar for Tuesday; the measure must pass through that Caucus before it goes to the full House. We unaware of the reason for the bill's withdrawal from the Caucus calendar but will keep you apprised of its progress.

Model City Tax Code

The House Ways and Means Committee heard HB 2236 (city tax code; official copy) on Monday, January 31. The bill, sponsored by Rep. Olson (R-Mesa) would require that the official version of the Model City Tax Code (MCTC) be maintained on a website of the Department of Revenue (DOR). (The MCTC website is currently maintained by the League of Arizona Cities and Towns.) The sponsor indicated in committee that the initiative was intended to move the MCTC to an entity that could be held liable for inaccuracies in the information. The League, which remains officially neutral on the bill, voiced its concerns over any implications that the MCTC website currently contains inaccurate information or is not updated in a timely fashion. The League is also concerned about the addition of responsibility to an already over-worked and understaffed state department. The bill was amended to make a technical change and passed out of committee. We will continue to monitor the bill and work with stakeholders as appropriate.

Economic Development and Jobs Creation

Sen. Yarbrough (R-Chandler) has introduced four bills to institute various forms of tax relief with the intended goal of encouraging economic development in Arizona. In total, the package of bills would impact cities on the order of tens of millions of dollars. The League testified on all four bills, expressing our support for gradual, targeted tax-cuts to inspire growth in our state; we are, however, cognizant of the bills' immediate and negative fiscal consequence for municipalities. The League testified as to estimated revenue losses, as well as to our position that such proposals should be considered in the larger context of the state budget as a whole. A synopsis of each of the four bills follows:

SB 1161 (personal property tax; exemption; depreciation): Effective tax year (TY) 2012, the Department of Revenue must increase the maximum property tax exemption for personal property based on the average increase of the two most recent employment cost indexes, instead of the GDP price deflator. Also effective TY2012, it reduces the depreciated assessment ratios for certain personal property by 10%.

SB 1162 (corporate income tax rate reduction): Beginning in TY2013, proportionally reduces the corporate income tax from 6.968% to 5% over four years.

SB 1163 (business property tax assessment percentage): Lowers the assessment ratio for commercial property from 20% to 18% over TY2012 and TY2013 and lowers the assessment ratio for agricultural property from 16% to 15% in TY2013.

SB 1164 (income tax; corporate sales factor): Modifies one of the options for calculating the allocation of corporate income tax for TY2016 and in TY2017 changes that option to the sales factor.

Spice

SB 1202 (definition of dangerous drugs; synthetic) is the Senate companion to HB 2167. These bills classify the synthetic marijuana commonly known as "Spice" as a dangerous drug. On Monday, January 31, SB 1202 unanimously passed the Senate Judiciary Committee. Also this week, HB 2167 flew through the House Committee of the Whole and Third Read.

Government Transparency

On Tuesday, February 1, the House Committee on Government passed a bill sponsored by Rep. Yee (R-Phoenix) that would require counties and municipalities to prominently post tentative and adopted budgets on their websites within given timeframes and retain that information for five years. The League voiced both its neutrality on the bill and its general support of government transparency. We also registered a number of concerns. With regards to HB 2422 (local government budgeting; posting; publication), we drew attention to the fact that many cities currently provide the subject information. Furthermore, we believe that, through active education and outreach, other cities could accomplish the bill's transparency goals *without* legislation. The League did meet with the bill sponsor, who expressed a willingness to address issues related to the bill's implementation. The League is drafting amendatory language and will continue to monitor the bill's progress.

Firearms Omnibus Legislation

The Senate Committee on Judiciary will hear SB 1201 (firearms omnibus) on Monday, February 7th. This bill makes a multitude of changes to firearms law. The following summarizes some portions of the bill of especial concern to municipalities:

- Strips away local control in dealing with confiscated weapons.
- Mandates that public establishments and events have "accessible" secured gun storage if firearms are not allowed inside. This could mean a requirement to have multiple locations with lockboxes and security personnel, instead of the current requirement of one such secured system per establishment.
- Provides that a person who is adversely affected by any ordinance, regulation, measure, directive, rule, enactment, order or policy who wins injunctive relief is to be awarded actual and consequential damages, attorney fees and costs in the trial and appellate courts. If an award ordered is not paid within seventy-two hours after the order's entry and publication, payment may be secured by seizure against any municipal vehicles used or operated for the benefit of

any elected officeholder in the appropriate political subdivision.

There was a large stakeholder meeting concerning this bill earlier in the week. Stakeholders focused on the development of an amendment to eliminate many of the bill's more egregious provisions. We will closely monitor Monday's hearing and continue to work with interested parties. Watch for more on this developing story in next week's *Bulletin*.

Hazardous and Solid Waste Fees

On January 24 and January 31, Rep. Amanda Reeve (R -Phoenix) and the Arizona Department of Environmental Quality (ADEQ) held stakeholder meetings to discuss proposed fees in the Hazardous Waste and Solid Waste programs intended to establish ADEQ as a self-funded agency. In connection with this effort, new fees are being proposed for Fiscal Year (FY) 2013. For FY 2012, ADEQ plans to seek an extension of the emergency fees that were authorized during last year's Seventh Special Session. Although many of the new fees - and proposed changes to existing fees - are quite high, the proposals are not finalized and are subject to the standard rulemaking procedure (which ADEQ could undertake as early as August/September of this year). A finalized version of legislation incorporating these proposals will be available next week. The League will continue to monitor the legislation as it develops and weigh its impact against other alternatives.

Urban Revenue Sharing and City Finances

A guest column regarding urban revenue sharing, authored by League Executive Director Ken Strobeck, appeared in the Arizona Guardian on January 27. The full article [can be found here](#).

Ken also appeared on Channel 8 public affairs program Horizon on Thursday night to discuss the current status of city finances and the potential impact of various legislative proposals. You [can see that interview at this link](#).

Legislator Profile - Representative Ted Vogt

Question: What do Joan Rivers, Donald Rumsfeld, Tina Fey and Dick Cheney all have in common? Answer: a relationship to Arizona Representative Ted Vogt. Read on for details.

In his 37 years, Rep. Vogt has already accomplished more than most individuals achieve in a lifetime. Yale University graduate. Distinguished military combat veteran. Improvisational actor. Investment banker in New York City. Advertising account executive in Chicago. Practicing attorney in Phoenix and Tucson. And now, Arizona legislator.

Square-jawed, poised, and earnest-yet-affable, Rep. Vogt cuts a figure that is part Clark Kent, part Eagle Scout (an honor he earned in his youth - naturally), and part local chamber of commerce booster. Rep. Vogt's odyssey of accomplishment began in Council Bluffs, Iowa, where he was born. Before he was two years old, his family was relocated by his father's company to Salt Lake City. Employed by Sperry-Univac (now L-3 Communications), the elder Mr. Vogt worked on the development of data links for intelligence platforms and other defense technologies that his son would later rely upon as a military officer in Afghanistan.

Rep. Vogt was a public school student until sixth grade and then became, in his words, "a Protestant in a Catholic school system in a Mormon state." During his youth, Rep. Vogt grew to love the natural beauty of the Mountain West and spent a great deal of time hiking and camping in the Beehive State's sensational parks.

Following high school, Rep. Vogt attended Yale University in New Haven Connecticut. Far, far from home, Rep. Vogt's spirits were never dampened by the miserable east coast weather or the uber-competitiveness of an Ivy League college. "I *loved* all four years," Rep. Vogt fondly recalls. He immersed himself in campus life and became involved in student government and crew. On the recommendation of a crew teammate, he even auditioned for the Dukesmen, a singing group that failed to invite the young crooner into its fold. A history major at Yale, Rep. Vogt's senior thesis was on the history of the remote control.



After graduation, Rep. Vogt embarked upon a series of diverse and interesting professional adventures. He was a substitute teacher in Salt Lake City. In New York City, he worked as an investment banker in a mergers and acquisitions firm specializing in technology companies. He helped staff the Bob Dole presidential campaign. He then lived in Chicago, where, among other things, he served as an account executive for Leo Burnett Co., then the ninth largest advertising agency in the world.

Okay, the connection to Joan Rivers is a bit of a stretch. Rivers did, however, get her start in 1959 as a comedienne at Second City in Chicago, the famed breeding ground for Saturday Night Live players and blue-chip comic headliners. Rep. Vogt belonged to the same troupe - albeit a bit later than the Queen of Mean. During his time with Second City (1997 to 2000), future *SNL* stars Tina Fey and Rachel Dratch were fellow members of the company, which often repaired to the Last Act, a local watering hole catering to the creative set.

Improvisational performer by night, Rep. Vogt served as a civilian *aide-de-camp* of sorts to former Secretary of Defense Donald Rumsfeld by day. Secretary Rumsfeld, who had seen great potential in the future legislator when they worked together on the Dole campaign in 1996, remains a mentor and friend. (Rep. Vogt dined privately with the Secretary and his wife during a recent trip to Washington.) Rumsfeld supported Rep. Vogt's recent campaign for the legislature, securing personal contributions from former Vice President Dick Cheney, former Secretary of Defense Frank Carlucci, former Secretary of Energy Samuel Bodman, and other national Republican luminaries.

"Ted, have you ever thought of going into the military? You should. It would do you some good." Four years after "Rummy" offered this recommendation, Rep. Vogt enlisted in the United States Air Force. He was inspired to do something that would both serve his country and help make the world a better place. He served for six years as an Air Force intelligence officer. After the attacks of September 11, 2001, he served in Afghanistan in support of Operation Enduring Freedom, and throughout the greater Middle East in support of Operation Iraqi Freedom.

Upon conclusion of his military tour, Rep. Vogt landed in Tucson, where others in his family had relocated. He immediately felt the same way about Arizona that he had about Yale: he loved it, and he knew that it was where he was supposed to be. He enrolled in law school at the University of Arizona in 2007, graduated in 2010 and passed the Arizona bar exam on his first attempt.

Jonathan Paton's resignation of a Senate seat to run for Congress in early 2010 initiated a series of events that led to Rep. Vogt's service as a legislator. Then-Representative Frank Antenori was appointed to succeed Paton as District 30's state senator. Rep. Vogt then received an appointment to fill the vacancy left by Antenori's departure from the House. Rep. Vogt was elected to the House seat in his own right last November.

Rep. Vogt (whose district includes Patagonia, Sahuarita, Sierra Vista and Tucson) is pleased to be serving in the legislature at a time when states are rediscovering the role and power accorded to them by the U.S. Constitution. He regards Arizona as a "land of legends" and expresses great appreciation for the color and diversity of Arizona's cities and towns. That very diversity requires that municipalities retain some flexibility in how they manage local affairs.

If Rep. Vogt's career arc continues on its extraordinary and expansive path, we may all find ourselves drawn closer to his growing network of relationships and connections. Six Degrees of Ted Vogt, anyone?