



ISSUE 7 - FEBRUARY 18, 2011

Overview

Today is the 40th day of the first regular session of the 50th Legislature. Committees worked long hours and late nights to complete consideration of bills during the week of February 14 - the final week of the session for hearings on bills in their house of origin.

Budget matters dominated Capitol headlines, with the startling news from Washington, D.C. that the State does not require a federal waiver to drop some quarter-million enrollees from the Arizona Health Care Cost Containment System. The proposal to so limit eligibility is a key ingredient of Governor Brewer's budget plan for the coming year.

The Governor called a special session of the Legislature to convene on February 14 (Statehood Day) to consider her proposed jobs and economic development legislation (see following story). The three-day session concluded with passage of the bill largely along party lines.

Jobs Bills

On Wednesday, February 16, the House and Senate met in the second special session of the 50th Legislature for fast-track consideration of Governor Brewer's legislative proposal to attract businesses to, and generate economic activity in, the State of Arizona. Among other things, the bill, which was supported by the League, does the following:

- gradually reduces the corporate income tax rate by nearly two percentage points (to 4.9%) beginning in 2014;
- decreases agricultural property taxes beginning in 2017;
- exempts manufacturers from sales taxes on goods sold in other states beginning in 2014;
- increases tax exemptions for business equipment beginning in 2012;
- increases homeowner rebates to offset an anticipated rise in residential property taxes beginning in 2014; and
- replaces the Department of Commerce with the Arizona Commerce Authority, a public-private partnership.

The bill (HB 2001: commerce authority; business incentives) passed the House by a vote of 39-21 and the Senate by a vote of 18-11. The Governor signed the legislation on Thursday, February 17.

Another bill designed to improve Arizona's economy and competitiveness is SB 1041 (Invest Arizona), advocated principally by public and private members of the Greater Phoenix Economic Council (GPEC). The bill ends the current enterprise zone program and establishes tax credits for new employment in the state for out-of-state employers who locate in Arizona or for businesses that expand their current in-state operations with at least 25 additional full-time employment positions. The League and several individual cities supported the legislation, which unanimously passed the Senate Committee on Commerce and Energy on February 16.

Revenue Sharing and Model City Tax Code

There is good news to report regarding two of the most problematic bills affecting cities and towns introduced during this

session. SB 1220 (uniform local sales tax base) and SB 1221 (urban revenue sharing; distribution freeze) were held in the Senate Finance Committee and did not move forward. Senator Steve Pierce (R-Prescott), the sponsor of both bills, agreed to withdraw them. We are very grateful to Sen. Pierce for being willing to listen to our serious concerns about the legislation. Last Friday, February 11, four members of the League Executive Committee met with Kevin McCarthy, President of the Arizona Tax Research Association (ATRA), to discuss the impacts of SB 1220 on cities and towns, and how improvements could be made to the Model City Tax Code to advance the value of uniformity. ATRA agreed to engage in further discussions, and that effort will be spearheaded on behalf of the League by Vice-President Doug Von Gausig, Mayor of Clarkdale. We appreciate the support of the several Senators who expressed opposition to SB 1220, as well as the efforts of the many cities, towns, business and tourism groups that helped communicate the devastating impact on the economies of cities and the State that would have resulted from passage of the bill.

Impact Fees

The massive rewrite of development impact fees proposed by SB 1525 (city; town; development fees) has advanced through the Senate Rules Committee and will be ready for floor action, possibly as early as next week. In contrast to previous years, there have been no discussions between homebuilders and cities about this major legislation, but the Office of the Governor and certain legislative leaders have expressed an interest in creating a workgroup to tackle the bill. The League has expressed a willingness to participate in negotiations on this legislation, which fundamentally changes the process of implementing development impact fees and moves the state away from the principle of new growth paying for its own impacts.

Fire Sprinklers

The Senate Committee on Government Reform passed SB 1374 (s/e: municipalities; counties; fire sprinklers; code) late Wednesday, after a contentious hearing on the bill. The League, fire chiefs and a number of cities expressed opposition to the measure, which prohibits municipalities from mandating the installation of fire sprinklers in new single family homes. Cities with fire sprinkler ordinances adopted by December 31, 2009 are exempt from the bill's proscription. Companion legislation (HB 2153) passed the House on February 10.

Third Party Collection of Sales Taxes

HB 2618 (municipal taxes and auditors) was heard by the House Committee on Ways and Means on Thursday, February 17. The legislation, introduced by Representative Nancy McLain (R-Bullhead City), prohibits contingency fee auditing by municipalities. The League supports the bill as an acceptable alternative to SB 1165 (municipalities; auditors and collectors), which prohibits municipalities from contracting with third parties for the collection, processing or administration of transaction privilege taxes. HB 2618 passed the committee by a 6-1 vote.

Pension Reform

On Thursday, the House Committee on Employment and Regulatory Affairs held a special meeting to hear HB 2726 (public retirement systems; plan design). Sponsored by Speaker of the House Kirk Adams (R-Mesa), the measure makes changes to the Arizona State Retirement System (ASRS), as well as sweeping changes to the three plans managed by the Public Safety Personnel Retirement System (PSPRS). Among other things, the bill: terminates the Deferred Retirement Option Program (DROP) on January 1, 2012; transforms the Correctional Officer Retirement Plan (CORP), the Elected Official Retirement Plan (EORP), and PSPRS into matching contribution plans in five years; and eliminates the permanent benefit increase (PBI) in ASRS and the Cost of Living Adjustment (COLA) in the PSPRS plans.

The League testified that: we support the proposed changes to EORP; the changes to ASRS are largely consistent with the League's desire for reform to make the plans more sustainable; and we support the Speaker's amendment to restore the ASRS PBI and a restrictive COLA as steps in the right direction. The League commends the Speaker for tackling such a complex issue and acknowledges his courage to make difficult - but perhaps necessary - changes to ensure that ASRS, CORP, EORP, and PSPRS remain viable for decades to come.

Additionally, a Senate Finance Committee hearing on Senator Steve Yarbrough's (R-Chandler) comprehensive pension reform bill was postponed to next Wednesday, February 23. The official language of SB 1609 (retirement systems; plans; plan design) is not yet available.

Commercial Lease Tax Exemption

Legislation to exempt taxes on certain commercial lease transactions between related corporations (HB 2230: municipal tax exemption; commercial lease) passed the House on Monday, February 14 by a vote of 40-20. Identical legislation (SB 1166) previously passed the Senate. Because the House failed to substitute the Senate bill on Third Read, more votes will be required to send the legislation to the Governor for signature.

Municipal Personnel and Salary Limits

A pair of bills to impose limits on the number and compensation of municipal personnel in Arizona's two largest cities was passed by the Senate Rules Committee on February 14. SB 1345 (cities; number of employees; compensation) provides that, with specified exceptions, the number of city employees may not exceed the number of filled positions existing at the beginning of fiscal year 2012 for that city. It further provides that, beginning in 2014, the number of employees shall not exceed 0.4 percent of the population of the city *and* that the average compensation of municipal employees shall not exceed the average salary of private sector employees in that community. SB 1347 (cities; compensation baseline) rolls back municipal pay grades to the fiscal year 2007 level. By limiting the bills' application to cities with a population of at least 500,000, they apply only to Tucson and Phoenix. The League previously testified against both bills, arguing that the substitution of the Legislature's judgment for that of mayors and councils is inappropriate.

Apartment Trash Collection

Although the League and municipalities were successful in stopping legislative progress of the House version of the apartment trash collection bill, the Senate version, SB 1204 (trash collection; multifamily housing), did pass the Senate Committee on Natural Resources and Transportation earlier this week. This bill mandates 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.

During the course of the hearing, stakeholder parties agreed to meet in an effort to work out their differences. Certain senators voted to move the bill through committee, based on their understanding that such discussions would occur. The League hopes to have an opportunity to work with the Arizona Multihousing Association to negotiate an acceptable compromise.

Posting of Model City Tax Code

On February 14, the House of Representatives took final action on HB 2336 (city tax code; official copy). The bill transfers responsibility for maintenance of the official copy of the Model City Tax Code from the League of Arizona Cities and Towns to the Arizona Department of Revenue. The bill passed the House on a unanimous recorded vote of 60-0. The League did not oppose the legislation because of our intention to maintain our user-friendly copy of the MCTC on the League's website in any event.

Consumer Fireworks

SB 1388 (consumer fireworks; regulation), legislation authorizing cities and towns to regulate the use and sale of fireworks, passed the Senate Rules Committee on February 14. The League supports the bill.

In a related development, the Senate Committee on Government Reform passed a strike-everything amendment to SB 1379 (relating to consumer fireworks) on Wednesday, February 16. That amendment, offered by Senator Frank Antenori (R-Tucson), specifies the extent to which cities and towns may regulate the sale and use of fireworks. The bill permits a municipality or county to charge an annual fee (not to exceed \$200) for each fireworks store or retail sales facility. Proceeds would be divided among a new fire marshal fund, jurisdictional fire districts and the State General Fund. The bill also provides that cities and towns may not ban the use of consumer fireworks during the periods of June 15 to July 5 and December 12 to January 2.

Rental Sales Tax Collection

This week the House Committee on Technology and Infrastructure passed HB 2289 (technical correction; election; special districts) with a strike-everything amendment requiring the Department of Revenue to collect and remit real property rental taxes for self-collecting cities on a quarterly basis. The bill was initially scheduled for a hearing in the Ways and Means Committee but was improperly assigned. The League testified in opposition to the strike-everything amendment and met twice with its sponsor, Representative Jeff Dial (R-Chandler), to better understand the purpose and intent of the amendment. As the bill moves forward, the League and Rep. Dial will work to: effect changes to preserve the right of non-program cities to tax and audit themselves; ensure operational compatibility with the Model City Tax Code; and achieve Rep. Dial's goal of increasing tax collection simplicity and efficiency.

Transparency

HB 2572 (government expenditure database; transparency; CAFR) directs the Arizona Department of Administration and each local government to post their comprehensive annual financial reports (CAFR) on their websites. The bill, sponsored by Representative Brenda Barton (R-Safford), was heard in the House Committee on Government on Tuesday, February 15, and passed on a vote of 5-0. The bill expands upon legislation enacted last year extending expenditure database requirements to local governments and requiring reporting of all revenues and expenditures over \$5,000. According to its sponsor, the purpose of HB 2572 is to require local governments to publish their CAFRs online. The League, which testified on the bill in committee, is working with the sponsor to ensure that the language of the bill matches the sponsor's intent.

Regulatory Reform

On Wednesday, February 16, the Senate Committee on Government Reform heard two bills addressing the issue of local regulatory processes. Both bills are sponsored by Senator Lori Klein (R-Anthem).

SB 1286 (counties; cities; permits; time limit) requires counties and municipalities to approve or deny any permit application within 60 days. Failure to notify the applicant of the decision within that timeframe results in automatic approval. The League opposed the bill in committee and testified that it: a) does not provide adequate time for certain permits to be properly processed, and b) would increase the number of permit denials, which is ultimately bad for business. The sponsor did express a willingness to discuss alternate time limits.

SB 1598 (cities; counties; regulatory review) applies to local government the Regulatory Bill of Rights (which currently applies only to state government agencies). Additionally, the bill makes changes to the general plan statutes to account for aggregate resources and allows for certain persons to file special actions for decisions regarding the general plan. The committee did adopt an amendment to substantively modify the special action provisions. The League testified in opposition to the bill and will participate in a stakeholder meeting regarding the legislation on February 22.

Incorporation and Deannexation

On Tuesday, February 15, the House Committee on Government failed to pass HB 2275 (incorporation; urbanized areas) and an associated strike-everything amendment. The bill as amended provides a temporary alternative for incorporations occurring near existing municipalities. Because the measure's proponents adopted several League recommendations, we registered our support for the bill. The strike-everything amendment was an attempt to address issues associated with incorporation in Pinal County, but a number of interested parties from a county area proposed for incorporation vocalized strong opposition to any such action, leading to the bill's defeat.

The Senate Committee on Government passed SB 1333 (cities; towns; deannexation; incorporation) on Wednesday, February 16. Sponsored by the chairman of the committee, Sen. Antenori, the bill creates two alternative methods for incorporation: one involving an annual reduction in the "Six-Mile Rule" and another that would allow areas of 1,500 persons or more with a governing board (including a planned community or special district board) to proceed with an incorporation or annexation without the authorization of any city near the proposed area. Additionally, the bill provides a new, elector-initiated, process for deannexation. Although the League is supportive of self-determination for areas that want to incorporate, that principle must be weighed against the best interests of existing cities and towns. We are also concerned that the bill's proposed deannexation process is highly problematic as written. For these reasons, the League registered its opposition to the measure but is willing to work with the sponsor to reach a suitable compromise.

Photo Radar Enforcement

Three different measures pending in the Senate address photo enforcement systems. SB 1352 and SCR 1029 (photo radar prohibition) both seek a statewide prohibition on the use of any photo enforcement system, including red light cameras. The passage of SB 1352 would result in a new state statute and that of SCR 1029 would result in a ballot proposition presented to the voters of Arizona. Another bill, SB 1354 (photo enforcement; violator identification response) provides that the subject of a photo radar ticket need not identify the photographed driver or respond to the notice or complaint. The League opposes these bills, all of which are sponsored by Sen. Antenori, on the bases of their interference with local control and the scope of the prohibitions. The bills, however, passed the Senate Committee on Government along party lines on February 16.

Revenue Allocation Authority

Senators Frank Antenori (R-Tucson) and John Nelson (R-Litchfield Park) have joined forces to promote a strike-everything amendment to SB 1371. The legislation creates a new entity called a "revenue allocation authority." The bill prescribes the process for establishing such an entity within a municipality's boundaries to fund projects promoting economic development. The legislation also authorizes the revenue allocation authority to issue revenue bonds by pledging revenues from specified local sources. These sources include a portion of incremental amounts of property taxes, as well an incremental amount of municipal transaction privilege tax (TPT) above the municipality's base TPT. The purpose of the bill is to provide a means (consistent with the Arizona Constitution) to capture incremental property tax revenues or local sales tax revenues for infrastructure and development projects designed by voter-approved local revenue allocation districts. SB 1371 passed the Senate Committee on Natural Resources and Transportation by unanimous vote on Monday, February 14. It now proceeds to the Senate Appropriations Committee for further consideration.

Utility Charges

In an ongoing saga continuing from last session, two pending bills attempt to mandate how cities and towns collect on delinquent utility accounts. HB 2193 (municipal water charges; responsibility), sponsored by Representative Jim Weiers (R-Phoenix), prohibits municipalities from requiring payment for unpaid water and wastewater rates from anyone other than the person who made the contract, resided at the property, and received the service. It also prohibits municipalities from refusing provision of service on the basis of unpaid water and wastewater bills to anyone but the person who resided at the property and received the service, whether or not they contracted for such service. It does allow property owners and immediate family members to voluntarily contract with a city for water and wastewater services and provide payment for these services. SB 1157 (sewer and wastewater charges), sponsored by Senator Gail Griffin (R-Hereford), specifies that a municipality may require payment for wastewater and garbage services only from the user of the services or a person who contracts for the services. It also prohibits a municipality from imposing charges on a property owner who has not contracted for wastewater or garbage service. The League opposed both bills, as we have been actively engaged in numerous productive stakeholder meetings on this subject. Nonetheless, both bills passed their original committees and now await action by their respective Rules Committees.

Public Intoxication Laws

Senator Sylvia Allen (R-Snowflake) sponsored and heard SB 1177 (counties; municipalities; public intoxication laws), a bill that augments local authority to address public intoxication. Current state law prohibits municipalities from arresting, detaining or intervening with people who are drunk in public. Regarding the issue from a humane perspective, Mayor Lyle Dimbatt of Page and Mayor Jeff Hill of Holbrook both testified on the impacts of the public intoxication problem in their communities. Both cited cases of people dying due to exposure and testified that city officials cannot intercede with intoxicated people if no other errant behavior or crime is taking place. The committee discussed the merits of the testimony and agreed to move the measure forward on the condition that a study committee be formed to further investigate the problem and potential solutions.

Political Signs

HB 2500 (s/e: political signs; public right-of-way), sponsored by Representative David Gowan (R-Sierra Vista) prohibits the removal of political signs from public rights-of-way during the period 60 days before a primary election until 15 days after the general election. There are exceptions to this measure. A sign can be removed if:

- it obscures driver vision;
- there is an emergency;

- it is non-compliant with the Americans with Disability Act; or
- the sign is a public safety hazard.

The League testified that the bill could be improved with language regarding the length of time a city would have to keep a removed sign and with a provision for the inclusion of contact information on such signs. The League also suggested that cities should be held legally harmless for damages caused by a sign if the city fails to remove it. The bill's sponsor agreed to continue discussions with the League. In the meantime, the bill passed out of committee on a 7-2 vote.

Legislator Profile

Watch this space for a profile of Representative David Stevens (R-Sierra Vista) in next week's *Legislative Bulletin*.

Legislative Bulletin is published by the League of Arizona Cities and Towns.
Forward your comments or suggestions to league@azleague.org.