



ISSUE 15 - APRIL 15, 2011

## Legislative overview

Today is the 96th day of the first session of Arizona's 50th Legislature. The House and Senate are tantalizingly close to completing the session within the 100-day limit established by rule. Because budget bills for the coming year have been signed into the law and very little "must-do" legislation remains, the League is optimistic that the Legislature will adjourn *sine die* by the end of next week.

## Truce reached on impact fee bill

After months of negotiations with homebuilders, the League has reached a consensus position on SB 1525 (city; town; development fees) and has switched to a neutral position on the bill. Pursuant to a negotiated amendment, the final version of the bill will make substantial changes to the impact fee statutes but phase in those changes over time. Further, the bill will preserve the ability of cities and towns to continue to pay off their bonded debt for projects that are currently being financed - even if those projects would not be an eligible use of impact fees in the future due to more restrictive definitions.

One of the key reasons for acquiescence on this bill was an agreement made outside of the actual language of SB 1525. The Homebuilders Association of Central Arizona has committed in writing to not promote new legislation changing the impact fee statutes (without agreement from the League) until at least the 2015 legislative session. The League has consistently advocated for a moratorium on additional impact fee legislation in order for cities and towns - as well as homebuilders and developers - to have certainty and consistent rules under which to operate.

The initial effectiveness date of the bill is January 1, 2012, with some provisions going into effect August 1, 2014. The bill contains many details that will require more analysis and implementation. The League will be working with city and town stakeholders and our attorneys to develop guidelines, timelines and a model ordinance to help cities and towns implement the provisions of the bill.

The impact fee issue is one that engenders intense emotions and strong opinions. While not every city and town is in agreement with our final position, we appreciate the willingness of all to engage in productive dialogue on this issue, to contact legislators and to offer suggestions as this complex bill has worked its way through the legislative process. There will be a full summary of the bill in the League's *New Laws Report* following the session.

## Managed competition

SB 1322 (now: managed competition; city services) was discussed in the House Committee of the Whole on April 13 but was suddenly retained to permit bill proponents to develop an amendment strategy. As presented to the House and with certain exceptions, the measure requires the state's two largest cities to bid out all municipal services costing in excess of \$75,000. The League vigorously opposes the bill as an unwarranted and expensive mandate and as an epic intrusion into matters of purely local governance.

The bill reappeared in the Committee of the Whole on April 14, and Representative Steve Montenegro (R-Avondale) offered an amendment to raise the dollar threshold of municipal services requiring competition to \$500,000. The amendment was approved by voice vote, and the bill passed on third read by a vote of 34-22. It now returns to the Senate for consideration of the House amendment.

## Commercial lease tax exemption

Legislation to exempt taxes on certain commercial lease transactions between related corporations (SB 1166: municipal tax exemption; commercial lease) was approved by the House on Monday by a vote of 39-20. Previously passed by the Senate, the measure now proceeds to the Governor for her approval or veto. The League, which opposes the bill on the basis that it could be abused by large corporations as a tax avoidance device, has apprised the Governor of its concerns and has formally requested a veto of the bill. A copy of the veto request letter [can be found here](#).

## Consumer fireworks

SB 1379 (now: consumer fireworks; regulation) limits the extent to which cities and towns may regulate the use of fireworks. Among other things, the bill mandates that cities may not prohibit the use of consumer fireworks during the periods of June 15 to July 5 and December 12 to January 2. The measure was previously amended to prohibit the sale of fireworks in Yavapai County, Coconino County and areas zoned for residential use.

The bill passed the House Committee of the Whole on Thursday with a floor amendment offered by Representative Ted Vogt (R-Tucson). The amendment permits a municipality to charge an annual fee, not to exceed \$1,000, for each fireworks distribution facility. The purpose of the fee is to pay for costs associated with permitting and inspections. The bill, opposed by the League, now proceeds to third reading in the House.

## Regulatory reform

SB 1598 (cities; counties; regulatory review) was amended and approved by the House Committee of the Whole on Tuesday. A number of groups, including the League, participated in the development of the stakeholder amendment adopted by the House. With adoption of the amendment, the League is neutral on the legislation. A collateral benefit of the amendment (which addresses a broad range of regulatory issues) is that its passage terminated further consideration of HB 2501 (rules; laws; ordinances; interpretation), a measure mandating that an ambiguous rule or ordinance be interpreted in favor of the party challenging its clarity.

As amended, the bill passed the House on Wednesday by a vote of 41-17. The modified measure was returned to the Senate, where it passed on a final vote of 22-7.

Unfortunately, another measure strongly opposed by the League, SB 1286 (counties; cities; permits; time limit), continues to progress through the system. The measure establishes a 60-day time limit for local action on permit applications and was amended by the House Government Committee to provide for applicant-requested extensions and to require local governments to disclose to unsuccessful applicants information regarding approved applications. The measure was approved by the House Rules Committee and was caucused on Tuesday. The overly simplistic measure establishes a preposterous regulatory scheme, crafted without regard to current federal, state, and local permitting practices. The League is disheartened by the bill's progress, especially in light of our good-faith participation in negotiations on regulatory reform.

## Utility charges

Despite the League's opposition, HB 2193 (municipal water charges; responsibility) passed its Senate third reading by a vote of 21-8 on Tuesday. This bill prevents municipalities from seeking recovery of utility charges from anyone other than an individual who has contracted for the subject service and has resided at the service address. The bill is especially problematic for communities with wastewater operations, as there are physical limitations on their ability to mitigate financial loss through the termination of wastewater service. The sponsor has concurred with the Senate amendment, and the bill now proceeds to final passage in the House.

## Firearms

The House of Representatives passed SB 1201 (firearms omnibus) on Thursday by a vote of 38-20. The League opposes the bill because of its requirement that cities which prohibit guns from public buildings must employ armed guards and install metal detectors and gun lockers. The bill was amended in the Committee of the Whole to clarify that firearms can be prohibited from private events located on public property (such as professional football games at public stadiums) without the additional security measures. Such measures, however, are required if guns are banned from a public event at a public facility. For example, if a city council decides to prohibit firearms from a council meeting, it would need the extra security precautions to comply with the legislation.

The bill sponsor concurred with the House changes, and the bill passed its final read in the Senate by a vote of 21-8. It now goes to the Governor for her approval or veto.

## Recovery of attorney fees

SB 1404 (now: civil actions; attorney fees; recovery) is a bill that generally moves Arizona towards a "loser pays" regime with respect to costs incurred for civil litigation. The League opposes the measure because it provides that municipalities may not recover attorney costs under any circumstances. Following the cancellation of a scheduled stakeholder meeting to discuss the bill, SB 1404 was placed on a Committee of the Whole calendar but retained.

## Pension reform

SB 1609 (retirement systems; plans; plan design), passed the House by a vote of 36-20 on Thursday. The comprehensive pension reform bill was amended with a substitute floor amendment in Committee of the Whole. The amendment makes a number of changes to the original compromise amendment. Among other things, the amendment:

- modifies COLA provisions for the flow of money in and out of the reserve funds within the PSPRS system;
- delays the phase-in for employee contribution rate increases;
- eliminates references to "retained" and "recent elected officials" that would have applied prospective plan design changes to current members of EORP who are reappointed, reelected or retained; and
- permits service purchases up to sixty months with ten years of credited service.

The League continues to support this measure and commends Speaker of the House Kirk Adams (R-Mesa) and Senator Steve Yarbrough (R-Chandler) for their attentiveness to the concerns of affected groups. The bill now moves to the Senate for final consideration.

## Photo radar

As previously amended with a strike-everything amendment, SB 1398 (photo enforcement; DPS equipment fund) eliminates the state photo radar enforcement system and imposes a supplemental \$13 assessment on every traffic fine for specified purposes. The bill was scheduled for consideration in the House Committee of the Whole on Thursday but was retained. In its current form, the League is neutral on the bill.

The bill is likely to return to the Committee of the Whole, pending finalization of a floor amendment to provide that persons receiving a photo radar notice of violation or traffic citation are required to neither identify the driver in the photo nor respond to the complaint. The League continues to participate in discussions with sponsors and other interested parties regarding the proposed amendment.

## Liquor omnibus

On Monday, the House Committee of the Whole approved SB 1460 (liquor omnibus) with a floor amendment offered by Representative J.D. Mesnard (R-Chandler). The amendment restores certain municipal authorities, preempted by the original bill, respecting the issuance of special events licenses and the zoning of liquor-related businesses. The bill had previously been amended to permit municipalities and counties to protest the transfer of an existing liquor license to a new business owner. The House passed the bill on its third reading Tuesday afternoon by a vote of 48-11.

The bill sponsor concurred with the House changes and the bill passed its final read in the Senate by a vote of 24-5. It now goes to the Governor for her approval or veto.

## Incorporation

SB 1333 (cities; towns; incorporation) contains adjustments to incorporation law to address a specific circumstance in Pima County. Accordingly, relevant provisions apply only to Arizona counties with populations between 500,000 and 1,000,000 persons (*i.e.*, Pima County only).

Unfortunately, the bill was amended by the House Committee of the Whole to eliminate the population threshold and introduce new applicability criteria based on the percentage of the population residing in incorporated areas. This change expands the bill's scope to include cities and towns in six Arizona counties. The bill was passed by the House by a vote of 38-18 on Thursday.

The League, which opposes expansion of the bill's scope, has successfully concluded a negotiation with the prime sponsor of the legislation, Senator Frank Antenori (R-Tucson). Under the agreement, Senator Antenori will ensure that, during conference committee consideration of the bill, the legislation will be amended to:

- Further modify the population thresholds so that the bill applies to only five counties; and
- Provide for a phase-in of state shared revenue in cases where a large incorporation occurs in any affected county.

The League thanks Senator Antenori for his cooperation and his willingness to address our concerns in a positive and constructive manner.

## Invest Arizona

SB 1041 (now: Arizona quality jobs incentive) passed the House on Thursday and returns to the Senate for consideration of House changes. The bill, also known as Invest Arizona, introduces a local property tax component that works in concert with the previously-passed Arizona Competitiveness Package and the Arizona Commerce Authority. It is a key legislative agenda item for the Greater Phoenix Economic Council (GPEC) for Arizona to remain competitive with other states promoting economic development incentives. The League supports the bill as a way to elevate Arizona's ability to compete for major employers to either locate or remain in the state.

## Legislator Profile - Representative Michelle Ugenti

For one particular game during her first year playing rugby at Arizona State University, Michelle Ugenti's family came out in force to watch her in action. Her grandparents, as well as a favorite aunt and uncle, were visiting from Norway, and Michelle's proud parents brought them all to campus to cheer on the young competitor.

Michelle played well that day - so well, in fact, that after she scored a try (much like a touchdown in American football) and her team won the game, her Sun Devil teammates began to chant, "Shoot the boot! Shoot the boot!" Ever the sport, Michelle complied and proceeded to engage in the victory ritual, which involved drinking beer from a dirty, old, malodorous rugby cleat.

Her mother was aghast. Her grandparents were confused. Her rowdy teammates were amok. Michelle simply enjoyed the scene and reveled in the moment. It was just another day of being herself.



Representative Michelle Ugenti, a freshman Republican from Scottsdale, is nothing if not a "people person." Hardly the crusty and scheming legislator of yore, she represents a new breed of lawmaker. Attractive, energetic and fun-loving, Rep. Ugenti is an unreconstructed extrovert with an adventurous spirit. Grounded and confident, she takes pride in her ability to get along with all types of people. Describing herself as a "normal person" who likes to laugh, she observes that there are two groups who compose Arizona's fiftieth Legislature. One crowd takes things (and themselves) much more seriously and is populated by

climbers who are apt to believe their own press releases. The other group is lighter of heart, has a wilder side and likes to have fun. No one who knows Rep. Ugenti would have a doubt as to which camp she belongs.

As playful and spirited as she may be, responsibility is a theme that is laced throughout Rep. Ugenti's life and value system. Responsibility to her teammates. Responsibility to her family as the eldest of five children and the mother of three. Responsibility to her constituents and community. And responsibility to those who have sacrificed so much - their comfort, fortunes and very lives - to protect our freedoms and the American way of life.

A native Arizonan, Rep. Ugenti currently lives within three miles of where she grew up. She was a member of the first graduating class at Desert Mountain High School and earned a degree in business administration from ASU. Working in the real estate industry when the housing bubble burst, Rep. Ugenti was intensely interested in the government's role in, and response to, the economic downturn. Knowing that there is no better way to learn about a system than to climb into the machine, she began her journey into electoral politics.

Rep. Ugenti was intrigued by the Tea Party movement. She participated in a few meetings, and before long, conservative activists urged her to run for office. Her husband Frank was the sole member of her inner circle, however, who encouraged Rep. Ugenti's entry into the often brutal world of politics. (A registered Democrat, he later changed his party affiliation to vote for his wife.)

Rep. Ugenti decided to make a run for the House. She is not afraid to lose, but she won't take on a demanding task without giving it her full-throttle commitment. Because her husband was able to stay with the kids while he worked from home, Rep. Ugenti joined the scrum and gave the campaign her all. Finding herself in a crowded primary, she gathered the most signatures of anyone in the race and was the first to file her petitions. She worked hard, knocked on countless doors (all the while pregnant with her election baby, Noelle), stuck to her message and emerged victorious.

Her Democratic opponent in the general election was none other than her middle school principal. The campaign was a study in stark contrasts: man vs. woman; old vs. young; liberal vs. conservative; and teacher vs. student. Rep. Ugenti was bemused by her opponent's constant campaign assaults on the public education system, considering that he was a school administrator and she was a successful product of that very system. In the end, the electorate was more drawn to Rep. Ugenti's messages of smaller government and personal responsibility, and she won in a landslide.

For Rep. Ugenti, politics is more of an educational opportunity than it is a blood sport. She loves to learn and is fascinated by the interplay of relationships, statecraft, personality and policy. Though she won't compromise her core principles, she recognizes that ideological rigidity can lead to legislative ineffectiveness. "You have to know when to hold your ground and know when to tango," she quips.

Rep. Ugenti is an enthusiastic booster of her hometown. Scottsdale, known worldwide as a high-end resort destination, doubles as a quiet and laid-back residential community. This unique combination of world-class amenities and superlative quality of life is a treasure to be preserved. Rep. Ugenti is an unreserved supporter of Mayor Jim Lane, who understands the essence of Scottsdale and, "is doing a phenomenal job with the city."

Family remains Rep. Ugenti's principal priority. The successful launch of her political career was made possible by the support of an unselfish spouse who derives great satisfaction from her achievements. Her children Bella (age 4) and Luca (age 2) are high-energy dervishes who are constantly in 'sass mode.' ("They take after their father.") They love their baby sister (born November 30) and have a lot of fun playing with her - until they get bored. Rep. Ugenti jealously guards her family time, and her idea of the ultimate weekend is staying at home.

Rep. Ugenti entered politics with the same spirit of discovery with which she started rugby. (She just "showed up" to practice one day after her curiosity was piqued by a rugby flyer.) She is delving into the mechanics of policy-making with the same commitment that she made to her campaign. And she is showing the same respect to legislators and others within the Capitol's orbit that she has always accorded to her family and friends. There is little doubt that she will score her fair share of political tries at the Legislature. And when she does, her colleagues won't be disappointed if they encourage her to shoot the boot.

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