



# LEGISLATIVE BULLETIN

**Issue 12 – March 29, 2019**

## Legislative Overview

Today is the 75<sup>th</sup> day of session and the last day for bills to be heard in standing committees, except for the Appropriations committees that will be meeting Tuesday (Senate) and Wednesday (House) of next week. To date, 47 bills have passed both chambers and were submitted to the governor. Governor Ducey has signed into law 35 bills and vetoed one bill.

Bills amended by the opposite chamber that are not approved by the sponsor in the originating chamber or that need additional work before a final vote must be assigned to a conference committee prior to the April 19 deadline. These committees consist of lawmakers from both chambers that convene to discuss and approve compromise amendments before the bill receives a final vote.

Floor activity this week in the House stalled after the resignation of Representative David Stringer (R-Prescott), which was effective 4 p.m. on Wednesday. This brings the party split in the chamber down to 30 Republicans, just one vote shy of a majority to pass legislation, and 29 Democrats. The Yavapai County Board of Supervisors will be selecting Stringer's replacement from a slate of nominees selected by precinct committeemen in LD1. It is expected that Stringer's replacement may be selected next week.

## Peer-to-peer Car Bills

This week six measures regarding taxing and regulating Peer-to-peer car sharing were scheduled for committee hearings in both chambers, including the original competing measures that have been introduced this session: HB2559 peer-to-peer car sharing, sponsored by Representative Travis Grantham (R-Gilbert) and SB1305 peer-to-peer car rentals, sponsored Senator David Livingston (R-Peoria). Both sponsors drafted strike-everything amendments that were assigned to committees in both chambers to keep their version moving through the process in the event one of the bills failed a vote.

SB1305, the version that applies taxes and surcharges paid for by car rental carriers to transactions conducted on peer-to-peer platforms, was heard in House Commerce on

Tuesday. The sponsor of the competing version, Representative Grantham, is the vice chair. After much debate, the bill failed by a vote of 3-5, with Representatives Grantham, Weninger, Kern, Meza and Chavez voting no. However, SB1305 was revived by a strike everything amendment to HB2688 S/E: taxation; peer-to-peer car sharing on Wednesday morning in the Senate Transportation and Public Safety Committee by Senator Livingston, the chair of the committee. No debate or discussion was offered, and the bill passed with a vote of 7-1; Senator Eddie Farnsworth (R-Gilbert) voted no.

Later that afternoon HB2559 was heard in the Senate Finance Committee where lengthy debate and testimony was offered. This version exempts transactions conducted on the peer-to-peer platforms from tourism surcharges that car rental carriers are required to pay. It proposes to redirect state TPT to offset this exemption but puts at risk the monies some cities rely on to pay for existing debt obligations for Spring Training facilities by opening the opportunity for the legislature to sweep the funds for other budget priorities. This bill passed the committee by a vote of 5-3, with Senators Livingston, Bowie and Contreras voting no. At the same time, the House Transportation Committee heard a strike-everything amendment to SB1015 S/E: taxation; peer-to-peer car sharing that was substantially like SB1305 and was intended to keep the version moving through the process. However, the committee failed to pass the bill by a vote of 2-4-1, with Representatives Campbell, Teller, Gabaldon and Andrade voting no and Biasiucci voting present. The remaining strike-everything amendments to keep the HB2559 version moving through the process were not offered in Senate Commerce or Senate Judiciary because the bill received a favorable vote in Senate Finance.

Now the two competing measures, HB2559 and HB2688, proceed to the Senate Rules committee.

## Distracted Driving

The Senate Transportation and Public Safety Committee approved a strike-everything amendment to HB2318 S/E: texting while driving; prohibition; enforcement, that is substantially identical to SB1165 texting while driving; prohibition, sponsored by Senator Kate Brophy-McGee (R-Phoenix). SB1165 stalled in the House Rules Committee and is likely it will not move forward this session. However, the issue will continue with the passage of HB2318, which was approved by a a vote of 6-2; Senator Sonny Borrelli (R-Lake Havasu City) and Senator Eddie Farnsworth (R-Gilbert) voting no.

The bill will proceed to the Senate Rules Committee and to the full Senate for debate and a vote. If approved, HB2318 will be transmitted back to the House where the sponsor of the underlying bill, Representative Noel Campbell (R-Prescott), will either concur or refuse the Senate amendments. This process will bypass the House Rules Committee where the original version of the bill was held by the chairman, Representative Anthony Kern (R-Glendale).

## Data Centers

On Wednesday, the House Ways and Means committee heard testimony on SB1366: commerce authority; data centers sponsored by Senator J.D. Mesnard (R-Chandler). The bill proposes to define “enabling software” as it relates to the definitions for tax exemptions on data centers of \$50 million or more. The proponents of the bill suggest the definition of “enabling software” should include anything used by the data center that is not distributed to consumers.

It is the belief of the League as well as many in the economic development community that this language broadens the intent of the 2013 exemptions resulting in a revenue loss. Additionally, the bill is applied retroactively to 2013 which would have a further fiscal impact on cities and towns required to refund taxes already paid. It is our view the original intent of the exemption was to provide tax breaks for the construction, installation, servers, and software used to enable the data center to run, but industry specific software such as sales, marketing, or coding software were not eligible for exemptions.

The League opposed the bill in committee and referenced the expansion of the exemptions and the corresponding fiscal impact. It is our objective to provide clarity to the business community on the definition of “enabling software” without expanding the current exemptions which make Arizona one of the most attractive data center markets in the country. The bill ultimately passed out of committee on a party line vote of 6-3 with one member absent.

## Smoking/Vaping Local Preemption

This week a strike everything amendment was adopted onto SB1147: S/E: tobacco products; vapor product with the amendment offered by Representative John Allen (R-Phoenix). The amendment increases the statewide minimum smoking age for tobacco to 21 while setting the smoking age for vaping products at 21 as well. The striker provides penalties for individuals buying or possessing these products if under the age of 21, prohibits the sale of all products in vending machines except in locations where someone must be above the age of 21, and contains a state preemption that the sale and regulation of these products is an issue of statewide concern.

The proponents of the bill suggest their statewide concern language is limited to only the sale and marketing of tobacco and vaping products. However, upon legal review, the League, counties, and school districts all believe the language applies to any regulation by a political subdivision including smoke-free zones and restrictions on sales and marketing in certain locations. For example, many cities ban smoking in public buildings and public places (parks, dog parks, city property, public stadiums, etc.).

Others may restrict the marketing of tobacco or vaping products based on locations, such as near schools.

The League spoke in opposition to SB1147 because of the state preemption and potential impact this will have on local authority. The bill passed out of the House Health and Human Services Committee on Thursday on a party-line vote of 5-4.

## Short-Term Rentals

On Thursday, the Senate Commerce Committee passed one of the League's Resolutions, HB2672 vacation rentals; short-term rentals; regulation, sponsored by Representative John Kavanagh (R-Fountain Hills). As previously reported, the bill addresses a significant problem for many communities that have troublesome short-term/vacation rentals and are unable to practically enforce local nuisance ordinances. The committee vote was 4-2, with 2 legislators not voting.

The committee testimony was well received, with the League explaining the impetus for the bill as well as its major provisions. Several community members voiced support for the bill, providing examples of serious problems in their neighborhoods with short-term rentals and expressing a desire for allowing cities and towns to do more. While the committee members expressed some concern with the largest fine that can be imposed under the bill, it was clear that they understood the existing preemption has had unintended consequences and a solution, at least for abusive short-term rentals ("party houses"), is urgently needed.

The League will be meeting again with the sponsor next week to discuss one final amendment to address one remaining technical issue and to potentially modify the largest penalty, but the bill is largely in its final form. The League would like to thank everyone who has played a role in shaping and lobbying for the bill. We ask that you continue to voice your support for the bill with legislators as the bill moves to a floor vote in the Senate and then a final vote in the House.

## State Liquor Board

Another League Resolution passed out of Senate Commerce on Thursday. HB2473 state liquor board; membership, sponsored by Representative Anthony Kern (R-Glendale), requires one of the governor's appointees to the State Liquor Board to be selected from a list of three candidates who are current or former municipal elected officials, provided by an association representing cities and towns (the League). The bill passed the committee 6-0, with two legislators not voting, and is expected to continue moving smoothly through the rest of the legislative process in the Senate. We are hopeful that it will receive just as robust a floor vote as it received in the House (60-0). Because

there were no amendments in the Senate, it would go straight to the governor's desk if approved by the Senate.

## Legislative Bill Monitoring

All bills being actively monitored by the League [can be found here](#).