



LEGISLATIVE BULLETIN

Issue 6 – February 21, 2020

Legislative Overview

Today is the 40th day of the legislative session. Committees will be completing their business today before the deadline to hear bills in the chamber of origin. Next week is crossover week, which means the next several days will be busy with floor debate, amendments and final votes on bills before bills proceed to the opposite chamber.

Vaping

SB1400 S/E: electronic smoking devices; retail licensing, sponsored by Senator Tyler Pace (R-Mesa), was heard in the Senate Commerce Committee with a strike-everything amendment sponsored by Senator Michelle Ugenti-Rita (R-Scottsdale). The amendment would, among other provisions, establish a statewide tobacco retail license requirement, amend the Smoke-Free Act to add electronic cigarettes to the clean indoor air laws, and increase the sale age of tobacco and vaping products to 21 to comply with federal law.

However, the strike-everything amendment would preempt cities and towns from imposing certain zoning encroachment requirements on tobacco retail shops and tobacco-related advertising. The amendment would allow advertising and tobacco shops to locate 300 feet away from a school, a reduction in the current requirement some cities and towns impose. The current policy requires tobacco shops to be at least 1,320 feet away from a school, day care, or playground – the amendment would preempt this requirement and allow tobacco shops to locate closer to schools. It would also preempt cities from imposing restrictions on hours and days for tobacco sales or any regulations in conflict with the law.

The League testified in opposition and the bill failed to pass with a vote of 4-4.

Zoning Preemption

On Tuesday the House Commerce Committee discussed HB2841 municipal zoning; housing overlay, sponsored by Anthony Kern (R-Glendale). The Home Builders Association of Central Arizona is proposing the bill as a solution to affordable housing in the state, but the bill would actually preempt local zoning, design and open space requirements for all but the most expensive residential developments – a major deregulation of single-family homebuilding in the state.

The bill would require cities and towns to set aside 30% of vacant land zoned for single-family residential to be included in the overlay zone, opening an almost unlimited amount of land for a qualifying development. A “qualifying development” that’s treated as “affordable housing” under the bill is defined as having a sales price “not more than the federal housing administration loan limits for the jurisdiction in which the development is located as published by the United States Department of Housing and Urban Development.” The loan limit in all counties, except for Coconino County, is **\$331,760** for a single-family residence. In other words, so long as the development is selling homes for a dollar less than this threshold, it will qualify as “affordable.”

The only local regulations that would apply to the “qualifying development” will be minimum building code requirements. A developer is also permitted to proceed with construction without a permit if the municipality misses the 120-day review deadline.

The bill passed House Commerce with a vote of 5-2-2 and will proceed to the Rules Committee.

Airport Fees

HB2817 airport fees prohibited; ride sharing sponsored by Representative Travis Grantham (R-Gilbert) made its way to the House Regulatory Affairs committee this Monday. The bill prohibits local governments or authorities from charging pick-up and drop off fees to transportation network companies (TNC).

The League testified in strong opposition to HB2817 indicating that local governments and authorities were well within their rights to charge fees for access to municipal property. Additionally, it was made clear to the committee that the 3 largest airports in the state run on enterprise funds – meaning no money can be transferred from the airports to the city general fund – and if adequate fees were not paid by TNCs, local governments would have two options: 1) increase taxes on the local residents to subsidize the cost of airport operations [something out-of-state visitors are paying a large share of

the fees on today]; or 2) increase fees on all other commercial operations at their airports including restaurants, hotels, shops, airlines, etc.

The bill passed out of committee on a strict party-line vote 4-3; however, members on the prevailing side indicated they had significant concerns with how, if passed, the bill would impact other commercial entities at airports.

Gas Tax

At the February 7, 2020 League Executive Committee Meeting League staff was given direction to support legislative efforts to address that lack of funding being provided to the Highway User Revenue Fund (HURF). The direction given by the Executive Committee was that staff should be supportive of efforts to increase that gas tax, a tax that was not indexed to inflation and has not been raised since 1991, so long as there were also measures to ensure that electric and alternative fuel vehicles were paying their fair share of contributions considering they are also highway users.

On Wednesday HB 2899 fuel; electric cars; hybrids; taxes sponsored by Representative Noel Campbell (R-Prescott) was heard in the House Transportation committee. The measure increases the gas tax by six cents per year for three years capping out at 36 cents. From that point forward that gas tax is indexed to inflation with a sunset provision requiring the voters to reapprove the measure in 20 years. Additionally, the bill ensures electric vehicles and alternative fuel vehicles are paying a user fee for Arizona roads, something that has not historically been paid.

Pursuant to the direction of the Executive Committee, the League testified in support of HB2899. The bill passed out of House Transportation on a 6-0-3 vote and will continue to move through the process. This measure will need to receive $\frac{2}{3}$ support from the legislature since it is a tax increase.

Short-Term Rentals

This Thursday both the House and Senate considered bills to address concerns on short-term rentals. In the Senate, the Commerce committee discussed SB1554 short-term rental enforcement; penalties Senator Kate Brophy McGee (R-Phoenix) which protects the "sharing economy" by allowing a person to operate their primary and one additional home as a short-term rental (STR) while limiting the proliferation of commercial STRs unless local governments decide to be more permissive. Additionally, the measure decouples STRs from long term rentals in statute and places additional responsibilities on the online lodging marketplaces.

SB1554 passed out of the Commerce committee 5-3, but testimony by legislators encouraged the League to work with STR platforms to find potential amendments to the bill.

In addition to Senate Commerce, the House Government committee considered HB2875 regulation; short-term rentals, sponsored by Representative John Kavanagh (R-Fountain Hills). The measure takes into consideration reasonable occupancy limits and best practices in the short-term rental industry that legislators and stakeholders discussed during the Short-Term Rental Ad Hoc Committee this winter. The League is supportive of the measure but would like to see the bill amended to decouple STRs and long-term rentals as well as return local control for investor owned STRs.

HB2875 passed committee 7-3-1 and is now pending approval from the House Rules committee.

Brady List

On Wednesday, the House Public Safety committee considered HB2114 law enforcement officers; database; rules. As introduced, the measure would have prohibited a law enforcement agency from using an officer's placement on the Brady list as the sole reason for taking or denying employment actions against the officer. A committee amendment was adopted to allow the law enforcement agency to use the underlying facts that were the basis for placement of the officer's name in the Brady list for taking a disciplinary action against the officer.

The League was opposed to the measure as introduced and is awaiting further feedback from municipalities on the amendment that was adopted. The measure passed committee 6-1.

Unmarked Police Vehicles

HB2830 traffic stops; police cars; uniforms, sponsored by Representative Travis Grantham (R-Gilbert) would require law enforcement agencies to use appropriately marked vehicles to demonstrate that they are official law enforcement vehicles, by displaying the agency's logo on the vehicle's right-side door. The bill stipulates that no more than 10% of the total number of law enforcement vehicles may be used as specially marked vehicles. Additionally, the bill requires officers making traffic stops and enforcing traffic laws to be dressed in an official law enforcement uniform with visible insignia.

During committee, various law enforcement agencies spoke against the measure citing their use of unmarked vehicles for DUI enforcement. The League stands with law enforcement in opposing the measure. While the bill aims to address the serious issue of individuals impersonating police officers, a robust stakeholder process with local law enforcement's involvement is needed to reach consensus. The bill passed committee 4-3, on a party-line vote.

Legislative Bill Monitoring

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