



Issue 8 – March 5, 2021

Legislative Update

Today is the 54th day of the legislative session. This was the first week committees began hearing bills from the opposite chamber and have until March 26th for all bills to be heard in committee. With lighter committee agendas this week, both the House and Senate continued to have busy floor calendars as legislators worked to push remaining bills out of each chamber. Both the House and Senate considered over 130 bills in Committee of the Whole this week and voted on hundreds of measures.

Zoning Ordinances

The Senate this week held a debate and a floor vote for SB1409 zoning ordinances; property rights; costs. The bill originally would have required an impact statement for every zoning ordinance as a condition of approval, which would include the probable impacts to property rights, personal liberties and the cost of delivering housing to the market. The bill also included vague language prohibiting land use regulations that unreasonably increase the cost of housing, which could have prohibited certain requirements for developments that are considered standard in new construction. The League strongly opposed this measure as it would add unnecessary red tape to the zoning process, slow down housing development approvals, and likely would have led to increased zoning denials and litigation, among other reasons.

Senator Petersen (R-Gilbert) offered a floor amendment to the bill that removed most of the provisions, including the prohibition on land use regulations and the impact statement requirement. The bill will now only require cities and towns to consider impacts to cost of housing when adopting zoning ordinances. It passed the Senate on a party line vote (16-14) and will proceed to the House for committee assignment.

Permitting Bills

This week saw two bills related to permitting regulation in the House. First, [HB2716](#): licensing; building permits; temporary permits sponsored by Representative Gail Griffin (R-Hereford). This bill would have required municipalities to provide building permits with

seven days of review of construction documents. While most cities and towns do complete that review well within the seven-day timeframe the language does not consider issues such as the size of the city and their staffing or extenuating circumstances nor did it require builders pay impact fees before initiating construction. The bill was amended in the committee of the whole but ultimately did not have the support of a majority of House members and did not come up for a vote.

In addition, another permitting bill, [HB2861](#): building permits; fees sponsored by Representative Steve Kaiser (R-Phoenix), also had the potential to see action this week. This bill would effectively require cities and towns to establish enterprise funds for their permitting department operations. Additionally, it would not have allowed for a city create a balance between high and low growth years by sending money between the general fund and the permitting department. We believe strongly HB2861 would've resulted in increased permitting costs that would ultimately be passed on to Arizona consumers.

HB2861 also did not have the necessary support to pass the House and thus did not receive a vote.

Noise Metering Devices

[SB1502 public nuisance; noise; evidence](#) and [HB2618](#), its mirror bill in the house would require that noise ordinance violations be substantiated by a specific decibel meter by a law or code enforcement officer. Additionally, the bill stipulates that a public nuisance that interferes with the comfortable enjoyment of life or property must be *intentional*. The measures present several challenges for cities & towns as most law enforcement do not currently use decibel meters for noise violations. Additionally, not all noise metering devices detect bass – which would hinder municipalities' ability to address noise complaints. Officers are currently able to exercise discretion as to whether to provide a warning or issue citations related to subsequent noise complaints. This measure removes that discretion and does not allow an officer to take other factors into consideration such as the time and nature of the nuisance.

The League opposed both measures in committee because it would be an unfunded mandate to cities and towns. Furthermore, to stipulate that a nuisance is only a nuisance if it intentional, sets an unreasonable standard to address any nuisance issues (not just those related to noise). SB1502 failed a Senate third read vote 14-16, but the sponsor has made a motion to have the Senate reconsider the vote at a later time. HB2618 was also considered by the House this week and passed 31-28. The League will continue to express our opposition to both these measures to legislators.

Public Postings

Earlier this week, the Senate Government Committee passed one of the League's resolutions, [HB2400 municipal ordinances; posting](#) with a unanimous support. The bill makes changes to posting requirements for ordinances that have a fine or penalty associated with the ordinance to allow cities and towns to post the notice in one physical location instead of three locations within the municipality, on the city or town's website, and any other additional notice as is reasonable. The measure does not make changes to existing requirements for publishing these notices in a paper of local circulation. The bill is scheduled for the rules committee on Monday and will move on to the Senate floor next.

Executive Session

[HB2804 public meetings; executive sessions](#) would limit the types of discussions that can take place during executive session between a public body and legal counsel. The League expressed concerns when the measure was heard in committee because the bill would have the effect of waiving client-attorney privilege for city and town councils. The measure passed out of the House this week on a party line vote. The sponsor of the measure however has agreed to work with stakeholders, including cities and towns to address our concerns and amend the bill in the Senate.

Legislative Bill Monitoring

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