



LEGISLATIVE BULLETIN

Issue 2 – January 19, 2018

Legislative Overview

Today marks the 12th day of the legislative session.

This upcoming week will be the first full week of standing committees, complete with hefty agendas throughout the week. As bills appear in standing committees, the staff at the League is prepared to appear in support of bills that promote the interests of our cities and towns, as well as oppose bills that threaten those interests.

To date, the legislature has posted 727 bills with no bills passed so far - but the legislative session is still young. As the session picks up momentum, with bills beginning to quickly work their way through the process, the staff at the League is prepared to keep up with the pace.

HB2032 – partisan offices; cities; towns

This bill would have required ballots for local elections to include the party designation of all candidates. Additionally, it would have required all cities and towns to hold both a primary and general election even if candidates are running in uncontested races or receive in excess of 50 percent of the vote. This would have added unnecessary costs to our elections.

For the most part, municipal issues are nonpartisan. Injecting partisanship into governing at the local level would only increase the rancor that is, unfortunately, too much a part of our political system.

We are pleased this bill failed in the House Local and International Affairs committee this week. We particularly want to thank Representatives Drew John (R-Safford) and Todd Clodfelter (R-Tucson) for voting no. In explaining their votes, both of them defended local control of municipal elections. It takes a considerable amount of courage to vote against a member of your own caucus, particularly in committee. We hope you will reach out to thank them for their help in bringing this very bad bill to an early end. We also want to thank all of you for your efforts in defeating this bill.

Patagonia Truck Ordinance – Good News!

This week the Attorney General completed the review of an SB 1487 complaint filed by Rep. Vince Leach (R-Tucson) regarding Patagonia's heavy truck ordinance and determined that it does not violate state law. Rep. Leach filed the complaint requesting the AG to review the ordinance to determine if the town has authority to place limits on the total number of trips made by heavy-duty trucks on town streets.

The ordinance adopted by the town council limits heavy-duty trucks with more than two non-steering axles to 100 trips per week and 20 trips per week between 10 p.m. and 6 a.m. and allows the town to issue permits for trucks exceeding the size, weight or trip restrictions. The ordinance was drafted to address a situation in the town regarding the use of a residential street by a nearby mining operation as a route for large mining trucks from the state highway to the mine site. The street is not built to withstand the frequent travel of large vehicles and traverses areas with a high amount of pedestrian traffic, which prompted the council to seek a solution.

The AG's response to the complaint made it abundantly clear that Patagonia's ordinance was well within their authority and cited existing statutes that permit cities and towns to regulate and control the streets within their jurisdiction, including restricting the travel of heavy-duty vehicles. This decision is a huge win for the residents of Patagonia and for local decision-making.

SB1487 Changes

We have now had experience dealing with eight SB 1487 (state law: local violations; penalties) claims, including one that led to a decision from the Arizona Supreme Court. Of course, our preference would be to repeal this terrible law. However, since that is unlikely to be successful, we are going to attempt to make some changes that we believe will make this law more equitable.

First, we would like to amend the statute to require a legislator making a claim against a city or town to be from the district that includes the municipality. Only one of the eight claims made to date have been by a legislator who represented the city that was accused of violating state law.

Second, we believe cities and towns should have the same access to the Supreme Court when a decision has been made by the Attorney General that the municipality is in violation of state law that the Attorney General currently has when he makes a "may violate" determination. The way the law stands today, no jurisdiction has the ability to go before the Court without first forgoing their shared revenue. Since no community can afford to do this, it has been impossible to explore whether an issue is of local concern versus statewide concern.

Senator Kate Brophy-McGee (R-Phoenix) has agreed to sponsor the bill. Senator Brophy-McGee was one of the few Republicans who voted against this bill. She was a League Champion last year and a consistent defender of local government. We greatly appreciate her support.

This is going to be a very difficult bill to get through the legislative process. Legislators and lobbyists see it as a tool to limit our local control. We will all need to work very hard to get these changes made.

This bill has not been assigned a number yet but it is likely to come out early next week. Please watch for it to come out and start having conversations with your legislators about the importance of these changes. We will provide more details and talking points soon.

Home-Based Businesses

While most of our communities have successfully tailored ordinances that balance the needs of home-based businesses with the rights of neighbors and neighborhoods, some legislators feel that our local ordinances have been too restrictive. With this view in mind, Sen. David Farnsworth (R-Mesa) approached the League during the interim about working with him on the issue and, in good faith, the League spent time and resources researching the issue and drafting language that would help home-based businesses but adequately address our zoning and nuisance concerns.

At the start of session Sen. Farnsworth introduced SB 1002 home-based businesses; regulations; municipalities, which does not include the League's input, but which has been the starting point for our negotiations. The bill was scheduled for a hearing in Senate Commerce and Public Safety on Monday, January 22 but has been held to allow for more time to work on a compromise amendment.

Meanwhile, Rep. Jeff Weninger (R-Chandler, Gilbert) has introduced HB 2333 home-based businesses; local regulation, with the backing of the Goldwater Institute and Free Enterprise Club, and without any input from the League or local government. Now, Sen. Farnsworth has followed suit and introduced SB 1175 home-based businesses; local regulation, which is a mirror bill to HB 2333.

We are hopeful that Sen. Farnsworth will ultimately work cooperatively with us on SB 1002 to reach an agreement. However we also want to ensure that every legislator knows this is an issue of serious concern to cities and towns. We ask that you please contact your legislators to register your concerns over home-based businesses so that it is well understood that any legislation dealing with an issue as impactful as this must include input from local governments.

Speculative Builders

HB 2387, municipal TPT; speculative builders, sponsored by Rep. Rivero (R-Peoria) creates a new preemption that applies to Model City Tax Code Section 416, Contracting: speculative builders.

Cities and towns currently impose tax on 65% of the selling price of new construction, to be paid by the seller, also known as the Marketing Arm. In commercial projects it is common for these sales to occur after the building has been leased by at least 80%, with those leases usually running for terms of 5 to 10 years.

The bill provides that any amount the developer attributes to an in-place lease, other intangible, or personal property as stated on the recorded affidavit of value must be subtracted from the selling price, not to exceed the taxable cost of construction amount reported to the State (i.e., the taxable measure used by the Contracting Arm).

It is retroactive through the statute of limitations. Refund claims are limited to \$10,000 total per city. All existing assessments that exceed the tax liability under this method are deemed remitted and forgiven. All related liens must be released.

The League will be opposing this bill, stating that many cities have been allowing this reduction in selling price for several years; cities and towns are actively in the process of adding this specific exemption to the MCTC to create clarity and uniformity among all cities and towns; and we look forward to working with the industry and experts on property valuation to develop an equitable method to recognize the leases in question.