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SCANews

THE LATEST NEWS IN GOVERNMENT RELATIONS FROM
THE INTERNATIONAL COUNCIL OF SHOPPING CENTERS

CALIFORNIA

CBPA Endorses Executive Order to Reduce Electricity Use

The California Business Properties Association (CBPA) was asked by Governor Davis to be a part of a business coalition endorsing his Executive Order that requires an 80% reduction in usage of electricity used for outside lighting during non-operating hours. CBPA, upon consultation with retail representatives and owners of shopping centers, has joined with the California Grocers Association and the California Retailers Association and pledged its support of this effort to further advert the energy crisis facing our state. CBPA endorsed the order and it was signed on February 1, although it will not take effect until March 15. The order states that businesses will curb their outdoor lighting during non-business hours, unless it affects public health and safety. CBPA will remain vigilant in its efforts to benefit California during this energy crisis by continuing to call for more supply as the real means to address this debate. CBPA will also fight to ensure that efforts to discriminate against business users are not successful. A detailed plan for implementing the Governor's Executive Order will be released this week.

Legislative Responses to the Crisis

On the legislative front, the Governor has signed a \$10 billion bill that will put California in the energy buying market. The plan intends to ease the energy crisis by letting the state buy power on behalf of the two large cash-starved utilities and needed a two-thirds majority vote, ultimately skating by with one extra vote. Assembly Republicans are taking issue with a provision in the legislation that would let the Public Utilities Commission raise electricity rates to repay the state for its power purchases, forcing them to withhold their votes. To encourage conservation, residential customers who use 30% more energy than a baseline specified by regional climate and energy use would be punished with higher rates. The long-term buying bill, funded through \$10 billion in revenue bonds, is part of a larger fix being orchestrated by lawmakers, including proposals for conservation and speedier power plant construction. More than a dozen consumer activists rallied outside the Governor's office before the Senate vote to protest what they called a taxpayer-financed bailout. Two were arrested for obstructing police. Even the bill's strongest supporters said far more action is needed, including speedy power plant construction, long term contracts and aggressive conservation.

Republican leaders have offered proposals that focus on increasing the state's electricity supply. They noted that between 1989 and 1999, the state's energy demand grew four times faster than supply. Conservation measures alone are not enough to close the gap, and the need for power plant construction, which has been curbed by stringent regulation, contributes to the energy crisis. Senate Republican leader Jim Brulte and other GOP leaders characterized their proposals as long-term solutions and said that if California increases its supply, it will be able to demand better rates for energy contracts. Their ideas range from building power plants on active and closed military bases to tax credits to consumers who reduce their power consumption by more than 10% over a specified period. They also want to offer incentives to local governments to pursue plants by allowing jurisdictions to keep all property tax revenues rather than transfer them to the state, which California could make up with its surplus, give the governor emergency authority to approve new power plants, offer tax credits of 75% to homeowners and businesses that switch to solar energy systems, and emphasizing the use of hydroelectric power, while not ruling out other forms of energy generation. Democratic legislators also planned to offer their proposals for addressing the energy crisis, and the Legislature is expected to consider both parties' offerings within the next 7 to 10 days during the Legislature's ongoing special session.

CBPA Board & Legislative Meeting and New Legislator Lunch

February 22 is the date for CBPA's next Board and Legislative Meeting. The luncheon portion of the meeting will feature the 29 newly sworn-in members of the Legislature and promises to be an important meeting that you won't want to miss. Please call CBPA to RSVP (916-443-4676).

FLORIDA

ICSC Day at the Capitol

In anticipation of the March opening day of the 2001 Florida Legislative Session, the Florida Legislature is in committee meetings three of the four weeks in February. ICSC's Florida Government Affairs Committee (GAC) will take advantage of this pre-session activity in holding its annual ICSC Day at the Capitol on February 20-21.

Speakers from the State Task Forces on Growth Management, Tax Policy and Energy Deregulation will make presentations before GAC members meet individually with over 40 legislators. The Day at the Capitol will culminate with an evening reception that will be attended by over 60 Florida Legislators.

The GAC members will put this meeting time to good use as the Florida Legislature is scheduled to tackle numerous issues of concern to ICSC this session. These include an entire rewrite of Florida's growth management laws, consider a plan for energy deregulation, advance modifications to the state uniform

building code, and balance the competing sources of economic stimulus between \$300 million in proposed tax cuts and transportation funding.

MASSACHUSETTS

Newly Enacted Law is Good News for Registered Land Owners

Commercial and industrial property owners often experience lengthy delays when going to record when registered land is involved. A bill recently signed into law will significantly reduce time and costs when owners transact registered land deals in Massachusetts. The new law permits voluntary withdrawal of land from the state's Torrens Land Registration System.

Prior to enactment of the law, owners of registered land did not have the same flexibility as those owning unregistered land. There was no mechanism to voluntarily withdraw their property from the Torrens System. The new law provides a lengthy list of circumstances in which withdrawal would be allowed as a matter of right. Among the circumstances listed is withdrawal upon showing good cause, including, but not limited to, economic hardship.

The new withdrawal law will help avoid the time-consuming and expensive requirements that are imposed on registered landowners seeking to cure prior, and often minor, surveying mistakes. It could also help registered landowners to avoid significant expenses

associated with bringing their titles into compliance with the upgraded engineering standards, which are mandated for subdivisions by the Land Court. Upon obtaining Land Court approval for withdrawal, land would no longer be part of the Torrens System, and would be treated much the same as recorded land.

MICHIGAN

Governor Engler Delivers 11th State of the State Address

Governor John Engler (R), discussed his concern for a tightening economy and encouraged the legislature to "exercise continued prudence to preserve our progress and protect our priorities." One of the main themes of his speech was to urge a change in process for selecting Supreme Court Justices. While currently all justices are elected, the Governor recommended that beginning in 2004, the Governor could appoint one justice to the court every two years, and those justices would serve one 14-year term.

The Legislature is Off and Running with Bill Introductions

After the Governor's State of the State Address, the legislature began work in earnest and bill introductions picked up steam. Several bills were introduced that would provide for: sales tax exemptions on clothing during the first ten days in August (H.B. 4081); Single Business Tax (SBT) rate reductions (H.B.'s 4137-39); acceleration of the reduction of the SBT rate (S.B. 117); expand the

authority of a township to invoke special assessments for sanitary sewer improvements (H.B. 4147); a constitutional amendment that would require 3/5 vote of the legislature for approval of any tax increases (Senate Joint Resolution H); and repeal of the real estate transfer tax (S.B. 97)

Proposal for Land Management (Smart Growth) Ready for Release

The latest proposal that would establish parameters for land management will be making the rounds in the next several weeks. ICSC has been asked to join in the process. ICSC will be circulating the proposal for review and will offer its expertise on this important issue.

Governor Presents His Budget to the Legislature

On Thursday, Governor Engler presented what is being described as a conservative budget to a joint meeting of the House and Senate Appropriations Committees. The recommended budget is \$1.2 billion (including federal funds and restricted funds), which is only a 3.3% increase over the current budget. In order to anticipate a continuation of slowing revenue collections, the Governor is also recommending a supplemental for the current fiscal year that would reduce general fund appropriations by one half of one percent.

ICSC Events

Two important ICSC events are fast approaching. Please make sure you add both to your calendar and plan to attend: (1) ICSC New Legislators Breakfast, Wednesday, February 28, in Lansing at the House Office Building and (2) ICSC Alliance Program, Wednesday, March 28 at the Genoa Woods Conference Center in Brighton. If you have any questions please contact Bob Noordhoek with Public Affairs Associates, at (517) 371-3800.

MINNESOTA

Governor Ventura's "Big Plan"

Part of the Governor's "Big Plan" is to reform the state sales tax system. The Governor believes that Minnesota's system is outdated because of the high rate (6.5%) and small base. In his budget, the Governor lowers the rate to 6% and expands the base to include a number of services. The total amount raised by the expansion is \$450 million; this includes paying for the rate reduction.

Two items that are included in the Governor's sales tax expansion are real estate services and certain construction costs. The contractor will get a front-end exemption on the sales tax on the equipment and supplies he or she uses, but the sales tax on the equipment and supplies is added into the final construction bill. The Department of Revenue uses the following example: "A commercial building owner hires a plumber and an electrician to do some work on a remodeling project. The plumber and electrician buy their materials

and equipment exempt and charge sales tax on their bills to the building owner.” Some of the other services that would be taxed under the Governor’s proposal are legal; computer and data processing; engineering, architecture and surveying; accounting; advertising; personal services such as beauty and barber; and sewer services. The Governor’s sales tax reform exempts certain areas that were previously taxed, including equipment and supplies used in hotels; restaurant equipment used to prepare meals; and equipment of lawn care service providers.

In the next few weeks, the House and Senate tax committees will be going around the state getting input from citizens about the Governor’s entire tax proposal including the sales tax.

NEW YORK

Quality Communities Task Force Releases Report

On February 5, Lt. Governor Mary Donohue released her report on quality communities. The report, entitled “State and Local Governments Partnering for a Better New York,” identifies 41 recommendations designed to improve the quality of life in communities throughout New York. The full report is available on the state’s web site located at <http://www.state.ny.us>.

Charged with studying balanced growth, the Task Force sought strategies not only to curb sprawl,

but to enable localities to implement plans that fulfill community visions and respect the needs of the environment and neighboring municipalities. The underlying focus of the Task Force was to provide local communities with a solid foundation for quality communities planning and implementation and afford greater insight into the relationship between land use planning and economic development.

Key recommendations include the following: (1) adopting a set of uniform Quality Communities Principles; (2) establishing a State grant program to encourage municipalities to engage in comprehensive planning and to implement innovative projects which advance such Principles; (3) revitalizing downtowns by locating State facilities in urban centers; (4) providing tax incentives for private preservation of historic downtown architecture; (5) enhancing incentives for brownfields redevelopment; and (6) preserving open space through several different programs, including creation of open space districts, the purchase of development rights for undeveloped lands, and providing tax credits to encourage landowners to donate real property or other interests in real property, such as conservation easements, to nonprofit organizations or to governmental entities for conservation purposes.

Some of the recommendations are currently encompassed in legislative proposals sponsored by Governor Pataki. The balance will be pulled

together into a Governor's program bill, which is being drafted.

New York Alliance Program and Day at the Capitol

ICSC members are urged to participate in the joint Alliance Program and Lobby Day in Albany March 19-20. New York's second Alliance Program will be held on Monday, March 19, with a legislative reception that evening. ICSC will conduct its Lobby Day on the following day, featuring a breakfast briefing with legislators and staff followed by meetings with key legislators in during the day. These meeting will serve as the centerpiece for ICSC's efforts throughout the year. Registration materials will be sent out shortly. In the meantime, if you have any questions, please contact Herb Tyson at (703) 549-7404 or Cindy Stewart at (864) 968-9324.

TEXAS

Brownfield Cleanup

During the interim, Comptroller Carole Keeton Rylander created an e-Texas Commission to make recommendations on how government can be more efficient. Their charge was to meet six goals: (1) drive more of every education dollar directly into the classroom to improve education and learning; (2) save tax dollars; (3) empower communities and individuals; (4) refocus government on customer service; (5) streamline government operations; and (6) institutionalize the "Yellow Pages Test" across State

government - "Government should do no job if there is a business in the Yellow Pages that can do that job better and at a lower cost."

The e-Texas Commission report has been released by the Comptroller as her Texas Performance Review recommendations for this Session. There were over 100 recommendations. One of the major recommendations was: Promotion of "Brownfield" Cleanup. The report recommended that "the Texas Natural Resource Conservation Commission (TNRCC) and Texas Department of Economic Development (TDED) work together to promote the use of economic development taxes in Brownfield redevelopment. It was also recommended that TDED amend its rules concerning enterprise zones to promote Brownfield development. Additional recommendations included amending state law to eliminate the requirements that a property must be devalued for two previous years due to contamination before being subject to tax abatement under the TNRCC Voluntary Cleanup Program; and promotion by the TNRCC of the use of Brownfield redevelopment as a part of its Supplemental Environmental Project (SEP) program. Legislation on this proposal is expected, but has not yet been introduced.

Sales Tax Simplification

On January 31, Comptroller Rylander testified before the House Ways and Means Committee. He stated that Texas has now joined the

national Streamlined Sales Tax effort as a “participant” rather than an “observer”. Ways and Means Chairman Rene Oliveira (D) announced that he will likely file a sales tax simplification proposal this session.

Deputy Comptroller, Billy Hamilton, responded to several questions from the Committee on matters relating to Internet sales. He testified that he disagreed with the University of Tennessee projections on loss of revenue in Texas (they predicted a \$1 billion annual impact by 2003). Hamilton said that his 2001 estimate of lost sales tax revenue to the State is \$150 million from Internet sales, and \$200 million from catalog sales. He added that the impact is increasing rapidly but not to the extent predicted because: (1) use taxes are already collected through the audit procedure from businesses that make purchases over the Internet; (2) dot-coms and e-tailers are collapsing; and (3) many consumers making purchases over the Internet are former catalog shoppers who were not paying taxes anyway.