

JANUARY 31, 2005



SCANNEWS ★★★★★

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



ICSC Strategic Leadership Summit

April 12 -13, 2005

Willard Inter-Continental Hotel, Washington, DC

Tuesday, April 12th

ICSC Leadership Sessions – plus, gain legislative and political insight into the new Congress. In the evening join us for ICSC’s Congressional Reception in the magnificent Great Hall at The Library of Congress

Wednesday, April 13th

Congressional Meetings on Capitol Hill.

To register, visit <http://www.icsc.org> and view “Meetings.”

ARIZONA

Alliance Program Addresses Tax Incentive Issue

ICSC members and public sector representatives met Jan. 21 for an informative meeting on retail development and tax incentives. Attended by more than 130 stakeholders, the half-day meeting consisted of two sessions (“Retailers: Why They Go Where They Go” and “Tax Incentives: How, Why and Do They Work?”) The second session was of particular importance because of ongoing efforts to eliminate this important development tool. Mayor Elaine Scruggs of Glendale along with industry and local representatives were able to provide valuable examples of how such incentives have benefited local governments in bringing retail projects to fruition.

CALIFORNIA

Two Split Roll Property Tax Versions Submitted for Title and Summary

Advocates for a split roll property tax measure recently submitted two versions of a split roll property tax initiative to the California Attorney General for title and summary. There is concern that this measure would have a devastating impact on the California commercial real estate industry, in addition to stifling California’s current economic recovery. Both measures are called “The High Quality Classrooms Act.” The difference between the two versions is the increase in property taxes that commercial property would be subjected to in the future. Version 1 would increase commercial property taxes by an additional 30 percent. Version 2 increases commercial property taxes by an additional 50 percent. The funds generated by this tax increase would be used to “support” educational programs. However, neither of these measures specifically earmarks a certain portion of the funds to go to such things as increasing the amount of classrooms. As currently drafted, 100 percent of the

1/31/05

funds could go to teacher salaries. In addition to the increase in commercial property taxes, both measures would also make it easier for a school district or community college district to levy an ad valorem tax on commercial property. This would be achieved by lowering the voter threshold from a 2/3 vote to 55 percent to pass a tax.

Governor Unveils State Budget

Governor Arnold Schwarzenegger (R) sent his \$111.7 billion budget plan for the 2005-06 fiscal year to the California Legislature, calling it “a budget forced on us by a broken system.” The Governor’s spending plan reflects \$85.7 billion in proposed General Fund spending - a 4.2 percent increase over the current year, or \$3.4 billion. Fueled by a growing economy, revenues are projected to increase under Schwarzenegger’s budget by 6.8 percent, or more than \$5 billion. “By holding the spending increase to 4.2 percent, we are taking fair and responsible action to close an \$8.1 billion deficit,” Schwarzenegger said. “This spending increase is not equal to the amount set by the budget formulas, because if we would spend the amount of money that the formulas suggest, we would be adding billions of dollars to the debt.”

Schwarzenegger also emphasized the need for action on the spending control plan he announced in his State of the State address - including across-the-board reductions in state spending when no budget agreement is reached during a fiscal emergency. “If we don’t get control of the autopilot spending, there will be deficits as far as the eye can see, and we will risk every program for years to come,” Schwarzenegger said. “I

propose we fight fire with fire,” Schwarzenegger said. “Instead of a formula compelling more spending, we should have a formula that forces us to live within our means.”

Battle Lines Drawn over State Budget

Now that Californians have had a chance to review Governor Schwarzenegger’s proposed budget, battle lines are being drawn by dozens of special interest groups in an effort to secure their piece of the budget pie. Virtually every day since the release of the budget, protests have been held at the Capitol. While groups on one end of spectrum are trying to stave off budget cuts, those on the other side of spectrum are gearing up to oppose new fees and taxes. The battle is not just limited to Sacramento. Commercials are already hitting the airwaves around the state aimed at convincing the public that the state does not have a spending problem and that more fees and taxes is the only solution to our budget problems. Fortunately for California businesses, Governor Schwarzenegger and his proposed budget focus on the real problem plaguing California’s budget – a state government with a spending problem. The battle over the budget is just now kicking in to high gear.

Legislative Measures Begin to Trickle In

In only the first couple weeks of the 2005 session, several bills have already been introduced that may have a negative impact on businesses and commercial property owners. These include:

1/31/05

A.B. 89, sponsored by Assembly Member Jerome Horton (D-Inglewood) would require the Department of Health Services to require that all applicants for benefits under low-income health programs identify the employer or employers of the proposed beneficiary. A.B. 89 would also require the Department to identify all employers identified under the application requirements of the bill who employ 25 or more persons who are beneficiaries or who support beneficiaries of these programs. This is designed to attack employers whose employees still seek public benefits to be identified and potentially targeted for future legislative action;

A.B. 35, sponsored by Assembly Member Todd Spitzer (R-Orange) would require employer information be made available in addition to a person's home address under Megan's Law. Such a requirement would place commercial property owners that have no control over the hiring of a tenant's employee in a very problematic position; and

A.B. 175, sponsored by Assembly Member Ron Calderon (D-Montebello) would revise the definition of gift certificates. The bill could be considered a "spot bill", which is a measure introduced to which the author intends to make more substantive changes. However, A.B. 175 does send a signal to California retailers that the issue of gift certificates will once again be debated in the California Legislature.

Legislators have until February 18 to introduce bills.

Real Estate Industry Kicks Off Homeland Security Awareness Campaign

In conjunction with the U.S. Department of Homeland Security's effort to promote business readiness, the real estate industry this month officially kicks off an awareness campaign, led by the Real Estate Sharing and Analysis Center, to encourage building owners and managers to address homeland security issues such as emergency preparedness and response planning. Many real estate owners and operators are already leading the way in this area, advancing building and facility security plans and thinking carefully about property operations to protect people and assets. The challenge now is to reach the next level at a time when federal officials say the threat environment for attacks against the U.S. is as dangerous as ever. President Bush has said that Homeland security is not just the government's responsibility. It takes a joint effort across the public and private sectors to ensure our safety and protection. Building owners and managers should undertake reasonable risk assessments to determine appropriate steps for their buildings and portfolios, and participate in emergency-response exercises as requested by the Red Cross and government officials.

Significant Drop in Workers Compensation Rates

California businesses are finally experiencing significant drops to their workers compensation premiums due primarily to the passage last year of the workers' compensation reform package championed by Governor Schwarzenegger and approved by the

1/31/05

Legislature. Over the course of the last six months, annual premiums for workers' compensation insurance have dropped between 14 percent and 16 percent, according to the state Department of Insurance. These drops in premiums are the first double-digit percentage cuts since 1995. Key elements of last year's workers compensation reform package included independent medical reviews and imposed uniform standards to determine benefits for permanent disabilities. California businesses hope that Governor Schwarzenegger can achieve similar results in reforming the onerous and burdensome regulatory process that has negatively impacted new residential and commercial construction.

Environmentalists Attempting to Overturn Rational Stormwater Permit Rules

The State Water Resources Control Board has issued a new draft Statewide General Industrial Stormwater Permit which strikes a reasonable balance between water quality protection and cost effectiveness. The permit requires agencies and business to implement iterative best management practices (BMPs) to manage storm water. BMPs are steps to ensure compliance with water quality standards and monitoring requirements.

Despite the fact the State Water Board and the United States Environmental Protection Agency have recommended the BMP strategy for managing storm water runoff, some environmental activists are demanding that businesses meet specific numeric limits for storm water discharges. However, given the nature of storm water runoff, it is

virtually impossible for any discharger to comply with numeric limits. In addition, the cost of even trying to comply with numeric limits is astronomical because it would require expensive reverse osmosis or other technologies. Even if businesses did install these technologies, it is still unlikely they would help the businesses meet numeric limits. To ensure the environmentalists' demands are not met, concerned parties have built a coalition urging the State Water Board to adopt the draft permit that incorporates the iterative BMP process.

MICHIGAN

Deficit Anticipated Again

The recent revenue estimating conference revealed their official estimates for the current fiscal year and the upcoming '05-'06 budget year. The state is planning to squeeze \$350 million out of the current year budget with prime targets being Medicare, education, prisons and local revenue sharing.

The spending plan for 2005-06 looks bleak as well. The Granholm administration together with Senate and House Fiscal agencies predict a shortfall of \$750 million in revenues for the upcoming year. Despite the bad news it is widely held that the state's economy is finally about to turn the corner.

State of the State and Budget Coming in February

Governor Jennifer Granholm (D) will introduce her agenda for the upcoming year February 8 in her annual State of the State address. Leading topics on her

1/31/05

agenda include recommendations on restructuring the Single Business Tax and Personal Property Tax. Also anticipated are rewriting of the Land Division Act and other recommendations of the Land Use Council.

Finally, around the second week of February Governor Granholm is expected to present her 2005-2006 budget to the legislature.

MINNESOTA

Minnesota Legislature Faces Challenging 2005 Session

The Minnesota Legislature convened on January 4. Following a bitter 2004 session in which partisan gridlock derailed progress on most key issues (including a bonding bill and transportation funding), the Legislature is facing a grim winter scenario: a looming budget shortfall and a political landscape even more closely divided between Republicans and Democrats.

The failure of the House, Senate and Governor to compromise on fiscal issues in 2004 tagged the Legislature with a "do nothing" label that appeared to resonate with the public. However, only members of the Minnesota House, with a strong Republican majority, were on the ballot in November. The result was Minnesota Republicans saw their majority in the state House shrink, from an 81-53 advantage to a near-tie of 68-66. This will make passing legislation more difficult and compromise a necessity. The message from the voters appeared to be: get things done! However, so far, neither side has shown much appetite yet for compromise.

Fiscal Outlook

Even with growth in tax revenues, the most recent budget forecast predicted a \$700 million shortfall for the coming biennium that begins on July 1, 2005. If inflation is included in the forecast, that figure will jump to \$1.4 billion.

Governor Takes Firm Position in Opposition to Increased Taxes

Despite the fiscal crunch, statewide tax increases are not expected. Governor Tim Pawlenty (R) remains firm in his opposition to any increased taxes, and would likely veto any plan that relies on a tax increase to raise more revenue. This, however, will not stop the Senate Democrats from proposing an increase in the statewide business property tax. ICSC will continue to work with their Property Tax Coalition partners to urge defeat of any such proposal.

Transportation Improvement Big Focus this Session

For the 2005 Legislative Session, it is expected the Governor, Legislature, business groups, transit advocates and local units of government will all offer proposals to improve the transportation system. ICSC has been participating in the Minnesota Transportation Coalition ("Coalition"), led by the Minnesota Chamber of Commerce ("Chamber").

In December 2004, Governor Pawlenty unveiled his transportation initiative for the 2005 Legislative Session. His plan constitutionally dedicates 100 percent of the Motor Vehicle Sales Tax (MVST) for transportation. Currently, approximately half of the annual \$600

1/31/05

million in MVST is dedicated to transportation and the remainder to the general fund. In addition, the Governor is proposing \$4.5 billion in capital bonding, over ten years, for road projects.

The Chamber is proposing a constitutionally dedicated 5 cent increase in the gas tax, transfer of 80 percent of MVST, and bonding. The Coalition has yet to formally adopt a plan, but most of the business community will support the Chamber proposal while the Coalition considers the Chamber position.

Both the Governor and Chamber's constitutional amendments would be voted on in the 2006 election.

Capitol Bonding Bill Agreement Expected in 2005

Among the items left unfinished by the 2004 Legislature was a Capital bonding bill. The Minnesota Constitution allows for a bonding bill, "to acquire and to better public lands and buildings and other public improvements of a capital nature." An agreement on a bonding bill is expected this year, with both sides out to prove they can deliver for their constituents.

Traditionally, about one-third of the bonding bill is reserved for higher education projects. The other major projects for this year's bill will include: \$37 million for the Northstar Corridor commuter rail line, \$20 million to end long-term homelessness, \$22 million for the University of Minnesota/Mayo Clinic biotechnology research facility in Rochester, over \$150 million for environmental projects and millions of dollars in Trunk Highway Bonds for road projects.

Business Day at the Capitol

Please join other business leaders at the 12th annual Business Day at the Capitol on March 2.

Following a season in which Minnesota Democrats did well at the polls, Senate and House Democrats are expected to look for ways to flex their political muscle. However, the Governor shows no signs of reconsidering his no-new taxes pledge. As a result, the battle to close the \$700 million shortfall may be even more contentious than the much larger battle over more than \$4 billion in red ink in 2002.

NEW JERSEY

ICSC members to Hold Annual Dinner in Washington, D.C.

On January 27, the New Jersey ICSC members of the International Council of Shopping Centers will hold an annual dinner reception for their members who attended the New Jersey Chamber of Commerce train ride to Washington, D.C. Also invited are members of the legislature. While the conversations will revolve around the usual politics of Trenton, this is a great opportunity to meet with state legislators and leaders in a relaxed social atmosphere. The dinner will be held at 7:30 pm at Primi Piatti located at 2013 I Street in NW Washington.

Environmentalist push for repeal of Fast Track Legislation

New Jersey's environmental organizations are supporting A.B. 3650,

1/31/05

sponsored by Assembly Member Robert Lewis Morgan (D-Little Silver), which would repeal the controversial “fast track” legislation. The “fast track” legislation’s goal was to streamline the permitting process in “smart growth” areas, but has come under fire from a variety of environmental advocacy groups and state legislators.

The “fast track” law would require state departments to approve or deny development applications within 45 days of completion. If the departments did not meet the deadline, the applications would enjoy automatic approval. The supporters are arguing for complex applications that would generally require more time than others for careful consideration or for development proposals that could affect sensitive areas, this could have unintended consequences for the state.

The U.S. Environmental Protection Agency (USEPA), U.S. Fish and Wildlife Service and the National Oceanic and Atmospheric Association (NOAA) have expressed concerns that the “fast track” law may jeopardize federal delegation and funding of programs in New Jersey.

A gubernatorial executive order has prevented the “fast track” legislation from taking effect until at least this spring if it is not repealed. ICSC will continue to oppose this bill and support the surety that the existing law provides for the building community.

***NJ Senator Sarlo Says “Model Mall”
Critical for Bergen Safety***

Senator Paul A. Sarlo (D-Bergen) recently stated that the “Model Mall”

homeland security proposal, designed by the New Jersey Institute of Technology (NJIT), is critically important to Bergen County because it is a national leader in mall-generated revenue.

“The malls of Bergen County rank behind only New York City and Los Angeles as generators of retail revenue,” said Senator Sarlo. “NJIT will effectively put Bergen County at the national forefront of mall security. I’m proud to have helped to make NJIT the New Jersey Homeland Security Technology Systems Center.”

Based on Senator Sarlo’s efforts, the McGreevey Administration last year agreed to make NJIT the hub of homeland security development in New Jersey. Acting Governor Richard Codey (D) recently unveiled NJIT’s first formal recommendation -- the “Model Mall” proposal which will be implemented at the Garden State Plaza. “The safety procedures implemented for mall shoppers will become models of security plans needed for our schools,” said Senator Sarlo. “The enhanced video technology programs that can be shared with local police also will be used to make our children safer at schools.”

Senator Sarlo, an alumnus of NJIT, said he is extremely pleased that the institute has responded with such an advanced proposal to help make New Jersey families safer while shopping or while at school. Under the NJIT proposal, so-called “smart security cameras” will be programmed to detect a wide array of suspicious behavior in public places. In addition, advanced video procedures will enable first responders to crises to receive briefings about disturbances even before they arrive on the scene.

1/31/05

Senator Sarlo was personally cited for his efforts by Governor Codey during a recent new conference at the Garden State Plaza.

The “Model Mall” and “Model School” projects will be funded through federal homeland security grants and through in-kind contributions from firms and consultants involved in technology and homeland security.

NEW YORK

Pataki Submits \$105 Billion 2005-06 State Budget

Governor George Pataki (R) delivered his 2005-2006 Executive budget to the Legislature on January 18. In his address he focused on healthcare, job creation, economic development and Medicaid reform.

Economic Development Dollars Proposed for Upstate NY

In order to promote job creation and economic development in the upstate region, Governor Pataki proposed “Operation Spur” – the Strategic Partnership for Upstate Resurgence (SPUR). SPUR would provide tax credits for new or emerging businesses and permit companies to calculate their taxes on in-state sales only – also known as the single sales factor. Governor Pataki, stated that this new plan would allow for the creation of tax credit for business that help create new jobs and a Workers’ Compensation workplace that would provide business with the necessary tools to develop safety action and prevention plans. Through Operation SPUR, funds would be

available for capital projects directed toward economic development, including downtown and rural commercial centers. Communities would be eligible for SPUR benefits based on a series of factors including population and job growth, employment loss, and agricultural employment.

Wal-Mart’s Plans for NYC Store Met with Strong Local Opposition

Despite the heavy criticism that Wal-Mart has received, it has continued to concentrate on prospective sites in downstate New York. From Queens to Brooklyn’s Flatbush Avenues, Wal-Mart is hoping to call either borough, home by 2006. The City Council is considering anti “big box” legislation to prevent the move. After local labor unions hurled stiff accusations of underpaying their employees, Wal-Mart went on the offensive. Wal-Mart chief executive Lee Scott spoke to the media to this week and lauded Wal-Mart’s record, maintaining that the retail giant provides its employees with opportunity for advancement, full-time jobs and a good benefits package.

TEXAS

79th Session Begins

The 79th Session of the Texas Legislature convened on January 11. The session will last for 140 days. The last day of the session will be May 30.

Public School Finance/Tax Reform

Lieutenant Governor David Dewhurst (R) and Senator Florence Shapiro (R-Plano), Chair of the Senate Education

1/31/05

Committee, unveiled what they called a “bold new” school finance reform bill that would reduce property taxes while increasing state funding for the school finance system. The plan is called “Texas Children First.” It will be filed as Senate Bill 2. The plan would: (1) reduce school property taxes from \$1.50 per \$100 valuation to a maximum of \$1.00 while instituting a statewide property tax; (2) prohibit future property tax increases without a vote of the people; (3) allow up to 15¢ in local enrichment if approved by the voters (phased-in at the rate of 5¢s per biennium) equalized to the 90th percentile of wealth; and (4) apply the franchise tax to all business entities except for sole proprietors while retaining the \$150,000 small business exemption and reducing the current franchise tax rate by over one-half. The property tax relief would be funded by new state tax revenue including the franchise tax expansion (\$3.5 billion per year), and increases in the sales tax, motor vehicle sales tax, cigarette tax, tobacco taxes, and alcohol taxes (individual tax increases are not specified but the amount the increases are expected to generate in new revenue is \$3.7 billion in 2006 and \$3.8 billion in 2007). Additional school spending would be funded by “non-tax” revenue through closing loopholes, improving delinquent tax collections, Telecommunications Infrastructure Fund assessment, efficiencies, and current revenue growth.

Regulation of Land Development

Senator Jeff Wentworth (R-San Antonio) has filed S.B. 142 and Representative Carter Casteel (R-New Braunfels) has filed H.B. 477 which would allow a

local election to determine whether a county should have the authority to regulate land development in unincorporated areas by establishing requirements for subdivisions. Requirements would include rules for a central water or wastewater system, a fire suppression system, roadways, open space, impact fees, and any “other regulation necessary to regulate land or manage land development”.

Legislation Introduced to Prohibit Sale of Certain Gift Certificates

The Texas Legislature recently introduced two measures that would place restriction on the sale of certain gift certificates. The measures are as follows:

H.B. 255, sponsored by Representative Armando Martinez (D-Weslaco) would prohibit the sale of gift cards with a decreasing value over time. The legislation also prohibits sale of a gift card for which a fee is assessed against the value over a period of time.

S.B. 192, sponsored by Senator Mario Gallegos (D-Houston) would prohibit the sale of gift cards with an expiration date, with the exception of consumer awards and certificates issued by non-profit and charitable organizations.



Don't miss the opportunity to have your shopping center recognized!

January 31, 2005 is the application deadline for the inaugural "America's Marketplace Recycles!" Awards, established by ICSC in cooperation with the Environmental Protection Agency.

These new awards recognize outstanding achievements by ICSC members in recycling, conserving resources and the usage of recycled-content products, and will be presented prior to the 2005 ICSC Spring Convention

For more information, including an application form, visit www.icsc.org/government/AMR.shtml or contact Kent Jeffreys at kjeffreys@icsc.org or (202) 626-1405.

Upcoming Alliance Meetings

- Pennsylvania Local Alliance Philadelphia, PA Feb 9
- Tennessee Alliance Luncheon Nashville, TN Feb 22
- Gulf South Alliance Mobile, AL Feb 23
- West Michigan Alliance Grand Rapids, MI March 1

ICSC State "Day at the Capitol" Events

ICSC State Government Relations is working with our members in various states to host "Day at the Capitol" programs. The events serve as an opportunity to meet with legislators on issues of importance to the shopping center industry and network with other ICSC members.

- Columbus, OH Feb 16
- Lansing, MI Feb 23
- St. Paul, MN March 2

2005 University of Shopping Centers

The 2005 University of Shopping Centers will be held March 7-9, on the campus of The Wharton School of the University of Pennsylvania in Philadelphia. This education program was designed for public officials who work with shopping center developers and site planning professionals, municipal economic development, and elected officials of towns and cities to learn how to better attract shopping centers to their communities and enhance the relationship/ partnership between government and private industry. For more information, contact Madison Gross at mgross@icsc.org or visit <http://www.icsc.org/srch/mt/descs/2005UV/2005UV.pdf>.

To submit items to SCANews, please contact Stephanie Spooner at sspooner@icsc.org.