

FEBRUARY 14, 2005



**SCANNEWS**  
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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 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

### *Tax Incentives Legislation Update*

Senator Jay Tibshraeny (R-Chandler), a former mayor of the City of Chandler and current Majority Whip in the state Senate, has proposed a bill that would require the municipality to make certain determinations before it enters into retail tax incentive agreements. S.B. 1274 would require a city to determine that: (1) the proposed incentive would raise more revenue than the amount of the incentive; and (2) that without the proposed incentive a business would not locate in an area in the same time, place or manner.

S.B. 1274 has been assigned to both the Government and Finance Committees. The bill passed out of the Government Committee with six votes in favor and no votes in opposition. Sen. Tibshraeny supported an amendment that would require a two-thirds vote by a city in making the required determinations necessary before passing an incentive agreement. ICSC spoke in support of the bill.

At the same time, ICSC is opposing two tax incentive bills that would make tax incentives a practical impossibility. The two bills, sponsored by Senator Ken Chevront (D-Phoenix) are S.B. 1200 and S.B. 1201. S.B. 1201 would prohibit a city or town from providing tax incentives to a business entity as an inducement to locate a retail business facility in the city or town. S.B. 1200 would require a municipality that offers tax incentives to any business entity as inducement to locate a retail business in that municipality to provide the same tax incentive with respect to all existing retail businesses within five miles of the location of the new retail business.

## CALIFORNIA

### *New Split Roll Property Tax Measure Unveiled*

A measure that would require that the full cash value for commercial property to be based on the 2006-07 fiscal year and each future year thereafter, was recently submitted to the California Attorney General for title and summary. The measure, known as the "Tax

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Fairness for Homeowners Act of 2005,” was submitted by the California Tax Reform Association, an organization that has taken the lead in advancing split roll property tax measures in the Legislature. Concerned parties have already targeted this measure, along with the two versions of the split roll property tax measure submitted earlier this month, as industry and economy killers and will be leading the charge to defeat them.

### ***Comprehensive Water Rights and Planning Bill Anticipated***

The Senate Natural Resources and Wildlife Committee, chaired by Senator Sheila Kuehl (D-Santa Monica) was recently given jurisdiction over water issues - an issue traditionally handled by the Senate Agriculture Committee. While no legislation has been introduced, it is rumored that Sen. Kuehl plans to introduce a comprehensive water rights and water planning bill that could include such measures as subjecting water agency urban water management planning documents to the California Environmental Quality Act (CEQA).

### ***More Economy-Killer Initiatives***

The same law firm that submitted the High Quality Classrooms Act of 2005, which would raise commercial property taxes by either 30 percent or 50 percent depending on which version is pursued, has recently introduced the “Corporate Tax Accountability Act.” Under existing law, the California Constitution prohibits the Legislature from imposing an ad valorem tax on real property or sales or transaction taxes on the sales of real property. The Corporate Tax

Accountability Act would grant the Legislature the authority to amend any corporate tax – including commercial property taxes.

### ***Governor Appoints Director of Office of Planning and Research***

The Governor’s Office of Planning and Research (OPR) is becoming an ever-more important agency to the development community. OPR has oversight over such issues as Native American sacred sites. Governor Schwarzenegger recently announced the appointment of Sean Walsh as director of the Governor’s Office of Planning and Research. Since 2000 he has served as president of Walsh & Walsh, a government relations and communications firm and served four years as Deputy Chief of Staff and Press Secretary to Governor Pete Wilson.

## **FLORIDA**

### ***Coastal Redevelopment Bill Referred to Committee***

H.B. 477, introduced by Representative Everett S. Rice (R) on Jan. 25, would require the future land use element of a local comprehensive plan to include certain provisions concerning hazard mitigation and authorizes local governments to amend comprehensive plans to allow for the redevelopment of coastal areas within designated coastal high-hazard areas. The bill was referred to the Growth Management Committee on Feb. 7.

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### ***Constitutional Amendment Bill Moves Forward***

S.B. 4 and S.B. 6, both joint resolutions that would change the Constitutional amendment process in Florida, have been referred to the Ethics and Elections Committee, the Judiciary Committee and the Rules and Calendar Committee. The bills are sponsored by Senator James King (R) and co-sponsored by Senator Rod Smith (D), Co-Chair of the Democratic Caucus Policy Committee.

S.B. 4 adds new requirements to citizen initiatives and states that all initiatives must amend an existing article of the Constitution, address a fundamental right of a citizen, or change the basic structure of the state government. S.B. 6 requires that all initiatives be approved by a three-fifths majority.

## **GEORGIA**

### ***Land Use Bill Introduced***

H.B. 152, a land use bill sponsored by Representative Ed Setzler (R), was introduced and referred to the House Ways and Means Committee on Jan. 27.

The legislation permits municipalities or counties to exercise additional redevelopment powers and requires the municipalities or counties to adopt an enhanced redevelopment plan to be submitted to the State Revenue Commissioner.

An enhanced redevelopment area is defined as a redevelopment area which also: (1) is difficult to develop due to existing structures or characteristics; (2) has had vacant commercial facilities for an extended period of time; (3) consists

of vacant facilities which were industrial, military, or agricultural facilities; (4) consists of a blighted area; (5) is an area of historical significance; and (6) consists of an area suffering from a demonstrable soil, groundwater, abandoned solid waste or another adverse environmental impact, among other provisions. A hearing has not yet been scheduled for this bill.

## **MASSACHUSETTS**

### ***Governor Files Budget***

On Jan. 26, Governor Mitt Romney (D) presented a \$23.2 billion state budget proposal for the coming year that relies on rising revenues, healthcare savings, and the closing of corporate tax loopholes to increase overall spending by about 2.4 percent while at the same time cutting income taxes.

When off-budget items such as pensions and the state's school building program are factored in, overall state spending would be about \$25.5 billion in the next fiscal year under Romney's plan, up from about \$24.7 billion this year.

Rising tax revenues will add \$800 million to the state's coffers, according to the administration. Closing the tax loopholes would raise an additional \$170 million. In addition, forcing all active state employees and all retired employees without disabilities who are younger than 65 to cover 25 percent of their health insurance premiums instead of 20 percent, will generate another \$59 million.

The Legislature is likely to reject many of Gov. Romney's priorities. During the

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last two years lawmakers have added money for social services programs and rejected his repeated calls to cut the state income tax.

## MICHIGAN

### ***Governor Announces Tax Restructuring***

Governor Jennifer Granholm (D) unveiled her "Michigan Jobs and Investment Act" last week in a widely anticipated news conference. The plan would reflect the most significant business tax restructuring in the last 30 years.

The plan would:

- Cut the standard Single Business Tax (SBT) rate from 1.9 percent to 1.2 percent (a 37 percent rate cut);
- Cut the tax rate for small business from 2.0 percent to 1.2 percent (a 40 percent rate cut);
- Create a 35 percent personal property tax credit for manufacturing and research and development;
- Provide a credit for research and development labor expenses;
- Increase the profit component of the tax base for corporations; and
- Bring taxes on insurance companies more in line with the national average.

According to the Governor, while manufacturing has served as the cornerstone of Michigan's economy, it has also shouldered a disproportionate share of the tax burden. These new tax credits will help us foster emerging technologies.

## MINNESOTA

### ***ICSC Closely Follows Gift Card Restriction Legislation***

Several bills introduced in the 2005 legislative session deal with gift card restrictions. The bills would prohibit expiration dates and service fees. The bills would also require disclosure of the terms of the card and some specify 10-point font on the front of the card.

The grocers, retailers, bank groups and shopping centers are opposing these changes and ICSC is working with coalition partners to come to a compromise with the advocates of the new restrictions. ICSC is also exploring different types of disclosures that might be acceptable.

None of these bills have had a hearing in any committee in either the House or the Senate.

## MONTANA

### ***Big Box Tax Bill Scheduled for Hearing***

Montana legislators are considering S.B. 272, which would impose a gross receipts tax on the retail sales of establishments that have total gross receipts of at least \$20 million. The tax rate would be 1 percent on gross receipts between \$20 million and \$30 million, 1.5 percent on gross receipts in excess of \$30 million up to and including \$40 million, and 2 percent on gross receipts in excess of \$40 million.

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A hearing on the bill has been scheduled for Feb. 15 in the Senate Taxation Committee.

A fiscal note for this bill has estimated that it would increase state revenue by approximately \$15 million. The fiscal note also establishes that because of this large fiscal impact the bill would have to be included in the general budget bill, H.B. 2.

## NEW JERSEY

### *ICSC Holds Annual Dinner in Washington, D.C.*

On Jan. 27, ICSC held an annual dinner reception for members who attended the New Jersey Chamber of Commerce train ride to Washington, D.C. Among the more than 200 New Jersey politicians and business representatives in attendance were Senate Minority Leader Leonard Lance (R); Commissioner of the New Jersey Department of Community Affairs Susan Bass Levin; and Chairman of the Senate Community and Urban Affairs Committee Ronald Rice (D).

### *Measure Allows Casinos to Jointly Use Funds on Retail Projects*

Legislation sponsored by Assemblyman Jeff Van Drew (D-Cape May) to help transform Atlantic City into a more diverse tourist destination by increasing the retail and entertainment venues was recently signed into law by Acting Governor Richard J. Codey (D).

The measure, A.B. 3217 supplements the Atlantic City Expansion Fund by allowing casinos to use additional

Casino Reinvestment Development Authority (CRDA) Urban Revitalization Funds on non-gaming projects. The new law will also encourage casinos to build more retail and entertainment space to strengthen Atlantic City's standing as a resort and convention destination spot.

Van Drew noted that Las Vegas casinos have a 50 percent ratio of retail and entertainment offerings to go with their gaming floors and hotels. By contrast, the ratio for Atlantic City's casinos is roughly 10 percent. The law allows casinos to combine monies to work on larger projects throughout Atlantic City. As an incentive for investing in non-gaming businesses, casinos will be exempted from sales tax on construction costs and receive the first \$2.5 million generated by the sales tax in that particular zone for the first 20 years.

Projects such as the Ocean One Pier, the Quarter and the walkway between the boardwalk and train station are examples of retail/entertainment projects. The new law takes effect immediately.

## NEW YORK

### *Attorney General Spitzer Sues Simon for Gift Card Fees*

New York State Attorney General and gubernatorial candidate Eliot Spitzer has filed suit against Simon Property Group alleging violations of the state's recently enacted law governing the use of gift cards. Simon's New York properties include Walt Whitman Mall in Huntington Station, Smith Haven Mall in Lake Grove, the Mall at the Source in Westbury and Roosevelt Field in Garden City. The lawsuit was prompted in part

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when two Long Island State Senators wrote Spitzer asking him to look into possible violations regarding timing of the monthly fees Simon imposes on its gift cards. The New York law, enacted last October, requires full disclosure of all fees and conditions and prohibits monthly service fees for thirteen months from issuance of the card. Simon has faced a similar lawsuit in Massachusetts.

### ***Wal-Mart Faces Local Resistance in Upstate NY***

In recent weeks, the Town Board in Ballston Spa, New York - a suburb of Saratoga - has been considering adopting a moratorium aimed at preventing Wal-Mart from constructing a store in the local area. Town residents will likely hold a public hearing to consider imposing a yearlong ban on all commercial construction. Board leaders opposing Wal-Mart's plan to build a new Supercenter in their town have been circulating a petition in the surrounding communities depicting Wal-Mart as a bad employer.

### ***Tax Breaks Pave the Way for Expansion at Finger Lakes Mall***

A four-story motel-restaurant and conference center is scheduled to be built on the nearby site of the Finger Lakes Mall in Aurelius, New York. Springhill Suites, a division of Marriott Corporation, plans to open a 119-suite-motel adjacent to the mall's property. The new center is expected to boost the number of social events and functions that the area will sponsor. With the mall's property located in a state Empire Zone, the motel restaurant complex will be eligible for tax and utility breaks.

### ***Pyramid's Crossgates Mall May End Decade-long Tax Dispute***

An out-of-court settlement has been announced concerning Crossgates Mall, one of upstate New York's largest taxpayers and may end a 12-year dispute over the mall's property assessment with the town of Guilderland and the local school district. The town was on the verge of having to refund Pyramid Cos. of Syracuse, the mall's parent company, nearly \$24 million for overassessment. The deal includes an increase in the mall's assessment to \$242 million, rather than the previous assessment of \$198 million and could result in an overall drop in local tax rates.

## **TEXAS**

### ***Public School Finance/Tax Reform***

Representative Jim Keffer (R-Eastland), newly-appointed Chairman of the House Ways and Means Committee has filed H.B. 3 as a shell bill to begin discussions on property tax relief. It is the first of two bills that will be filed in the House to tackle the issue of public school finance. The bill calls for lowering the local property tax cap from \$1.50 per \$100 valuation to \$1 per \$100 valuation for all residential and commercial property.

H.B. 3 would also raise the cigarette tax by \$1 per pack and provide for minor expansion of the sales tax base. Other provisions of the bill call for the continuation of the Telecommunications Infrastructure Fee, authorization of the sale of lottery tickets at service station pumps, and the elimination of the current franchise tax.

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Representative Kent Grusendorf (R-Arlington), Chairman of the House Public Education Committee recently filed the public education reform portion of the House's education/tax reform package, H.B. 2. Grusendorf calls his initiative, "A Roadmap to Results." It provides more than \$3 billion new dollars for school children next biennium in addition to money for enrollment growth. Districts would receive at least three percent more funding this fall.

### ***New Legislation Regarding Returned Merchandise***

Representative Burt Solomons (R-Carrollton) has filed H.B. 853, which would provide that a merchant who requires a consumer returning an item of merchandise to provide the consumer's driver's license or social security number may use the number or numbers for identification purposes only. The merchant would be prohibited from disclosing a consumer's driver's license or social security number to a person who will use the information in a manner that results in the compilation or tracking of information regarding merchandise returned by consumers, including the frequency with which a particular consumer returns merchandise.

### ***New Legislation Addresses Processing of Mail-In Rebates***

Representative Scott Hochberg (D-Houston) has filed H.B. 511, which would require companies that offer mail-in rebates to pay the consumer promptly, or send a notice listing any problems with the rebate request and allow the customer time to fix the problems.

Specifically, H.B. 511 would require the company to mail the rebate or electronically pay the consumer within 60 days of receiving a rebate request. If the request is not correctly completed, the company must either pay the rebate or notify the consumer of any errors. It would also provide the consumer an additional 30 days to correct and resubmit the request for processing.

**Upcoming Alliance Meetings**

- 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](mailto:mgross@icsc.org) or visit <http://www.icsc.org/srch/mt/descs/2005UV/2005UV.pdf>.

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