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**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 12

ICSC Leadership Sessions plus a Congressional reception in the magnificent Great Hall at The Library of Congress.

### Wednesday, April 13

Congressional Meetings on Capitol Hill.

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

## ARIZONA

### ***Tax Incentive Bill Improves, but Rival Bill Still Alive***

S.B. 1274, an industry-supported compromise bill on retail tax incentives, recently made its way through the Committee of the Whole. Senator Jay Tibshraeny (R-Chandler) sponsored a floor amendment, which made significant improvements to the original legislation, including additional disclosure requirements and a 2/3 voting requirement for such incentives. The amendment also removed language added by opponents in the Finance Committee that would have made it practically impossible to show that a development would not have come to a municipality without the incentive. The bill and floor amendment both received strong bipartisan support.

Unfortunately, S.B. 1201, sponsored by Senator Ken Chevront (D-Phoenix) also passed out of the Committee of the Whole. As amended, this bill would allow tax incentives except for Maricopa

County, the largest county in the State. Despite protestations about the fundamental inequity of this exclusion, the floor amendment passed. A lengthy floor debate showed that many members do not understand how retail incentives work and believe that all retail projects will simply come to all areas if given enough time.

Both bills are expected to pass through a third reading shortly. ICSC urges its Arizona members to support S.B. 1274 and strongly oppose S.B. 1201. Please call your legislators and let them know you support process changes that will not fundamentally undercut cities' abilities to enter into incentive agreement where appropriate.

## FLORIDA

### ***Forced Access Bill Moves to Committees in Senate, House Bill is Withdrawn***

In January S. 762, introduced in the Senate by Senator Mike Haridopolos (R-District 26), was referred to the

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Communications and Public Utilities Committee and the Judiciary Committee. The bill differs from those previously introduced because it provides mandatory access not just for telecommunications providers but also for providers of "Voice-over-Internet Protocol" (VoIP). This permits cable and data companies that might not otherwise fit the definition of telecommunications provider eligible to demand mandatory access. A majority of companies in the telecommunications industry are opposing the bill.

On Feb. 22, 2005 H.B. 1023, companion legislation to S. 762, was introduced in the House by Representative Ron L. Greenstein (D-Broward County) but withdrawn before it was assigned to a committee.

## COLORADO

### *Construction Defects Legislation Derailed*

H.B. 1295, sponsored by Representative Anne McGihon (D-Arapahoe Denver), was withdrawn before it was heard in committee. The bill would have relaxed restrictions on construction defects lawsuits.

A strong response from the business community, including the shopping center industry, led to the bill being withdrawn. Rep. McGihon did not foresee the strong opposition of the business community and was unable to gain the support needed to advance the measure.

## NEW JERSEY

### *Streamlined Sales Tax Bill Advances*

The Streamlined Sales Tax Bill, S. 1958, was approved by the Senate Budget and Appropriations by a vote of 14-1 on March 7.

The Streamlined Sales Tax Project would require state and local governments to collect sales tax on purchases made on the Internet by implementing a plan to simplify and modernize sales and use tax collection and administration. Currently, 21 states have approved legislation to revise their sales and use tax statutes in accordance with the multi-state agreement. Congress must now act to require remote sellers to collect state and local taxes for those states that simplify their taxes in accordance with the agreement.

A recent study by the University of Tennessee estimates that local governments lost between \$15.5 and \$16.1 billion in 2003 and will lose as much as \$33.7 billion by 2008 because of the inability to collect the taxes due.

ICSC supports the Streamlined Sales Tax Project (SSTP) because it is necessary to level the playing field of brick-and-mortar retailers and their Internet counterparts. ICSC also recognizes the current budget strains many state governments are challenged with and believes enforcing collection of sales taxes on goods sold on the internet will go a long way to solve structural deficits.

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## NEW YORK

### *Attorney General Vs. Simon Property Group*

A settlement was reached in New York Attorney General Eliot Spitzer's lawsuit against Simon Property Group, which operates ten outlet malls throughout New York. The Attorney General filed the lawsuit after the Group was found to be charging consumers a \$2.50 fee on their gift cards in violation of the newly-enacted gift card law.

The settlement imposes \$125,000 in penalties and to cover the cost of the investigation. Additionally, as part of the settlement, Simon agreed not to charge the \$2.50 so-called "dormancy fee" unless the card was not used in 12 months. Simon also agreed to disclose the fees it charges and to replace the card if expired or lost.

### *Wal-Mart Steps Away from New York City Plans*

After steady opposition from New York City unions, small business, environmentalists, politicians and neighborhood groups, Wal-Mart has paused their pursuit to settle in New York City. Wal-Mart officials earlier this month released a statement saying that they were not inclined to defend their corporate policies in response to the New York City Council's long list of criticisms of the retail giant.

### *Unions and Advocates Propose Sweeping Tax Increases to Balance State Budget*

Despite a recent study conducted by the Federal Reserve Bank in Boston, which found that New York's businesses have the heaviest tax burden in the nation, State lawmakers have been urged by several labor unions and advocates to increase New York's taxes by as much as \$10 billion a year.

The components of this proposal include: \$7.7 billion personal income tax increase; a broad-based alternative minimum assessment; adopting a report system that would allow corporations to file single tax returns covering all subsidiaries; eliminating programs that do not create jobs; and allowing the state to tax income that is earned but not taxed in another state.

## TEXAS

### *Sales Tax on Commercial Leases*

The House has withdrawn consideration of a proposal to expand the sales tax base to include commercial leases. While the issue may resurface, it is off of the table for now. Texas ICSC member Kendall Miller of Tanglewood Corporation in Houston was instrumental in working to stop the proposal.

### *Property Tax Relief/Tax Restructuring*

The House Ways and Means Committee voted out their substitute for H.B. 3, which would reduce school property taxes by one-third. The bill will be

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debated by the full House of Representatives this week.

Texas members of ICSC participated in a "Day at the Capitol" event on March 9, 2005 to lobby legislators on the bill.

Specifics of H.B. 3 include:

**Property Tax Reduction** – The maximum school property tax rate for maintenance and operation would be reduced from \$1.50 to \$1.00. Fifteen percent of the growth in future non-constitutionally dedicated state funds would be dedicated to reducing the tax rate until it reaches 75¢ per \$100 valuation.

**Reformed Franchise Tax** – The current franchise tax would be replaced with a reformed franchise tax that would be imposed on all business entities (not just corporations) at the rate of 1.1% on the first \$80,000 of annual wages (a maximum of \$880 per employee). It would apply to all business entities except 501(c)(3) corporations. It would be paid quarterly, effective Jan. 1, 2006, and would be administered by the Texas Workforce Commission. Taxpayers would be able to deduct unused accumulated credits (including R&D credits) until December 31, 2008.

**Sales Tax Rate Increase** – The state sales tax rate would be increased from 6.25% to 7.2% effective Oct. 1, 2005.

**Sales Tax Base Expansion** – The sales tax base would be expanded to include billboard advertising services, motor vehicle repair services, motor vehicle wash or detail services, newspapers, and water sold in a sealed container effective Oct. 1, 2005.

The state would pay for the reduction with an increase in the motor vehicle and boat sales tax, increased tobacco taxes, an extension of the Telecommunications Infrastructure Fund.

### ***Sales Price Disclosure***

H.B. 3 contains a provision requiring a sales price disclosure report to be sent to the chief appraiser within three days of recording the deed conveying an interest in real property. In addition to the sales price, the report would include financing information and a description of any unusual or extraordinary terms of the sale. The chief appraiser would be allowed to use the report in determining the value but could not use it as the sole basis for an increase in valuation. ICSC has joined with other real estate-related groups in opposition to this provision.

## **VIRGINIA**

### ***Proposed Impact Fees Defeated***

Two proposals brought forward this year in Virginia that would have enacted impact fees on new construction to pay for all or part of the costs of school facility improvements were recently defeated. H.B. 2346 and H.B. 2476 were considered in committee but did not make it to the Governor's desk.

Lobbying efforts by ICSC Government Relations volunteers Virginia came at a critical juncture in the Richmond legislative session and helped to defeat these measures, which would have had a detrimental impact on the development community, the retail real estate industry and the local economy in Virginia.