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

## ARIZONA

### *Tax Incentives Bill Clears House Committees*

With the last week to hear bills fast approaching, an industry-supported compromise bill on tax incentives cleared two House Committees. Both the House Ways and Means and Counties and Municipalities Committees heard testimony on S.B. 1274 sponsored by Senator Jay Tibshraeny (R-Chandler). Some members in the Counties Committee expressed concern with the current two-thirds voting requirement and Senator Tibshraeny may support a floor amendment to eliminate this requirement. ICSC spoke in favor of S.B. 1274 as a reasonable compromise to a contentious issue.

S.B. 1201, another tax incentives bill, but one *not* supported by ICSC, passed out of Ways and Means, but was held in Counties and Municipalities. The sponsor, Senator Ken Chevront (D-Phoenix) kept his bill alive by finding a vehicle bill to carry a "strike everything" amendment in a different committee. This is a common way of trying to resuscitate a bill that is running into trouble and industry is hopeful it can help defeat S.B. 1201 on both procedural and substantive grounds.

Intense media scrutiny around a controversial retail project in Mesa, Arizona has continued to give this topic an added layer of difficulty.

## CALIFORNIA

### *Onerous Water Supply/Land Use Bill Rekindles Debate in the Capitol*

Three years ago, the Legislature made broad-sweeping changes to the way in which projects have to deal with water prior to being approved by a local government. However, recently introduced legislation to alter this process is being deemed a opportunity for anti-economic, no-growth interests to stop critically needed residential, commercial, and industrial projects. S.B. 409, sponsored by Senator Christine Kehoe (D-San Diego) would require each city and county to revise its general plan in order for the portion of the conservation element including water to be "correlated" with the land use element. Until this correlation is completed, a local government's general plan would be out of compliance.

Those in opposition to S.B. 409 believe that this legislation would place an unnecessary and costly burden on local governments, and is not needed because existing laws already require urban water management plans to be used as a source document for local governments. S.B. 409 is scheduled to be heard by the Senate Local Government Committee in April.

### *Opposition Letters Needed for S.B. 17*

S.B. 17, proposed by Senator Martha Escutia (D-Whittier) is scheduled to be heard by the Senate Revenue and Taxation Committee on April 13. S.B.

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17 would implement new reporting requirements concerning the change in ownership of non-residential property in California. The bill would also create new penalties and fines for violation of new and existing reporting requirements. However, there is concern that the requirements set in S.B. 17 would virtually be impossible to comply with; and that the legislation would be a big step backwards for California's state tax structure and one more reason for companies not to do business in California. Those against S.B. 17 are encouraged to write letters of opposition.

***Coalition Opposes Bills Aimed at Hindering Movement of Goods from California Ports***

The California Trade Coalition – a diverse group of trade-related businesses and organizations dedicated to keeping California competitive in the global economy– is actively opposing several bills that place additional regulatory burdens on all entities involved in the movement of goods throughout the state. Bills that the coalition is opposing include:

S.B. 760, sponsored by Senator Alan Lowenthal (D-Long Beach) would require marine terminal operators (MTOs) at the Ports of Los Angeles and Long Beach to pay a \$30 fee per container on all cargo, a fee that would be used to fund additional port security, rail projects, and pollution mitigation.

S.B. 764, also sponsored by Senator Lowenthal, would require the Ports of Long Beach and Los Angeles to operate in a manner such that the emissions from port operations as of January 1, 2008, do not exceed a 2001 baseline. This bill

would greatly limit economic growth at our nation's largest port complex and could have a very significant and detrimental effect on California's economy.

***Workers' Compensation Rates Could Get Cut Again***

The Workers' Compensation Insurance Rating Bureau of California is recommending a 10.4 percent reduction in workers' compensation premiums this summer. The Bureau's recommendations were officially filed with the Department of Insurance. Insurance Commissioner John Garamendi will consider the recommendation this month. If accepted, California businesses will have seen workers' compensation reductions totaling more than 30 percent over the past two years.

***Citizens to Save California Receives Favorable Tentative Ruling on Fundraising & Schwarzenegger Involvement***

Superior Court Judge Shelleyanne W.L. Chang recently reviewed a lawsuit filed by Citizens to Save California (CSC) challenging a Fair Political Practices Commission (FPPC) ruling dealing with the ability of the Governor to raise funds for several measures trying to qualify for a special election ballot. Judge Shelleyanne W.L. Chang stated in a tentative ruling that the CSC has "demonstrated a reasonable probability that they will succeed upon their claims that the [FPPC] regulation unconstitutionally impinges upon their freedoms of speech and association because it is not closely drawn to match the identified governmental purposes."

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Should the ruling stand, Governor Arnold Schwarzenegger (R) would be able to raise money for initiatives aimed at carrying out reforms identified in his State of the State Address without being subjected to the \$22,300-per-donor limit effectively imposed on his political committees in November by the FPPC. The Governor would also be involved in the activities of the committees. While the issue may be resolved in a higher court, California State Assembly Speaker Fabian Nunez (D-Los Angeles) has already stated that he will urge swift passage of legislation codifying the FPPC regulation that has been at the center of debate.

***Governor Submits Technology Reorganization Plan to the Little Hoover Commission***

Governor Arnold Schwarzenegger (R) has submitted a reorganization plan to the Little Hoover Commission designed to establish the Department of Technology Services. The proposal consolidates the state's two general-purpose data centers and appropriately aligns telecommunications with data, recognizing the continual convergence of data, voice and video technologies. The Department will position the state government to deliver on the promise of technology to improve the lives of all Californians. "The people of California deserve to have the best run government in the world," said Governor Schwarzenegger. "Advances in technology have transformed our personal and professional lives over the past several decades, but California's government has not kept up. This reorganization plan is a significant step toward bringing our state's technology structure into the 21st century making it

efficient and more responsive to the people. I look forward to continuing to work with the Legislature in a bipartisan fashion to improve state government." The Little Hoover Commission has 60 days to review the Governor's reorganization plan and submit its report on the plan to the Legislature. The Governor can submit the plan directly to the Legislature 30 days following submission to the Little Hoover Commission. If neither house of the Legislature votes down the plan within 60 days of its submission to the Legislature, the reorganization becomes operational by law. This reform proposal is derived from the California Performance Review.

## CONNECTICUT

***Gift Card Legislation Progresses***

Two bills under consideration this session that would place regulatory restrictions on gift cards are now eligible for floor consideration.

H.B. 6067, in its current form, postpones the date of abandonment for gift certificates from three to 50 years. The bill relieves abandoned property holders from liability of interest or penalty, if they, before August 16, 2003, failed to report or deliver abandoned gift certificates to the state Treasurer. It further requires retailers to redeem, on request, any balance left on a gift certificate for cash after three years. The effective date of H.B. 6067 is October 1, 2005, except for the cash redemption provision which is effective upon passage.

S.B. 123 postpones the date of abandonment for gift certificates from

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three to 50 years. The bill relieves abandoned property holders from liability of interest or penalty, if they, before August 16, 2003, failed to report or deliver abandoned gift certificates to the state Treasurer.

The Connecticut Legislature has until June 3, 2005 to complete its business.

## DISTRICT OF COLUMBIA

### *Big Box Restrictions Considered*

Councilmember Sharon Ambrose (D), along with Council Members David Catania (I), Kwame Brown (D), Jack Evans (D), Kathy Patterson (D), and Marion Barry (D) recently introduced a bill that would limit the size on new construction of big box retail stores.

The measure prohibits the construction of retail stores that exceed 80,000 square feet and devote more than 15 percent of their square feet to the sale of nontaxable merchandise.

The DC Council comprises 11 members. Thus, based on sponsorship alone, this bill already has a majority of votes to pass the Council.

## FLORIDA

### *Premises Liability Bills Move Forward*

H.B. 1513 and 1931 have moved through the primary committee of substance in the House (Judiciary Committee) and would provide significant tort reform to commercial property owners. Specifically, the legislation overturns Florida Supreme Court case law in a return to common

law. S.B. 2566 receives its first hearing in the Senate in the Commerce and Consumer Services Committee on April 13. The Governor and Speaker of the House believe that premises liability and class action tort reform may be achievable this legislative session.

### *Growth Management Laws Considered*

Extensive rewrites of the state's growth management laws have been proposed by the Governor's Office. Among other items the Governor adds school concurrency and water resource concurrency to the permitting process. Additionally, the proposal would shorten the time available to meet concurrency requirements from seven years to one year. Finally, the Governor's Office offers no new state resources to address the state's estimated \$20 billion dollar infrastructure deficit. The development community and local governments both oppose the initiative, but the legislation continues to advance in the process with the promise to continue discussions and negotiations. Discussions and negotiations have not proven productive at the mid-point of the session.

### *Impact Fees Progress*

S.B. 2302 and H.B. 1173 are progressing through the committee process. These bills are patterned after ICSC's model impact fee ordinance, but the primary goal is to prohibit local governments from using a methodology that would give no credit to the future revenues (ad valorem taxes, gas taxes, fees, assessments, etc.) provided by the proposed development. This new methodology has been utilized by a handful of jurisdictions in the last 12

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months and has proven extremely detrimental to the financial feasibility of proposed projects. Should an agreement be reached to prohibit this methodology, many of the additional restrictions will be amended out of the bill.

### ***Mold Legislation Moves Forward***

S.B. 590 and H.B. 117 are moving through the committee process. The Senate bill contains liability “safe harbor” language for those property owners who utilize the services of a licensed remediator or assessor. The House bill requires the property owner be given notice and opportunity to cure any defects associated with mold remediation prior to initiation of any lawsuit. Both provisions will provide a significant improvement to the state of the law for property owners.

## **HAWAII**

### ***Streamlined Sales Tax Bill Considered***

Hawaii H.B. 1224, sponsored by Representative Calvin Say (D) was recently amended to include provisions that would implement the Streamlined Sales and Use Act. It will be voted on in the second chamber (the Senate) on April 12.

The current version of this bill establishes a procedure to collect the State’s existing general excise and use taxes on out-of-state purchases, directs the department of taxation to make recommendations on how to amend existing general excise and use tax laws to conform to the model streamlined and use tax agreement and repeals the

streamlined sales and use tax advisory council.

The Streamlined Sales Tax Project would give state and local governments the ability 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.

## **MARYLAND**

### ***Anne Arundel County Considers Security Camera Legislation***

After Baltimore County passed legislation on March 21 requiring shopping centers to install video surveillance cameras that cover 75 percent of shopping center parking areas

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during business hours, Anne Arundel County quickly followed suit filing similar legislation on April 4. Unfortunately, the Anne Arundel bill contains one major difference: requiring cameras provide coverage of at least 75 percent of the **areas that are owned, leased, or operated** by the shopping center for the use of the general public. This would require cameras posted throughout the entire shopping center complex, not just the parking lot, as required by the Baltimore County legislation. Fortunately, County Council Chairman Ron Dillon admits the bill was put together quickly and work will need to be done to amend the bill. A public hearing is scheduled for May 2 at 7:00 p.m. in the Council Chambers at the Anne Arundel Center.

## NEW YORK

### *New York Breaks 20-Year Streak and Passes On-time Budget*

After several weeks of promise and skepticism, the New York State Legislature has finally passed an on-time budget, a task not achieved in 20 years. Both the Assembly and the Senate have agreed on a \$105 billion spending plan. In the coming days, Governor George Pataki (R) will have the chance to analyze this proposal, and has the option to veto several parts of it; however this budget is considered completed by the State's constitution.

In order to make the deadline, several issues were set aside and will be up for discussion after the budget is enacted; including the Environmental Protection Fund, and several other programs that

provide funds for child care and job training.

The approved budget, however, includes various increases in motor vehicles fees as well as a sales tax and mortgage recording tax increase in the Metropolitan Transit Area (MTA).

The Legislature has also agreed to continue negotiations relating to the Empire Zone program. They have agreed on 12 new zones over a four-year period. Furthermore, the sales tax on clothing costing less than \$110 was not eliminated, instead two one-week tax holidays will take place again this year.

### *ICSC Lobbies for TIF in New York*

ICSC members in New York have been lobbying the state Legislature for several months to enact language authorizing tax increment financing (TIF) as an economic development tool. ICSC was successful in incorporating a TIF proposal in the Senate's budget package, however, the measure failed to gain the support of the Assembly and did not make it into the final budget agreement. ICSC has received the support of the Senate Deputy Majority Leader to sponsor a stand-alone bill and will be seeking companion legislation in the Assembly. ICSC is reaching out to interested parties in the development industry and hopes to secure passage of the bill in the 2005 legislative session.

## PENNSYLVANIA

### *Proposed Transfer Tax Increase*

H.B. 119, sponsored by, Representative Thomas Yewcic (D), provides that the

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Board of Public Education in any school district of the first class has the authority to impose a realty transfer tax. This bill is part of a tax reform package that is being pushed by a group of conservative legislators called the Commonwealth Caucus. Sources have indicated that this package of bills will likely be passed by the Finance Committee by the end of the April. Other provisions of the tax reform proposal include property tax cuts and a 1 percent decrease in the state sales tax coupled with an expansion of the sales tax to include clothing, food, and services.

The legislative session in Pennsylvania runs until August 12, 2005.

## TEXAS

### *Senate Passes Gift Card Bill*

The Senate passed S.B. 446, sponsored by John Carona (R-Dallas), which would require merchants to explicitly advertise what charges a consumer who purchases a gift card could face. Merchants would be allowed to levy a reasonable maintenance fee, as determined by the Attorney General, but would prohibit merchants from charging the fees for 12 months after a card is purchased. The state would be allowed to claim any unused balance on a gift card after three years of inactivity. A Senate floor amendment was added that would require five percent of the funds remitted to the state to go toward scholarships and educational grants.

### *Workers' Compensation Update*

H.B. 7, sponsored by Representative Burt Solomons (R-Carrollton), which is

the House version of workers' compensation reform and the sunset bill for Texas Workers' Compensation Commission has passed the House. During four hours of debate, Solomons successfully fought off efforts to weaken the network provisions. Representative Bill Zedler (R-Arlington) proposed opening the networks to any provider that is properly credentialed. Solomons' motion-to-table the Zedler amendment failed by a vote of 39 to 100, but after debate, the amendment failed by a vote of 55 to 85. Later in the debate, Zedler raised a point-of-order that would have effectively killed the bill, but he later withdrew it. The bill ultimately passed by 144 to 3.

There is an unusual situation in the workers' compensation reform effort. The Senate has passed S.B. 5, sponsored by Senator Todd Staples (R-Palestine), which creates the Department of Workers' Compensation to be headed by a single commissioner and provides for the delivery of health care to injured workers through workers compensation networks. The House has passed H.B. 7, sponsored by Burt Solomons (R-Carrollton), which abolishes the Texas Workers' Compensation Commission and transfers most of their duties to the Texas Department of Insurance. It also establishes networks for medical care delivery. Although both bills have advanced, H.B. 7 must pass the Senate or S.B. 5 must pass the House before the issue can be sent to the Governor. So far, neither chamber has expressed an interest in taking up the other chamber's bill, so there is a stalemate on the issue.

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***Property Tax Appraisal Caps***

Lieutenant Governor David Dewhurst (R) announced his support for S.B. 18 by Tommy Williams (R-The Woodlands) and S.J.R. 4, sponsored by Senator Kyle Janek (R-Houston) which would cap homestead appraisals at 5 percent. He said, “These measures will go a long way toward protecting homeowners – especially those surviving on fixed incomes – from being priced out of the homes they’ve worked so hard to own.” The House was scheduled to take up H.J.R. 35, sponsored by Representative Dwayne Bohac (R-Houston), which is a 5 percent appraisal cap bill, but it was sent back to the Ways and Means Committee. Governor Rick Perry (R) made a visit to the House floor this week to encourage House members to support the constitutional amendment, which is a key part of the Governor’s agenda.

**Upcoming Alliance Meetings**

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|---|----------------------------|---------------|----------|
| • | Wisconsin Alliance Program | Milwaukee, WI | April 19 |
| • | Cleveland Local Alliance   | Cleveland, OH | June 23  |

To submit items to SCANews, please contact Stephanie Spooner at [sspooner@icsc.org](mailto:sspooner@icsc.org).