

OCTOBER 17, 2005



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



MAKE PLANS TO ATTEND!

****MANDATORY FOR ALL GR CHAIRS!****

**Fall Government Relations Leadership Meeting
November 14 - 15, 2005**

Fairmont Chicago Hotel, Chicago, IL

Jeff Birnbaum, of the Washington Post, is a confirmed speaker for the event.
Contact Judy Laniak at (202) 626-1401 for additional information.

CALIFORNIA

Governor Schwarzenegger Vetoes Bills

On Oct. 7, Governor Arnold Schwarzenegger (R) vetoed two bills, A.B. 648 and A.B. 1622, that were opposed by ICSC.

A.B. 648 (Jones, D-Sacramento) would have required a development project applicant to identify the person or entity that would own, lease or occupy the project, if different from the person or entity applying for the development. It would also have required disclosure of information that could be subject to change during the life of a project. ICSC was concerned that this provision sought to include information bearing no relationship to an application for a development project. Such information could enable projects to be opposed based upon who will occupy them, rather than the type of land use or environmental impact of the project.

The second veto, A.B. 1622 – (Liu, D-La Canada), would have amended the long-standing business practice of owners and general contractors retaining payments as a means of financial

guarantee in the absence of a bond that the construction will be completed based on the terms of the contract. A.B. 1622 would have prohibited these retentions that would interfere with private contractual relations necessary to many development projects.

ICSC Takes Position on Key Ballot Measures

ICSC, along with the California Business Properties Association (CBPA), has reviewed all of the Propositions contained on the Nov. 8 Special Election ballot and has approved the following positions for four of the measures:

Proposition 75 - Public Employee Union Dues - ICSC Position - VOTE YES

Over the past decade, the California commercial real estate industry has been under attack by special interest groups advancing measures such as a split roll property tax. Proposition 75 would require public employee unions to get annual written consent from government employee union members to charge fees for political purposes rather than assessing members automatically.

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Proposition 76 - The Live Within Our Means Budget Act - ICSC Position - VOTE YES

California has been faced with massive budget deficits during the past several budget cycles. The problem will only get worse unless the budget process is reformed. Proposition 76 aims to control spending to end state deficits and balance the state budget without raising taxes. State expenditures would be subject to an additional spending limit based on an average of recent revenue growth. The new budget calculation will protect California against future deficits and eliminates wasteful spending, making more money available for roads, healthcare, and law enforcement without raising taxes. By establishing "checks and balances," Proposition 76 encourages bipartisan budget solutions.

Proposition 77 - Redistricting - ICSC Position - VOTE YES

Proposition 77 seeks to increase the competitiveness of Congressional and state legislative races by having boundaries for political districts drawn by retired judges and approved by voters at statewide elections instead of the current practice where boundaries are drawn by the Legislature.

Proposition 80 - Re-regulation of Electric Service Providers - ICSC Position - VOTE NO

California businesses depend on a predictable regulatory climate that allows them to make critical business decisions into the future. Such decisions include the operational and maintenance costs for operating a business in the state. Proposition 80 would create a

level of regulatory uncertainty by sharply restricting the ability of businesses to choose their level of service and provider of electricity.

PUC Invests in Energy Efficiency Plans

The California Public Utilities Commission (PUC) recently approved an extremely ambitious energy efficiency and conservation campaign by authorizing energy efficiency plans and \$2 billion in funding for 2006-2008 for the state's utilities, reaffirming that cost-effective energy efficiency is the state's first line of defense against power shortages. PUC President Michael R. Peevey emphasized that, "\$2 billion is a significant expenditure, but the benefits clearly outweigh these costs and consumers gain in a multitude of ways. These programs will cut energy costs for homes and businesses by more than \$5 billion, eliminate the need to build three large power plants over the next three years, and reduce global warming pollution by an estimated 3.4 million tons of carbon dioxide by 2008, which is equivalent to taking about 650,000 cars off the road." The increased funding for the plans approved today is meant to enable both residential and business customers to take advantage of the diverse mix of energy efficiency and conservation programs throughout the state.

COLORADO

Indemnification Legislation Drafting Underway

Progress is being made on the drafting of indemnification legislation for the 2006

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session. The draft bill is a proposed compromise, following several years of bitter battles over the issue. The legislation is expected to prohibit the requirement of broad form indemnification while still allowing owners and general contractors to require intermediate and narrow indemnification in contracts. The 2006 bill draft would also allow for additional insured clauses in construction contracts.

CONNECTICUT

Oct. 11 Special Session Called, Adjourns Oct. 12

A Special Session of the Connecticut General Assembly convened on Oct. 11 and adjourned on Oct. 12, lasting just a single day. Originally called by Governor M. Jodi Rell (R) to address the topic of campaign finance reform, the Special Session agenda was expected to include bills to restrict the use of eminent domain, among others. The General Assembly will hold a second Special Session on Oct. 18. ICSC will closely track possible language and any legislation associated with this issue. In addition, the legislature will consider emergency home heating oil assistance for the winter during upcoming second Special Session.

LOUISIANA

Special Session Announced

Governor Kathleen Blanco (D) has announced she will call a special session of the Louisiana Legislature to deal with the ravages of Hurricane Katrina and has targeted October for the House and Senate to convene.

Gov. Blanco has pledged a full review of all procedures in the immediate aftermath of the storm that swept Louisiana in early September. While the Governor is still unhappy with the slowness of the Federal Emergency Management Agency (FEMA) response to Katrina, she also pointed to the fact that the death toll is far less than had been predicted and is proof that state responders and volunteers did a good job.

MARYLAND

Eminent Domain Briefing Scheduled

The Maryland House Environmental Matters Committee, chaired by Delegate Maggie McIntosh (D), will meet Oct. 19 to receive a briefing regarding eminent domain and the Kelo vs. New London U.S. Supreme Court decision. Several parties will provide information, including representatives from the state Attorney General's office, who will discuss the decision's effect on the state; members of the National Conference of State Legislators (NCSL), who will provide the Committee with an overview of state and federal reactions to the case; the Maryland Association of Counties (MACo) and the Maryland Municipal League (MML).

According to Committee staff, the purpose of this meeting is to be informational, and that testimony from other sources on the issue of eminent domain will be accepted. Following the Kelo decision, several legislators expressed an interest in introducing legislation that would address eminent domain in Maryland. Senator James DeGrange (D) has announced his

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intention to introduce a bill that would limit governments from taking private property for commercial use.

The Maryland General Assembly will convene the next regular session on Jan. 11, 2006. ICSC will closely monitor any legislative activity related to eminent domain.

MASSACHUSETTS

Permitting Likely Next Commercial Reform

Two House committee chairmen announced last week they expect commercial permitting reform to be one of the next pieces of economic development legislation to gain traction on Beacon Hill. Rep. Michael Rodrigues (D-Westport) of the Labor and Workforce Development Committee and Rep. Daniel Bosley (D-North Adams) of the Economic Development and Emerging Technologies Committee spoke during a hearing on a reform plan offered in March by Governor Mitt Romney (R). House leaders last week adopted other economic development proposals advocated by Gov. Romney, but say additional work is needed on the permitting bill. Both Bosley and Rodrigues expressed an interest in passing a bill that entices new communities to adopt expedited permitting zones, rather than rewarding cities that already work to fast track permitting. A House-approved economic stimulus bill is awaiting action in the Senate. The Senate included permitting reform in its state budget proposal earlier this year, but that initiative was dropped during conference talks with the House.

MICHIGAN

Eminent Domain Legislation Moves Forward

Two provisions, SJRE and SB 693, were recently voted out of the Senate Transportation Committee and sent to the Senate floor. SJRE is a proposed constitutional amendment that prohibits the taking of private property to transfer to another private property. It does however allow for an exemption for local governments if they can prove the property is blighted. The blighted provision and continued discussions over the definition of blight continues to stall the movement of the legislation.

Older Mall Bill Goes To Senate

HB 4369 gained approval in the House and was sent to the Senate for further consideration. The bill would give a property tax exemption for up to 10 years on the value of improvements made to the property.

The proposal is intended as an alternative to Brownfield redevelopments, which are more restrictive in application. Eligible properties are those with at least 1 million square feet of space on 75-acre parcels with at least 40 percent of the space vacant for at least 12 consecutive months.

Budget Signed

The fiscal 2005-06 budget was completed by the constitutionally mandated October 1 deadline and signed by Governor Jennifer Granholm (D). Both Democrat Granholm and the

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Republican legislature took pleasure in announcing that the budget for the upcoming fiscal year was balanced without any tax increases.

Securitization Bills Move Thru Senate

The package of bills passed by the House to sell off part of the \$6 billion tobacco settlement moved from the Senate committee to the full Senate this week. The bills amend the single business tax and income tax to permit investors in the Michigan Early Stage Venture Investment Fund to use tax voucher certificates against their tax liability.

NEW JERSEY

Smart Growth Ombudsman's Website Launched

Acting Governor Richard Codey (D) recently announced the launch of the Smart Growth Ombudsman's website. The website was designed to inform the public about New Jersey's smart growth policy and Smart Growth Ombudsman Patrick Gillespie. It is the Acting Governor's hope that through the website the public will learn more about smart growth and send the message that well-planned, well-managed growth adds new homes and creates new jobs while preserving open space, farmland and environmental resources.

The position of Smart Growth Ombudsman was created as part of the Smart Growth Act, which became law in 2004. The Office of Smart Growth Ombudsman coordinates the smart growth efforts of all state executive departments, especially the Departments

of Environmental Protection, Transportation and Community Affairs, to ensure the principles and goals outlined under the Smart Growth Act are met. The Smart Growth Ombudsman's website can be accessed at www.nj.gov/smartgrowth.

Mandatory Land Use Education Measure Signed Into Law

Acting Governor Richard Codey has signed into law Chapter 133. This law mandates the Commissioner of Community Affairs to offer a basic course in land use law and planning for current and prospective members and alternate members of local planning boards, zoning boards of adjustment and combined boards as authorized under law. The basic course shall consist of no more than five hours of scheduled instruction and shall be structured so that a member may satisfy this requirement within one calendar day. The Commissioner will work in conjunction with the New Jersey Planning Officials in establishing standards for curriculum and administration of the course of study.

NEW MEXICO

Special Session Called

Gov. Bill Richardson (D) has called the New Mexico legislature back for a special session intended to ease high oil and gas prices. Gov. Richardson is proposing tax rebates and expanded programs that would help poor people and the elderly pay their heating bills. Dubbed the "Gas and Home Relief Special Session," the Governor said action is necessary to stabilize gasoline

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prices and home heating costs, and consider passage of anti-price gouging legislation. Specifically, the Governor suggested removal of the gasoline tax and/or a gasoline price rebate for motorists.

Gov. Richardson appointed a task force in early September to develop legislation that would increase the state's ability to protect consumers against market abuses — not only with gasoline prices but other commodities. The law would allow the state to investigate and punish companies that gouge after a tragedy or natural disaster, although some feel it would be difficult for the State to enforce such measures. Gov. Richardson also wants to increase funding to the Low Income Home Energy Assistance Program. More than 600,000 low-income and elderly residents would receive cash relief for their heating bills.

These proposals have been met with skepticism from some saying the suspension of the sales taxes on gasoline and diesel fuel — 17 cents per gallon in New Mexico would take away critical revenue for highways. With removal of the gas tax, the transportation department's road fund would absorb the majority of lost revenues that are used for highway construction and operation.

A Richardson Spokesperson reported the Governor is leaning toward the gasoline price rebate for motorists. Under this plan, the state would supplement revenue loss with extra revenue from the state severance tax on natural gas. Any laws that are passed would take immediate effect.

TEXAS

Committee Appointed to Oversee Tax and Education Reform

After the 2005 regular session and two special sessions failed to produce school finance reform and property tax reductions, Governor Rick Perry (R) will appoint a panel charged with restructuring the state tax system and reforming public education. The committee will be led by former Comptroller and Perry rival John Sharp. Other members of the panel will be appointed later. Sharp was the Democratic candidate against Perry for Lt. Governor in 1998, and he also ran for Lt. Governor in 2002 against David Dewhurst.

Sharp was considering a run for governor against Perry next year. He agreed to put his political plans on hold in order to work on the two issues that have stumped legislators four times over the last two years - public school finance reform and tax reform. Sharp made several legislative recommendations to reform state government through the Texas Performance Reviews during his tenure as Comptroller. No timeline has been announced for the study. Additional details are expected to be released when the other task force members are announced.

Upcoming Alliance Meetings

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| • Connecticut Alliance Program | Rocky Hill, CT | November 3 |
| • Illinois Alliance Program | Chicago, IL | February 13 |
| • West Michigan Alliance Luncheon | Grand Rapids, MI | March 7 |

University of Shopping Centers

- March 6 – 8, 2006, The Wharton School of the Univ. of Pennsylvania, Philadelphia, PA

New Partners for Smart Growth Conference

- Mark your calendar for the "not-to-be-missed" 5th Annual New Partners for Smart Growth Conference, January 26-28, 2006 in Denver, Colorado. For more information and to register, visit: <http://www.NewPartners.org>

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