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

STRATEGIC LEADERSHIP SUMMIT

Make plans now to attend the 2006 Strategic Leadership Summit in Washington, DC on March 28-29. This is the meeting to attend if you want to make your voice heard in Congress regarding issues that are important to the shopping center industry. For more information, please contact Judy Laniak in the Government Relations office at (202) 626-1401 or by email at jlaniak@icsc.org.

ARIZONA

Legislative Update

Three bills have been introduced on municipal tax incentives and ICSC is working with several cities to shape the most palatable legislation for our industry.

Additionally, there have been more than 15 pieces of legislation introduced on eminent domain. Most are extremely strong property rights protection bills. There are some concerns that all uses of eminent domain are potentially at risk including municipal governments basic right to condemn for public infrastructure such as, streets, sewer, water, and high-crime redevelopment areas. ICSC will work to insure that necessary public infrastructure services are covered under the final eminent domain legislation.

This year's variation of guns in bars has been introduced. If a public establishment requires weapons to be checked upon entry, this legislation would further require the storage to be readily accessible upon entry and provide for immediate retrieval upon exiting. This would require a higher standard than the current coat checking procedure.

Forced Access Legislation

Earlier this month, proactive access legislation easily passed the House. The legislation – H.B. 2079, is a response to several forced access attempts in the state over the past few years.

The bill affirms that the State will not mandate access to commercial buildings for telecommunications providers. Additionally, it requires landlords to provide the names of the available telecom providers to any prospective tenant upon request. The bill only pertains to commercial properties.

CALIFORNIA

Deadline Temporarily Thins Out Volume of Legislative Measures

The fate of hundreds of bills introduced in 2005 was decided on January 31. This date marked the legislative deadline by which bills seeking to continue through the legislative process needed to move out of their respective houses of origin. Two-year bills failing to meet this deadline are officially dead for the year.

Legislators Looking to Introduce Hundreds of New Bills for the 2006 Legislative Year

California has seen the introduction of several bills aimed at the business community in general, and the commercial real estate industry specifically. Such bills include A.B. 1899 (Wolk, D-Davis), which would prohibit a local government from approving a tentative map unless it can be demonstrated that there is a 200-year level of flood control protection for the community. The last day to introduce bills this year is February 24.

Diesel Magnet Source Legislation Escapes Deadline

Legislation authored by Assembly Member Jenny Oropeza (D-Long Beach) giving air quality management districts new authority to regulate a new category of "diesel magnet sources," such as ports, rail yards, distribution centers, and airports, as hot spots was approved by the Assembly enabling the bill to continue to move through the legislative process. A.B. 1101 secured 43 aye votes (41 votes were needed for the bill to pass the Assembly). However, the author committed to several members of the Assembly that she would "fix" her bill in the Senate to deal with a number of issues raised by the opposition. Industry members continue to oppose A.B. 1101 because it would set a dangerous precedent that could eventually impact shopping centers and distribution centers, not to mention its impact on California's goods movement infrastructure.

Change in Ownership Bill Currently Stalled

Senator Martha Escutia (D-Montebello) has decided to no longer use S.B. 17 as her vehicle in seeking modifications to the way businesses report changes in ownership of real property. In an effort to garner enough support for her measure prior to the two-year bill deadline,

Sen. Escutia amended S.B. 17. However, the bill was still in a form that industry members opposed. S.B. 17 would have required corporations leasing property to report to the Franchise Tax Board regarding the leased property, when 50% of the voting stock has been transferred or the corporation has been acquired by another. Such a requirement already exists for owned property. Extending this requirement is an unnecessary and burdensome compliance requirement for all taxpayers and the Franchise Tax Board. However, Sen. Escutia will likely pursue this issue during the 2006 legislative year.

COLORADO

Eminent Domain Compromise

While eminent domain was primed to be among the most contentious topics of the session, Governor Bill Owens (R) and Senator Tom Wiens (R-Castle Rock), sponsor of eminent domain legislation S.B. 78, have already hammered out a compromise on the subject and agreed to language that would ban private developers from condemning private property for toll roads. For future use of eminent domain, private toll road developers would have to team with the Colorado Department of Transportation (CDOT), with CDOT condemning land and developers adhering to strict conditions for state highways. The issue compromise resulted in great support for the bill; it passed the Senate unanimously.

However, there are still seven bills and three possible ballot measures addressing property rights pending this year. H.B. 1003 by Representative Jack Pommer (D-Boulder) is expected to pass, which would set guidelines for the eminent domain process.

MICHIGAN

Property Rehabilitation Bill Moves

S.B. 52 recently passed the House Commerce Committee. The proposal would give tax breaks to property owners who rehabilitate buildings by making them bigger.

The bill amends the Obsolete Rehabilitation Act that allows tax abatements to commercial properties undergoing rehabilitation. Currently, the Act does not include the addition of floors or space to the existing structures.

Michigan Needs More Power

Michigan Public Services Commission (MPSC) testified this week that by 2009 the state will need additional electric supply. However, the MPSC also agreed the current regulatory structure could make it difficult to add additional plants. The current regulatory structure on the utilities provides disincentives to both incumbent utilities and power marketers to build new plants because neither would have assurance of making back the investment.

Regulatory changes combined with increasing fuel costs have priced many competitive electric supplies out of the market. The MPSC went on to say that the need for more power combined with fewer competitors is seen in its annual survey whereby for the first time the number of customers served by a competitive supplier has dropped.

The annual report showed 15,000 commercial and industrial customers took power from a competitive supplier in 2005. Those customers represented about 12% of the load statewide.

Appropriations Season Nears

With 2006 seeing every legislative seat up for election and the Governor, Secretary of State and Attorney General on the ballot, state office holders look to return home early to campaign.

Having just delivered her State of the State address last week, Governor Jennifer Granholm (D) promises to be prompt in submitting her proposed 2006-2007 budget. In response, legislative leaders announced their intention to meet strict deadlines in completing the budget and return to their districts in order to campaign this summer.

NEW YORK

Eliot Spitzer Names a Running Mate

Attorney General Eliot Spitzer (D), the leading contender in the race for New York Governor, has chosen Senate Minority Leader, Senator David A. Paterson (D) to be his running mate. Sen. Paterson has been the Minority Leader since 2002 and has a strong reputation among his Democrat colleagues in both the Senate and the Assembly. Sen. Paterson, who is legally blind, has championed legislation for reforms in government, health care and the criminal justice system. Sen. Paterson is also an African American which is expected to help solidify Spitzer's support among minority voters – support that will be crucial to his election if others decide to seek the Democratic Party's nomination.

Destiny USA Receives Green Bond

The city of Syracuse, New York and Destiny USA have been in a battle over the proposed mega-mall site for several years and recently things have been heating up. The company

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claims that the city of Syracuse failed to live up to its part of a tax and bonding deal for the first phase of Destiny USA. The city of Syracuse contends that the project failed to meet financing requirements and says the tax deal has expired. Despite the ongoing court battles, the mayor and developer continue to agree that the project should go forward. Destiny was recently awarded a federal tax-exempt Green Bond worth more than \$1 billion. In order to utilize the bond, Destiny has agreed to create 1,500 permanent jobs, use renewable energy, install solar panels, and they must build on a Brownfield site.

Texas House Elections

All 150 of the House districts (87 Republicans and 63 Democrats) are up for election this year. Fourteen incumbents are not seeking re-election. Former Democratic Speaker Pete Laney's district will probably swing to the Republicans and Austin Republican Representatives Terry Keel and Todd Baxter's districts are marginal and could go either way. Otherwise, the vacated seats are expected to stay in the same party. There are 59 members returning to the House without major party opposition; 18 have primary opponents; 45 have general election opposition; and 14 face both primary and general election contests.

Study Committee on Tax Reform

A revised franchise tax plan is informally circulating through the business community in Austin. The basis of the calculation is gross receipts, rather than the 4.5% of net income or the .25% of capital that is the starting point for the current franchise tax. The single apportionment factor (gross receipts in Texas divided by gross receipts everywhere) would still apply. The tax would apply to all businesses (except sole proprietors) with operations in Texas. The new tax would a property tax reduction of between 35¢ and 50¢ per \$100 valuation. The formula would be:

Total Gross Receipts

Subtract either: Costs of goods sold-or-employee compensation; pay 1% Tax on the total.

Wholesalers, Restaurants and Retailers would pay ½% instead of 1%.

This is only one of the proposals that is currently under consideration by the Select committee.

Upcoming Alliance Meetings

- Illinois Alliance Program Chicago, IL February 13
- West Michigan Alliance Program Grand Rapids, MI March 7

Day At The Capitol Events

Please contact ICSC Government Relations for more information.

- Annapolis, MD March 2
- Denver, CO March 20
- Lansing, MI March 22
- Springfield, IL March 23
- St. Paul, MN April 6

University of Shopping Centers

- March 6 – 8, 2006, The Wharton School of the Univ. of Pennsylvania, Philadelphia, PA
- For more information visit <http://www.icsc.org/2006UV>

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