



Upcoming Events

ICSC "Day at the Capitol"

The 2007 **Strategic Leadership Summit** will be held March 27-28 in Washington, DC. The summit includes ICSC's "Day at the Capitol" event and gives members the opportunity to visit Congress to lobby on behalf of the industry.
>>[register](#)



Michigan Day at the Capitol
Lansing, MI
6 March 2007
Contact: Rachel Zagrabelny
rzagrabelny@icsc.org

Texas Day at the Capitol
Austin, TX
7 March 2007
Contact: Dana Chiodo at 512-472-5110 or dana@chiodo.org

Minnesota Day at the Capitol
St. Paul, MN
14 March 2007
Contact: Rachel Zagrabelny
rzagrabelny@icsc.org

Maryland Day at the Capitol
Baltimore, MD
14 March 2007
Contact: Lisa Gallagher
lgallagherce@aol.com

 ALLIANCE PROGRAM

New Year, New Look, New Name

As ICSC celebrates its 50th year, the organization continues to grow at a record pace. To reflect this growth and the interests of the organization's global membership, ICSC Government Relations is now the ICSC Office of **Global Public Policy**. The office of Global Public Policy (GPP) is a completely reorganized operation combining ICSC's U.S. federal government relations, state (U.S.), provincial (Canada) and local government relations, the ICSC Alliance program, grassroots and grassroots outreach, PACs, plus a new initiative providing legislative counsel and technical expertise to non-U.S. regulatory and legislative officials.

GPP is also preparing to launch a new **Legislative Action Center**. This grassroots website will feature legislative alerts, key votes, and tools for sending automated emails and letters to elected officials on important legislation at the federal and state level.

In addition, GPP is also revamping its publications. This monthly electronic newsletter, formerly known as "SCANews," will now be the "GPP E-News." The quarterly publication (formerly the Government Relations Report) is now the Global Public Policy Report.

ICSC Global Public Policy is led by Senior Staff Vice President Betsy Laird and is part of ICSC's Advocacy Enterprise Group, which also includes Media Relations, Research, Member Services and Marketing.

Environment

State News

- **ARIZONA** - At this early stage in the Arizona legislative session, more than 30 bills have been introduced regarding the management of the state's water resources. In particular, ICSC is closely monitoring several bills that seek to make changes to the rules for developments within and outside of Active Management Areas.
- **NEW MEXICO** - The impact of development on water resources is also garnering significant attention in neighboring New Mexico, where Governor Bill Richardson (D) has referred to 2007 as "the year of water." The Governor intends to focus his efforts on improving water availability, investing in innovation and conserving the state's

West Michigan Alliance Program

Grand Rapids, MI
6 March 2007

[>>register](#)

Oregon Alliance Program & Luncheon

Portland, OR
8 March 2007

[>>register](#)

Hawaii Alliance Breakfast & Program

Honolulu, HI
22 March 2007

[>>register](#)

East Michigan Alliance Program

Birmingham, MI
18 April 2007

[>>register](#)

Contact Us

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waterways and watersheds. In New Mexico, approximately 20 pieces of legislation have been introduced related to water resources, several of them incorporating new requirements for developers and tying planned land use approval to the availability of sufficient water supply.

- **COLORADO** - Colorado has seen an onslaught of "green" legislation this year. Freshman Representative John Kefalas (D-Larimer) is sponsoring legislation to require state government to purchase environmentally preferable products. The bill has already passed through its first committee of referral. Another freshman Representative, Claire Levy (D-Boulder), is sponsoring a bill to require every local governing body that has enacted a building code to adopt an energy code that meets or exceeds the standards in the 2003 International Energy Conservation Code as minimum requirements that apply to the construction of, and renovations and additions to, all commercial and residential buildings in the county or municipality.

- **TEXAS** - Four major environmental bills are under consideration by the Texas Legislature. S.B. 3, sponsored by Representative Kip Averitt (R-Waco), Chair of the Senate Natural Resources committee, seeks to implement the State Water Plan for managing the state's water resources. S.B. 12, also sponsored by Averitt, would make several changes to the Texas Emissions Reduction Plan and the Low-Income Vehicle Repair Assistance Program. The programs were designed to reduce on- and off-road mobile emissions, the primary source of various nitrogen oxides (NOx) in the state's non-attainment areas. H.B. 3, sponsored by Representative Robert Puente (D-San Antonio), Chair of the House Natural Resources committee, is a major water resources management bill providing a basin-by-basin process for developing recommendations to meet flow needs that the Texas Commission on Environmental Quality would adopt in the form of environmental flow standards. Finally, H.B. 4, also by Representative Puente, is an omnibus water conservation bill that encourages voluntary land stewardship, provides loans for water conservation, and institutes irrigation system installation standards.

Growth Management

State News

- **ARIZONA** - As a result of Governor Janet Napolitano's (D) veto of H.B. 2381 last session, Senate President Tim Bee (R) has taken the lead in sponsoring compromise legislation relating to impact fees for new development. ICSC has been actively involved in intense negotiations with the League of Cities, homebuilders, multi-housing, and other commercial developers to reach a compromise on S.B. 1423. After days of negotiations, the group reached an agreement last week. The bill, which subsequently passed through the Senate, does not address all of commercial developers' concerns, but it is a step in the right direction as it ties these fees to the Infrastructure Improvements Plan, and requires more accountability and

transparency from the cities. Issues not addressed in this bill have been deferred to a working group, where stakeholders will address the issue of refunding impact fees back to the developer if they are not used for infrastructure, and allowing commercial to pre-pay impact fees to get locked in at a guaranteed rate for a time certain during the project.

- ARIZONA - The Arizona Republic has again brought the issue of tax incentives to the forefront of political discussions, calling on the legislature to address the issue this year. Several legislators are opposed to giving tax incentives to entice developers to locate business in their communities. Senator Ken Chevront (D) is expected to introduce a striker bill similar to legislation he sponsored last year that would penalize certain municipalities that offer tax incentives to retail businesses.
- ARIZONA - Faced with a transportation funding dilemma, it is still too early to predict how the Arizona legislature will address the issue. However, Governor Janet Napolitano's (D) proposal to repeal the state law that limits highway bonds to 20-year terms and instead extend the debt over 30 years is gaining the most traction. This would make \$450 million immediately available for transportation projects.
- CALIFORNIA - The California Supreme Court issued a wide-reaching decision February 1 that will affect agencies preparing environmental impact reports (EIRs) for projects relying on future plans to acquire additional water supplies. The ruling overturned an appellate court decision which upheld the EIR for a project involving the development of more than 6,000 rural acres in Sacramento County. In reversing the lower court's ruling, the Supreme Court stated that the EIR failed to adequately disclose long-term water supply and environmental impacts. With the issue of global warming and its impact on water supplies at the forefront of the political environment, the decision casts a great level of uncertainty for industry.
- CALIFORNIA - The Benicia, CA City Council is considering a citywide ban on formula business and big box, as well as limits in the central business district. The Council held a special study session to receive public comment prior to its regular meeting. Chuck Shaw (Fite Development Company; Sacramento, CA) provided testimony on behalf of ICSC and the California Business Properties Association (CBPA). The Council is legally precluded from passing the ordinance as amendments to the planning code must be initiated by the Planning Commission, so they forwarded the ordinance to the Planning Commission for consideration.
- FLORIDA - More than 50 ICSC members discussed the impact of new state policies regarding transportation concurrency with over 70 members of the Florida Legislature during their Day at the Capitol, February 6 and 7. ICSC members received a commitment from Representative Ray Sansom (R), the House Policy and Budget Council Chair and Speaker Designate, that revisions would be made to relieve

new development from underwriting improvements to state and interstate highways and extra-jurisdictional roads. This interpretation by the Department of Community Affairs, the Department of Transportation, and local governments has resulted in 300-500% increases in impact fees and extraordinary levies for "fair share mitigation."

- TEXAS - Texas State Representative Bill Callegari (R-Katy) has filed H.B. 1495, the Landowner's Bill of Rights Act. As introduced, the legislation would require governmental entities seeking to condemn private property to provide affected landowners with a "Landowners Bill of Rights" statement, informing landowners of their rights under Texas law and the state's constitution. The act would require that landowners be informed of the condemnation process, and their available options during the condemnation process in plain language so that it can be easily understood.
- VIRGINIA - The Virginia General Assembly approved a transportation package that allows local governments in Northern Virginia and Hampton Roads to raise certain fees and taxes for roads and transit in their regions. Governor Tim Kaine (D) has 30 days to decide whether he will try to amend the plan before sending it back to the General Assembly. The plan allows local governments in Northern Virginia and Hampton Roads to approve local tax increases that would provide an additional \$400 million for their transportation projects, including commercial real estate tax of 25 cents per \$100 of assessed value.
- VIRGINIA - The Fairfax County Board of Supervisors instructed planning staff to formulate a Big-Box Zoning Ordinance. ICSC members recently met with Fairfax County Planning and Zoning staff to discuss the proposed Big-Box Ordinance. The group expressed its concerns with several aspects of the draft including the proposed 80,000 sq/ft trigger, the lack of clarity over the ability to re-tenant a space without triggering a second special exception, potential impacts on signage and outdoor sales, potential requirements for structured parking, and many other provisions of the proposed ordinance. In addition, they stressed that the retail real estate industry needs more clarity in the language and more time should be made to meet with industry to develop an ordinance that is manageable.

Insurance

Senate Hears TRIA Testimony

Macerich Company President & CEO Arthur Coppola testified on behalf of Coalition to Insure Against Terror (CIAT) at the Feb. 28 Senate hearing on the Terrorism Risk Insurance Act (TRIA). TRIA is set to expire at the end of 2007 and Congress will consider whether to extend TRIA or make the program permanent. ICSC is a CIAT steering committee member.

State News

- FLORIDA - The first rate filing by a property insurer following Florida's January Special Session on property insurance reform resulted in an 11 percent decrease in premiums. Close attention is being paid to the development of the "business plan" by Citizens Insurance Corporation (state insurance fund) to write commercial properties. The plan is due this month.
- MICHIGAN - Insurance associations in Michigan are arguing against the newly proposed Michigan Business Tax (MBT), a proposed replacement for the Single Business Tax (SBT). The proposed tax, which targets profits, gross receipts and assets, would result in insurance companies paying more.

Workforce

House Passes HR 800

On Thursday the U.S. House of Representatives passed legislation to eliminate the right of employees to vote in private whether to unionize their workplace. H.R. 800, the Employee Free Choice Act or "card check" bill, does away with organizing through a National Labor Relations Board election, instead requires employers to recognize a union once a majority of workers sign membership cards. The legislation would reverse 60 years of labor law and is at the top of organized labor's agenda and as expected, passed the House by a 241 to 185, largely along party lines.

Business organizations, including ICSC, have formed the Coalition for a Democratic Workplace. The coalition worked to limit support in the House but will now concentrate on slowing down any momentum in the Senate. Senator Edward Kennedy (D-MA), Chairman of the Senate Health, Education, Labor and Pension Committee will take the lead on this effort. Procedurally, he must find 60 Senators to vote to bring a bill to the Senate floor for consideration. Last Congress, this legislation had 44 cosponsors in the Senate and with the new Democrat majority, that number will be higher this session. The White House has promised a presidential veto should the bill pass the Senate saying "It is a fundamental tenet of democracy that individuals are able to vote their conscience, privately, free from the threat of reprisal."

Thursday's vote fell short of the two-thirds majority required to override a veto and Senate Republican leaders have vowed to filibuster the measure. ICSC will make opposition to the measure a top priority during the March Strategic Leadership Summit.

State News

- COLORADO - Barely a month into the 2007 session, Colorado's new Governor Bill Ritter (D) issued his first veto, rejecting H.B.

1072, the labor-backed bill to change the labor organization process in Colorado. The bill would have eliminated a second secret-ballot vote for a "closed-shop," fundamentally weakening the Colorado Labor Peace Act. While the bill was fast-tracked through the legislature, the business community scrambled to make their opposition heard. In his veto letter, the Governor cited conversations with individuals who expressed serious concern about the measure and the highly contentious battle over the bill as his rationale for the surprising veto.

- ARIZONA - State Representative Michele Reagan (R) has re-introduced two bills this session addressing retention and indemnification. These bills have been run every year since 1999 and have failed each year. However, the issue seems to have gained considerable momentum this year, despite the strong opposition of industry groups and the development community. If approved, the legislation would create a fundamental change to the construction contract practice that would be detrimental to landowners and developers alike.

- MICHIGAN - Governor Jennifer Granholm (D) unveiled a plan during her State of the State address last month that would offer up to two free years of study at a community college or training school for workers who have lost their jobs. The "No Worker Left Behind" initiative would require workers that take advantage of this benefit to take an assessment test and get a certification or Associate's degree in a high demand field. Funding for the tuition assistance would be generated in large part from federal funds received by the state under the Workforce Investment Act and Trade Adjustment Assistance programs. Michigan's unemployment rate is currently around seven percent.

- NEW YORK - Governor Eliot Spitzer (D) has signed an Executive Order creating an Executive Leadership Council and Corporate Roundtable to promote opportunities for minority and women-owned businesses (MWBES). The Executive Leadership Council will work to improve and promote the involvement of MWBES in the state's procurement process. Both entities will be comprised of 16 members who will identify best practices for state agencies to increase MWBE involvement, make recommendations on how to improve intergovernmental cooperation among agencies to benefit MWBES and evaluate the practices of public authorities to benefit the enterprise. Lieutenant Governor David Paterson (D) will head the two efforts.

- TEXAS - Eight bills have been filed in the Texas Legislature to increase the state's minimum wage. Most of them would set the state's minimum wage at the federal minimum wage indexed annually to inflation.

Other Issues

Visits to Freshmen Members of the 110th Congress

ICSC staff continue to meet with freshmen members of Congress to provide information about the shopping center industry and its key legislative issues.

Visits this month included:

Michael A. Arcuri (D-NY)

Dean Heller (R-NV)

Jim Jordan (R-OH)

Doug Lamborn (R-CO)

Adrian Smith (R-NE)

Ed Perlmutter (D-CO)

Charles A. Wilson (D-OH)

H.R. 539 - Tax Deductions for Energy Efficient Construction

New legislation (H.R. 539: "Buildings for the 21st Century Act") was introduced in January by Rep. Allyson Schwartz (D, PA-13th) and Rep. Brian Baird (D, WA-3rd) to extend the commercial building tax deduction for energy efficient construction and renovation through 2013. H.R. 539 would increase the tax deduction to \$2.25 per square foot for construction with a fifty percent improvement in energy efficiency. A partial deduction of 75¢ per square foot would apply to construction with smaller improvements in lighting or HVAC. The federal Energy Act of 2005 originally created a tax deduction of \$1.80 per square foot and a partial deduction allowance of up to 60¢ per square foot. The bill currently has more than 130 co-sponsors.

State News

- ARIZONA - Several bills are making their way through the Arizona legislature relating to increasing penalties for retail theft and creating a task force to combat organized retail theft. ICSC is part of a coalition supporting these bills, designed to address increasing activity of organized theft rings in the state.
- COLORADO - The issue of indemnification in construction contracts has returned this year to Colorado after last year's compromise was vetoed. Carried by Senator Abel J. Tapia (D), who sponsored legislation contrary to the 2006 compromise bill, S.B. 87 would eliminate broad-form indemnification and additional insured clauses. The bill has passed the Senate and is now waiting to be scheduled for consideration in the House of Representatives.
- FLORIDA - Florida's constitutional cap on annual assessments for homestead properties has resulted in a significant tax burden shift to non-homestead (including commercial) properties. Property tax reform has thus emerged as the primary issue for the state's 2007 legislative session. Competing proposals are being rolled out by the Governor's Office, the Speaker of the House and the Florida Senate following on weeks of town hall meetings conducted around the state by a Joint Legislative Select Committee. The Governor's proposal, released

February 22, seeks to double the current homestead exemption; provide "portability" for capped assessments when an owner is purchasing another property; expand the assessment cap to non-homestead properties; and provide an exemption to businesses from the annual tangible personal property tax for property with a value of \$25,000 or less. The House proposal would increase the state sales tax from 6 percent to 8½ percent, but eliminate all homestead ad valorem taxes. It would also require a local government millage rollback of nearly 20 percent and allow local government increases above the capped rate only by a super majority vote. The Senate proposal has not yet been released, but is expected to include local government spending caps, assessed value limitations for commercial properties and changes in permitted assessment methodologies. Most reform proposals will require voter approved constitutional amendments.

- HAWAII - ICSC is supporting HB 936, a bill to amend current gift card law to allow a dormancy service fee to be charged after six months. In addition, it would require any service fees to be disclosed.
- MASSACHUSETTS - State Representative Michael A. Costello (D) recently filed legislation that would make retailers responsible for paying all costs associated with security breaches of their customers' data. Amid a rash of recent security breaches, the legislation has been highlighted in the Boston Globe and has attracted the support of bankers. The bill is designed to force retailers to invest in better data security systems.
- MASSACHUSETTS - Governor Deval Patrick (D) has filed legislation to close various corporate tax loopholes in order to boost state revenues. One aspect of the plan is to eliminate the exemption on the purchase of "advertising direct mail materials," making them subject to the sales tax.
- MASSACHUSETTS - State Senator Jack Hart (D) has filed a bill which would create a sales tax holiday in the Commonwealth. If approved, the sales tax holiday would likely take place in early- to mid-August.