



December 2007



## Upcoming Events

Colorado Alliance  
Denver, CO  
January 17

Gulf South IDEX &  
Alliance, Birmingham, AL  
February 13

Illinois IDEX and Alliance  
Chicago, IL  
February 21

## ICSC and CDFA Release TIF Guide

The "Tax Increment Finance Best Practices Reference Guide" presents best practices in TIF throughout the country and includes 26 case studies. The electronic version of the guide is free at [www.icsc.org](http://www.icsc.org). The printed hard copy is available for \$25.

## Government Relations Leadership Meeting

In November ICSC GR Chairs and committee members convened in Florida for the annual Government Relations Leadership Meeting. This year the meeting also featured a special half-day Executive Conference dedicated to ICSC's Sustainable Energy & Environmental Design (SEED) efforts. Approximately 150 members attended the events, which featured environmental and legislative updates plus panel discussions on land use, carried interest, insurance and other issues. Special Guest Jim Angle, chief Washington correspondent for FOX News Channel, also discussed recent political trends and 2008 election strategies.

**The next annual Government Relations event will be the 2008 Strategic Leadership Summit on March 4-5 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.

**Environment: [Senate Passes Compromise Energy Bill](#)**

**Insurance: [Congress Takes TRIA Extension to the Final Hour](#)**

**Taxes: [Carried Interest Bill Dropped — For Now](#)**

## Environment

**[Senate Passes Compromise Energy Bill](#)**

Earlier this month, the House passed a compromise energy bill by a vote of 235-181. Of particular importance to the industry was the successful removal of energy efficient mandates for building codes from the bill during negotiations, which called for 30 percent more energy efficient mandates by 2010 and 50 percent by 2020.

The Bush administration originally threatened to veto the bill over two issues: the electricity mandate, which requires utilities to get at least 15 percent of their power from wind, solar and other renewable sources, and a controversial \$21 billion tax package of incentives for renewable energy, capture of carbon emissions and energy efficiency in business and at home.

ICSC, the National Association of Industrial and Office Properties (NAIOP) and other real estate groups were successful in convincing key members Congress of the negative impact of the bill and the need to extend the commercial building energy efficient tax credits.

Last week the Senate removed the renewable electricity energy portfolio and tried to pass the bill as part of the \$21.8 billion tax package. The vote to defeat a Republican filibuster failed 59-40. Following that the Senate removed both the electricity mandate and the tax package (which included the commercial building tax credits) and passed the bill 86-8. The President has issued a statement saying he would sign the new version of the bill.

### **ESRA Passes Senate as Part of Larger Farm Bill**

Last week the Senate passed the Endangered Species Recovery Act (ESRA) as part of its 2007 farm bill. The bill, which provides tax credits for landowners who voluntarily undertake measures to further the recovery of threatened or endangered species, will now move to conference with the House-passed farm bill, which does not include ESRA.

### **ICSC Takes Legislators on Green Building Tour**

ICSC in conjunction with the Real Estate Advocacy Group for States (REAGS) sponsored a green/sustainable building program and tour for approximately 40 legislators and legislative staff from the National Conference of State Legislatures' (NCSL) Agriculture, Environment and Energy Committee. ICSC AZ/NM GR Chair Steven R. Helm, CSM (Macerich) worked with Mayor Hugh Hallman of Tempe, AZ Tempe Transit Center, scheduled to be opened in the spring of 2008. The new transit center is a three-story, 40,000 sq/ft project that includes both retail and commercial to host the program. Bonnie Richardson, Principal Planner City of Tempe, led the group on a tour to the new I space. The site visit gave legislators an opportunity to see actual green and sustainable elements being implemented during the construction phase.

## **Environment - State News**

\*Maryland Governor Martin O'Malley (D) recently approved legislation on that establishes the Chesapeake Bay 2010 Trust Fund. Under the bill (H.B. 5), the State will appropriate \$50 million annually to the Fund to pay for pollution reduction programs intended to cleanup the Chesapeake Bay. The Fund will receive money from revenues collected from a newly adopted sales tax on rental cars and the State's gas tax. Environmental groups had been seeking the adoption of legislation to create a "Green Fund" to pay for Chesapeake Bay cleanup through fees placed on new residential and commercial development and the construction of other impervious surfaces such as parking lots; however, Senate President Thomas V. "Mike" Miller (D) proposed the concept of the Chesapeake Bay 2010 Trust Fund as an alternative for financing cleanup programs. Legislation is anticipated during the 2008 regular session to further address details concerning the Fund and its implementation.

\* Massachusetts Governor Deval Patrick (D) has signed legislation that governs building on filled tidelands and grants regulatory exemption from the Chapter 91 licensing process for waterfront properties. HB 4184 was introduced in response to the February 2007 State Supreme Court verdict for Moot v. Department of Environmental Protection, 448 Massachusetts 340 (2007). The State Supreme Court ruled that the General Court had to determine state policy

on filled tidelands rather than the Department of Environmental Protection, who have historically held that authority.

\*Michigan Governor Jennifer Granholm (D) recently issued Executive Order 2007-42, creating the Michigan Climate Action Council. The Council, which will be comprised of 35 members from state government and the public, is charged with the development of a comprehensive climate action plan, including policy goals and recommendations to reduce greenhouse gas emissions from the government, business, and residential sectors. The final plan, due December 31, 2008, will expand on the preliminary report and include an analysis of the greenhouse gas reduction potential, estimated costs and savings, environmental benefit, and feasibility of the recommendations.

## Insurance

### Congress Takes TRIA Extension to the Final Hour

Postponing negotiations on legislation to extend the Terrorism Risk Insurance Act (TRIA) until the last possible minute, Senate Banking Committee Chairman Chris Dodd (D-CT) and House Financial Services Chairman Barney Frank (D-MA) are in a stand-off that puts important economic decisions in question. In order to force some movement on this issue from the Senate, Chairman Frank will bring a new compromise bill to the House floor on December 11, 2007 that would extend TRIA for 7 years, down from the 15-year extension in the House-passed version. The new proposal retains a House provision easing the insurance disbursement cap to trigger government coverage at \$50 million rather than \$100 million and retains language group life insurance.

Congress established the nation's terrorism insurance backstop after insurers shouldered heavy financial setbacks following the Sept. 11 terrorist attacks. The White House has continually expressed luke-warm support for the program and would rather see TRIA with a short term extension. The current program expires on December 31, 2007.

## Taxes

### Carried Interest Bill Dropped — For Now

House Ways and Means Committee Chairman Charles Rangel recently agreed to drop a proposed tax increase that would have doubled the tax on "carried interest," the profit that real estate developers, private equity and venture capital firms make on deals. Strong lobbying efforts defeated the provision, which Rangel had attempted to tack onto a Senate bill to temporarily remove the alternative-minimum tax, or AMT, part of the federal income tax that increases owed taxes for 23 million households. Based on a variety of concerns regarding the lack of thorough consideration of the real impacts of the carried interest provisions, the Senate has rejected the carried interest provision- at least for now.

It is unclear whether the House will continue to push for a carried interest tax hike next year. ICSC believes the proposal is in many ways reminiscent of the passive loss rules enacted as part of the Tax Reform Act of 1986. No one foresaw that those changes would have contributed to the savings and loan collapse, the formation of the Resolution Trust Corporation and a credit crunch that caused a major downturn in the real estate industry. ICSC remains apprehensive that the new tax, if enacted, could create the same dramatic economic decline in communities across the country. Given the disproportionate effect upon real estate partnerships, ICSC will continue to fight against such a massive tax increase in 2008.

### **Hearing Held on Sales Tax Fairness**

On December 6 the House Judiciary Subcommittee on Commercial and Administrative Law, chaired by Rep. Linda Sanchez, (D-CA), held a hearing on HR 3396, federal streamlined sales-tax legislation. Rep. William Delahunt, D-Mass., the sponsor of the House bill, described his proposal as a "Norman Rockwell" small-business protection measure. He argued that a streamlined system would level the playing field between online sellers that are not paying some sales taxes and brick-and-mortar businesses. There is also a companion bill in the Senate, S 34, sponsored by Senator Mike Enzi (R-WY).

ICSC has long supported the concept of the Delahunt/Enzi bill. The legislation would grant the consent of Congress to the Streamlined Sales and Use Tax Agreement, a pact that consists of 22 states that have agreed to simplify their tax codes to facilitate the collection of taxes on remote sales. HR 3396/S34 would sanction the agreement and require sellers to collect taxes for states that conform to it.

### **Workforce - State News**

\* In Arizona, the controversial employer sanctions law passed last session (H.B. 2779) continues to garner significant attention. As part of HB 779, residents will be able to file a complaint with their county, city or state law enforcement officers if they feel a business is hiring illegal immigrants beginning January 1, 2008. Businesses found to be in violation of the law would be subject to penalties, including the suspension and/or revocation of their business licenses. A suit brought forth in U.S. District Court by several business groups questioning the law's constitutionality awaits a decision. During the proceedings, Judge Neil Wake was critical of plaintiff claims that the new employer sanctions law will harm businesses and is unconstitutional. While a ruling on the constitutionality of the law is expected prior to the beginning of the year, several competing ballot initiatives addressing undocumented workers have been proposed for the 2008 general election.

#### **International Council of Shopping Centers**

ICSC Office of Global Public Policy  
1399 New York Ave. NW, Suite 720  
Washington, DC 20005  
ph: 202-626-1400, fax: 202-626-1418

[Contact Us](#)