

October 14, 2011

- **Register Now for the ICSC 2011 GR Conference**
- **Marketplace Equity Act Introduced in the U.S. House**
- **CA: Superstore Ban Vetoed by Governor Brown**
- **FL: Tenant Improvements Sales Tax Proposed**
- **Update on Workforce Issues**
- **MA: Supplemental Budget Creates Infrastructure Development Fund**
- **WA: Sales Tax Increase Poll Number Lean to Yes**

Register Now for the ICSC 2011 GR Conference

Register now for the ICSC Government Relations Leadership meeting on November 7-8, 2011 at the W Atlanta-Midtown.

Join us for an exclusive election preview, policy discussion, legislative update and discussion of critical issues facing the shopping center industry. The GR Leadership Meeting is an excellent opportunity to network with industry leaders and examine new ways to impact public policy. [Click here for more information.](#) The meeting is open to all ICSC Government Relations Volunteers.

Marketplace Equity Act Introduced in the U.S. House

On October 13, Congressman Steve Womack (R-AR) and Congresswoman Jackie Speier (D-CA) introduced H.R. 3179, to improve states' rights to enforce the collection of states sales and use tax laws. Also referred to as the Marketplace Equity Act (MEA), this bipartisan measure would grant states the authority to require remote sellers, including online retailers, to collect and remit sales taxes, but only if the state has satisfied a minimum level of simplification to its sales and use tax codes.

The measure is a pared-down version of the Main Street Fairness Act, introduced in July by House and Senate Democrats. H.R. 3179 enables a state to simplify its sales tax code without having to comply with the Streamlined Sales and Use Tax Agreement (SSUTA); it also provides a small business exemption.

Reps. Womack and Speier were joined by Reps. Mario Diaz-Balart (R-FL), John Duncan (R -TN), Carolyn Maloney (D-NY), Betty McCollum (D -MN), Brad Miller (D-NC), Ted Poe (R-TX), Dennis Ross (R-FL) and Peter Welch (D-VT) and ICSC expects this list to grow over the coming weeks.

ICSC is supportive of the new Marketplace Equity Act and the Main Street Fairness Act, as both measures provide a solution to the flaws in our current sales tax system that favor online sellers over brick-and-mortar retailers. For more information, visit www.icsc.org/salestaxfairness

CA: Superstore Ban Vetoed by Governor Brown

On October 9, 2011, California Governor Jerry Brown (D) vetoed the bill known as the "Superstore Ban" (SB 469). The bill proposed to make the local review and approval process for the development and redevelopment of large retail stores significantly more difficult in California. The bill applied to the development of retail stores of greater than 90,000 square feet that sell groceries. SB 469 usurped the ability of local government to regulate and approve this category of retail development and would have expanded the scope of the already rigorous California Environmental Quality Act (CEQA) by adding a new requirement that big box retailers/developers also submit an exhaustive economic and community impact analysis as a condition to receiving approvals.

ICSC, along with numerous California partners, undertook a significant campaign during the most recent legislative session to educate lawmakers on the negative impact of this bill, but unfortunately the legislation passed both houses and was sent to the Governor for his signature. However, through a hard-fought effort, ICSC's message of jobs and economic growth ultimately resonated with the Governor.

In his veto message, Governor Brown said, "While I recognize that the merits of large-scale projects need to be carefully considered, plenty of laws are already on the books that enable, and in some cases require, cities and counties to carefully assess whether these projects are in a community's best interest. This bill would add yet another layer of review to an already cumbersome process."

We appreciate the many ICSC member communications to the Governor regarding SB 469. These communications were absolutely critical to this positive result.

FL: Tenant Improvements Sales Tax Proposed

During a Florida Department of Revenue Rule Development Workshop in September, a Notice of Rule Development indicated the department's intentions to impose the state's sales tax on tenant improvements. Since the state already applies the sales tax to the improvement materials, property tax on the improved property, and a sales tax on all commercial leases, the commercial real estate industry in Florida is moving together to voice its opposition to the proposed Rule Development. The preliminary text of the proposed rule development is not available. The next scheduled Department of Revenue hearing for rule changes is October 26 and the proposed tenant improvement sales tax is not, as of today, on the agenda.

Update on Workforce Issues

Last week, the National Labor Relations Board (NLRB) announced that they will delay the effective date of the Notice Posting Requirement from November 14, 2011 to January 31, 2012. This is in response to the lawsuits filed by the Coalition for a Democratic Workplace (CDW), the National Association of Manufacturers (NAM), the National Federation of Independent Business (NFIB), the U.S. Chamber of Commerce and National Right to Work (NRTW), and this delay will likely allow those cases to resolve themselves prior to this rule potentially going into effect.

In addition, the House Education and the Workforce Chairman John Kline has introduced the Workforce Democracy and Fairness Act, which directly addresses the NLRB ambush election rulemaking and the decision in Specialty Healthcare that would create "micro-unions."

MA: Supplemental Budget Creates Infrastructure Development Fund

A supplemental budget (H 3737) passed by the Massachusetts House and Senate will create a fund to stimulate the economy through infrastructure investments. Projects may include transit and highway projects, business expansion and redevelopment use. Construction for the shovel-ready projects will start by the spring of 2012.

WA: Sales Tax Increase Poll Number Lean to Yes

Washington State is facing an estimated revenue shortfall of \$1.4 billion for the current two-year budget. Governor Chris Gregoire (D) has called the Legislature into a 30-day special session (scheduled to begin on Nov. 28) to address the anticipated shortfall. The state's fiscal year ends in June and the current two-year budget will end in 2013. The state is scheduled to reevaluate the revenue situation and report new findings on Nov. 17 but current revenue collections are trending below estimates and the report isn't expected to show any improvement.

Numerous revenue enhancements, new taxes, tax increases and fees have been identified in the press, but the Governor has yet to present a proposal to close the shortfall. Recently, an Elway poll indicated that 54% of the state's voters would be in favor of an increase in the state's sales tax, the major source of revenue for Washington, if it would help to reduce additional budget cuts. However, the legislature is unlikely to approve any tax increases as the recently-passed Initiative 1053 requires a two-thirds vote in

both the House and Senate for such an increase. There have been reports that the State's legislative leaders have asked the Secretary of State about placing items on the general election ballot for statewide approval, the other method allowed for a tax increase in Washington State. Regardless of any questions on the ballot, the legislature must pass a budget revision during the special session, taking into account the lower revenue collections/estimates. It is unlikely there will be any deal to increase taxes that can overcome the two-thirds majority hurdle.

ICSC Global Public Policy
555 12th Street, N.W., Suite 660
Washington, DC 20004
202-626-1400

GPP E-News is a legislative newsletter from the ICSC office of Global Public Policy.
For inquiries about the Global Public Policy office, contact gpp@icsc.org or call +1 202 626 1400.