



September 30, 2011

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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.

Please note: The room block rate at the W Hotel is \$159/night. The room block closes on October 7.

CA: Sales Tax Fairness Deal Signed by Governor

After a decade of efforts to enact e-fairness in California, Governor Jerry Brown (D) has signed AB 155 (Calderon; D-Whittier), which may pave the way for a nationwide solution to require sales tax collection by online retailers.

In the last state budget, language was adopted that requires Amazon to begin collection of sales taxes immediately. That language passed despite the company's objections and the Internet giant immediately began collecting signatures for a ballot referendum to reverse the law. Faced with a costly statewide battle, talks began between Amazon and others in the retail and shopping center industry.

AB 155 reflects the agreement between the two sides. The new law requires Amazon to begin sales tax collection in the state as early as September 2012 if there is no federal bill enacted by next summer. If there is a federal bill in place, sales tax collection begins in January 2013. ICSC's partner in California, the California Business Property Association (CBPA), encouraged the Governor to sign AB 155 and joined with representatives of the GAP, Target, The Home Depot, and Wal-Mart in San Francisco to be part of this historic bill signing.

"A prolonged, costly ballot battle is a benefit to no one," Governor Brown said. "This landmark legislation not only levels the playing field between online retailers and California's brick-and-mortar businesses, it will also create tens of thousands of jobs and inject hundreds of millions of dollars back into critical services, like education and public safety in future years. It's time for Washington to follow our lead and forge a bipartisan national solution."

CA: Voters Continue to Oppose Split Roll Property Tax

An independent and non-partisan survey by the Field Research Corporation shows that Californians continue to back Proposition 13 (Prop 13), the 1978 voter-approved ballot measure capping annual increases in residential and commercial property tax rates to the rate of inflation or 2%, whichever is less.

In the Field poll released on September 23

(<http://blogs.sacbee.com/capitolalert/latest/Field%20Poll%209-22-11.pdf>) a greater than two-to-one majority continues to back Prop 13. Respondents also oppose proposals to change Prop 13 to allow higher rates for commercial property owners or reduce the two-thirds legislative vote requirement to approve tax increases.

ICSC has long fought efforts in California to split commercial and residential property types under Prop 13 protections and continues a voter and policymaker education campaign on the negative impacts of split roll taxation. Voters agree that ending Prop 13 would hurt the state's economy, reduce investment, lower wages and increase prices.

CT: Governor Malloy Executive Orders Card Check

On September 21 Connecticut Governor Dannel Malloy (D) issued two Executive Orders related to the ability to organize certain health care workers in Connecticut. The order authorizes the workers in the "Care 4 Kids" program and personal care attendants to approve a union to represent their group in wage and workplace negotiations via approval cards. This process is more commonly known as "card check" and differs from current law that requires both approval cards and a secret ballot election. Both orders establish a working group that will "make recommendations on the best ways to structure collective bargaining rights." The Governor is quoted in the local press citing his mother's employment as a public health nurse as one of the reasons for his actions.

FL: Florida Legislative Conference on December 6-7

Please join shopping center industry leaders from around the state for the premier networking and advocacy event in Florida. The Florida Legislative Conference, ICSC's annual state capitol visit to personally engage legislators on issues of importance to the shopping center industry, will be held December 6 and 7, 2011 in Tallahassee. [Click here for more information.](#)

MA: Public Hearings Set for Shadow and Charging Stations Bills

A bill (H 1169) that would not allow for any new construction that would cast new shadows on certain existing public parks in Boston will be heard at the Joint Committee on Environment, Natural Resources and Agriculture's October 18 public hearing. A different version of the bill did not make it out of the committee last session.

The Joint Committee on Environment, Natural Resources and Agriculture also has a public hearing on October 25. On the agenda is H 1986, an act promoting the establishment and use of electric vehicle charging stations. If passed, the bill would require a cost study of placement of charging stations at publically owned locations and gas stations.

WA: Special Session Called

The state now faces a \$1.28 billion operating budget deficit. There are \$1.4 billion fewer revenues through June 2013 than estimated with no state reserves left. State revenue forecaster Arun Raha said, "I'd like to assure you this nightmare will end. But I don't see an end in sight." A 30-day Special session ordered by Governor Christine Gregoire (D) will begin on November 28 to address the state's budget. She hopes to finalize a budget with healthy reserves before Christmas. If the Legislature approves a budget before the end of special session, Gregoire plans to spend the regular session, starting January 9, 2012, focusing on policy bills to support job creation and economic growth.

Real Estate Groups Push To Lessen Hurdles to Investment in Real Estate

Last week, Representatives Kevin Brady (R-TX), Joe Crowley (D-NY), Patrick Tiberi (R-OH), and Shelley Berkley (D-NV) introduced H.R. 2989, the Real Estate Jobs and Investment Act of 2011. The recently

introduced House bill follows H.R. 5901, legislation that passed the House of Representatives last Congress by a vote of 402-11. Also, on September 22, Senators Robert Menendez (D-NJ), Michael Enzi (R-WY) and Charles Schumer (D-NY) introduced similar legislation, S. 1616, also called the Real Estate Jobs and Investment Act of 2011. The main provisions of the bills would clarify that redemption and liquidating distributions of REIT stock should be treated as sales of stock and not sales of real estate. It would also modify the public REIT exception to provide the sale of shares by a 10% or less owner of a REIT is not subject to FIRPTA.

Department of Labor Withdraws Onerous Fiduciary Rule

The Labor Department announced on September 19 that it will withdraw and re-propose a proposed rule that could expand the definition of a fiduciary under federal retirement law. Labor Department officials estimated that the re-proposed rule will come out early next year.

The proposed rule in question could affect the definition of the term “fiduciary” under the Employee Retirement Income Security Act of 1974 (“ERISA”). In a February comment letter to the Labor Department, the commercial real estate organizations raised concerns that the Proposed Rule is “overly broad and will most likely lead to increased costs for benefit plans in need of real estate related services with little corresponding benefit and hamper the ability of benefit plans to utilize the resources of trusted advisers in the best and most cost effective way.” Employee benefit plans represent an important segment of debt and equity investment in the retail real estate market.

October Webinar Events:

[Creative Leasing Strategies for RMUs Floating Retail](#)

Wednesday, 5 October

2 pm EDT / 1 pm CDT / 12 Noon MDT / 11 AM PDT

Learn about new and effective leasing strategies for Retail Merchandising Units (RMU's), Floating Retail and Pop-ups. Thinking outside the box when designing leasing strategies can add value, brand awareness and bring a level of prestige to common leasing fundamentals. Although retail leasing has many common denominators there are some strategies that work best with RMU's, Floating Retail and Pop-ups – join us for this webinar to build upon your leasing skill set strategies. *Duration: 1 hour.*

[ICSC Webinar on New Lease Accounting Rules](#)

October 12, 2011

2 pm EDT / 1 pm CDT / 12 Noon MDT / 11 AM PDT

Learn about the current status of the new lease accounting standards anticipated to be approved next year. The content will cover a brief overview of the current expected accounting changes for lessees (from straight line to capitalization on the balance sheet), and overview of a 2011 lessee survey and market impact and, what retailers will likely experience in coping with this significant accounting transformation. This webinar will bring you up to speed with the dynamic and ever changing world of lease accounting. *Duration: 1 hour.*

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