

February 14, 2014

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Are You Involved in the Political Process? Let Us Know!

Earlier this week, ICSC sent an online survey to its members to gauge the level of political engagement and relationships with elected officials. Through this brief survey you can provide information on the issues that are important to you, the stakeholders within your network and the level of advocacy you would be willing to undertake on ICSC's behalf. The survey only takes about 5 minutes to complete and will make a tremendous difference in ICSC's ability to advocate at the state and federal levels on issues that are vital to the retail real estate industry.

To begin the survey, please use this link: <http://re.spon.se/v6RB1t>.

Thank you in advance for sharing this important information with ICSC.

Marketplace Fairness Update

Two big developments occurred this week in the effort to enact e-fairness legislation.

The House Judiciary Committee has scheduled the much-anticipated hearing on policy concepts for Marketplace Fairness for March 4, 2014.

Congressman Jason Chaffetz (R-UT), a member of the House Judiciary Committee, has committed to working on a new House bill. [Judiciary Chairman Bob Goodlatte (R-VA) has said numerous times he would not move the Senate bill as passed.] ICSC does not believe that there will be new legislation introduced before the hearing, but we are hopeful that the hearing will mobilize support amongst committee members and that a new bill will follow soon after.

ICSC will keep members apprised of the issue in the House.

House Republicans to Release Tax Reform Proposal

ICSC has learned the House Republican Leadership has given Ways and Means Committee Chairman Dave Camp (R-MI) the go-ahead to release a comprehensive tax reform plan, possibly as soon as the week of February 24. It is expected that the proposal would be released as a discussion draft, including legislative language. Chairman Camp, now in his last year as Chair of the House tax-writing committee, has been working on a plan for some time.

While the House may hold hearings on the proposal, most of Washington believes any formal action will need the backing of the Republican leadership. Such a move is unlikely in this election year.

It is anticipated that the draft plan will be "revenue neutral" and will be accompanied by an analysis of the macroeconomic effects. The plan may also include detailed transition rules. ICSC submitted comments last month to a tax proposal from the Senate Finance Committee and will seek input from members again once the House plan is available. For more information, please contact Jennifer Platt at jplatt@icsc.org

ICSC Joins Cybersecurity Partnership

This week leading trade associations representing the merchant and financial services industries announced a new cybersecurity partnership that will focus on exploring paths to increased information sharing, better card security technology, and maintaining the trust of customers.

"The solution needs to be through cooperation. We hope that this partnership will be a constructive step in helping to create a pathway to improved consumer confidence," said Jennifer Platt, Vice President of Federal Operations at ICSC.

The various groups that came together believe that in order to provide the best data security possible cyber threats must be addressed collaboratively and each stakeholder must do what it can to reasonably ensure the defenses of their internal systems are as robust and resilient as possible.

The participating trade associations will form working groups made up of themselves, member companies, and other stakeholders. The working groups will be focused on increasing threat information sharing, innovative technologies that add safeguards to protect consumers within the payment system and other areas like national data breach laws. While this forum will serve as an effective way for the industries to discuss areas of agreement, equally important, it will be a platform to discuss areas of disagreement and seek solutions.

CO: Brownfields Tax Credit Bill Introduced

Colorado's legislation authorizing a Brownfields Tax Credit expired in 2010. At the time there was no appetite to extend the credit, due to the poor economy and resulting state budget woes. SB14- 73, introduced early this legislative session, not only reauthorizes the Brownfields Tax Credit, but improves it.

The previous tax credit was only available within communities of at least 10,000 people, effectively blocking its use in rural Colorado, where such a program is sorely needed. The previous credits were also non-transferable. Under SB 14-73, the tax credits are available statewide regardless of population and are transferable, allowing local governments and non-profits to earn the tax credits then sell them, making environmental cleanups more affordable. SB 14-73 allows a taxpayer to take a credit against state income taxes for any approved environmental remediation of contaminated property as follows:

- A 40% credit for cleanup expenditures up to \$750,000.
- An additional 30% credit for cleanup expenditures from \$750,000 to \$1,500,000.
- No additional credit for cleanup expenditures in excess of \$1,500,000 on any individual project.

The tax credit is available only if the Colorado Department of Public Health and Environment certifies the cleanup, and must be used or transferred within one year from certified completion of cleanup. Any excess tax credit can be carried forward for up to five years. The tax credit can be transferred with or without an exchange of value. It is available for a nine-year period, commencing in 2014 and running through the 2022 tax year.

MA: Supreme Judicial Court Hears Case on Campaigning at Supermarkets

The Supreme Judicial Court of Massachusetts is set to make a decision on a case that came before it regarding the right of political candidates to collect signatures for an election ballot in front of large grocery stores. In 1983, the Supreme Judicial Court ruled that candidates for political office have the right to collect signatures in common areas of shopping malls. Steven Glosky, the plaintiff in the suit, argues that this right extends to large grocery stores, as they are convenient gathering centers for voters and, like malls, provide many more products than just groceries. On the other side, Roche Bros. Supermarkets, the defendant, claims that the right of candidates to collect signatures in malls does not apply to private grocery store property and they cannot do so without the store owners' permission. The case was heard on February 3 and is awaiting a decision.

MN: ICSC Lobbying Dates Scheduled

ICSC Members are scheduled to meet with over 20 lawmakers, including Senate Majority Leader Tom Bakk, on the ICSC annual lobbying days scheduled for March 3 and 4. For more information and to participate, please contact Tara Erickson at 612-280-8998 or TaraErickson@gmail.com.

Members decided at a government relations meeting in January to focus the repeal of the three business-to-business sales taxes that were implemented during the 2013 legislative session and also a street improvement fee bill the Minnesota Leagues of Cities is spearheading.

TX: Study Assignments Issued to Committees

Texas House Speaker Joe Straus (R) issued interim study assignments to House committees to make recommendations for the legislature to consider next session. Key charges affecting ICSC members include:

Property:

Lien Laws – Speaker Straus charged the House Business and Industry Committee to review existing lien laws in Texas. Specifically:

- a. Examine laws concerning the enforcement of contract liens affecting real property; and identify improvements, if any, that will enhance the certainty of title following sale, enhance ability to ensure that sales are conducted by qualified trustees, prevent unnecessary litigation, facilitate loss mitigation between borrowers and sellers, and protect the interests of homeowners, lenders and trustees;
- b. Study the imposition of mechanics' liens on automobiles and its impact on mechanics, car owners and purchasers, and lenders; and
- c. Review ad valorem tax lien lending after the implementation of SB 247 and the impact on homeowners, taxing authorities, mortgage lenders, and tax lien lenders; and review the procedures and powers of the Office of Consumer Credit Commissioner to ensure compliance with SB 247.

Windstorm Insurance – Speaker Straus assigned two House committees to study issues related to property insurance coverage for damage from tropical storms including:

1. The House Insurance Committee was charged to monitor the status of the Texas Windstorm Insurance Association (TWIA); and consider options to enhance TWIA's ability to serve its statutory purpose and to fairly and equitably serve its policyholders, including an evaluation of TWIA's operations, improved incentives for coverage by the private market, and effective use of reinsurance, bonds, and other financial devices.
2. The House Insurance Committee and the House Land and Resource Management Committee were jointly charged to examine opportunities to improve the resiliency of the Texas coast to withstand tropical storms; study strategies to incentivize and encourage hazard mitigation, and consider the current state of building codes and how they might more effectively protect property and reduce losses; examine the proper role of insurance in protecting the Texas coast. Coordinate as necessary with the joint interim committee created by HB 3459.

Land Regulation by Cities – The House Committee on Land and Resource Management was charged to study current regulatory authority available to municipalities in their extraterritorial jurisdiction; and examine how citizens are involved in the zoning process, and make necessary recommendations to ensure a proper balance between development activities, municipal regulations, and the effect zoning decisions have on Texas citizens.

Tax:

Property Taxes – The House Ways and Means Committee has been asked by the speaker to monitor the implementation of recent amendments to the property tax; and to examine whether the frequency of reappraisals strikes the proper balance between stability and predictability in values for taxpayers and taxation at market value.

Franchise Taxes – The House Ways and Means Committee is also going to monitor the implementation of changes made to the franchise tax by the 83rd Legislature.

Contested Case Hearings – And, the House Ways and Means Committee was charged to review the current process for resolving contested cases involving state taxes and fees; and examine the need for the creation of an alternative, independent review process to hear and decide such cases.

Canada: Economic Plan Addresses Cross-Border Price Discrimination

The recently announced Economic Action Plan 2014 includes a plan to introduce legislation to prohibit unjustified cross-border price discrimination.

Estimates from Statistics Canada suggest that Canadians pay about 25% more than U.S. consumers for goods in 2011 after adjusting for the exchange rate and sales taxes, slightly up from 24% in 2008.

Economic Action Plan 2014 proposes to address a source of the price gap identified by the Senate Committee: country pricing strategies—that is, when companies use their market power to charge higher prices in Canada that are not reflective of legitimate higher costs. Evidence suggests that some companies charge higher prices in Canada than in the U.S. for the same goods, beyond what could be justified by higher operating costs. Higher prices brought on by excessive market power hurt Canadian consumers. The Government intends to introduce legislation to address price discrimination that is not justified by higher operating costs in Canada, and to empower the Commissioner of Competition to enforce the new framework. Details will be announced in the coming months.

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

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For inquiries about the Global Public Policy office, contact gpp@icsc.org or call +1 202 626 1400.

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