

March 28, 2014

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ICSC Members Lobby Congress on Key Industry Issues

ICSC members turned out in force for the annual Strategic Leadership Summit in Washington, DC on March 25-26. This year approximately 150 members from 30 states met with 165 Congressional offices to discuss legislation impacting the retail real estate industry. While the primary focus of our Congressional visits was Marketplace Fairness, ICSC members also discussed tax reform, the Terrorism Risk Insurance Act and EPA's proposed expansion of the Clean Water Act.

During SLS, ICSC members not only met with Congressional offices, but also engaged in a social media campaign to raise awareness for a level playing field for local retailers. More than 50 SLS participants reached out to their House Representatives over Twitter to show their public support for e-fairness legislation.

ICSC organized an advertising campaign on Capitol Hill to coincide with SLS and placed ads in 500 subway cars, area newspapers, and on the pedicabs that shuttled members between Congressional offices. Several Members of Congress commented on these ads throughout the day.

It is critical that we continue our outreach to all House Representatives. They need to hear from ICSC members that the issue must be addressed this year. Even if you think your Congressman or Congresswoman is supportive of a level playing field, they still need to know that is it a priority for our industry.

[Please take a moment to email your House Representative by clicking here.](#)

[If you would like to tweet your member of Congress, click here for some sample messages.](#)



ICSC members meet with Rep. Steve Womack (R-AR), sponsor of the Marketplace Fairness Act in the House.



An ICSC/E-Fairness-branded pedicab awaits members near the Capitol.

ICSCGPP @ICSCGPP Mar 26
@PeterRoskam @RepAaronSchock @RodneyDavis @RepHultgren &
@RepKinzinger, Dan is asking for #efairness... #ICSCFlyin
pic.twitter.com/fHJMc81Gly



ICSC Member Dan Wagner (Inland Real Estate Corp.) tweets his message to Congress.

EPA Releases Long-Awaited "Waters of the U.S." Definition

This week the U.S. Environmental Protection Agency (EPA) and the Army Corp of Engineers (Corps) proposed a new definition of "Waters of the United States" within the Clean Water Act (CWA). This new definition would expand CWA jurisdiction over small, isolated waters without regard to impact or continuity of flow.

Though ICSC believes a rulemaking is needed to provide certainty to determining federal jurisdiction of water bodies, we believe this is an example of EPA overreach. ICSC is especially concerned that ditches are included in the definition of a "tributary" and will come under federal jurisdiction, as activities near a jurisdictional ditch will now require a federal permit. These jurisdictional determinations were previously made by regional, state or local authorities, or handled by EPA on a case-by-case basis. Non-federal permits are preferred by most developers; the state and local permitting process is often more expeditious and less costly, and also takes into account the delicacies and variances of local climate conditions. The new rule would apply the same standard to all jurisdictions in the U.S., regardless of rainfall or other environmental indicators, and would also contribute to an already backlogged and inconsistent federal permitting process.

ICSC expects the proposed rule to be released in the Federal Register within the coming days. Following the release of the rule, a 90-day comment period will open. ICSC and other stakeholders in the real estate industry will request an extension of the comment period. During the comment period, ICSC will be working with EPA, the Corps, Members of Congress, and other industry stakeholders to tailor the rule so that it balances the needs of waters that require federal protection while taking into account the opportunities of economic development.

HI: State Considers REIT Legislation

Earlier in March the Hawaii House passed H.B. 1726, H.D. 2, legislation that would modify Hawaii's taxation of real estate investment trust (REITs) by eliminating the "dividends paid deduction" (DPD). Such a change would pull Hawaii out of conformity with the federal income tax rules and would be contrary to the laws of almost every state income tax system with respect to the taxation of REITs. A vote in the Senate Ways and Means Committee is expected March 28, 2014. ICSC has submitted testimony in opposition to the bill.

MA: Joint Rule 10 Day on Beacon Hill

March 19 was Joint Rule 10 Day for the Massachusetts Legislature. According to the Rule, all bills must be reported out

of their respective committees by the third Wednesday in March of the second year of a legislative session. Bills can be reported out favorably, unfavorably or accompanied by a study order, which typically kills their chances for passage. Committees can also extend the deadline by which they need to report a bill out. One bill pertinent to ICSC, which would have prohibited the construction of new buildings that would cast shadows on designated public parks, was sent to a study. With the end of the two-year session rapidly approaching, there will be a great deal of activity at the State House.

MN: Tax Cut Bill Signed by Governor

Last week a tax cut bill passed the Minnesota House and Senate and was signed by Gov. Mark Dayton. The \$440 million tax cut package provides a long list of credits and deductions and also repeals three new business-to-business sales taxes, including a warehousing tax scheduled to start April 1. In addition, the bill increases the state budget reserve by \$150 million and sets up future increases each time there's a budget surplus.

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

ICSC recently launched a survey to gauge the level of political engagement and relationships with elected officials that ICSC member have. If you have not done so yet, please take a moment to fill out our brief survey. It 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. [Click here to begin the survey.](#)

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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