

Legislative Wrap-Up 2018

NAIOP Legislative Efforts Protect Economic Development Tools, Champion Further Property Tax Reform in Arizona

Arizona is growing economically, and the commercial real estate (CRE) industry is a key player driving that growth. To help keep the state on the right track, the Arizona Chapter of NAIOP successfully weighed in on several important issues that involve commercial real estate during the 2018 legislative session.

NAIOP's number one legislative issue is improving the property tax system. Other priorities include opposing taxes, fees and regulations that could increase costs for CRE, as well as preserving existing economic development tools. NAIOP was successful on all fronts, helping to broker complex negotiations on economic development tools and preventing the enactment of costly new legal liabilities and tax shifts.

Major Legislative Wins:

GPLET Reform (HB 2126) - Rep. Vince Leach

The biggest issue NAIOP worked on this session was the effort to reform Government Property Lease Excise Taxes, otherwise known as GPLETs. What began as a continuation of last year's discussion of the definition of "slum and blighted" land evolved into a debate over the size and shape of cities' Central Business Districts (CBDs). This effort eventually became HB 2126, introduced by Rep. Vince Leach. Throughout the process, NAIOP successfully lobbied to ensure existing GPLET projects are protected, while supporting efforts to increase the integrity of the program. The final bill was the result of an agreement among all parties. It caps CBDs at 2.5% of a city's total land area, requires CBDs to be geographically compact and stipulates that CBDs be reviewed every ten years. The bill grandfathered existing CBDs and GPLET projects as well as protects future GPLET deals from being undercut by changing CBD boundaries. HB 2126 passed the House 58-0, the Senate 28-0 and was signed by Governor Doug Ducey. An important additional piece of the GPLET stakeholder agreement ensured that two related and problematic bills, HB 2005 and HB 2330, didn't pass.

Construction Contract Indemnification (SB 1271) – Rep. Karen Fann

Another hotly-debated topic this session was the allocation of liability for construction defects. NAIOP opposed SB 1271 as introduced because it would have limited indemnity

agreements in construction contracts and prohibited contractors from requiring subcontractors to hold them harmless except in specific cases of a subcontractor's negligence. The bill was heavily amended two times. The first amendment allowed construction professionals to address alleged defects before tenants move in. It also required each party to shoulder the pro rata share of liability based on degree of fault. This new language still faced significant opposition and was amended again to create the Construction Liability Apportionment Study Committee. The final bill, which reflects NAIOP's preferred approach, passed the Senate and House easily and awaits action by the Governor.

Construction Sales Taxes (SB 1409) – Rep. Karen Fann

This year, contractors attempted to clarify that "alteration" activities were taxable as prime contracting. Alterations are generally taxed at point-of-sale but can be taxed as prime contracting if certain triggers are met. Contractors claimed that this system creates confusion and the potential for double taxation. The initial measure, SB 1409, also had the support of cities looking to collect more in taxes. The move to prime contracting was opposed by NAIOP on behalf of the commercial real estate industry. Taxing alterations as prime contracting versus point of sale would drive up costs for building owners and developers. NAIOP lobbying helped ensure SB 1409 was amended to a) keep most alterations taxed at point of sale and b) remove some of the triggering events opposed by the contractors. The amended bill passed the House unanimously and awaits action by the Governor.

Teacher Pay Raise

Workforce development is an important issue for the CRE industry. NAIOP supported Governor Ducey's "20 by 2020" plan to greatly increase teacher salaries. At the end of a week-long teacher walk out, the legislature passed and the Governor signed a state budget that provides significant new funds for teacher and staff salaries.

NAIOP-Supported Bills

Property Tax Appeals (HB 2385) - Rep. Todd Clodfelter

This measure prohibits courts, in property tax appeals filed by county assessors, from assigning a Full Cash Value that is higher than the initial value being appealed by the taxpayer. Passed and signed by the Governor.



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Taxation of Improvements on Possessory Rights (SB 1248) – Sen. Judy Burges

Current law requires improvements to government-owned land to be classified as personal property rather than real property. This means they must be valued at Full Cash Value, which results in higher taxation on these improvements than improvements on similar privately-owned land. This bill would authorize county assessors to use the Limited Cash Value instead of Full Cash Value. The bill was held in the House due to last-minute concerns from the mining industry. The stakeholders have agreed to meet, work through these concerns, and offer a revised bill next year.

NAIOP-Opposed Bills

Prohibition on University Lease-Bank Financing (HB 2280) – Rep. Vince Leach

This bill would prohibit the state's public universities from entering into lease-back financing deals unless the property is used for academic purposes. Beginning in 2018, the bill would require universities to receive legislative approval before creating or expanding research parks. This measure severely curtailed all future university real estate development. The bill was held in the Senate.

Additional GPLET Restrictions (HB 2005 and HB 2330) – Rep. Vince Leach

These two bills were defeated as part of the broader GPLET agreement. HB 2005 created appraisal and public auction requirements for the sale or lease of public land and buildings. HB 2330 required cities with GPLET projects in additional state aid school districts to pay the district what would have been assessed against non-GPLET property. Held in House.

NAIOP Arizona is the trade association representing the commercial real estate industry in the state. Nationally NAIOP, the Commercial Real Estate Development Association, is the leading organization for developers, owners and related professionals in office, industrial and mixed-use real estate. NAIOP comprises some 18,000 members in North America. NAIOP advances responsible commercial real estate development and advocates for effective public policy.