



DuPAGE
MAYORS AND MANAGERS
CONFERENCE

2007 LEGISLATIVE WRAP UP

By all accounts, 2007 was, and continues to be, one of the most unusual legislative sessions in Illinois history. It began slowly due to completion of renovations to both chambers, continued into the late summer, finally merging into the October veto session.

For DuPage municipalities, AT&T cable franchising and public transit were the major issues. As always, a significant number of bills were opposed by the Conference, and several were supported. This year, we won a big victory with the AT&T cable franchising proposal (details on page 8) with united support from municipalities, COGs, the Mayors Caucus, the IML and the Illinois Attorney General. The Conference originally **OPPOSED** the legislation. But after weeks of negotiation, the Conference's position switched to **NEUTRAL**.

This document provides, as of the date of publication (October 17, 2007), a summary of legislation affecting municipalities that was enacted this year; that is awaiting action by the Governor; that has been vetoed or amendatory vetoed; and a list of bills supported or opposed by the Conference that were not approved.

To review any of the legislation mentioned in this document, go to the General Assembly's web site www.ilga.gov. If you have questions about the legislation, contact the Conference staff.



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ENVIRONMENT

Smoke Free Illinois Act (P.A. 095-0017/SB 500) – Conference Supported

Smoking in public places, places of employment and government vehicles is prohibited in this statewide law. The only exceptions to this comprehensive ban are private residences (unless used for child care, adult day care, healthcare or home-based business open to the public); retail tobacco stores; private and semi-private rooms in nursing homes, if all occupants agree; and hotel and motel sleeping rooms (though up to 25% of rooms may be designated as rooms where smoking is allowed). The Illinois Department of Public Health, State-certified local public health departments and local law enforcement agencies shall enforce the Act. No smoking signs must be posted and ashtrays removed. Municipalities may enforce a local smoking ban ordinance as long as it is *no less restrictive* than the Act. (Effective January 1, 2008)

Illinois Cool Cities (P.A. 095-0453/SB 1242)

The U.S. Conference of Mayors has developed the Climate Protection Agreement to address global climate change. Communities that adopt the agreement commit to reduce greenhouse gas emissions by 7% from 1990 levels by the year 2012. Through this legislation, the General Assembly has endorsed and encouraged Illinois municipalities to adopt the Climate Protection Agreement, and the Illinois EPA will provide technical assistance to these communities. Any municipality that endorses the Climate Protection Agreement; prepares and approves a plan to achieve a 7% reduction in greenhouse gas emissions; has the plan approved by the Illinois EPA; and shows evidence of commitment to implement the plan can be designated an Illinois Cool City.

Electric Rate Relief (P.A. 095-0481/SB 1592)

This lengthy bill represents the negotiations on rate relief between the State and the two electric providers serving Illinois residential customers. Most of the bill addresses State oversight of electric providers; rate relief for residential customers; and procedures for procuring electricity. In addition, the bill includes requirements for electric utilities to implement cost-effective energy efficiency measures and cost-effective demand-response measures. The energy efficiency measures create an opportunity for municipalities to be reimbursed for reductions in energy use. The Act mandates that a minimum of 10% of the cost-effective energy efficiency measures shall be procured from units of local government. This process is being coordinated by the Department of Commerce and Economic Opportunity. During the next few months, DuPage municipalities will receive additional information and data requests to begin participation in this program.



MUNICIPAL AUTHORITY

Residency for Municipal Office – Active Duty (P.A. 095–006/SB 253)

If a person resides in a municipality, then resides outside the municipality during active duty military service, and then returns to live in the municipality immediately upon completion of active duty; then the time during which the person resided outside the municipality during active duty is deemed to be time during which the person is a resident of the municipality for purposes of determining the residency requirement for municipal office.

Authority to Cut Grass, Trees, Bushes and Levy Lien (P.A. 095–0183/HB 1881) – Conference Supported

This legislation adds to the authority of municipalities to place a lien on property for recovery of costs related to cutting weeds. The same ability to lien a property now applies to cutting grass, trimming trees or bushes, and removing nuisance bushes or trees.

Collection of Fines (P.A. 095–0389/SB 825) – Conference Supported

This bill authorizes use of attorneys and private collection agents to collect unpaid fines, with any fees or costs charged to the offender. (Effective January 1, 2008)

Design–Build Construction (P.A. 095–0595/HB 3490)

For municipalities with a Public Building Commission, the statutes have been amended to permit the use of design–build construction contracts. (Effective June 1, 2008)

Taxicab Regulations (P.A. 095–0598/HB 3412)

This new Act requires the posting of the taxicabs photograph, license or registration number, medallion number, and a phone number to call if the taxi driver is operating the taxicab in a reckless manner. It also requires a police officer to test a taxi driver for drug and alcohol use if the driver collides with a pedestrian resulting in bodily injury. Home rule authority is limited to regulations no less restrictive than the ones contained in this Act. (Effective June 1, 2008)



OPEN MEETING/FOIA

Open Meetings for Five-Member Boards/Commencement of Terms (P.A. 095-0245/HB 1670) – Conference Supported

Some relief from the Open Meetings Act is provided by this bill for small boards. For a five member public body, a quorum of three members (instead of a majority of a quorum) is the threshold to qualify as a public meeting. In addition, this Act changed the date for the commencement of terms of elected officials to “the first regular or special meeting of the corporate authorities after receipt of the official election results from the county clerk.”



PERSONNEL AND PENSIONS

Pregnancy – Peace Officers and Fire Fighters (P.A. 095-0025/HB 166)

Municipalities may not refuse to temporarily transfer a pregnant female peace officer or pregnant female fire fighter to a less strenuous or hazardous position for the duration of her pregnancy if she so requests with the advice of her physician, and where that transfer can be reasonably accommodated. (Effective January 1, 2008)

Firefighter Illness Presumption (P.A. 095-0316/HB 928) – Conference Opposed

The erosion of the “no fault” system of workers’ compensation continues with this legislation. Any condition or impairment of health of a firefighter, EMT or paramedic which results directly or indirectly from any bloodborne pathogen, lung or respiratory disease or condition, heart or vascular disease or condition, hypertension, tuberculosis or cancer resulting in any disability is presumed to arise out of and in the course of employment, requiring the employer to prove the conditions or impairments were not caused by employment. (Effective January 1, 2008)

Police/Fire Collective Bargaining (P.A. 095-0356/HB 1542) – Conference Opposed

For Home Rule units, mandatory bargaining is now required, unless parties agree otherwise, for hearings involving removal, discharge or suspension of police officers or firefighters.



PLANNING AND ZONING

Subdivision Plats and Property Tax Valuation (P.A. 095-0135/HB 1637)

The provisions that limit increases to valuation of land that is platted and improved with streets and utilities now applies to parcels greater than five (5) acres. (Previously, the provision was for parcels greater than ten (10) acres.) (Effective January 1, 2008)

Annexation Notice to Townships (P.A. 095-0174/HB 3573)

For any municipal annexation that includes part of a township highway, the municipality must notify the Township Supervisor and the Township Clerk. (This is in addition to existing requirements to notify the Township Highway Commissioner and the Township Board.) (Effective January 1, 2008)

Control of Wind Farms (P.A. 095-0203/HB 620)

Municipalities may now regulate wind farms and electric generating wind devices within the zoning jurisdiction and within the 1.5 mile radius around the zoning jurisdiction.

Adult Entertainment Limits (P.A. 095-0214/HB 1608)

The limitations for siting an adult entertainment facility are significantly increased. The current limitation prohibits such a facility within 1,000 feet of any school, day care center, cemetery, public park, forest preserve, public housing and place of religious worship. This new Act increases the distance to one mile.

SLAPPs Judicial Review (P.A. 095-0506/SB 1434)

Strategic Lawsuits Against Public Participation (SLAPPs) are a form of litigation filed by a large organization or in some cases an individual plaintiff, to intimidate and silence a less powerful critic by so severely burdening them with the cost of a legal defense that they abandon their criticism. Often, parties in development issues use SLAPPs to quiet or neutralize opposition. This legislation is intended to establish an efficient judicial process for identification and adjudication of SLAPPs, including awarding attorney's fees.

Building Code Changes (P.A. 095-0512/SB 1508)

This Act requires that once a building permit is issued, the applicable building codes that are in effect at the time of issuance shall be the only building codes that apply for the duration of the building permit. (Effective January 1, 2008)

Design Review Ordinances (P.A. 095-0475/SB 382) – Conference Supported

This Act authorizes municipalities to establish design review ordinances and designate a board or commission to implement the review process. Utility facilities and outdoor off-premises advertising signs are exempted from design review. (Effective January 1, 2008)



PUBLIC SAFETY

Sirens on Police Bicycles (P.A. 095-0028/SB 639)

Previously, State law prohibited use of sirens on bicycles. Now, police and firefighters may install sirens on municipally-owned bicycles.

Library Confidentiality Changes (P.A. 095-0040/HB 237) – Conference Supported

This legislation was a priority of the City of Naperville. It provides some limited situations where law enforcement officers could obtain confidential information that otherwise would require a court order (“it is impractical to secure a court order as a result of an emergency where the law enforcement officer has probable cause to believe that there is an imminent danger of physical harm”). (Effective January 1, 2008)

Towing Company Exempt from Liability (P.A. 095-0407/SB 56)

This legislation expands the liability exemption for damage to real or personal property for towing companies. Previously, if a vehicle was incapacitated on a “limited access highway” and a police officer directed it be removed, the towing company was not liable for damage. Under this change, the liability protection applies to incapacitated vehicles on a “highway or toll highway.” The impact on municipalities could be to experience increased claims and complaints about such damage. (Effective January 1, 2008)

ICC Oversight of Tow Trucks (P.A. 095-0562/SB 435)

This legislation puts into place basic consumer protections and fraud prevention measures, including disclosure of terms and conditions of service. Towing companies must register with the ICC, which will promulgate rules under the Act. DuPage municipalities may opt out of these regulations for tow operations within their jurisdiction. (Effected July 1, 2008)

Court Fees for Police Vehicles (P.A. 095-0428/SB 1260) – Conference Supported

In 2006, the General Assembly approved legislation that established a \$20 additional fee to be paid by a person who, after a court appearance, receives court supervision. That fee was to be paid to the law enforcement agency that employed the arresting officer to be used for the acquisition or maintenance of police vehicles. That legislation, however, lacked necessary wording that would allow the distribution to local law enforcement agencies. This bill adds that language and allows the distribution to local agencies.

Part-Time Firefighters Prohibited (P.A. 095-0490/SB 834) – Conference Opposed

Under this legislative change, municipalities are prohibited to use part-time firefighters.

Charges for Specialized Rescue Service (P.A. 095-0497/SB 1244)

The General Assembly has authorized municipalities with a fire department to charge a reasonable fee for specialized rescue services provided by the department (not to exceed \$125 per vehicle hour and \$35 per firefighter hour). The fee is levied only after a finding of fault against the party by the Occupational Safety and Health Administration or the Illinois Department of Labor. “Specialized Rescue Services” include, but is not limited to, structural collapse, tactical rescue, high angle rescue, underwater rescue and recovery, confined space rescue, below grade rescue and trench rescue.

Police Officer as Public Official (P.A. 095-0466/HB 328)

This Act amends the statute that creates the offense of threatening a public official. It adds police officers to the term “public official,” providing the same protections and punishments. (Effective June 1, 2008)



REVENUE AND FINANCE

Tax Cap Exemption for Environmental Liability (P.A. 095-0244/HB 1562)

For a short period of time (until December 31, 2010), liability relating to actions brought under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 or the Environmental Protection Act can be levied as an extraordinary tax that is not subject to the tax cap.

Home Rule Food/Beverage Tax for Parking (P.A. 095-0544/HB 3091) – Conference Supported

The General Assembly authorized the creation of a new sales tax for home rule communities who have not adopted the Home Rule Municipal Retailers' Occupation Tax or the Home Rule Municipal Service Occupation Tax. The tax is levied on the sale of alcohol beverages, soft drinks and food prepared for immediate consumption. If imposed, the tax is for a defined time (up to 25 years); limited to a designated geographic area within the municipality (a contiguous area no more than one square mile); and implemented in .25% increments (up to a maximum of 2%). The tax must be approved by three-fourths of businesses subject to the tax and the municipality must administer the tax. Proceeds may be used only for parking facilities within the defined geographic area.

Collection of Delinquent Taxes from Out-of-State Corporations (P.A. 095-0515/SB 1576)

Under this legislation, the Secretary of State (SoS) could revoke the ability of a foreign limited liability company to transact business in Illinois if a municipality files a Memorandum of Judgement with the SoS declaring the Company owes a debt to the local entity.



UTILITIES

Cable and Video Competition Law of 2007 (P.A. 095-0009/SB 678) – Conference Opposed the original bill, and changed to Neutral after significant amendments

A hard-fought battle between municipalities and AT&T resulted in significant improvements to this bill that addressed many (though not all) of the concerns of local governments. The legislation creates a statewide franchise (“a cable or video service provider authorization”) for cable/video providers as an option to local cable franchising. If a provider chooses the statewide franchise, it must apply to the Illinois Commerce Commission, and if approved, must abide by the limitations and regulations of the Act – which are similar to the limitations and regulations of local franchises. These limitations and regulations include providing PEG programming; utilizing an emergency alert system; paying a 5% franchise fee and a 1% PEG fee; submitting to audits; complying with all local construction and technical standards for using the local right-of-way; meeting specified build-out requirements (the weakest provision in the Act); and complying with strict customer service standards.

DuPage Water Commission – City of West Chicago (P.A. 095-0114/SB 249)

This Act permits the City of West Chicago to become an excluded unit of the DuPage Water Commission. (Effective January 1, 2008)

Great Lakes Water Compact (P.A. 095-0238/HB 375) – Conference Supported

This bill authorizes the Governor to approve and implement the Great Lakes St. Lawrence River Basin Water Resources Compact. The Compact protects the water resources of the Great Lakes area, and includes the ability of DuPage municipalities to continue to draw water from Lake Michigan.

Municipal Aggregation of Electric Customers (P.A. 095-0311/HB 351)

Under this bill, a municipality, or several municipalities, could aggregate the residential electric load within the community or communities and solicit bids for electricity. The expectation is that such a process would provide a lower cost to residential customers.

Term of Referendum for Certain Water Projects (P.A. 095-0517/SB 1729)

Whenever a referendum or a backdoor referendum is required under the Water Pollution Control Loan Program or the Public Water Supply Loan Program, under Title IV-A of the Environmental Protection Act, the approval, once obtained, remains for seven years after the date of the referendum (previously was five years); and for five years after the date of the backdoor referendum (previously was three years).



VETOED BILLS

Municipal Convention Center Management Corporations (SB 735) – Conference Supported

This bill would have allowed municipalities to establish non-profit public-facilities corporations to act as business agent of the municipality in the operation and management of municipal convention facilities. The corporations would have applicable municipal rights and powers, including property and sales tax exemption for the convention facilities. The Governor vetoed the bill, saying Senate Bill 735 “creates a third tax base that is administratively untenable.” Both the Senate and House overrode the veto, and the bill now becomes law.

Vacancies of Municipal Officers (HB 962) – Conference Supported

House bill 962 clarifies and gives direction pertaining to resignations of elected municipal officials, determining what constitutes a vacancy, and filling a vacancy for the municipal board when the mayor and council are at an impasse. The legislation requires that all resignations must be in writing, signed and notarized; states that a resignation may specify a future date or occurrence regarding when a resignation takes place; clarifies that a vacancy by the death of an officeholder occurs upon the date on the death certificate; allows the council to determine when a vacancy occurs by disability; and provides that a vacancy would occur if there is a more than temporary removal of residence from the municipality or ward. Lastly, when a vacancy occurs for trustee/alderman and the mayor and board cannot agree on a temporary appointment, the mayor may make a temporary appointment to fill the vacancy after the 60th day of the vacancy, so long as the mayor nominated a minimum of 2 persons for the appointment, with the appointment made from those persons that were nominated but failed confirmation. House Bill 962 was vetoed by the Governor, but the General Assembly overrode the veto and the bill now becomes law.



AMENDATORY VETO BILLS

Firefighter Determination of Disability (SB 1553) – Conference Opposed

Senate Bill 1553, among other provisions, allows for disability payments to firefighters where the three examining physicians do not agree as to the existence of or extent of a disability. The Governor's amendatory veto deleted the language that changed the role of the examining physicians, and the Conference SUPPORTS SUSTAINING the Governor's amendatory veto. However, the Legislature overrode the veto and the bill became law as originally approved.

Bicycle and Pedestrian Ways (SB 314)

The proposed legislation would have required IDOT to give full consideration to bicycle and pedestrian ways in the planning and development of transportation facilities. For projects within one mile of an urban area, bicycle and pedestrian ways would be established in conjunction with construction, reconstruction or other changes for some transportation facilities. The Governor's amendatory veto removes all of the mandatory language and reduces the bill to a toothless advisory that will be easily ignored. The changes proposed by the Governor, however, were overturned by the General Assembly, and the bill becomes law.

CMAP Amendments (SB 1201) – Conference Supported

This Act amends the original Regional Planning Act, and includes both the technical changes necessary to formally merge the previous planning organizations (CATS and NIPC) and the additional authorities for CMAP to implement coordinated land use and transportation planning. It also creates a \$5 million Comprehensive Regional Planning Fund to provide the necessary revenue for comprehensive planning across the State, particularly in metropolitan Chicago. The Governor's amendatory language deleted a special Wastewater Committee, which was not part of the original legislation, and will have no impact on the important parts of this bill. The changes in language were rejected by the General Assembly and the bill will become law.



BILLS OF INTEREST

Comprehensive Transit Legislation (SB 572) – Conference Supports

A carefully crafted and politically neutral bill that addresses necessary reforms in transit operations, governance, pensions and financing, SB 572 got caught in the political tsunami that has washed over the 95th General Assembly. While it remains the only available legislation to address nearly everyone's cry that "Something has to be done!" it is impossible to tell what, exactly, will happen before the next purported deadline for saving public transit in northeastern Illinois.

Ten Year Municipal Loan Repayment Authority (SB 689) – Conference Supports

Senate Bill 689 allows municipalities to borrow money from any bank or financial institution, provided the money is to be repaid within ten years (now one year). This is an Illinois Municipal League initiative. SB 689 has passed both houses and is awaiting action by the Governor.

Apportionment of Fault (SB 1296) – Conference Opposes

This bill provides that, when assigning percentages of liability among defendants in a lawsuit, the liability can only be apportioned among defendants currently in the lawsuit. This bill would change Illinois tort law to prevent juries from considering the degree of fault of all parties, and instead allow plaintiffs to aggressively pursue only those with "deep pockets" irrespective of their level of fault. Municipalities and other defendants could end up paying dollar amounts that far exceed any proportionality for their actual liability. This would cause a drastic increase in the cost of liability coverage for both insured and self-insured municipalities. The Senate approved SB 1296 with a vote of 34–23–1, and the bill passed out of House Judiciary I – Civil Law Committee with a vote of 8–6. The bill is on Third Reading in the House and continues to have the final action deadline extended.

Catastrophic Injury (SB 1475) – Conference Supports

Senate Bill 1475 defines "catastrophic injury" as a grievous or serious injury or impairment of a nature that is sufficient to permanently preclude the injured employee from performing any gainful work. This is an initiative of the Northwest Municipal Conference. SB 1475 was amended to a shell bill and approved by the Senate Labor Committee to continue discussions, and it is on Third Reading in the Senate with a deadline extension to December 31, 2007.

Automated External Defibrillator (AED) Grants (HB 1058) – Conference Supports

HB 1058 makes matching grants from the Heartsaver AED Fund available to any school, college, or university (instead of any *public* school, college, or university) and any park district or municipal recreation department, to assist in the purchase of an AED. HB 1058 was amended in the Senate to allow the Fund to be used for matching grants to forest preserves and conservation districts. The bill is on the Concurrence Calendar in the Senate and continues to have the final action deadline extended.



BILLS OF INTEREST, CONTINUED

Streamlined Sales Tax (SB 1429) – Conference Supports

This bill moves the State closer to compliance with the Streamlined Sales Tax Project, which would enable the State to collect sales tax on internet and catalog sales by businesses outside Illinois. While the Conference has supported the State's implementation of required changes to Illinois sales tax provisions, there are issues that must be addressed before the steps are completed. Specifically, the State must include a mitigation provision to protect those communities that will lose sales tax revenues due to the change in sourcing rules; and the State should conduct a study of the impact on each municipality of the sourcing rules. This bill is on the Senate's Third Reading calendar with an extended deadline.

Tax Cap Exemption for Pension Levies (SB 1252)

Senate Bill 1252 would exempt levies for pensions (fire, police, IMRF) from the property tax cap. This bill is on the Senate's Third Reading calendar with an extended deadline.

Settlement Agreements Made a Matter of Public Record (HB 511)

This legislation changes the Freedom of Information Act by making the financial portion of settlement agreements by public bodies a matter of public record. This legislation passed the House. The Senate referred the legislation to the Rules Committee, and no further action has been taken.