

Federal Watch

International Institute of Municipal Clerks Publication



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**Navigating What You
Need to Know About
Legislation Impacting
the Municipal Clerk
Profession**

JANUARY 2013



Legislative Report from the Chair

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*"Legislation can neither be wise nor just which seeks the welfare of a single interest at the expense and to the injury of many and varied interests."
- Andrew Jackson*

It is with great excitement and anticipation that the 2012-2013 IIMC Legislative Committee proudly releases its first issue of "Federal Watch" – an annual legislative newsletter designed by and for IIMC members to enhance awareness of regional and federal legislative matters that affect the municipal clerk profession.

As you may be aware, in May 2011 the IIMC Board created an Ad Hoc Legislative Committee. In May 2012, the Board granted standing committee status to the Legislative Committee. The primary purpose of the Committee is to monitor and review federal legislation pertinent to the municipal clerk profession, identify trends in legislation affecting the profession and provide written reports to the Board and membership when relevant.

The Committee spent the first two years of its existence solidifying its foundation by formulating its "Guiding Principles" and strategizing on how best to serve the membership. The "Guiding Principles" of the Committee are attached on the following page of this newsletter. As you can see, this Committee has come a long way in two years, yet a long way still remains. The work of this Committee will be ongoing for many years to come. While in its infancy the Committee is primarily serving as an information gathering and dissemination tool for federal legislation and related trends, in the future it may serve in a more proactive role by affecting legislation prior to passage. The Committee is intentionally taking a slow and steady approach in its early stages to guarantee its long-term effect and benefit.

Of specific note is the Committee's current Policy Statement which reads as follows:

"The Legislative Committee of the International Institute of Municipal Clerks (IIMC) is strongly committed to legislative advocacy through the monitoring and dissemination of professionally relevant legislative information to its members ensuring awareness of open and transparent legislative processes at all levels of government."

With such a clear and concise Policy Statement, the work of the Legislative Committee on behalf of and for the membership will surely be successful well into the future.

I would like to specifically thank the 2012-2013 Legislative Committee for their efforts over the last two years. But for the dedication and commitment of the individuals listed to the left of this message, the publication of this newsletter would not have been possible. I would also like to thank Anthony Mejia, Deputy City Clerk for the City of San Clemente, California for his work in the initial design of this newsletter.

It is anticipated that the regional edition of *Federal Watch* will be published annually. Relevant articles will be provided throughout the year on an as-needed basis. If you have any ideas, suggestions, and/or comments regarding this publication or the Legislative Committee and its work, please feel free to contact me or your Regional Legislative Committee Representative at any time.



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LEGISLATIVE COMMITTEE—GUIDING PRINCIPLES

Value of Creating a Standing Legislative Committee

There is great value and benefit in creating a standing IIMC Legislative Committee. As an example, the Committee can, among other things, do the following:

- ◆ Monitor general legislative trends in all IIMC Regions to determine affects on IIMC members, if any (Proactive)
- ◆ Serve as a clearinghouse for gathering and disseminating information regarding local, state and federal existing and proposed legislation to members (Reactive)
- ◆ Offer general insight and guidance to IIMC members regarding navigating the local, state, and federal legislative processes
- ◆ Serve as a resource for IIMC members in all regions when guidance and support is requested on a specific legislative matter
- ◆ Offer a bipartisan viewpoint from the local level when interacting with our local, state, federal and international representatives
- ◆ Increase awareness amongst IIMC members regarding the state and federal legislative processes
- ◆ Increase awareness amongst the general public regarding the relevance between the Municipal Clerk profession and legislative processes at various levels of government
- ◆ Provide an additional opportunity for networking within and outside each of the IIMC Regions

Scope of Work for the Committee

The initial scope of work for the Legislative Committee is intentionally limited so as to be containable in the Committee's infancy stage. As the Committee develops over the next two years and establishes a routine with respect to information gathering and dissemination, the scope may be expanded to include additional work (i.e., proactive legislative activity at the federal level, etc.). The initial scope of work is as follows:

- ◆ Develop a communication strategy for information gathering and sharing between IIMC members and their states/countries, the states/countries and the region Legislative Committee Member, the Legislative Committee Member and the Legislative Committee at large, the Legislative Committee and the Board of Directors/Executive Director
- ◆ Establish a trend collection repository for state, federal and international happenings directly related to the professional responsibilities of the Municipal Clerk
- ◆ Formulate a tracking mechanism for existing/proposed state and federal legislation and assign Committee Members to monitor specific topic areas
- ◆ Monitor and disseminate information regarding current trends and existing/proposed state and federal legislation, applicable to the Municipal Clerk profession, to the membership through the Board of Directors and Executive Director

Policy Statement for the Committee

The Legislative Committee of the International Institute of Municipal Clerks (IIMC) is strongly committed to legislative advocacy through the monitoring and dissemination of professionally relevant legislative information to its members ensuring awareness of open and transparent legislative processes at all levels of government.

List of Common Issue/Topic Areas

This following list of issue/topic areas is an intentionally focused, non-exhaustive list which may be amended as needed as the Committee develops in the upcoming years.

- ◆ Elections – Voting Rights Act (VRA), Help America Vote Act (HAVA), Voter Identification, Mail Ballot Elections, Electronic Voting, Ranked Choice Voting, etc.
- ◆ Open Meeting and Sunshine Laws
- ◆ Public Records - Freedom of Information Act (FOIA), Legal Noticing Requirements
- ◆ Records Management - Retention and Electronic Document Management
- ◆ Impacts of Unfunded Mandates



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REGION I

*Connecticut, Maine, Massachusetts, New Hampshire,
New York, Rhode Island, Vermont*

Written by Millie McGinnes, CMC

Region 1 had an active legislative year with quite a number of laws affecting election procedure. Rhode Island implemented a voter ID requirement at the polls. Additionally, they have increased the poll size from 1,900 to 3,000, and are closing the polls at 8:00 p.m. instead of 9:00 p.m. Maine convened commissions to study potentially requiring photo IDs at the polls and the establishment of a Maine Presidential Primary. Massachusetts continues to work on election legislation through the creation of an Election Laws Task Force. Specifically the MA Clerk's Association is focusing on updating requirements regarding optical scan voting equipment; eliminating the Street List of Residents from public disclosure; and requiring state reimbursements to offset the costs of special state elections. Connecticut will be working on a \$7.00 increase to land record filing fees to be allocated for technology upgrades. They are also studying early voting implementations. Additional information regarding specific legislation for Massachusetts, Connecticut, Rhode Island, New Hampshire, Vermont and Maine can be found at the following: Connecticut - <http://www.cga.ct.gov/>; Maine - <http://www.maine.gov/legis/>; Massachusetts - <http://www.malegislature.gov/>; New Hampshire - <http://www.nh.gov/>; Rhode Island - <http://www.rilin.state.ri.us/>; Vermont - <http://www.leg.state.vt.us/>.

REGION II

*Delaware, District of Columbia, Maryland, New Jersey,
Pennsylvania, Virginia, West Virginia*

Written by Kimberley Rau, MMC

Legislative issues from Region II include a renewed effort in Maryland to allow for the electronic posting of legal notices on municipal websites. Legislation was passed in a previous session providing that a public body need not prepare written minutes of an open meeting under certain circumstances. West Virginia enacted legislation to create an Address Confidentiality Program that authorizes the creation of a special absentee voting list and allows a person otherwise qualified to vote absentee to make application for placement on the special absentee voting list. In addition, legislation was enacted to allow municipalities to stagger terms for elected officials. Pennsylvania will be considering changes to voter identification—acceptable forms of identification during the 2013-2014 Session. The Municipal Clerks' Association of New Jersey (MCANJ) has been addressing the State's effort to enact the Common Sense Shared Services Act, tenure-related issues, and proposed amendments to the Open Public Records Act and the Open Meetings Act. On a positive note, the MCANJ has an excellent chance of passing a new bill that would place the MCANJ President or designee on the Government Records Council (the Council responsible for compliance of the Open Public Records Act).

REGION III

Alabama, Florida, Georgia, North Carolina, South Carolina

Written by Bea Meeks MMC

Of importance to clerks in the State of Florida in the 2012 legislative session, is that HB 937 was signed by the governor (<http://www.flgov.com/bill-action/>). The enrolled version was provided to me in April when we learned it would be signed. Essentially the bill says that newspapers must publish legal ads on the website at no cost to cities. It also provides language that says if the ad requires two publications; the newspaper cannot charge more than 85% of the first ad. I think this legislation will help reduce publication costs for larger municipalities, but for smaller cities, the impact will not be as great. The other side of the coin is that this is a start. It should be noted that Barbara Estep, Past President of the Florida Association of City Clerks, worked to get this legislation passed.

REGION IV

Arkansas, Louisiana, Mississippi, Oklahoma, Texas

Written by Mary Ann Hess, MMC

The Mississippi Municipal Clerks and Collectors Association is actively pursuing some items for the next legislative session. This past year, our legislature passed a bill that changed the public notices regarding the content and also the deadlines for publishing each municipality's proposed tax levy and budget. When the clerks tried to implement these new requirements, it created some hardships and problems for some of our municipalities. Our association is currently working with our municipal league to lobby our legislature to work out a compromise for these new reporting requirements.



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REGION V

Indiana, Kentucky, Michigan, Ohio, Tennessee

Written by Michael Griffin, MMC

Region V legislative work product has been varied. In 2012, the Indiana League of Municipal Clerks and Treasurers (ILMCT) worked to make technical modifications to state laws governing “convenience fees” when taking credit card payments, and to formally permit payment by municipalities to be done by electronic funds transfer as well as all other information age exchanges. Some municipalities enabled this by home rule ordinance, but owing to apprehension by some regarding the extent of home rule, it was the sentiment that express legislation would be desirable. The ILMCT is working in the 2013 session in the hopes of allowing independents to be appointed to various boards and commissions (Indiana requires appointees from both parties on boards and commission, and is unclear on whether “Independents” may be appointed. In addition, the ILMCT is trying to make technical changes making publication requirements for penalty-imposing ordinances, more streamlined.

Our colleagues in Michigan report legislation just adopted that affect elections and voter id. They include eliminating September elections for villages, requiring even numbered year November elections.

Voters applying in person for absentee ballot will now be required to present identification. Further, if a voter presents no id at time of ballot application or at time of ballot return, or the ballot is returned by mail, the ballot will be treated as a challenged ballot. Interestingly, the photo id requirement does not apply to voters who apply for a ballot by mail.

REGION VII

Illinois, Kansas, Missouri

Written by Bruce McKinney, CMC

The clerks of Illinois have been very busy with legislation this past year. A bill presented in the House required agendas to be “sufficiently descriptive” to give the public reasonable notice of the items that will be considered. The clerks opposed this language because “sufficiently descriptive” is vague and open to interpretation and lawsuits could be brought if we did not put in enough information. About 18 clerks went to Springfield in May to speak to the House and Senate sponsors of the bill to change the language from “sufficiently descriptive” to “general subject matter.” The bill passed with our changes. Another challenge the clerks faced was the filing date for the Consolidated Election. The original last filing date would have required municipal clerks, school secretaries, libraries, and all local governments to be in their offices until 5 p.m. on Christmas Eve. The clerks were able to get the date changed to 5 p.m. on December 26 and “Saved” our Christmas Eve to be home.

The Municipal Clerks of Illinois have a very good legislative group. The Illinois Municipal League’s (IML) legislative committee has asked that four clerks be a part of that body. We are able to work with IML in lobbying our legislators. One bill presented for the new legislative year removes collective bargaining from closed session, which means the Council would have to discuss all collective bargaining in open session.

REGION VI

Iowa, Minnesota, Wisconsin

Written by Debra Mangen, MMC

Region VI was relatively quiet legislatively during 2012. Given the economic climate that Wisconsin encountered early in the session when their governor came down hard on economic issues, not much happened during the rest of the year. Iowa reported that they had nothing to report. The Minnesota legislature put two constitutional amendments on the ballot. One amendment was for voter identification and one would have defined marriage. Both amendments failed in November. Minnesota like most of the country also completed redistricting which affected most of our cities. Then all of our legislators stood for election which made for an interesting Fall. Fortunately this happens only once in ten years. In addition, the Minnesota Government Data Practices Act had some minor amendments made pertaining to cities. Minnesota cities can find the 2012 legislative summaries on the League of Minnesota website at <http://www.lmnc.org/page/1/currentlaw-summaries.jsp>.

REGION VIII

Arizona, Colorado, Idaho, Montana, Nebraska, Nevada, New Mexico, North Dakota, South Dakota, Utah, Wyoming

Written by Carol Intlekofer-Martin, MMC

Region VIII state legislative actions for last year’s sessions contained topics of common concern to cities/towns. Based on the similarity of bills introduced, support for continuance or enhancement of reliable funding mechanisms for local governments was a shared subject as was protection of authority to govern and regulate local issues. Other municipal-related topics included: Oil/gas development involving hydraulic fracking (local zoning and land use authority for drilling within city limits); infrastructure funding; economic development incentives; public pension, retirement and deferred compensation programs; texting while driving; eminent domain; election and campaign laws; open records and public meetings; local optional sales taxes; water/sewer infrastructure; landfill remediation; alcohol regulations; collective bargaining; electronic (website) legal notice publishing, and contractor and bidding laws. Future legislative session topics will probably include many of these same topics as well as bills pertaining to the Affordable Health Care Act, weapons/firearms, and various tax (ex: fuel), licensing and user fee increases. A ballot election proposition that state-wide voters approved in Colorado resulted in legalization of marijuana for recreational use, which may result in future legislative bills relating to regulatory issues. Neighboring states in Region VIII may also see some future legislative bills introduced to address law enforcement concerns.



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REGION IX

Alaska, California, Hawaii, Oregon, Washington

Written by Randi Johl, MMC

The 2012 legislative cycle was a busy year collectively for Region IX. In California, SB 1001 imposed an annual \$50 fee for all open committees, including local candidate-controlled committees, to assist with the maintenance and repair of the State's online electronic campaign disclosure program (Cal-Access). In Oregon, the 2012 legislative session was the first official annual legislative session in Oregon since the 2010 voter-approved law changed the cycle from a biennial schedule. HB 4045 prohibited a public body from disclosing records identifying a person as an applicant for, or holder of, a concealed handgun license except as specified and HB 4173 allowed the printing of political party names and the word "incumbent" along with the candidate's name on ballots. In Washington, the new Legislative Committee continues to work on reviewing public disclosure related legislation. As you may be aware, Washington also passed Initiative 502 legalizing the possession, use, and sale of marijuana permitting persons over the age of 21 to possess certain amounts of marijuana. Additional information regarding specific legislation that passed in Alaska, California, Oregon and Washington can be found on the following websites: <http://www.legis.state.ak.us/> (Alaska), <http://www.leginfo.ca.gov/> (California), <http://www.leg.state.or.us/> (Oregon), and <http://www.leg.wa.gov/> (Washington).

REGION X

Canada

Written by Robert Carnegie, CMC

Reporting on legislative developments in Region X (Canada) is going to be a bit of a challenge due to the number of provincial jurisdictions involved. To ensure that this column stays interesting for all involved, we are going to tend to focus on federal government developments that are of interest to local governments and provincial developments that have the potential to inspire legislation in other parts of the country. This installment is an easy one because we have a major announcement that is of interest to local governments throughout Region X.

On December 19, 2012, the Honourable Leona Aglukkaq, Federal Minister of Health, announced the Government of Canada's plans to revise the Marijuana Medical Access (MMA) Regulation. The new MMA program will eliminate the practice of authorizing medicinal marijuana users to grow marijuana in their own homes. This practice has been of particular concerns to local governments through Region X due to the harmful health and safety affects associated with growing large numbers of plants in buildings that were designed primarily for human habitation.

The new MMA will now require those persons authorized to use medical marijuana with access by purchasing from a limited number of licensed producers that will be established in each region who will be operating under contract with the federal government. Additional information is available at: <http://www.hc-sc.gc.ca/ahc-asc/media/nr-cp/2012/2012-193-eng.php>

** American and Canadian spellings of the same words may differ, the above-referenced article denotes Canadian spelling.*



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TRACKING FEDERAL LEGISLATION LIST OF ONLINE RESOURCES

The following sites provide information on how a bill becomes law, contact information for United State Senate and the House of Representatives as well as legislative tacking.

<http://thomas.loc.gov/home/thomas.php>

THOMAS was launched in January of 1995, at the inception of the 104th Congress. The leadership of the 104th Congress directed the Library of Congress to make federal legislative information freely available to the public.

<http://www.senate.gov/>

Provides direct links to the various U.S. Senate Committees that do much of the work of the body.

<http://www.house.gov/>

Provides direct links to the various U.S. House Committees that do much of the work of the body.

<http://www.whitehouse.gov/>

Provides direct link to the White House of the United States.