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Legislative Resource Center
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Washington, DC 20515

Secretary of the Senate
Office of Public Records
232 Hart Building
Washington, DC 20510

SECRETARY OF THE SENATE
00 FEB 14 PM 3:46
H. D.

LOBBYING REPORT

Lobbying Disclosure Act of 1995 (Section 5) - All Filers Are Required To Complete This Page

1. Registrant Name: International Council of Shopping Centers

2. Address ☐ Check if different than previously reported
1033 N. Fairfax Street, Suite 404

3. Principal Place of Business (if different from line 2)
City: Alexandria, State/Zip (or Country) VA 22314

4. Contact Name: Judy Laniak — Telephone: (703) 549-7404 — E-mail (optional): jlaniak@icsc.org

5. Senate ID #: 19935-12

6. House ID #: 19935

7. Client Name ☒ Self

TYPE OF REPORT

8. Year 1999 — Midyear (January 1-June 30) ☐ OR Year End (July 1-December 31) ☒

9. Check if this filing amends a previously filed version of this report ☐

10. Check if this is a Termination Report ☐ ⇨ Termination Date ______

11. No Lobbying Activity ☐

INCOME OR EXPENSES - Complete Either Line 12 OR Line 13

12. Lobbying Firms

INCOME relating to lobbying activities for this reporting period was:

Less than $10,000 ☐

$10,000 or more ☐ ⇨ $______ Income (nearest $20,000)

Provide a good faith estimate, rounded to the nearest $20,000, of all lobbying related income from the client (including all payments to the registrant by any other entity for lobbying activities on behalf of the client).

13. Organizations

EXPENSES relating to lobbying activities for this reporting period were:

Less than $10,000 ☐

$10,000 or more ☐ ⇨ $ 120,000 Expenses (nearest $20,000)

14. REPORTING METHOD. Check box to indicate expense accounting method. See instructions for description of options.

☒ Method A. Reporting amounts using LDA definitions only

☐ Method B. Reporting amounts under section 6033(b)(8) of the Internal Revenue Code

☐ Method C. Reporting amounts under section 162(e) of the Internal Revenue Code

Signature: Rebecca M Sullivan

Printed Name and Title: Rebecca M. Sullivan — Staff Vice President, Government Relations

Registrant Name International Council of Shopping Centers Client Name SELF

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code BNK (one per page)

16. Specific lobbying issues

See attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
		☐
Wayne Mehlman		☐
William Hoffman, III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M Sullivan Date 2/11/00

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Registrant Name International Council of Shopping Centers Client Name SELF

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TAX (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
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Wayne Mehlman		☐
William Hoffman, III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M. Sullivan Date 2/11/00

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Registrant Name International Council of Shopping Centers Client Name SELF

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code CAW (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
		☐
Wayne Mehlman		☐
William Hoffman, III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature Rebecca M Sullivan Date 2/11/00

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

International COuncil of Shopping Centers — SELF

Registrant Name: International COuncil of Shopping Centers
Client Name: SELF

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code ENV (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

18. Name of each individual who acted as a lobbyist in this issue area

Name	Covered Official Position (if applicable)	New
		☐
Wayne Mehlman		☐
William Hoffman, III		☐
Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐

19. Interest of each foreign entity in the specific issues listed on line 16 above ☐ Check if None

Signature: Rebecca M. Sullivan Date: 2/11/00

Printed Name and Title: Rebecca M. Sullivan, Staff Vice President, Government Relations

Registrant Name International COuncil of Shopping Centers Client Name SELF

LOBBYING ACTIVITY. Select as many codes as necessary to reflect the general issue areas in which the registrant engaged in lobbying on behalf of the client during the reporting period. Using a separate page for each code, provide information as requested. Attach additional page(s) as needed.

15. General issue area code TEC (one per page)

16. Specific lobbying issues

see attached issue briefs

17. House(s) of Congress and Federal agencies contacted ☐ Check if None

U.S. House of Representatives
U.S. Senate
E.P.A.

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Rebecca M. Sullivan		☐
		☐
		☐
		☐
		☐

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Signature [signature] Date 2/11/00

Printed Name and Title Rebecca M. Sullivan, Staff Vice President, Government Relations

Government

Taxation of Internet Purchases

Issue

The Internet is rapidly becoming America's new marketplace. Consumers are now able to browse and shop for a variety of consumer goods at the touch of a button. Tax policy should not discourage consumers from exploring this new marketplace. However, it should not favor Internet purchases either. Instead, tax policy should provide equity between Main Street businesses and mail order and computer-based merchants.

As we approach the new millennium, federal, state, and local governments must work together to formulate a sales tax system that is uniform, equitable and streamlined. This new system should reduce administrative costs and burdens for all businesses and consumers. Adopting an efficient sales tax system will not only preserve the sales tax base of state and local governments, but it will promote fair trade among all sellers of consumer goods.

Background

Throughout the years, Congress and the courts addressed the issue of state-imposed sales taxes on remote sellers as it applied to mail-order merchants. However, the advent of Internet commerce brings a new focus and sense of urgency to this issue. The Internet marketplace is rapidly expanding, yet it remains mostly untaxed. The current dilemma facing all levels of government is whether taxing goods purchased on-line would slow Internet growth, or if the Internet's tax-free status gives it an unfair advantage over Main Street businesses.

Legislation

Last year, Congress incorporated and enacted, the *Internet Tax Freedom Act* into its year-end budget bill. The legislation imposes a three-year moratorium on the implementation of new, multiple or discriminatory taxes on Internet companies and Internet access. In addition, it establishes an Advisory Commission to examine Internet taxation and interstate sales. The Commission is to deliver non-binding recommendations to Congress within eighteen months.

According to statutory guidelines, the 19-member Commission is to be

comprised of eight state and local government representatives, eight business and consumer representatives (including a representative from a local retail business) and three representatives of the federal government. In December 1998, leaders of the Senate and House of Representatives appointed their designated representatives.

Initially, state and local governments were not adequately represented on the Commission, prompting the U.S. Conference of Mayors and the National Association of Counties to file a lawsuit to prevent the Commission from meeting until its membership composition meets statutory guidelines. However, on April 27, Senator Trent Lott (R-MS) replaced a business representative with a local government representative. The related lawsuit has since been dropped. Unfortunately, a local retail representative has still not been appointed to the Commission.

ICSC Position

ICSC believes that tax policy should be consistent and equitable for all forms of consumer purchases-whether they take place in shopping centers, via mail order, or over the Internet. This will help insure that Main Street merchants and state and local governments are not penalized by the explosive growth of Internet commerce. The Advisory Commission needs to consider the economic impact of the Internet on Main Street businesses and state and local governments

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For More Information Contact Wayne Mehlman, ICSC's Director of Economic Issues, at 703/549-7404, ext. 225.

Government

Bankruptcy Reform

Issue

Unfortunately, an increasing number of financially healthy companies are filing for bankruptcy as a business tool. Because businesses do not have to be insolvent to declare bankruptcy, more and more solvent companies are reorganizing under Chapter 11 of the Bankruptcy Code in order to break their leases and restructure themselves. Furthermore, many bankrupt tenants fail to assume or reject their leases in a reasonable amount of time. As a result, shopping center owners are losing control over their properties, neighboring tenants are losing business and revenues, retail employees are losing their jobs, and the economic health of local communities is being damaged.

Background

Congress has addressed the issue of bankruptcy reform for decades. In 1994, Congress created the National Bankruptcy Review Commission to investigate and study issues relating to the Bankruptcy Code. As a part of its review, the Commission analyzed Chapter 11 of the Code, including provisions in Section 365 that affect shopping center leases. In 1997, the Commission submitted a report to Congress that contained a detailed statement of their findings and conclusions, along with recommendations for legislative and/or administrative action.

Over the years, ICSC has called for several critical provisions to be included in bankruptcy reform legislation. These provisions include: (1) an expedited time period for tenants in bankruptcy to assume or reject their leases; (2) greater access to creditors' committees by shopping center owners; (3) reimbursement to owners for re-leasing expenses on rejected leases; and (4) assurance that all defaults, both monetary and nonmonetary, are cured prior to the assumption and assignment of a lease.

In 1998, the House of Representatives and the Senate overwhelmingly passed separate versions of bankruptcy reform legislation. The conference report that was agreed to by House and Senate negotiators included a 180-day deadline for the assumption or rejection of leases, as well as provisions relating to creditors' committees and nonmonetary defaults. Unfortunately, the White House deemed the consumer portion

of the legislation unacceptable and threatened to veto the bill. Although the House overwhelmingly approved the conference report, the Senate failed to act on the measure before the 105th Congress adjourned.

Legislation

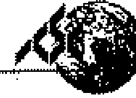
Congress is currently considering the Bankruptcy Reform Act of 1999. On May 5, 1999, the House overwhelmingly passed its version of the bill (H.R. 833) by a 313-108 vote. Unfortunately, reform legislation remains stalled in the Senate. Although the Senate debated the bill and passed various amendments in November, it failed to reach a final vote before adjournment due to several contentious amendments. Hopefully, Senate leaders will reach agreement early in the second session of the 106th Congress so S. 625 can pass and go to conference.

These bills contain several business provisions of importance to the shopping center industry. H.R. 833 would require tenants to assume or reject their leases within 120 days after filing for bankruptcy, with an additional 120 days granted "for cause". Any additional extensions would require the lessor's consent. S. 625 would require tenants in bankruptcy to assume or reject their leases within 120 days. Any extension(s) would require the lessor's consent. (ICSC prefers the language contained in H.R. 833). H.R. 833 would also treat future rents due under an assumed and subsequently rejected lease as an administrative priority for one year. In addition, both bills would give bankruptcy court judges greater discretion in giving shopping center owners greater access to creditor committees. As with all legislation in progress, the above provisions can change as the Senate and future conferees address the reform package.

ICSC Position

ICSC believes that solvent companies should not be able to use the bankruptcy system to break valid lease agreements, and that decisions on whether to assume or reject leases should be made within a reasonable period of time. Companies faced with financial catastrophe should be able to reorganize under Chapter 11. However, our bankruptcy laws need to be strengthened to protect all creditors and to prevent companies from abusing the system. Bankruptcy should be the *final* option, not the preferred option of businesses.

For More Information Contact Wayne Mehlman, ICSC's Director of Economic Issues, at 703/549-7404, ext. 225.



Government

Wetlands/Clean Water Act

Issue

Presently, most shopping center developers use a Nationwide Permit 26 (NWP 26) for their wetlands permit under the Clean Water Act (CWA). The U.S. Army Corps of Engineers (Corps) is preparing final replacement, activity-based permits to replace NWP 26. The proposed changes to the Congressionally mandated streamlined permitting process for minimal impact projects under the Clean Water Act 404 permit program would not only compound the Corps' already serious workload while adding little environmental value, but also would prove harmful to the business community, state and local governments and other public agencies.

Background

The environmental importance of the nation's valuable wetlands is widely known, and the continuing decline of that resource base is a legitimate national concern. However, the federal "wetlands program" in effect today under Section 404 of the Clean Water Act is not the product of a carefully considered and fully debated legislative policy. The Clean Water Act is not a wetland protection law; it is a water quality law that has been used to attempt to achieve wetland protection, a goal for which it was not designed. As a result, current federal wetland policy is actually little more than the accumulation of two decades worth of administrative conflicts, bureaucratic decisions, and judicial rulings.

Nationwide Permits are expressly authorized by CWA section 404(e) as streamlined general permits to authorize minimal impact activities in wetland areas. Primarily to replace NWP 26, in 1998 the Corps proposed six new "activity-specific" NWPs, with many broad conditions and restrictions (e.g., buffer requirements, water quality restrictions, flow requirements, etc.) that duplicate existing federal and state programs. These proposals are in clear violation of the streamlined permitting intent of the CWA.

Issue Impacts

The Army Corps of Engineers proposals would prohibit the use of most NWPs: within the 100-year floodplain, as defined by the Federal

Emergency Management Agency; within "critical resource waters" and their adjacent wetlands; and in "impaired" waters. The proposed exclusions to the general permitting process will result in applications being transferred to the individual permitting process. Having to operate within the new permitting scheme will, according to the Corps' own data, result in costly time delays for permit applications to be acted on.

The current drafts of the proposed replacement permits provide for one general permit, which could be available for shopping center development-the so-called "Permit A" which would cover residential, commercial, and institutional development. Permit A would include, but not be limited to, expansion of an existing facility, grading, re-channelization, erosion, and building in accordance with the "Notification" general condition. Under this proposal, the discharge must not cause a total loss greater than 3 acres of wetlands and any loss above 1/3 acre would require notification of the Corps District office.

ICSC Position

Appropriate implementation of existing local, state and federal laws should replace blanket prohibitions and limits in the replacement permit package. Conditions in the proposal as currently drafted are overreaching, redundant and unnecessary and result in little or no measurable environmental improvement.

Substantial reforms should be made to take into account the value and functionality of wetlands, to limit the demands of federal agencies for disproportionate amounts of mitigation based on the value and function of the wetlands, and to define circumstances, through Congressional action, where the landowner would be entitled to compensation when a permit is not obtained.

There are serious questions concerning the legality of the new permitting procedures, the lack of supporting data to justify the changes and the ability of the Corps to adequately handle the increased workload resulting from these changes. The Congress must use its oversight and appropriations powers to mandate increased study of these issues before any changes are made. Further, Congress should direct the Corps to extend the existing NWP 26 until sufficient data is provided to justify the proposed changes.

For More Information Contact William H. Hoffman, III, at 703/549-7404, ext. 224.

Government

Deregulation of Telecommunications

Issue

The provisions of the Telecommunications Act of 1996 deregulate and promote competition in every segment of the communications industry. As a result, shopping centers and their tenants will be presented with the choice of a variety of new providers of telecommunications services that are in competition with the existing service providers and each other.

Background

Some issues shopping center owners and managers may face include the management, control, and cost of the provision of telecommunications, including those involving space, security, liability, control of service facilities and personnel, and compliance with laws and regulations. A major concern is whether any and all telecommunication service providers, in the name of encouraging competition, would be granted guaranteed access to private property without the permission of the property owner.

Regulation

1) Federal Communications Commission (FCC)

The FCC has statutory authority over aspects of the activities of various telecommunication providers, including telephone companies and cable operators. Under the new law, the FCC is responsible for deregulating and bringing competition to these and other areas. It is through these new regulations that private property owners face the threat of the required access of telecommunication providers to their property without their permission. Through ICSC lobbying effort, the FCC has become educated on the intricacies facing the commercial real estate industry in this matter. We have made it clear that deregulation of the telecommunications industry should not lead to increased regulation of the shopping center industry.

The FCC issued a proposed rule regarding the installation of satellite dishes on shopping centers and other buildings. ICSC actively lobbied for changes from the original rule, which would have allowed any tenant to put up a dish. The rule adopted by the FCC allows shopping center

owners to continue to solicit bids and choose satellite service providers for their centers, with input from their anchor tenants.

2) States

Under the new law, the states retain the right to regulate the access of service providers to private property, consistent with fundamental state and federal laws. There is pressure in the states, often generated by a coalition of alternative telecommunications providers (cable and newspapers), to provide for forced entry to private property for telecommunications providers. These efforts have manifested themselves in two forms of legislation. The first would impose such requirements legislatively. The second would grant the state Public Utility Commission (PUC) the authority to deal with the issue with the view that the PUC would impose such requirements.

ICSC Position

ICSC believes the right of property owners to maintain their property is paramount. This issue has proven to be extremely complex and will pose many opportunities and challenges as we continue to lobby and monitor its impact on our industry. ICSC will act at both the federal and state levels to promote and protect the interests of our members. ICSC believes that state laws and regulations will determine the direction ICSC members take in creating telecommunications-related opportunities in their individual centers.

For More Information Contact William H. Hoffman, III, at 703/549-7404, ext. 224.

Government

Superfund Reform

Issue

In 1980, Congress passed the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), also known as "Superfund," to address the problem of inactive hazardous waste sites. During its 16 years of existence, CERCLA has proven to be complicated, bureaucratic, and costly in implementation. The Act imposed unfair burdens on private citizens and companies, retroactively, without regard to their negligence, fault, or failure to exercise due care. Superfund has proven to be an expensive failure and needs to be substantially revised and reformed.

Background

When enacted in 1980, Superfund was a five-year program with a $1.6 billion budget. In 1980, approximately 400 toxic waste sites were to be cleaned up under Superfund. To date, the federal government has spent $30 billion and cleaned up only 125 hazardous waste sites, with 1,200 sites awaiting action. The average Superfund site takes around 12 years to complete, at a cost of over $25 million. Nearly half of every Superfund dollar (47 cents) has been wasted on non-cleanup related activities, such as litigation and negotiations, rather than cleanup.

The Superfund is actually a "fund" created by a tax on polluters. Superfund by itself does not cover the entire cost of cleanup. The federal government, polluters, insurance companies, and states share the actual cost of cleanup. The main principle behind the establishment of Superfund was that the polluter should pay to clean up hazardous waste sites. The major problem with Superfund is that it has resulted in endless litigation over who is actually responsible for the cleanup.

Under the current system, an owner or operator is held liable regardless of whether he or she was involved in the handling or disposal of a hazardous substance.

Legislation

In the first session of the 106th Congress, the issue of Superfund reform along with the companion issue of reforming the ability of state and local governments to develop former industrial sites (Brownfields) has been

the subject of much speculation. In the Senate, Sen. Frank Lautenberg (D-NJ) introduced S.20. This bill would assist the states and local governments in assessing and remediating brownfields sites and encouraging environmental cleanup programs.

In the House, Rep. Sherwood Boehlert (R-NY) introduced H.R. 1300. This is a bill to amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 to promote brownfields redevelopment, and to reauthorize and reform the Superfund program.

Although there is still some talk about the possibility of full-scale reform of the entire Superfund program, it seems more likely that if any legislation is passed, it will likely be a more focused effort concerned with promoting brownfields redevelopment.

ICSC is working with others in the real estate community who share our concerns to advocate these types of reforms so that innocent developers are able to develop their properties and contribute to the redevelopment of currently abandoned brownfields sites.

ICSC Position

All reform efforts must adhere to the principles that responsibility for environmental cleanups should be fault-based and that the system should be designed to exempt truly innocent persons from liability.

ICSC will be supportive of any legislation that provides a clear definition of an innocent landowner and that repeals joint and several liability. An innocent landowner can be briefly defined as an owner or operator who did not cause the release of hazardous substances at the vessel or facility. This language will protect owners who lease to tenants that can potentially cause contamination. Under current law, a tenant can cause contamination but the owner can be held financially responsible -- a fault-based allocation system would reform that law.

For More Information Contact William H. Hoffman, III, at 703/549-7404, ext. 224.