

PRIORITY FOCUS



IN THIS ISSUE:

September 19, 2008
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Page 7: Flex Your Power Award Applications Due Oct. 10
League Latino Caucus Hosts Events at Annual Conference
Find a Bill, Legislators, Leg Committee, or Ask League Leg Staff

Special Note: Due to the League's 2008 Annual Conference, *Priority Focus* will not publish on Friday, Sept. 26. Publication will resume on Friday, Oct. 3.

LEGISLATURE EXPECTED TO APPROVE BUDGET DEAL **Neither Local Government nor Transportation Revenues Used to Balance Budget**

After week of veto ultimatums and override stare downs, the term "Wild West" certainly applies to California's budget stalemate which finally appeared to be over 80 days into the new fiscal year when Gov. Arnold Schwarzenegger and legislative leaders came to an agreement late Thursday afternoon. The agreement, if passed and signed, would resolve how to close the \$15.2 billion shortfall. City officials can breathe a sigh of relief — the budget does not include borrowing of local government (Proposition 1A) or transportation (Prop. 42) revenues. It does, however, include a one-year, \$350 million seizure of redevelopment funds. *For more, see Page 2.*



SB 375 SESSION SCHEDULED FOR ANNUAL CONFERENCE

A session on SB 375 (Steinberg) is scheduled for Thursday, Sept. 25, during the League's annual conference in Long Beach next week. The open session will be lead by League staff and leadership and will address questions about this bill which has land use implications for cities. SB 375 is currently on Gov. Arnold Schwarzenegger's desk waiting for his signature. *For more, see Page 6.*



PRESIDENT BUSH SIGNS FEDERAL HIGHWAY USER TRUST FUND REMEDY BILL

President Bush signed the Restoration of Highway Trust Fund Act, H.R. 6532, this week, providing \$8 billion dollars for the Highway User Trust Fund (HTF). This funding allows reimbursements to state highway projects to continue through the remainder of the 2008 federal fiscal year. *For more, see Page 6.*

The Governor had announced Tuesday afternoon that he would veto the budget the Legislature passed early that morning on the grounds that it "kicked the can down the alley" and did not provide responsible budget reform. In addition, the Governor criticized the Legislature's proposal to withhold higher levels of state income tax to raise \$1.6 billion in revenues (in effect an interest-free float loan from taxpayers). Legislators threatened a veto override. The Governor countered with a promise to veto most of the Legislature's pending bills. In short, California's government appeared on the verge of meltdown.

The League issued a press statement Tuesday afternoon communicating that the initial legislative budget, which some legislators described as a "Ponzi scheme," underscored the drastic need for comprehensive state budget reform. The statement also opposed the \$350 million redevelopment fund take.

The revised budget accord meets the Governor's demands for stricter restrictions on accessing the budget reserve and provides additional authority to make mid-year corrections when revenues and expenses fall out of balance. Instead of withholding more taxes from paychecks as a interest-free loan, the new budget would raise these revenues by increasing penalties on corporations for tax violations.

The Senate is scheduled to go into session to make necessary adjustments to the budget today (Friday) at 4 p.m., with the Assembly to follow at 5 p.m.

Funding Areas of Specific Interest to Cities

The final budget is expected to include funding allocations for these programs of importance to California cities. The analysis below also reports on areas discussed with the Governor's May Revise even if not funded with the final budget package. At the end of this analysis is a chart outlining the budget trailer bills for FY 2008-09.

Local Government Financing

No Borrowing. The budget does not borrow from Prop. 1A (property tax) or Prop. 42 (sales tax on gas) funds.

Redevelopment Agencies. The budget includes a one-year, one-time, ERAF shift of \$350 million from redevelopment agencies (included in AB 1389, trailer bill). These funds will not be repaid. Redevelopment agencies must pay their shares of the \$350 million prior to May 10, 2009. Borrowing from redevelopment housing funds is permitted under restricted circumstances. Legislative bodies are allowed to loan redevelopment agencies funds to make the payment based upon terms established by the legislative body and agency. Estimated impacts to redevelopment agencies can be found at <http://www.calredevelop.org/AM/Template.cfm?Section=Home&TEMPLATE=/CM/ContentDisplay.cfm&CONTENTID=4665>

State Mandates Reimbursement. The budget will defer \$75 million in state mandate repayments. Cities receive about 30 percent of mandate repayments.

Public Safety

COPS/Juvenile Justice Grants. The Citizen Option for Public Safety (COPS)/Juvenile Justice Crime Prevention Act Program is funded at \$214.2 million, or \$107.1 million for each program. The budget act specifies that these payments will be made to local governments in four equal payments in September, December, March and June rather than in a lump sum. Details on each city's allocation is available at www.californiacityfinance.com/COPSfy08MCest.pdf.

Booking Fees. The budget includes an appropriation of \$31.5 million for county sheriffs for Local Detention Facilities (Gov Code 29552). This is 10 percent lower than FY 2007-09 levels. Current law stipulates that in any year that the budget appropriation is less than \$35 million, counties may impose booking fees on cities in proportion to the amount under appropriation. In this case, it

would be up to 10 percent of the rate in effect on June 30, 2006, adjusted annually by the annual California Consumer Price Index plus 1 percent compounded annually. For more information, see <http://www.californiacityfinance.com/BkgFees090919.pdf>

Things That Did Not Happen:

- **Corrections Reforms.** The Corrections Trailer Bill (AB 841) was not taken up and thus not passed. Consequently, the parole reforms and sentencing changes discussed earlier this year will not be carried out.
- **Health Care Receiver.** The budget package did not include funding for the federal healthcare receiver's demands to provide up to \$8 billion over the next five years to bring the state's health and mental health system in California's 33 prisons up to a constitutional level of care.
- **No Emergency Response Initiative Surcharge.** The final budget deal did not include the insurance surcharge for the Emergency Response Initiative (ERI) (formerly known as the Wildland Firefighting Initiative). Through this program, the emergency response capabilities of the California Department of Forestry and Fire Protection (CAL FIRE), the Office of Emergency Services (OES) and the Military Department would have been increased. ERI funds are partially backfilled by increased General Fund spending.
- **No Department of Justice (DOJ) Forensic Laboratory Fees.** The previous budget proposal for the Department of Justice to charge local agencies a fee-for-service for forensic laboratory tests was eliminated.

Transportation

Prop. 42. The Legislature's FY 2008-09 budget fully funds Proposition 42 at a level of approximately \$1.4 billion for investment in state highway improvements, local streets and roads maintenance, and transit. A city-by-city breakdown of allocations is posted online at www.californiacityfinance.com/Prop42alloc.pdf.

Highway User Tax Account. This funding source is not wedded to the state budget process. Payments from April through September were delayed when the Governor declared a mid-year cash flow crisis in February. Reimbursements will begin at the end of September.

Prop.1B Local Streets and Roads Account. AB 88 includes a \$187 million appropriation for cities from the Prop. 1B Local Streets and Roads (LSR) account for FY 2008-09. (Counties have a separate allocation.) This appropriation will be available on a first come, first served basis to cities that have already received their full allocation in FY 2007-08. Cities must meet the following criteria to be eligible for funding:

1. Received full allocation for FY 2007-08;
2. Submitted Prop 1B LSR Annual Report to Department of Finance for FY 2007-08;
3. Agree to use the funds only for projects that do not currently have dedicated funding;
4. Funds must be committed to projects before July 1, 2009; and
5. Must certify that the unencumbered balance of their road fund is no more than three months of anticipated Highway User Tax Account (HUTA) and Prop. 42 income. If the unencumbered balance exceeds this amount, the city must agree to decrease the unencumbered balance be either of the following:
 - a. An amount equivalent to the allocation received in FY 2008-09, or
 - b. Until the unencumbered balance is no more than three months of anticipated HUTA and Prop. 42 income.

Note: For the purpose of this item, "unencumbered" means any portion of funding that is not designated, through prior approval by the city council, for use on the planning, review, design, or construction phase of a project currently underway at the time of the road fund report.

Prop. 1B State-Local Partnership Program. The Legislature also included implementing language for the Prop. 1B State-Local Partnership Program in AB 268 (Transportation Trailer Bill). The program requires a dollar-for-dollar match to access funds and creates two separate sub-accounts.

Ninety-five percent of the funds will be available by matching funds from voter-approved fees or taxes solely dedicated to transportation purposes, and 5 percent will be available by matching funds from uniform developer fees through a competitive grant program. The California Transportation Commission (CTC) will develop further guidelines. The budget appropriates approximately \$200 million in FY 2008-09.

Public Transit. The budget funds public transit at varying levels through several methods:

- Provides \$406 million for State Transit Assistance (STA) account, but the Governor is expected to blue-pencil the STA amount to \$306 million as he proposed in his May revise and reiterated in his August compromise budget to fund the home-to-school programs. (Blue penciling is when the Governor eliminates items from the passed budget.);
- Allocates \$60 million as a loan from the Traffic Congestion Relief Fund to keep the Public Transportation Account solvent;
- Does not provide any funding for transit capital projects in the State Transportation Improvement Program;
- Appropriates \$350 million for the Public Transportation Modernization, Improvement, and Service Enhancement Account; and
- Allows FY 2007-08 State Transit Assistant disbursements for the third and fourth quarters to be made by the Controller.

Indian Gaming Special Distribution Fund. As part of the budget package, the Legislature approved AB 158 (Torrico). This bill appropriates \$30 million from the Indian Gaming Special Distribution Fund (SDF) in FY 2008-09 to provide grants to local government agencies for the mitigation of casino impacts. It would also implement the following programmatic changes:

- Modifies the composition of an Indian Gaming Local Community Benefit Committee (LCBC) if only one city is located within four miles of a tribal casino to state that only one city elected official will serve on the LCBC;
- Grants can be used only to mitigate impacts from casinos. If grants are used for any other purpose, the funds will revert back to the SDF; and
- Extends the sunset date of the SDF programs to January 1, 2010.

Housing

Prop. 1C Allocations. The budget allocates Prop. 1C funding for FY 2008-09. This funding includes:

- \$200 million for Regional Planning Housing and Infill Incentive Account;
- \$95.5 million for the Affordable Housing Innovation Fund; and
- \$95 million for Transit-Oriented Development Implementation Fund.

The final budget does not contain the \$30 million for Urban, Suburban, and Rural Parks grants included in previous versions of the budget. There is legislation pending with the Governor that would appropriate funds to form the guidelines for the grant program, but the earliest that grants will be available is 2010.

Resources and Environment

State Fire Marshall Building Code Inspections. Assembly Bill 338 (Resources Trailer Bill) requires the State Fire Marshal to charge local agencies and private entities for fire and life safety building code inspections and related fire and life safety activities rendered by the State Fire Marshal. The State Fire Marshal would be required to charge local government and private entities for the amount sufficient to recover the costs of the services provided.

Truck Fleet Retrofits. The California Air Resources Board (ARB), under the revised budget, would transfer funds from its Air Quality Improvement Fund to finance low or zero-interest loans

and loan guarantees to assist truck retrofits proposed by ARB. Funds would be available to owners and operators of on-road heavy-duty diesel-fueled motor vehicles for costs associated with early compliance with ARB air regulations.

Props. 84 and 1E. The budget makes several minor adjustments related to specific projects funded by Props. 84 and 1E.

Governor's Lottery and Budget Reform Proposals

Lottery Securitization. The revised budget includes a lottery securitization proposal that is expected to generate \$5 billion in debt relief for FY 2009-10 and likely more in the following year. Proceeds will be used for budgetary borrowing, bonded indebtedness, and payments to the Budget Stabilization Fund (BSF). It also includes provisions to protect education from any decrease in funds.

Budget Reform.* Reform measures are based on recommendations from the Legislative Analyst's Office and include:

- Changing the name of the Budget Stabilization Account to Budget Stabilization Fund and increasing the size of the BSF from 5 percent to 12.5 percent of General Fund Revenues;
- New restrictions on transfers out of the BSF;
- Capturing and depositing into the BSF any "April Surprise" (revenues over 5 percent of projections) not needed to fulfill Prop. 98 (education) requirements;
- Allows the Governor and Director of the Department of Finance to make mid-year reductions of General Fund expenditures if 1) General Fund total available resources for the fiscal year will decline substantially below the estimate of total General Fund resources assumed in the Budget Act; or, 2) General Fund expenditures will increase substantially above the estimate of General Fund resources available;
- Allows the Governor and Director of the Department of Finance to suspend Cost of Living Adjustments (COLA) for up to 120 days, or until the Legislature sends to the Governor legislation to address a fiscal emergency if one is declared.

**This proposal requires voter approval, and a special election in 2009 is expected.*

State Revenues

Final and complete details on the revenue portion of the budget are not available at the time of this writing. However, it is expected that the following provisions will be included:

- No income tax increases for upper income levels or dependent credit reductions.
- No increases in corporate tax rates. However, penalties for corporations who are consistently delinquent on taxes will double from 10 percent to 20 percent.
- An estimated \$2.3 billion from accelerating tax payments for corporations and individuals who make quarterly tax payments.
- The Governor's accrual accounting change, for about \$1.9 billion in revenue.
- Expansion of the Net Operating Loss suspension proposal by also limiting various incentive credits for two years, for increased revenues of about \$900 million.
- Closes the yacht tax loophole by reinstating the 12 month use tax presumption for yachts and aircrafts purchased out of state and brought into California. During FY 2008-09, this is estimated to generate \$17 million for the state and \$11.8 million for local governments.
- Authorization for loans and transfers of \$855 million from various special funds to the General Fund.

FY 2008-09 Budget Bills Passed by the Legislature

The League prepared a chart outlining the FY 2008-09 budget bills passed by the Legislature.

Note: The Corrections Trailer Bill (AB 841) and the bond for the Corrections receiver (AB 1189) were not taken up, and therefore not passed. Two additional measures failed in the Senate – a bill to create a Film Commission to award grants to movie studios and a bill related to the Sentinel power plant.

The League prepared the chart below outlining the FY 2008-09 budget bills passed by the Legislature.

AB 1781	Conference Committee Report
AB 88	Supplemental Budget Bill <i>Makes changes to the Conference Committee Report and includes additional Prop. 1B allocation.</i>
AB 268	Transportation Budget Bill
AB 519	Education Trailer Bill
AB 1183	Health Trailer Bill
AB 1279	Human Services Trailer Bill
AB 1338	Resources Trailer Bill
AB 1389	General Government Trailer Bill <i>Contains information for several issues including public safety and redevelopment.</i>
AB 1452	Revenue Package #1 (required two-thirds vote)
ABx3 36	Revenue Package #2 (required majority vote) <i>As of this writing, this bill accelerates personal income tax withholding in the first six months of 2009. It is expected that the bill will either be withdrawn or substantially amended.</i>
AB 1526	Prop. 49 (After School Programs) Changes
AB 1654	Lottery: Modernization
AB 1741	Lottery: Securitization
SCA 12	Lottery: Constitutional Change
SCA 13	Budget Reform Constitutional Amendment
AB 10	High Tech Overtime
AB 186	Rural Crime Program Extension
AB 158	Indian Gaming Special Distribution Fund (formerly AB 1389, Torrico)
AB 1805	Mental Health Services for Special Education Students (formerly SB 292, Wiggins)
AB 2026	Surplus State Property
AB 2246	Fresno Joint Powers Charter School
AB 2784	Medi-Cal: Hospital Reimbursement

'SB 375' Continued from Page 1...

If adopted, SB 375 would do three things:

1. Use the regional transportation planning process to help achieve AB 32 goals;
2. Coordinate the Regional Housing Needs Allocation (RHNA) process with the regional transportation planning process; and
3. Use the California Environmental Quality Act (CEQA) streamlining as an incentive to encourage residential projects which help goals outlined in AB 32 to reduce greenhouse gas (GHG) emissions.

The SB 375 session is scheduled from 12:45 to 2 p.m. on Thursday, Sept. 25 in room 203BC of the Long Beach Convention Center.

'Highway User Trust Fund' Continued from Page 1...

The bill signing follows a push from Congress to provide funding to the dwindling account to avoid further delays in reimbursement. Earlier this month, the U.S. Department of Transportation (DOT) announced that it would delay reimbursements to state projects, providing funding once a week instead of twice daily, to stretch the shrinking balance.

California is estimated to receive \$930 million from the account in funding for highway and mass transit systems. This is approximately one third of California's federal highway funding.

DOT estimated a zero dollar account balance for the HTF by October 2008 because of the significant drop in fuel consumption across the nation.

Flex Your Power Award Applications Due Oct. 10

Flex Your Power (FYP), the statewide energy marketing campaign, is requesting applications for its 6th Annual Flex Your Power Award. Open to public agencies, businesses and organizations, this award highlights the achievements of California's energy efficiency and peak demand response leaders.

Award winners will receive recognition at the annual awards ceremony, through an on-line advertising campaign and be featured in FYP's e-newsletter. In addition, winners will be considered for inclusion in FYP's best practices guide.

Applications are due Oct. 10 and can be found online at www.fypower.org/feature/awards.

League Latino Caucus Hosts Events at Annual Conference

The Latino Caucus is holding a number of events in conjunction with the League's annual conference next week in Long Beach. Everyone is welcome to attend all of the events. Below is a brief summary of the Latino Caucus' offerings which are scheduled for Friday, Sept. 26:

- 11:15 a.m. to 12:30 p.m., conference session "Relationship between Elected Officials and Staff," Room 103A/B, Long Beach Convention Center. This session will be lead by Yuri Calderon and Bonnie Garcia from Garcia Calderon Ruiz, LLP.
- 12:30 p.m., Latino Caucus Annual Business Meeting, Room 103A/B, Long Beach Convention Center. Caucus President Henry Perea will discuss major 2008 accomplishments and announce \$15,000 in educational scholarships to college-bound Latino students.
- 6 to 9 p.m., 18th Annual Gala Award Reception, Sevilla Restaurant, 140 Pine Street, Long Beach. The evening features keynote speaker Assembly Member Fabian N un ez (D-Los Angeles), the former Speaker of the Assembly.

Please contact the Latino Caucus for more information at (916) 669-1343.

Find a Bill, Legislators, Leg Committee, or Ask League Leg Staff

Visit (and bookmark!) the League's [Legislative Resources](http://www.cacities.org/legresources) Web page (www.cacities.org/legresources). You will find a roster and contact information for the League's legislative staff; the online Bill Search program, background materials on lobbying your legislators, and more.
