

PRIORITY FOCUS



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NO DEAL: STATE BUDGET STILL AT AN IMPASSE

After weeks of negotiations, the California Legislature is still at an impasse on the FY 2007-08 state budget, after failing to obtain the two-thirds vote needed to pass.

The Senate held a floor session on the evening of Wednesday, Aug. 1, and voted on SB 77 and SB 78, the budget proposals passed by the Assembly. Even with a commitment from Gov. Arnold Schwarzenegger to "blue pencil" (delete) certain line items to reduce the operating deficit (a request made by the Republican Caucus), SB 77 and SB 78 still were not able to garner the votes necessary to move forward. *For more, see Page 2.*

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CITIES URGED TO OPPOSE AB 414 **Local Planning Measure Moves to the Senate Floor**

The League urges cities to oppose AB 414 (Jones). If signed into law, this local planning measure would have negative impacts for cities on both infill and mixed use zoning. *For more, see Page 2.*

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LEAGUE BOARD MEETS IN MONTEREY **International Relations, Eminent Domain, Land Use Issues Discussed**

The League of California Cities board of directors met on Friday, July 27 and Saturday, July 28, in Monterey. The board addressed a variety of legislative and administrative issues and received an update on the League's strategic goals for 2007. *For more, see Page 3.*

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The final vote on both measures was 26-14, with all Democrats and one Republican (Sen. Abel Maldonado, R-Santa Maria) in support. All other Republicans were opposed. Only one more Republican vote was needed to pass the proposals.

It is unclear as to when the Senate will reconvene. The Assembly, after passing the budget bills and trailer bills on July 20, departed for a month-long legislative recess.

League staff will be monitoring budget advances and will issue a more detailed update on the League Web site as information becomes available. Once a budget is passed, the next edition of *Priority Focus* following the budget's passage will contain a detailed rundown on the impacts it has on cities.

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AB 414 makes technical changes to how local agencies can accommodate their fair share of housing on non-residentially zoned parcels. The bill would also impose the same conditions for all local agencies regardless of size, circumstance, or performance, on how to count sites for housing designated on non-residential land.

Earlier versions of AB 414 had only applied to vacant parcels zoned for non-residential uses. The amendments taken in the Senate Transportation and Housing Committee on July 9, however, expanded the scope of the bill to all non-residentially zoned parcels.

This bill would lead to the following three problems:

- **Makes Infill Zoning More Difficult.** AB 414 would make zoning more difficult for built-out communities that do not know which parcels may actually become available for housing during the planning period. Rather than encourage infill housing, AB 414 will constrict cities' ability to designate commercial sites as housing sites, and remove cities' incentives for allowing housing in commercial areas. This bill would require cities to pre-zone non-vacant lands or commercial areas before they become available.
- **Chills Development in Mixed Use Neighborhoods.** The measure creates an exception for mixed use buildings, but not mixed use zoning. A vibrant mixed use neighborhood consists of more than just buildings that have restaurants on the ground floor and apartments above; they include a mix of housing-only buildings, commercial-only buildings, and shared-use buildings.

The challenge in creating these areas is giving the market flexibility to determine where each type of use will fit in. AB 414's parcel-by-parcel approach would chill development in mixed use developments.

- **Creates Disincentives for Mixed Use Zoning.** If AB 414 is passed, local agencies would only receive credit for one housing unit for every two that they zone in mixed and multi-use zones. With this kind of disincentive, local agencies will be less likely to create mixed use zones in direct opposition what infill development and smart growth is trying to achieve.

Take Action

The League recommends that cities send letters to their state senators requesting a "no" vote on the Senate floor to AB 414. For a sample letter, look up AB 414 using the League's bill search tool at www.cacities.org/billsearch. The bill will be on the Senate floor when the Legislature reconvenes after the legislative recess.

The following cities have already sent in floor letters:

- Brea
- Buena Park
- Colma
- Corona
- Costa Mesa
- Fairfield
- Fowler
- Larkspur
- La Quinta
- Lemoore
- Lincoln
- Milbrae
- Mill Valley
- Napa
- Placerville
- Rancho Mirage
- Redwood City
- Roseville
- San Mateo
- Santa Rosa
- Sebastopol
- Taft

'League Board' Continued from Page 1...

The board was briefed on the status of the major infrastructure bond implementation legislation in connection with the state budget deliberations. A large focus of this discussion centered on the likely approval of a budget trailer bill that would make \$950 million available to local governments for local street and road funding.

Board members were then updated on the status of ACA 8 and AB 887, the legislative package proposed by Californians for Eminent Domain Reform. The League is part of this coalition. Following the briefing, the board voted unanimously to continue the League's support for pursuing eminent domain reform through both the legislative and initiative process.

Included in an update to the board was information on the successful efforts by cities, the League and environmental groups to secure a two-year legislative process for SB 303 (Ducheny). A presentation on the League's partnership with Housing California and other groups to secure future legislative support for funding of affordable housing programs in California followed the SB 303 discussion.

SB 375: Bill Sponsor Addresses League Board

SB 375 (Steinberg) was a major legislative topic of discussion for the board. The bill has significant land use implications for local government and the League's position has been "oppose unless amended."

Tom Adams, president of the board of directors of the California League of Conservation Voters, and an SB 375 sponsor, met with the League's board to provide an explanation of why he believes the legislation is important.

Adams discussed how with the passage of AB 32 last year and the increasing concern about global warming, it is essential to link land use and transportation. He said SB 375's intent is to reduce the number of vehicle miles traveled, which is a key component of AB 32's mandate to reduce green house gas emissions by 25 percent by 2020.

Adams said he believes SB 375 would not be passed without the League's support. The League has had some considerable concerns with the legislation as it is currently written and offered Adams a list of potential alternatives to address some of the issues for local government.

There is a clear realization by the board that SB 375 presents a historic opportunity to the cities of California to help address the pressing issue of greenhouse gas emission reduction. In addition, cities recognize that this discussion also affects some of the more pressing growth and development challenges of California.

The League is willing to work on this task. The board believes however, that it will take months to do it well, and rushing to enact such sweeping legislation will most likely lead to serious omissions and errors that will cause a significant backlash and undermine its successful implementation.

For this reason, the board respectfully and strongly requested that further legislative consideration of SB 375 be delayed, and that the measure become a two-year bill.

Policy Committee Recommendations

The League board of directors reviewed recommendations from policy committee meetings held in June on a variety of legislative issues.

Items included the aforementioned SB 375; AB 1033 (Caballero), a measure which helps law enforcement deal with multi-generational gang issues; the Public Safety Interoperable Communications Grant Program; the California Air Resources Board proposed legislation for in-use off-road diesel vehicles; AB 1358 (Leno), a measure which would require local governments to consider and accommodate all users in the planning and development of their local highways and transportation systems; AB 793 (Strickland), a bill which assess affordable housing units at the subsidized price instead of the higher value.

Additional policy committee recommendations were also presented. All items were approved upon consent except AB 793, which was approved at the meeting.

Highlights from LCC/NLC China Trip

League First Vice President Jim Madaffer and League Second Vice President Heather Fargo gave a slide show presentation on the joint League of California Cities (LCC)/National League of Cities (NLC) international exchange trip to four cities in China this past June. Much of the trip focused on China's strong local governments and the sustainable development challenges facing China as it experiences monumental expansion and change.

The trip was an opportunity for LCC and NLC leaders to engage in an international exchange with national and municipal officials in China about common city issues and needs.

The board discussed creating a policy committee or special committee or task force to institutionalize the League's efforts to engage in similar international exchanges in the future. There was great interest in this, especially in connection with Asia.

The League's delegation included Madaffer, San Diego council member; Fargo, Sacramento mayor; Ron Loveridge, immediate past president and mayor of Riverside; Chris McKenzie, LCC executive director, and Manuela Albuquerque, city attorney of Berkeley.

Next Board Meeting

The board will next meet on Sept. 7 at the League's Annual Conference in September.

Legal Decision Seizes Cities' Right to Confiscate Vehicles

In a 4-3 decision handed down last week, the California Supreme Court concluded that cities lack the power to enact local ordinances authorizing the seizure and forfeiture of vehicles used to solicit illegal drugs and prostitution.

The decision, found in *O'Connell v. City of Stockton (City of Stockton)* overturns a prior appellate court ruling, *Horton v. City of Oakland (City of Oakland)* which had upheld a city's right to enact such ordinances. In reliance on *City of Oakland*, many cities enacted similar seizure and forfeiture ordinances. *City of Stockton* puts the validity of these ordinances in question.

Litigation Details

In *City of Stockton*, plaintiff Kendra O'Connell challenged the constitutionality of the Stockton's "Seizure and Forfeiture of Nuisance Vehicles" ordinance. The ordinance allowed the city to seize any vehicle used to buy illegal drugs or solicit prostitution. The Supreme Court concluded the ordinance was pre-empted by state law.

Specifically, with respect to the ordinance's drug crimes provision, the Supreme Court held the state's Uniform Controlled Substances Act (USCA) was so thorough and detailed as to manifest the Legislature's intent to 'occupy the field' of penalizing crimes involving controlled substances. With respect to the ordinance's prostitution provision, the Supreme Court determined it was pre-empted by the California Vehicle Code.

Justice Corrigan, joined by three other justices, authored a vigorous dissent to the majority's opinion. Echoing the city's arguments, Justice Corrigan stated, "It should not be the case that local governments require the permission of the state to protect their own citizens from nuisances that profoundly affect their quality of life and the quiet enjoyment of their own property."

What's Next for Cities

Although the Supreme Court's opinion limits locals' ability to enact seizure and forfeiture laws, the Legislature could choose to amend existing law to allow cities to take action in this area.

As the Supreme Court pointed out, "Because the determination to preclude or to allow local regulation in a field addressed by state law resides exclusively with the state Legislature, that body can, of course, expressly authorize local entities to enact ordinance such as the one in this case that we conclude is pre-empted under existing law."

The League of California Cities submitted a "friend of the court" brief in this case in support of Stockton. The League thanks Claudia McGee Henry of the Los Angeles City Attorney's Office for drafting the brief.

Office of Emergency Services Seeks Comments on State Hazard Mitigation Plan

A draft of California's updated and enhanced State Hazard Mitigation Plan (SHMP) is now available for public review and comment through the Governor's Office of Emergency Services at www.oes.ca.gov. OES is looking for feedback from local government officials on a number of different items in order to enhance the plan.

Specifically, OES is interested in:

- Best management practices in hazard mitigation: What are cities learning and doing well and how could this be better captured in the plan?
- Linkages between state and local governments in the area of hazard mitigation: What relationships could be improved or strengthened over time in respect to the current arrangement?
- Investments in hazard mitigation: What is taking place independent of the usual hazard mitigation grant funding stream?
- Local priorities: What is essential in respect to state actions?
- Initial impressions or general comments are also welcome

Following the review period, closing on Friday, Sept. 7, OES will forward the updated and enhanced draft plan to the United States Department of Homeland Security's Federal Emergency Management Agency (FEMA) for review and approval.

To review and provide comments on the 2007 Draft SHMP, visit www.hazardmitigation.oes.ca.gov, and see the SHMP listing under “programs.”

Background on SHMP

The SHMP is the official statement of California's statewide hazard mitigation goals, strategies, and priorities. By law, state hazard mitigation plans must be updated every three years in order for states and their local jurisdictions to be eligible for federal hazard mitigation and certain public assistance funding.

Hazard mitigation addresses the reshaping and strengthening of the built environment to significantly reduce disaster losses created by natural and human-caused hazards and risks. The goals of this plan are to significantly reduce life loss and injuries and minimize damage to structures and property from disasters, protect the environment, and promote hazard mitigation as an integrated public policy, creating safer communities and state.

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'll 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.
