Analysis, Commentary and Updates on Legislative and Policy Issues that Affect California Cities

PRIORITY FOCUS

LEAGUE OF CALIFORNIA CITIES

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SB 375 GOES TO SUSPENSE FILE: COMMITTEE VOTE EXPECTED NEXT WEEK

SB 375 (Steinberg) was heard Wednesday, Aug. 22, in the Assembly Committee on Appropriations and is now on the committee's suspense file. The committee is expected to vote on it next week. Opposition to the bill has been growing daily as cities and other organizations begin to understand the implications of this bill in more detail. *For more, see Page 2.*

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CALIFORNIA LEGISLATURE APPROVES STATE BUDGET

The California Legislature passed the FY 2007-08 budget and trailer bills on Tuesday, Aug. 21, after a 52-day delay. Overall, the budget looks positive for cities, with key transportation, housing, public safety and other local programs being funded.

Work on the budget is not done, however. The budget is now on the desk of Gov. Arnold Schwarzenegger, who will "blue pencil" (delete) approximately $700 million, as per a promise made to Senate Republicans who adamantly fought for a balanced budget.
For more, see Page 2.

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ACA 8 PASSES OUT OF THE ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Support for the Eminent Domain Reform Measure Still Needed

Assembly Constitutional Amendment (ACA) 8 (De La Torre), the League of California Cities-supported constitutional amendment for eminent domain reform, passed out of the Assembly Committee on Local Government on Wednesday, Aug. 22. The measure was approved on a straight party line vote of 5-2.

While its passage out of the committee is good news, ACA 8 requires a two-thirds vote of each house of the Legislature, so it is still important that cities continue to write and call legislators to urge their support for the measure. *For more, see Page 5.*

'SB 375' Continued from Page 1…

While the last amended version of this bill was printed on July 17, a long mock-up with extensive amendments had also been crafted. Sen. Steinberg may insert these amendments into the bill next week.

The League of California Cities strongly supports reducing greenhouse gas emissions from cars, light trucks and other sectors of our economy. However, the League continues to request that SB 375 be made a two-year bill, so that there is adequate time for the various agencies involved in implementing AB 32 to craft and evaluate possible proposals and solutions.

Rushing SB 375 through the Legislature, when its full implications related to local land use authority, transportation funding, Regional Housing Needs Assessment (RHNA), Local Agency Formation Commissions (LAFCOs) and other issues are unknown does not make sense. Moreover, its exclusive focus on land use measures to reduce greenhouse gas emissions ignores many of the types of innovative steps being taken by cities in California to reduce emissions.

AB 32 and SB 375

Last year's AB 32 (Núñez) establishes emission reduction targets of 25 percent to 1990 levels by the year 2020. There are a number of variables and moving parts related implementing and achieving the legislation's goals.

Other Relevant Developments and Resources for Cities on Emission Reduction Strategies

Cities are encouraged to become familiar with recent actions and other efforts by agencies involved with greenhouse gas emission reduction. The variety of these activities highlight how complex and diverse this discussion has become, and that SB 375 represents but one facet of how greenhouse gas reductions is being approached.

- As part of the budget deal this week, SB 97 (Dutton) requires that the Office of Planning Research (OPR) develop California Environmental Quality Act (CEQA) guidelines for public agencies to address emission reduction issues. A copy of SB 97 can be found on the Senate Web site at www.senate.ca.gov. Click the Legislation button to do a bill search.

- On Aug. 21, the California Attorney General reached a settlement agreement with San Bernardino County regarding its updated general plan CEQA compliance. The settlement identifies examples of significant local emission reduction mechanisms, including land use measures. The settlement can be found on the Attorney General's Web site at www.ag.ca.gov. Search for the term "San Bernardino" in the upper right hand corner.

- The California Air Resources Board (ARB) is responsible for coordinating AB 32 implementation. Visit www.arb.ca.gov and click on Climate Change to access ARB's information on AB 32 and greenhouse gas emission reduction.

- The California Transportation Commission has convened a working group to draft Regional Transportation Plan Guidelines. Visit www.catc.ca.gov and search the term "AB 32" to be directed to resources related to this working group.

Take Action!

The League urges cities to call their legislators and send letters of opposition on SB 375. For a sample letter, look up SB 375 using the League's bill search tool at www.cacities.org/billsearch.

'State Budget' Continued from Page 1…

The Governor is expected to sign the budget today (Friday, Aug. 24), but had not done so by press time.

Current budget highlights for cities include:

Transportation

Proposition 1B: SB 88 (Budget Committee), the bond implementation trailer bill, appropriates $950 million in FY 2007-08 to cities and counties from the Local Street and Road Program included in Prop. 1B. Budget language contains some technical flaws, however, and does not specify how these funds are to be divided between cities and counties.

The League of California Cities is working on clean-up legislation to clarify the bond fund allocation process and to ensure that $550 million would go to cities and $400 million to counties. These amounts are consistent with the budget requests of both the League and the California State Association of Counties (CSAC).

A $550 million allocation to cities would guarantee that each city receives minimum of $400,000 or half of their total bond funds, whichever is greater, in FY 2007-08.

Proposition 42: The budget fully funds Prop. 42 at $1.6 billion. According to statute, cities and counties will not receive Prop. 42 funding in FY 2007-08 for local streets and roads because this is the second of two Prop. 42 "gap" years; a result of cities and counties receiving funding in FY 2001-02 and FY 2002-03 when other state transportation did not.

On a positive note, however, beginning in FY 2008-09, cities and counties will receive approximately double their previous allocations if Prop. 42 is funded in the state budget.

Transit: According to the California Transit Association (CTA), the FY 2007-08 budget package enacts a $1.259 billion shift of Public Transportation Account funds into new, non-transit expenditure programs.

The 2007-08 State Transit Assistance (STA) Program will be funded at approximately $416 million. However, up to $948 million in Public Transportation Account (PTA) funds are provided to finance general obligation transportation bond debt service payments that are supposed to be paid by the General Fund, or that have already been paid.

In addition to the $948 million in bond debt service payments, the package also enacts another $311 million in PTA shifts to non-transit purposes, including for regional center transportation costs ($129 million), home-to-school transportation ($99 million), and repayment of debt owed by the General Fund to Proposition 42 programs ($83 million), for the total of $1.259 billion in non-transit expenditures.

In addition to the 2007-08 appropriations and PTA funding shifts, SB 79, one of the trailer bills, also requires that starting in 2008-09 and beyond, all future "spillover" dollars would be divided in half, with 50 percent going to the General Fund and 50 percent to the PTA. Of the amount going to the PTA in any given year, two-thirds would flow to the STA Program and one-third would flow to support transit capital expenditures from the PTA.

Housing, Land Use and Resources

Proposition 1C: SB 86 (Budget Committee) contains the implementing language for $300 million of the $850 million for the Regional Planning, Housing and Infill Incentive Account program from Prop. 1C.

The majority of the funding ($240 million) goes to the Department of Housing and Community Development (HCD) to administer a competitive grant program for capital improvement projects in qualifying infill projects.

The League is concerned with the way the grant program language defines "eligible applicants" as nonprofit or for-profit developers in addition to a city, county, public housing authority or redevelopment agency. However, other elements of the bill require that the project have the support of the local government.

The grant criteria also include minimum affordability and density requirements. HCD plans to hold stakeholder meetings within the next few months to establish grant implementation guidelines.

The remaining $60 million will be allocated to the CALReUSE program for brownfield clean-up in FY 2007-08. The details for this program are still being developed.

California Environmental Quality Act: One of the key negotiations in the Budget Act of 2007 involved lawsuits over greenhouse gas emissions being addressed in Environmental Impact Reports (EIRs). SB 97 (Dutton) will require the Governor's Office of Planning and Research to develop and adopt guidelines for the mitigation of greenhouse gas emissions or the effects of greenhouse gas emissions associated with transportation or energy consumption no later than Jan. 1, 2010.

In addition, SB 97 will prohibit lawsuits based on the failure of a local government to analyze the effects of greenhouse gas emissions in local projects that are funded out of either Prop. 1B (transportation bond) or Proposition 1E (water and flood bond). This is in response to last year's landmark legislation, AB 32 (Nunez), which aims to reduce greenhouse gas emissions.

Public Safety

Citizen Options for Public Safety (COPS)/ Juvenile Justice Grants: SB 77 (Ducheny) allocates the same amount of funding as last year, $238 million, for COPS/ Juvenile Justice grants. Each program receives half of the funding.

COPS provides per-capita grants funding for local law enforcement—police, sheriffs and district attorneys. The Juvenile Justice Crime Prevention Act gives per-capita grants to counties to reduce recidivism in the juvenile justice system.

Anti-Gang Efforts: SB 77 includes various anti-gang and criminal activity funding including:

- $3 million for cities with heavy gang concentration to be distributed to Los Angeles, the Bay Area, and the Central Valley ($1 million each)
- $6.5 million in competitive grants to cities and community-based organizations (CBO) for gang prevention, intervention, re-entry, education, job training and skills development and family and community services (city grants shall not exceed $500,000 and CBO grants shall not exceed $200,000)
- $1 million to support four Internet Crimes Against Children taskforces (Sacramento, San Jose, Los Angeles, and San Diego)
- $446,000 to create a statewide anti-gang coordinator position

The budget also includes $4.8 million in federal funds for local assistance grants to supplement efforts to suppress gang-related violence.

Booking Fees: SB 77 appropriates $35 million for county sheriffs for local detention facilities and prohibits counties from charging jail booking fees to cities or other local agencies. Counties will have the authority to charge a new "jail access fee" for bookings in excess of an agency's three year average of bookings for low-level offenses.

Debt Repayment and Local Government Finance

Economic Recovery Bond Repayment: The budget includes $2.5 billion for repayment of Economic Recovery Bonds (ERB). Prop. 57, the Economic Bond Recovery Act, authorized the state to issue ERBs and established the "triple-flip" mechanism for repayment of those bonds.

The triple-flip uses a quarter-cent of the local sales and use tax for debt service and replaced that money to cities with additional property tax. By paying down this debt, the "triple flip" will expire sooner. This is expected to happen in 2009.

Mandate Claims: The FY 2007-08 budget does not include funding for mandate claims incurred by local governments in this fiscal year. SB 86, the State Government Trailer Bill, requires the

Legislature to appropriate the full payable amount in the annual State Budget Act for mandates for which costs have been determined in a preceding fiscal year.

Thus, claims for FY 2007-08 will be paid in FY 2008-09. Additionally, SB 86 makes a number of other changes to the mandates process, including:

- Changes annual claims deadlines from Jan. 15 to Feb. 15 and also changes the late penalty from 10 percent to a maximum of $1,000 to a maximum of $10,000;
- Directs the Controller to report to the Legislature on April 30 of each year detailing the amount of the claims submitted for the Feb. 15 deadline, but to also include any late claims filed by April 1; and
- Requires the Controller to pay those claims (estimated costs and actual claim deficiencies) by Aug. 15, or 45 days after the budget is passed in the next fiscal year or interest then accrues.

<u>Budget Bills and Trailer Bills</u>

For more information on the budget bill and trailer bills, look up the measures listed below at www.cacities.org/billsearch.

- SB 77 Main Budget Bill
- SB 78 Appropriations Budget Bill
- SB 79 Transportation Trailer Bill (Spillover)
- SB 80 Higher Education Trailer Bill
- SB 81 Corrections Trailer Bill
- SB 82 Administration of Justice Trailer Bill
- SB 84 Human Services Trailer Bill
- SB 85 Resources Trailer Bill
- SB 86 State Government Trailer Bill
- SB 87 Taxation Trailer Bill
- SB 88 Bond Implementation Trailer Bill (Prop. 1B)
- SB 89 Student Financial Aid and Sale of Education Fund
- AB 199 Amends SB 86, General Government
- AB 201 Amends SB 88, Bond Implementation
- AB 203 Replacement for SB 83; Health Trailer Bill
- SB 97 California Environmental Quality Act (CEQA) fix

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Ken Willis, president of the League of California Homeowners, and Gary Toebben, president and CEO of the Los Angeles Area Chamber of Commerce, each gave formal testimony in support of ACA 8 at the Assembly Local Government Committee hearing. No amendments were taken to the measure.

What's Next for ACA 8 and AB 887

Assembly Member De La Torre is still negotiating with Republicans on amendments to ACA 8 that could address primary places of worship and farmland. The next stop for ACA 8 is a hearing with the Assembly Committee on Appropriations, at a date yet to be announced.

Meanwhile, Assembly Bill 887, the companion measure dealing with small business protections under the California Redevelopment Law, will soon be heard on the Senate Floor at a date yet to be announced. Stay tuned to *Priority Focus* and the League Web site (www.cacities.org) for further information as it becomes available.

So-Called 'Eminent Domain Reform Initiative' Would Threaten Water Projects

Earlier this week, attorneys for *Eminent Domain Reform Now—Protect Our Homes Committee* (a broad coalition that includes the League of California Cities) and is backing ACA 8 to reform the state's eminent domain reform laws to protect homeowners and small businesses from eminent domain, released a legal analysis of an initiative that is in the signature gathering stage and is backed by the Howard Jarvis Taxpayers Association (HJTA) and the California Farm Bureau Federation.

According to the legal analysis, the initiative, called the California Property Owners and Farmland Protection Act (CPOFPA), threatens virtually all future public and private water projects up and down the state intended to preserve clean drinking water, protect existing water resources, and secure additional water supply.

It does this by including a provision defining as a prohibited "private use" "the transfer of property rights to a 'public agency' for the 'consumption of natural resources.'" According to the author of the opinion, former Deputy Attorney General Richard Martland, it is clear that the initiative would "prohibit the use of eminent domain to construct public water projects."

Spokespersons in the offices of Gov. Arnold Schwarzenegger and Sen. Dave Cogdill (the leading legislative advocate for new water storage investments in the state), expressed serious reservations about this provision and the effect it could have on meeting the water needs of California. Their comments appeared in an article in the Sacramento Bee on Wednesday, Aug. 22.

To read the article, visit the "Politics" section of www.sacbee.com and search for: "Governor Worries Over Bid to Limit Land Seizures," by Kevin Yamamura.

The *Eminent Domain Reform Now—Protect Our Homes Committee* continues its efforts to secure legislative passage of ACA 8 to reform the eminent domain laws of the state. It took another step in this process earlier this week when the Assembly Committee on Local Government advanced the amendment to the Assembly Committee on Appropriations from which it is expected to move to the Assembly floor in short order.

Cities Urged to Oppose Senate Bill 619

Measure Would Create Financial Burdens on Cities and Taxpayers

The League of California Cities urges cities to oppose Senate Bill 619 (Migden), a measure that if signed into law, would drastically cut the current retention level to just five percent of the total payment due to contractors, weakening cost-control protections for local agencies. Currently, the retention level is up to 10 percent of the payment.

Retention, the withholding of money for payments to a contractor, is a common and effective tool used in public works project contracts that protect against additional expenses and delays. This is especially important for local agencies to maintain financial control when they must accept the lowest responsible bidder's proposal.

The current state retention rate of up to 10 percent keeps costs down and ensures the timely completion of public construction projects by:

- Creating an incentive for a contractor to complete a project
- Assuring work is done in compliance with contract, as retentions are not paid until final inspection is approved
- Retaining sufficient funds to complete unfinished work should the contractor abandon the project

Local agencies commonly reduce retention to five percent once a project is half complete, as an act of good faith if the contractor is making satisfactory progress. Mandating a reduced retention, as proposed in SB 619, places local agencies unnecessarily at risk for increased costs and project delays.

A limited retention leaves local governments footing the bill with taxpayer dollars to complete projects not finished by contractors. The current 10 percent retention rate helps ensure that public projects are completed in a timely manner without burdening public funds.

The League has opposed previous attempts by legislators to pass similar bills (AB 1949: Conroy, 1996, vetoed; AB 940: Miller, 1997, vetoed; AB 806: Keeley, 1999, vetoed) and continues to express concerns on the issue, as it has yet to see examples where 10 percent retention is problematic.

Take Action!

SB 619 passed out of the Assembly Committee on Appropriations and will be heard next on the Assembly floor.

The League encourages cities to send letters to their legislators requesting a "no" vote on the SB 619. A sample letter is available at www.cacities.org/sb619.

Regional Re-entry Facilities Workshops Scheduled For This Fall

The California Department of Corrections and Rehabilitation (CDCR) continues with its series of statewide workshops this fall to provide information on the benefits and responsibilities of bringing re-entry facilities into California's communities.

Hosted in partnership with local government, public safety and mental health associations, the workshops help educate community leaders on the impact re-entry facilities may have in cities and counties.

The re-entry facilities are made possible by the passage of AB 900, the Public Safety and Offender Rehabilitation Services Act of 2007, earlier this year. AB 900 is a historic prison reform agreement, representing a major shift in California's correctional system and providing for the largest prison capital outlay program in decades.

Among the provisions are funding for increased offender programming, 16,000 beds in secure re-entry facilities, and an appropriation of $1.2 billion in jail construction funding through state lease-revenue bonds. Re-entry facilities will enable CDCR and local community agencies to create an unprecedented continuity of care by providing needed support services as parolees reenter their communities.

The workshop series began in July and will continue through October in regions throughout California. Future workshop dates and locations include:

- Sept. 10 - Sonoma County (for North Bay Area)
- Sept. 14 - Shasta County (for Northern California)
- Sept. 28 - San Mateo County (for San Francisco/South Bay Area)
- Oct. 5 - Los Angeles County
- TBD - Santa Barbara County

Re-entry facilities will be built in cities, counties or regions willing to collaborate with CDCR, to achieve the purposes of AB 900. As a partnering association, the League of California Cities is working with city officials to ensure they have an opportunity to attend the workshops and learn about the needs of the returning parolee population, funding for facility construction and the types of programs provided at re-entry facilities.

For more information about this workshop series, please contact Dorothy Johnson at djohnson@cacities.org or (916) 658-8214.

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

Visit (and bookmark!) the League's Legislative Resources 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.