

FOCUS

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

March 24, 2006
Issue #12-2006

HOT BILLS

SUPPORT SB 1374

(Cedillo). Tax Administration: tax payer information: disclosure.

SUPPORT AB 2484

(Hancock). Housing development: density bonuses

SB 1177 UNDERCUTS LOCAL AUTHORITY UNDER DENSITY BONUS LAW

SB 1177 (Hollingsworth), a measure that undercuts the ability of communities to enforce their development standards under state Density Bonus Law, moved out of the Senate Transportation and Housing Committee this week, despite the opposition of the League of California Cities, the American Planning Association and the California Association of Counties. *For more, see Page 6.*

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HOUSE BIPARTISAN TELECOM REFORM DISCUSSIONS BREAK DOWN LEAGUE DISTRIBUTES ADVOCACY MATERIALS

The push to move a bipartisan national telecommunications franchising bill out of the House Energy and Commerce Committee seems to have broken down over the past week. *For more, see Page 7.*

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LEAGUE NAMES SEN. FEINSTEIN, CONGRESSMAN MILLER, 'CONGRESSIONAL LEADERS OF THE YEAR'

Sen. Dianne Feinstein (D-Calif.) and Congressman Gary Miller (R-Calif.-42) have been named co-recipients of the League of California Cities' "Congressional Leader of the Year" award. *For more, see Page 5.*



League First Vice President Maria Alegria presents the Congressional Leader of the Year Award to Congressman Miller.

WANT MORE DETAILS ON BILLS?

Visit the League of California Cities website at www.cacities.org/billsearch.

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TELECOM IN THE NEWS

Telecom Giants Reverse Course on Municipal Wi-Fi

Once an opponent of cities offering wireless Internet access to their citizens, telecommunications companies have changed positions, looking to provide wireless networks for cities to compete with other Internet providers.

After seeing wireless initiatives from companies such as Google Inc. and EarthLink Inc., AT&T Inc. followed suit, putting in a proposal to build a wireless Internet service for Washtenaw County, in Michigan. Other big telecom providers have also pitched wireless Internet access, including a combination of Cox Communications and Time Warner Inc. to provide wireless access to cities in Arizona.

To read the complete article, visit www.wsj.com, and search for “**Companies That Fought Cities on Wi-Fi, Now Rush to Join In.**”

Wi-Fi Expanding in Cities Nationwide

When the city of Chaska, Minn., decided to have a broadband wireless network constructed for its citizens in 2004, little did the city know that two years later, there example would be followed by municipalities across the United States.

According to Lindsay Schroth, an analyst with The Yankee Group, more than 320 U.S. municipalities have either built or in the planning stages for a wireless network, including large cities such as San Francisco and Minneapolis.

To read the complete article, visit www.sci-tech-today.com and search for “**The Proliferation of City-Wide Wi-Fi.**”

BellSouth Wants New Orleans Network Shut Down

BellSouth is working to shut down, and make illegal, a wireless mesh network set up by New Orleans CIO Greg Meffert after Hurricane Katrina.

Meffert got downtown businesses back online by opening the city's 512kbps wireless mesh network — originally deployed to link surveillance cameras — to anyone who needed it - for free.

“The vendors, the BellSouths of this world, are not only going to force us back, making our existing Wi-Fi illegal, but also they want to close a loophole for emergencies so that we would not do this again,” says Mr. Meffert.

To read the complete article, visit www.redherring.com and search for “**Wi-Fi Fight Brews in Big Easy.**”

THE 2006 CITY HALL DIRECTORY IS COMING SOON!

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AB 2484 (HANCOCK): LEAGUE-SPONSORED BILL SEEKS EXEMPTION FOR HIGHER-DENSITY ZONED PARCELS

AB 2484 (Hancock), the League of California Cities-sponsored housing measure designed to exempt sites zoned at high densities from the density bonus law is set for hearing in the Assembly Local Government Committee on April 19.

Following passage by the Local Government Committee, the bill will next be heard by the Assembly Housing, Community and Economic Development Committee.

If it becomes law, AB 2484 would reward communities that have zoned for high-density residential use (40/25/15 units per acre in metropolitan, suburban, unincorporated rural jurisdictions, respectively) by exempting sites zoned at high densities from the density bonus law. The bill also promotes higher densities, as communities that already up-zoned will be rewarded with local control and may consider up-zoning parcels as a way to bring more certainty to local planning.

"We need to reward cities that are working to build higher densities," said Assemblymember and bill author Loni Hancock. "There have to be incentives built into our housing laws if we want them to work."

Visit www.cacities.org/billsearch and search for AB 2484 for a background document on the measure.

AB 2484 Clears Up Density Bonus Law Confusion for Planners

Recent changes to state Density Bonus Law have made implementation of the law unpredictable for many cities. Under the law, developers can demand a city to increase residential densities on a parcel by 35 percent; demand many development concessions and waivers when they propose to add only a small percentage of affordable units to a project; and then sue the city and collect attorney fees if their demands are not met.

This creates confusion for local planners: how can a city plan a neighborhood, including streets, parking, and other infrastructure when a state law allows an increase of the density of any parcel on the block by an additional 35 percent?

State Housing Element Law, Section 65583.3(c)(3)(B) of the Government Code, requires the state to recognize the following zoning densities in a city or county's housing element as appropriate and sufficient to accommodate housing for *lower* income households. These are known as the "Mullin" standards:

- For incorporated cities within non-metropolitan counties and for non-metropolitan counties that have micropolitan areas: sites allowing at least 15 units per acre.
- For unincorporated areas in all non-metropolitan counties sites allowing at least 10 units per acre.
- For suburban jurisdictions sites allowing at least 20 units per acre.
- For jurisdictions in metropolitan counties sites allowing at least 30 units per acre.

State housing element law recognizes the established "Mullin" densities as appropriate for local plans to meet the needs of 100 percent *lower* income housing developments. Density Bonus Law, however, operates without any connection to densities that have been recognized as sufficient by the Department of Housing.

A perverse result of this law is that it leads some cities to consider down zoning parcels – or avoiding zoning parcels for residential uses at all — to protect themselves from developer demands, lawsuits, and other uncertainties.

"AB 2484 solves this problem by rewarding 'good actor' communities that have already zoned parcels at high densities," explained League Legislative Director Dan Carrigg. "It's a solution that is simple and fair."

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INITIAL ANALYSIS FROM 'CITIES FOR HEALTHY KIDS' FOCUS GROUPS RELEASED

A series of four focus groups was conducted in February as part of the League of California Cities' "Cities for Healthy Kids" project.

The focus groups were held in Riverside, Burbank, Berkeley and Fresno, and explored the views of city officials – elected and staff – about using cities as conduits to identify and enroll eligible children in no- or low-income health insurance programs.

A number of observations at the meetings, including the following:

- City elected officials and staff believe that cities can play a role in the effort to enhance awareness among parents and families in their communities about the availability of low and no cost health insurance for their children.
- Confident that cities are trusted sources of information that can tap and leverage numerous resources and relationships, focus group participants said that cities can serve as effective conduits of information on the issue. Further, they assumed many cities will be receptive to the Cities for Healthy Kids effort because city leaders across the state are becoming increasingly focused on the health and wellness of their residents and are incorporating these values into their city missions or goals.

How to proceed next is the question the League is considering. According to the analysis of the four focus groups, the question resulting from the research project may not be *whether* to roll out a "Cities for Healthy Kids" statewide effort, but rather *how*.

Some focus groups participants advocated that the League of California Cities develop pilot programs in a few targeted cities "to see what works and what doesn't work," while others endorse launching the program as soon as possible to all interested cities. Others recommend doing both simultaneously.

The League's Community Services Policy Committee will review the analysis and make a

recommendation to the League board of directors. "Cities for Healthy Kids" is a cooperative project between the League, the California Teachers Association and the California Association of Health Plans, with funding from the WellPoint Foundation. Visit the Community Services section of the League's website (www.cacities.org) for a full copy of the analysis from the focus groups.

INFRASTRUCTURE: JUNE DEADLINE PASSES, NOVEMBER BALLOT TARGETED

The deadline for an infrastructure package to appear on the June ballot has passed, with no consensus among legislators on what that package should ultimately include. Legislative discussions on an infrastructure plan continue however, and there is talk of working to place a package on the November ballot.

Senate Republicans met this week to talk about a bond package that would include funding for transportation, housing, flood protection and education—the points where there was bipartisan agreement on the previous proposals. The Senate Republicans are also consulting Senate Democrats to negotiate a package that would appeal to both factions of the legislature.

In addition, the Big Five (the governor, Senate President pro Tem Don Perata, Senate Minority Leader Dick Ackerman, Assembly Speaker Fabian Núñez and Assembly Minority Leader Kevin McCarthy) met March 22 to discuss next steps to placing some sort of bond on the November ballot. Discussions apparently focused on levees, flood control, and transportation.

The governor has made it clear that he is committed to getting money for levees and flood control in a bond. Both the Senate and Assembly have passed bills that include funding for levees ranging from \$1 billion to \$1.5 billion.

It appears promising that the momentum built up to place an infrastructure package on the ballot continues, although at this point it would be for the November ballot, rather than the June ballot. While it is still unclear what a consensus package would include, it is encouraging that legislative leaders are continuing to work to invest in California's infrastructure.

LEADERS OF THE YEAR from page 1 . . AB 2484 from page 3

The awards were announced and presented at the National League of Cities' (NLC) Congressional Cities Conference in Washington, D.C., earlier this month.

Congressman Miller was recognized primarily for his work supporting Community Development Block Grant (CDBG) funding. As the vice chair of the House Financial Services Subcommittee on Housing and Community Opportunity, the congressman took the lead in actively opposing President Bush's FY 2006 proposal to eliminate the CDBG program, which helped preserve the program.

Sen. Feinstein was selected for the second time by the League. In 2005, she led the charge in the Senate on homeland security funding with the introduction of League-supported first responders' legislation to make the distribution of homeland security grant funding more equitable for California and other high threat states. In addition, Feinstein also actively supported CDBG funding, helping preserve the program in FY 2006.

"The efforts of both Congressman Miller and Sen. Feinstein have been exemplary in their leadership and support of California cities throughout the past year," said League Executive Director Chris McKenzie. "We're delighted to recognize them and highlight their hard work on issues of vital importance to the cities of California."



From left to right: Maria Alegria (League 1st V.P.), Alex Padilla (League President), Sen. Dianne Feinstein and Jim Madaffer (League 2nd V.P.).

The Congressional Leader of the Year award was formally established in 2000. The award is given occasionally, in special recognition of one or more members of the California Congressional delegation for their outstanding contributions to the cities of California, as determined by the League board of directors.

"The bill simply takes the existing "Mullin" standards that are recognized by the state, adds a 35 percent density bonus on top of these amounts, and then exempts residential parcels that are zoned above those amounts from the flawed Density Bonus Law."

League Urges City Support for AB 2484

The League urges cities to review AB 2484 and submit letters of support to the Assembly Local Government Committee prior to its April 19 hearing. **Please be sure to send a copy of your letter to League Policy Analyst Genevieve Morelos via e-mail at gmorelos@cacities.org. Genevieve can also be reached by phone at (916) 658-8254.**

To view a copy of the measure, check on the hearing schedule or obtain other information, please visit the Bill Search section of the League's website (www.cacities.org/billsearch). If you have questions on this measure, contact League

Legislative Director Dan Carrigg via e-mail at dcarrigg@cacities.org, or by phone at (916) 658-8222.

Visit 'Housing 2006' on League Website

Be sure to visit the League's new Housing 2006 webpage (www.cacities.org/housing2006). You can find information about all the incentive-based bills that comprise the League's housing bill package, as well as the package of bills sponsored by the California Association of Realtors and California Rural Legal Assistance. (See also, "SB 1177 Undercuts Local Authority under Density Bonus Law," p. 1.)

For more information on this and other League issues, visit www.cacities.org.

SB 1177 from page 1

The bill is jointly sponsored by the California Association of Realtors and California Rural Legal Assistance (CRLA). It is one of a package of housing bills sponsored by the Realtors, co-sponsored by CRLA. The other bills include: AB 2511 (Jones) Land Use Housing; AB 2526 (Arambula) Affordable Housing Developments; SB 1330 (Dunn) Attorney's Fees. Each of these bills would have a significant effect on local land use authority.

Sen. Alan Lowenthal, the committee chair, and Sen. Christine Kehoe opposed passage of SB 1177. Other votes on the bill were: "Yes" - Cedillo, Ducheny, Dutton, Ashburn, Machado, Maldonado, Margett, McClintock, Runner, Soto and Torlakson. Sen. Simitian was listed as "Not Voting."

SB 1177 now moves to the Senate Floor, and will likely move on to the Assembly.

SB 1177 Undercuts Community Standards

SB 1177 removes the requirement under existing law that a developer show that a waiver is necessary to make the affordable units economically feasible. By doing so, it undercuts the ability of communities to implement their development standards and grants an advantage to certain developers without the minimum requirement of showing that the advantage is needed.

The most onerous provision in this measure deletes the following sentence from existing law:

"(f) the applicant shall show that the waiver or modification is necessary to make the housing units economically feasible."

By deleting this sentence, this measure compounds the damage already done to local communities through the passage of several recent bills (AB 1866 - Wright of 2002, SB 1818 of 2004, and SB 435 of 2005) that have undermined the ability of communities to fairly balance competing policy needs. Developers should not be able to come into a community and dictate their own terms.

Last year, SB 435 (Hollingsworth) contained a similar provision, as well as another provision which undermined local inclusionary zoning ordinances.

Thanks to the leadership of Assemblymembers Gene Mullin, Simon Salinas and others, those changes were removed from the bill.

Quality of Life Preserved and Improved by Local Planning

Good land use planning is the key to retaining and improving local quality of life. Local governments adopt their general plans after much community input. These community plans and local standards should not be diminished without consideration of the impacts of doing so.

Increasing residential densities in projects by 35 percent will generate additional traffic and demands on schools, water, sewer and other needed infrastructure. Reducing setbacks may result in children forced to play in the streets. Eroding local architectural standards may leave the neighborhood with poor-quality construction and community eyesores.

What Cities Can Do

It is time to draw the line on the Legislature's erosion of local land use authority. Cities who are opposed to this measure are encouraged to take the following actions:

- 1) Send an opposition letter on the bill to your senator. (To view a copy of the League's letter, visit the SB 1177 page on the Bill Search section of the League's website at www.cacities.org/billsearch.)
- 2) When the bill reaches the Senate Floor, **CALL** your senator and urge a "no" vote. Write and talk to your Assembly Member about your concerns as well. This bill is likely to move to the Assembly.
- 3) Review the other bills in the Realtor/CRLA package to determine what effect they will have on your community. They are: AB 2511, AB 2526 and SB 1330.
- 4) Have a discussion with local Realtor chapters about the role that local land use authority plays in preserving design standards, protecting property values, supporting community development efforts, and ultimately, protecting the quality of life in

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TELECOM from page 1

As reported in the March 23 edition of *Congressional Quarterly*, "The impasse marked a sharp turn of events just two weeks after five committee leaders said they had reached a broad agreement on the legislation after months of on-again, off-again negotiations.

"Committee Republicans are expected to release a partisan draft and are hoping to hold a hearing next week."

Reports are the new draft legislation would strip local governments' authority to enter into franchising agreements with new video providers and possibly terminate existing cable franchise agreements.

This potentially major news about the House legislation comes as the League is distributing new information and advocacy materials to cities related to telecommunications reform. The materials - available on the League's online Advocacy Center (www.cacities.org/advocacycenter) include background materials, a sample resolution, talking points, a sample letter to send to legislators and congressional representatives and other materials.

Congress, Legislature Needs to Hear from Cities

The news from Washington D.C. confirms what city officials are learning about the telecommunications reform issue: this is complicated stuff, and agreements on reform are not going to be easily worked out – either in Washington or in the State Capitol.

City officials have an important opportunity to weigh in with their state and federal representatives about the issues that are important at the local level. While cities may have different perspectives on reform, most will likely agree that the key principles adopted by the League board of directors properly identify the issues that will be of concern.

Now is the time to make your voices heard. Contact your League regional representative for

more information about advocacy efforts. Visit the League's Advocacy Center to access background materials, a sample resolution, sample letters, and more.

Advocacy Tips: Remember that personal contacts with your representatives are going to carry the most weight – a phone call, a visit to the district office, some type of personal meeting. You can use the talking points on the Advocacy Center to help get the conversation going. Second in the order of effectiveness: a snail mail letter – on your letterhead, or even hand written.

Finally, if you don't have time for the other options, use email. It's available on the Advocacy Center to make it easy for you to be an advocate for your city. It's much better than not writing at all – but if sent to your representative's office, is not likely to be as effective as a personal contact. (The exception: if you know your representative well enough to access his or her personal e-mail.)

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Legislative Bill Action

The following are summaries of just a few of the legislative bills that are currently being acted upon by the League of California Cities. For more information about these and other bills, please **visit** the League website to access information about legislation, policy issues and related developments. You can track information on bills (www.cacities.org/billsearch), locate legislators and legislative committees, send letters to legislators or the media through the online Advocacy Center (www.cacities.org/advocacycenter), research League policy positions, access useful related links, and much more.

Administrative Services

Hey, dudes and dudettes, three gnarly bills dealing with hazardous recreational activities have been introduced this year and are supported by the League. They are:

- **SB 1179** adds skateboarding to the list of hazardous recreational activities and deletes the conditions in existing law that must be met for local governments to enjoy limited protection from lawsuits.
- **AB 2696** lowers the age level of skateboarders for which local governments enjoy limited immunity from 14 year old to ten years old and adds non-motorized or electric scooters to the list of hazardous recreational activities.
- **SB 1407** adds scootering to the list of hazardous recreational activities.

SB 1179 and **SB 1407** are pending in the Senate Judiciary Committee and **AB 2696** is pending in the Assembly Judiciary Committee. Interested cities should send support letters to the authors and committees. **Staff:** Yvonne Hunter; **Status:** Pending in JUD; **Position:** Support.

Revenue and Taxation

SB 1374 (Cedillo). Tax administration: taxpayer information: disclosure. **SB 1374** would remove the sunset date in existing law that allows cities to continue their tax discovery efforts by allowing the Franchise Tax Board to share taxpayer information. The current statute, the State and Local Government Tax Sharing Program, will sunset in 2008. **SB 1374** will also add the Employment

Development Department as an additional state department that could share information with cities for the purposes of business license tax enforcement.

The program has helped many cities to identify businesses that are not paying local taxes – resulting in millions of dollars recouped. More than 95 cities are currently participating in the program, which does not result in new taxes on businesses, but rather ensures that existing taxes are being paid as appropriate. **Staff:** Jean Korinke, **Status:** March 29th, Senate Revenue and Taxation Committee, **Position:** Support.

WANT TO SEND A LETTER IN SUPPORT OF A LEAGUE POSITION? HERE'S WHO TO CALL:

ASSEMBLY JUDICIARY (9)—Jones (Chair), Harman (Vice Chair), Evans, Haynes, Laird, Leslie, Levine, Lieber, and Montañez. Chief Counsel: Drew Liebert. Counsel: Kevin Baker, Leora Gershenzon, Manuel Valencia, Tom Clark. Secretaries: Cindy Fischer, Saba Hashmat. 1020 N Street, Room 104. Phone: (916) 319-2334.

SENATE JUDICIARY (5)—Dunn (Chair), Ackerman (Vice-Chair), Escutia, Kuehl and 1 vacancy. Chief Counsel: Gene Wong. Deputy Chief Counsel: Gloria Megino Ochoa. Counsels: Alexandra Montgomery, Amanda Taylor and Benjamin Palmer. Assistants: Carol Thomas and Roseanne Moreno. Phone (916) 651-4113. Room 2187.

SB 1177 from page 6

your city. Talk about why community standards are so important, and the tools your city needs to uphold them.

- 5) Alert other community groups, neighborhood associations, environmental groups and others that are concerned about preserving community standards, about the impact SB 1177 would have on your city.
- 6) Visit the League's new "Housing 2006" webpage (www.cacities.org/housing2006) to review the other bills that comprise the League's incentive-oriented package of housing bills. These are bills that would reward communities that build housing, by assisting them with financing for housing, services and infrastructure. You can also view the Realtor/CRLA bills and access other housing resources.

FIND A BILL, LEGISLATORS, LEG COMMITTEE - OR ASK LEG STAFF

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

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