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

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AB 2987: FEW STEPS FORWARD, HUGE LEAP BACK

The Senate Energy, Utilities and Communications Committee passed out AB 2987 (Núñez/Levine) yesterday on a bi-partisan 9-0 vote, with an amendment that will allow cable companies to “opt out” of their franchise agreement with local agencies and instead seek to operate under a state franchise, if a competitor holding a state-issued franchise comes to town. *For more, see Page 2.*

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FEDERAL TELECOM UPDATE: SENATE COMMITTEE PASSES NATIONAL CABLE FRANCHISE MEASURE

The Senate Commerce, Science and Transportation Committee approved S. 2686 on June 28 on a bipartisan vote of 15 to 7, and re-numbered the bill to H.R. 5252. The newly named Advanced Telecommunications and Opportunity Reform Act of 2006, a bill which sets national standards for local franchising, now moves to the full Senate. *For more, see Page 3.*

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‘TAXPAYER TRAP’ INITIATIVE QUALIFIES FOR NOVEMBER BALLOT

Earlier this week, a proposed state initiative qualified for the November ballot—with a number yet to be assigned by the Secretary of State. Called eminent domain reform by its out-of-state funders, it is really a cynical and deceptive trap that will cost taxpayers billions to compensate individuals affected by regulations that protect neighborhoods, the environment, consumers and the public-at-large. The League strongly opposes this measure and has helped start the campaign coalition that will lead the opposition to this destructive and misleading measure. *For more, see Page 5.*

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The League and the California State Association of Counties (CSAC) strongly opposed the amendment. We question whether the California Constitution will allow the Legislature to pass a statute authorizing the abrogation of a local contract. We believe that the matter will quickly become the subject of a lawsuit if a cable company attempts to implement these provisions.

The abrogation amendment was one of a number of amendments taken by the committee during a three hour hearing on June 29, during which the committee took up and discussed in detail most of the issues identified with the bill. A number of issues appear to be largely resolved to the satisfaction of almost all parties – although most people have yet to see the actual language of the agreements they approved in principle.

There are a few outstanding issues that were not resolved. These will be worked on during the July break, and amendments presented when the bill is heard in Senate Appropriations in August. Several members of the committee – including Chair Martha Escutia and Sens. Kevin Murray and Joseph Simitian, who were the most active of the Energy Committee members in terms of asking questions and pressing for answers – are also members of Appropriations.

The following is a summary of the actions and status of the issues with the bill.

Abrogation of existing franchise agreements. The committee accepted an amendment allowing cable companies to opt out of their franchise agreements 10 days after a competitor comes announces that they have received a franchise to deploy service in the cable company's service territory. The argument put forward by cable is that this occurs under "limited circumstances" (when a competitor comes to town), is likely to occur only rarely, will protect consumers from unequal levels of fees, and will have a "de minimis" impact on local agencies. Verizon and AT&T signed off; the League and CSAC will strongly oppose.

Fee v. tax. The issue is whether the franchise fee should be imposed by locals or by the state. Amendments drafted by Legislative Counsel were taken to clarify that this is a state-imposed fee that will be paid to local agencies for the use the public's right of way. The League and CSAC agreed to this language, although we also proposed a contingency provision stating that if state-imposition is found invalid, the fee may be imposed locally. That provision is still in play, but the committee didn't adopt it, and Nunez said he'll consider it.

Definition of general revenues. Agreement was reached in part: references to "Generally Accepted Accounting Principles" will be deleted, as requested by the League. Further work on the question of "bundling" services – another League suggestion – was accepted in principle but language will be the subject of more discussion. The committee members and Speaker Núñez agreed that the goal should be to keep local governments whole.

Local control over rights-of-way. Amendments were taken to clarify that local agencies retain full authority over the time, manner and place of use of ROW.

Non-discrimination/Build-out. Most of the discussion focused on these provisions, with the committee agreeing that additional amendments were needed to strengthen build-out requirements. Nunez said he would be offering amendments that among other things will provide that build-out requirements are only triggered when the telcos reach a 30% market share. However, he didn't provide written amendments to the public, so the details are unclear. Senators Murray and Escutia had big problems with the 30% figure, questioning whether the telcos are likely to reach that figure. After much discussion the committee moved on, so we assume (in the absence of seeing any language) that for now the provision remains the same, with one exception: the committee was adamantly opposed to allowing telephone companies to use satellite service to meet some portion of the build-out requirements. The issue will certainly be discussed further in Appropriations.

Another issue that received a great deal of attention was language that allows what Chairwoman Escutia called an “off-ramp” for companies that subsequently found they could not meet the build-out requirement. She stressed that the off-ramp should only be available for circumstances outside the control of the company (economic downturns, “acts of God”) – not poor management decisions. There was strong agreement from the committee members that anti-discrimination requirements must be met, with no exceptions.

Cross-subsidy (i.e. language to ensure that current phone customers do not subsidize the build-out of video and Internet services under the new state franchise approach). An additional amendment was taken to address this issue. It was not deemed acceptable by the TURN (“The Utility Reform Network”), the group lobbying for this protection.

Customer Service/Protection. Additional amendments were taken to adopt FCC standards (currently used as a “floor” in many local franchise agreements today), to raise penalties and to clarify that local agencies have authority to enforce these consumer protection provisions. Companies will be required to post a surety bond. Locals can impose fines, and draw on the bonds to pay the fines. Funds collected can be used by local agencies to offset the costs of bringing enforcement actions. The League and CSAC agreed to this amendment in principle (although again, language was not available).

PEG (“Public, education and government”) channels and I-NET. As expected, the committee deferred action on this issue so that concerned parties could work on amendments over July, with Senators Murray and Simitian taking the lead. Simitian stated that his goal is “to hold communities harmless” on this issue. He said that he “is not wild about abrogation”, and believes particularly that if the bill allows for abrogation it’s especially important that companies not be to able walk away from PEG commitments. When others said that state PEG requirements will result in some winners and some losers among PEG providers, Senator Simitian essentially said that's not good enough and that the PEG providers in his area currently receive more resources than most and need to be protected.

CEQA. Local agencies will be the lead agency for CEQA review. Additional work on this will be done over July.

Emergency Alert Systems. The committee agreed that work on this issue will occur over the summer, with amendments taken up in Appropriations.

The regulatory/franchising agency. The committee agreed to take amendments designating the California Public Utilities Commission (PUC) to assume this role. This issue provided much of the comic relief of the day, as no state agency wants this role. No one likes it going to the CPUC, but they ran out of options. Sen. Cox question how it would be paid for. Speaker Núñez said that it would be from application fees and perhaps a percentage of gross revenues, which might or might not be a share of local franchise fees, but nothing is currently in the bill other than the application fee. This issue will be taken up by Appropriations.

The League testified that we still believe the best approach is a statewide framework, locally implemented – with franchises issued by local agencies. Neither the committee nor the authors or sponsors are willing to accept this amendment.

Federal Telecom Continued from Page 1…

The telephone companies are lobbying for a quick vote, but concerns about net neutrality, build-out, and other controversial items may slow action on the measure. Following are highlights of the Senate Commerce Committee's action on the bill.

Municipal Groups Achieve Some Important Amendments

Several key improvements to the bill were achieved by the League and the California State Association of Counties (CSAC), working with the National League of Cities (NLC), National Association of Counties (NAOC), the U.S. Conference of Mayors (USCM) and the National Association of Telecommunications Officers and Advisors (NATOA) and other national municipal groups. These include amendments strengthening local control of local rights of way, protecting local franchise fees, and preserving "PEG" (public, education and government) access channels and their funding.

In addition, we understand that several important provisions were adopted by Sen. Stevens as part of his manager's amendment, which resulted from discussions with the national local government groups. Those changes included increasing from 75 to 90 days the amount of time that cities would have to negotiate with new video providers before the contract applies; allowing cities to collect monies on fees already paid by cable operators; requiring AT&T's Internet television service to be subject to new franchising requirements; and ensuring that localities not lose existing public-access channels and institution networks. The amendment was accepted by voice vote.

No Build-Out Provisions

The most contentious video-franchising amendment - deciding whether new video service providers should be required to build out their service to all neighborhoods within their franchise area - was ultimately rejected by the committee by a 12-10 vote. The League had worked closely with the California State Association of Counties (CSAC) and Sen. Barbara Boxer's office on the amendment, which would have required newcomers to deploy video services in phases.

The obligation would have started as soon as a new entrant offered video service to 15 percent of a given franchise area. Once the company had met that threshold, it would have had to offer service to a further 20 percent of homes every two years until all households are reached. California cities should thank Sen. Boxer for her tremendous efforts in spearheading this issue.

The League and CSAC sent a June 23 letter (a copy can be accessed at www.cacities.org/telecom) to the senator endorsing the amendment. The amendment was supported by all of the committee's Democrats and Republican Olympia Snowe (R-Maine).

The committee's rejection of this amendment leaves the bill with **NO** build-out requirements.

Key Troublesome Amendments for Cities Adopted

The committee also adopted, by a 19-3 tally, an amendment offered by Sen. George Allen (R-Va.) that would permanently extend the moratorium on Internet taxes. In addition, the committee also adopted an amendment by Sen. John McCain (R-Ariz.) that would place a three-year moratorium on all new cell phone taxes.

In a key point for Texas and other states which have recently adopted statewide cable franchise laws, the committee rejected an amendment that would have "grandfathered" state franchise laws recently adopted in Texas and several other states. It now appears that H.R. 5252 would pre-empt those laws.

Net Neutrality Remains Contentious Issue

The most controversial item in the bill is the issue of network neutrality. Sen. Ron Wyden (D-Ore.) has stated that he will place a hold on the bill, preventing a vote until the issue is resolved.

The thorny topic dealing with whether high-speed Internet operators should be able to charge content providers more for premium treatment may result in significantly more discussions occurring on this bill than the sponsors intend.

Taxpayer Trap Continued from Page 1…

Here's why the Coalition and the League Opposes this Proposition:

- **Cost *all* taxpayers billions.** The measure will require billions of dollars in new payouts any time a law or regulation is passed to protect our neighborhoods, limit overdevelopment, protect air and water quality, restrict undesirable businesses or enact new consumer protection laws. That's because the measure contains a hidden provision that allows virtually anyone to sue claiming a new law or regulation has impacted the value of their property or business – no matter how far fetched the claim – and taxpayers will be on the hook.
- **Result in thousands of frivolous lawsuits and more bureaucracy and red tape.** The measure encourages frivolous lawsuits and new layers of bureaucracy and red tape. Virtually any unscrupulous property owner or developer looking for a windfall can file a lawsuit under this measure, claiming even the most minor new law has impacted the value of their property. After a similar law was recently passed in Oregon (a much smaller state), nearly 2,000 claims were filed – seeking $3.8 billion in claims that taxpayers of that state could ultimately have to pay.
- **Drive up the cost of infrastructure projects like schools, traffic relief and flood control.** The measure requires new and unreasonable payouts whenever agencies acquire property for public works. These provisions will exponentially drive up the cost of infrastructure projects, cause delays, or even stop needed projects from getting done. Taxpayers pay, or citizens lose out on the congestion relief, road repairs, schools, utility services and other infrastructure we need.
- **Prevent voters and state and local agencies from enacting environmental protections.** The measure's new provisions would severely restrict the ability of voters, and local and state agencies to enact and enforce basic laws that protect our coastline, preserve open spaces and farmland, protect air and water quality, and stop sprawl and development of environmentally sensitive areas. If taxpayers can't afford the new payouts, agencies will be unable to enact new and enforce existing protections, or be powerless to limit unwanted growth.
- **Transfer control of our neighborhoods and communities from voters to corporations and developers.** The measure will undermine the ability of local communities and even local voters to decide what types of projects get built in their neighborhoods, what types of businesses locate in a neighborhood, and how a community decides to grow.
- **Jeopardize funds for police, fire and other critical local services and make it more difficult to enact new consumer protection and even anti-crime laws.** The measure will dramatically reduce resources available for local police and fire protection, emergency response and other critical local services by forcing local governments to pay billions of dollars to enact measure that protect communities. It will also discourage new consumer protection and criminal laws from being enacted. For example, the measure could require new taxpayer payouts for laws dealing with identity theft, fraud and consumer protections if the offending business makes a claim that such laws "devalue" their business – payouts that could make these laws too costly to enact.

We are confident that California voters will see beyond the misleading "bait" of this initiative, and they won't get caught in the taxpayer trap that will harm taxpayers, our state, its economy, and every California community. We'll be working overtime to educate the voters between now and election day. If you want more information or wish to get involved, please contact your league regional representative or the campaign at (916) 443-0872.

Major Provisions of The Taxpayer Trap Initiative

The Bait:

- **Prohibits use of eminent domain unless the property acquired is owned and occupied by a governmental agency.** This provision is the bait in the taxpayer trap. While everyone agrees some eminent domain reform is needed, the way this provision is crafted would also result in negative consequences and significantly hinder community revitalization efforts and the ability of local agencies to clean up blight, eliminate slum lords, build affordable housing, and reduce crime though partnerships with the private sector.

The Trap:

- **Changes laws defining compensable damages and <u>severely and negatively impacts state & local governments' ability to enact and enforce environmental, land use, consumer protection and housing laws and regulations</u>.** The initiative redefines "damage" to require payment for any government action that someone claims will result in economic loss to property – no matter how unreasonable that claim. This "trap" would result in frivolous lawsuits, huge payouts to a few wealthy landowners, and increased administrative costs at taxpayers' expense. For example:
    - If voters act to limit the size of a development for environmental or traffic concerns to 100 homes, and the developer claims the property could hold 200 homes, the measure allows the developer to sue to force taxpayers to pay his company the value for the 100 homes he wasn't allowed to build. Taxpayers would be on the hook for the value of the property at the more dense use, even though the community could not handle or did not want such a development.
    - If a city approves a new commercial development, adjacent landowners could demand to be compensated for the effects of increased traffic on lowering their property values.
    - If the state enacts a new law restricting certain telemarketing practices, under this initiative, the telemarketers could file a lawsuit to obtain massive taxpayer payouts for the purported impact of these laws on their business.

- **Redefines "just compensation" and greatly increases the cost of all property acquisitions by state and local agencies for needed infrastructure like schools, roads, levees, and other public works.** The initiative changes the current standard which requires compensation at "fair market value", and requires new levels of inflated payouts based on the value of the property as the government intends to use it. This "trap" would result in windfall payouts to a few property owners – at the expense of common taxpayers – or make infrastructure projects so prohibitively expensive that many will simply not get completed.
    - For example, if a city acquires property for an airport, the owner could seek compensation for the value of the property as though an airport were already built there, regardless of whether or not the owner could have achieved such a use on his or her own, or under the applicable zoning.

- **Imposes new taxpayer costs.** The nonpartisan Legislative Analyst cites "*<u>potentially major future costs</u>*" to deal with regulatory takings provisions and "*potentially major changes in governmental costs to acquire property for public purposes.*"

BUDGET FUNDS LOCAL TRANSPORTATION, PUBLIC SAFEY, MANDATES

The newly passed state budget contains good news for California cities.

California cities have good reason to thank their legislators and Gov. Arnold Schwarzenegger for passing a budget that will provide funds for public safety, reimbursement of state mandated programs, and continued repairs and maintenance of local streets and roads.

It is a budget that respects the historic partnership between the state and local governments, and the important role that local governments play in providing essential services to every Californian. The full implementation of Proposition 1A begins July 1. This historic agreement ended the ability of the state to shift local funds to the state. As part of the agreement, that measure also required cities, counties, special districts and redevelopment agencies to collectively shift a total of $2.6 billion to the state general fund over the past two years. That fund shift will now end, leaving cities with $350 million in local funds that can be allocated for local purposes.

The Legislature and the Governor are to be commended for their leadership in bringing in a budget that is prior to the fiscal year deadline, and which reflects the kind of bi-partisan cooperation that Californians clearly expect and desire from their state representatives.
The Governor is expected to sign the budget on Friday.

Key Issues for Cities. The "big four" issues of importance to cities - Proposition 42 transportation funds, booking fee subventions, reimbursement of state mandated programs and COPS funding - were all addressed in this budget. Here is a summary of those issues.

$424 million in Proposition 42, Transportation Funds. Prop. 42 will be fully funded for FY 2006-07 at $1.42 billion. While local streets and roads will not receive funding from this appropriation, $424 million to maintain this local infrastructure will be included in an additional appropriation of $1.415 billion, provided as early repayment of amounts borrowed from Prop. 42 by the state in FY 2003-04 and FY 2004-05. The State Controller's Office anticipates that the repayment allocations to local governments will be released in two consecutive payments, with the first allocation approximately 10 working days into the fiscal year.

Proposition 42 Appropriations in FY 2006-07 Budget

(in millions)		2006-07 Prop. 42 Transfer	Early Repayment 2004-05	Early Repayment 2003-04	Total
TCRF		$678	$315	--	$993
STIP		$594	$232	$192	$1,018
Local Streets and Roads	Cities	--	$116	$96	$212
	Counties	--	$116	$96	$212
PTA		$148	$116	$96	$360
Interest		--	$25	$15	$40
Total		**$1,420**	**$920**	**$495**	**$2,835**

Comments:

· The $25 million in interest will be allocated proportionately to the various accounts. The State Controller will configure the allocation of the interest, which is estimated to be about $25 million in additional total funds.

· The $15 million in interest will be allocated proportionately to the various accounts.

TRCP: Traffic Congestion Relief Fund

STIP: State Transportation Improvement Program

PTA: Public Transportation Account

Proposition 42 Transportation Funding: Information Your City Needs to Know

Use of these Proposition 42 Funds: Proposition 42 funds must be used on only for street and highway pavement maintenance, rehabilitation, reconstruction and storm damage repair. For Proposition 42 purposes, maintenance means patching, overlay, and sealing. Reconstruction includes overlay, sealing, or widening of the roadway to bring the roadway width to the desirable minimum pavement width consistent with accepted design standards for local streets and roads. However, widening of a roadway does not include widening for increasing the traffic capacity of a street or road.

Maintenance of Effort (MOE) Requirement: In order to receive Proposition 42 allocations, cities must be in compliance with the MOE provision. The MOE provision requires cities to expend from their general fund, in the budget year in which Proposition 42 monies are allocated, a defined amount of funds for transportation purposes. This amount is equal to or greater than the average transportation expenditures for FY1996-97, FY1997-98 and FY1998-99. To find your city's MOE, visit www.californiacityfinance.com.

At the end of each fiscal year in which a city has received Proposition 42 funding, the city must prove to the State Controller that they have spent the required MOE monies. Any city that fails to do so must reimburse the state for the funds it recovered during that fiscal year. (For specific details on Proposition 42, look up Revenue & Taxation Code Section 7104.)

Other Transportation Funding. The budget addressed PTA spillover funds, providing $248 million for local transit operations, $62 million for the STIP and $13 million for the High Speed Rail Authority. (For more information on spillover funds, visit www.cacities.org/revandtax.)

- **Booking Fee Subventions** . The budget allocates $35 million to reimburse cities for booking fees paid to counties during FY 2005-06, payable by the State Controller. In addition, AB 1805, the local government trailer bill, enacts an alternative to booking fees based upon a minimum payment of $35 million per year effective at the start of FY 2007-08. In future years, if the appropriation of $35 million is not available, fees may still be charged.
- **State Mandates Reimbursement.** The budget includes $90.3 million for FY 2005-06 claims and an additional $16.6 million for Peace Officers' Procedural Bill of Rights (POBOR) mandate. The budget also provides $109 million for estimated mandate claims for FY 2006-07 and an additional $16.6 million for POBOR for FY 2006-07. Overall, a total of $169.9 million is in the budget for two years of mandate payments owed to local government that were deferred by the state prior to FY 2004-05 ($83 million and $87 million, respectively for the first and second year repayments of the 15-year debt).
- **Public Safety.** The budget appropriates $238 million for COPS/Juvenile Justice Grants -- an increase of $38 million ($19 million for each program) over the FY 2005-06 level. The battle against methamphetamines was funded by a $20 million augmentation to the War on Methamphetamine Grant program. The grant increases the total allocation to the program to $29.4 million.

There are numerous other items of interest to cities in the budget. The League will continue to analyze the budget and trailer bills and post updated information as it becomes available.

SECOND ANNUAL ILG LUNCHEON SYMPOSIUM ON SEPTEMBER 7

Does it sometimes seem that people just don't understand how many positive things your city does and the role the city plays in the community's quality of life? Do you find people immediately default to negative perceptions about government and those who serve in government?

If so, the Institute for Local Government's Second Annual Luncheon Symposium is for you.

To be held on September 7 at the League of California Cities' annual conference in San Diego, the symposium's main topic will be "How to Talk About Government," and is designed to help effectively communicate about the positive role government plays in the lives of community members. Come hear about the groundbreaking research being conducted by the Demos Center for the Public Sector and The FrameWorks Institute concerning public attitudes about government and ways to promote trust and confidence among your constituents.

The symposium will be held from 11:15 a.m. to 12:45 p.m. In addition, for those wanting further information, there will be a post-symposium discussion from 2:30 p.m. to 4 p.m. - a great opportunity for speakers and attendees to share their insights about effectively communicating about government.

Cost for the symposium is $40, which covers lunch. To sign up, check the "ILG Luncheon" box on your annual conference registration form before you submit it. For more information, please visit the Institute for Local Government's web site at www.ca-ilg.org.

You're working hard to serve your community and make it even better. Let's get the word out.

STATE COURT UPHOLDS LOCAL AGENCIES' RIGHT TO REGULATE FOR AESTHETICS

The California Court of Appeal, 4th Appellate District, Division One, has issued an opinion holding that the County of San Diego may impose regulations and require permits from telecommunications providers seeking to place their facilities in the public right-of-way under Public Utilities Code section 7901.

This holding is in sharp contrast to the 9th Circuit's opinion in *Sprint v. La Canada-Flintridge* earlier this year, which came to the exact opposite conclusion. The Court of Appeal declined to follow the 9th Circuit's rationale, noting that the basis for the 9th Circuit's holding was "shrouded."

The 9th Circuit, perhaps noting the problems with the *La Canada-Flintridge* opinion, has de-published the part that discussed Public Utilities Code section 7901. This means that it can no longer be cited as precedent in federal district court.

The impact of these two developments is to remove the uncertainty over whether state law allows cities to regulate placement of telecommunications facilities in the public right-of-way, based solely on aesthetic considerations. The case is *Sprint Telephony PCS v. County of San Diego,* 2006 WL 1680053.

The League extends its thanks to Deputy City Attorney Bill Sanders with the San Francisco City Attorney's office, for drafting the friend-of-the-court brief on the League's behalf.

APPLICATIONS NOW BEING ACCEPTED FOR INNOVATIONS IN AMERICAN GOVERNMENT AWARD

The Ash Institute for Democratic Governance and Innovation at the John F. Kennedy School of Government is now accepting applications for the 2007 Innovations in American Government Awards.

Administered in partnership with the Council for Excellence in Government, the award is given annually to programs that serve as examples of creative and effective government at its best. All units of federal government – federal, state, local, tribal and territorial – are eligible and encouraged to apply.

Five winners will be selected and each will receive a $100,000 grant to support replication and dissemination activities. The deadline for applications is September 12. For additional information and an application, visit www.ashinstitute.harvard.edu.

KEEPING UP: JARMAN APPOINTED SAN DIEGO FIRE CHIEF

Earlier this week, the San Diego City Council accepted the recommendation of Mayor Jerry Sanders to appoint Tracy Jarman as Chief of Fire-Rescue Services. Jarman becomes the first female fire chief in the history of San Diego.

A 22-year veteran of the San Diego Fire-Rescue Department, Jarman (a native of Escondido) had been the department's interim chief since former Fire Chief Jeff Bowman resigned on June 2. The League congratulates Chief Jarman on her new position.

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.

LEGISLATIVE BILL SUMMARIES

ADMINISTRATIVE

SB 1818 (Alarcon). Attorneys Fees. Big Box Lawsuits. As proposed to be amended, SB 1818 would permit cities and counties to be awarded attorneys fees and other litigation expenses when the city or county prevails in certain zoning lawsuits brought against them by big-box retailers who have a history of improper conduct in litigation and seek to use their superior size and resources to intimidate the local government. In this proposed form, the bill passed the Assembly Judiciary Committee and now moves to the Assembly Floor.

SB 1818 responds to a very real problem faced by many small and medium sized cities that are sued by Wal-Mart in an attempt to intimidate the city to approve Wal-Mart's proposed development. The bill's scope was narrowed by the amendments taken in the Assembly Judiciary Committee – but, nevertheless, it would provide protections against litigation abuse for those cities or counties that complied with land use and zoning laws in the process of denying a big-box permit.

SB 1818 now goes to the Assembly Floor. Cities are encouraged to send letters of support to the author and their Senators and Assembly Members. **Staff:** Yvonne Hunter; **Status**: Pending on AsmFlr; **Position: Support.**

SB 1179 (Morrow). Skateboard Parks. Liability. SB 1179 passed the Assembly Judiciary Committee on consent this week. SB 1179 would lower the age from 14 to 12 for which local agencies enjoy limited liability protection due to injuries at city owned skateparks. It would also extend the sunset date for this protection by four years.

Although some skateboarders remain opposed to the bill – claiming excessive enforcement and fining by local agencies and preferring no bill to SB 1179 – the bill has moved along now with no formal opposition. The League thanks Sen. Morrow for his willingness to move ahead with SB 1179. Cities with skateparks or planning to build skateparks should send letters of support to the author and their assembly members. **Staff:** Yvonne Hunter; **Status:** Pending on AsmFlr; **Position: Support.**

ENVIRONMENTAL

SB 1733 (Aanestad). Water Quality. Mandatory Minimum Penalties. Small Cities. SB 1733 represents a small but important step in the right direction for small cities struggling to meet new water quality standards. Introduced as a much broader bill, it has been significantly narrowed, including amendments taken by the author this week in the Assembly Environmental Safety and Toxic Materials Committee.

As amended, SB 1733 would tweak existing law that determines which small waste water agencies are eligible to direct penalty money that they pay when fined by a regional water board under the existing mandatory minimum penalty structure to a local compliance project.

Currently, only waste water agencies that serve a city or unincorporated community with a population of 10,000 or less, or a rural county are able to use the penalty money towards compliance of a waste water upgrade, if they have a financial hardship. Unfortunately, the existing definition of "financial hardship" is too narrow and unintentionally excludes waste water agencies that should be eligible.

SB 1733 would provide a regional water board with additional flexibility and criteria to consider when determining financial hardship and whether to permit the agency to put the penalty money towards a compliance project, instead of directing it to the State's Cleanup and Abatement Account.

The League thanks Sen. Aanestad for his persistence in getting SB 1733 through, and Assemblymember Ira Ruskin, chair, Assembly Environmental Safety and Toxic Materials Committee, for his willingness to help address this difficult problem so that the bill would pass his committee. **Staff:** Yvonne Hunter; **Status:** Pending in AsmAppr; **Position: Support**.

AB 2951 (Goldberg). Capital Facility Fees. AB 2951 would clarify existing law regarding whether or not a public agency may charge another public agency "capital facility fees" for utility services, such as sewer, water and electricity. The bill passed the Senate Local Government Committee this week and moves next to the Senate Floor.

Without enactment of AB 2951, a public agency (i.e., a city or special district) that provides utility services to another public agency (i.e., a school) would have to shift the costs of the revenue generated by the capital facility fees it can longer charge the other public agency to business and residential customers. A fact sheet on AB 2951 is available on the League's website.

This bill is very important to those cities that provide utility services. Such cities are encouraged to be sure they have sent letters of support to the author and their senators and assembly members. This is the third time Assemblymember Goldberg has taken on this difficult issue – her two previous bills on the topic were vetoed. Hopefully, the third time will be the charm. **Staff:** Yvonne Hunter; **Status:** Pending on SenFlr; **Position: Support.**

Want to Send a Letter in Support of a League Position? Here's Who to call:

ASSEMBLY APPROPRIATIONS— (18)—Chu (Chair), Runner (Vice Chair), Bass, Berg, Calderon, De La Torre, Emmerson, Haynes, Karnette, Klehs, Leno, Nakanishi, Nation, Oropeza, Ridley–Thomas, Saldaña, Walters, and Yee. Chief Consultant: Geoff Long. Principal Consultants:

Julie Salley–Gray, Steve Archibald, Scott Bain, Chuck Nicol, Kimberly Rodriguez, Stephen Shea.
Secretary: Laura Lynn Gondek. Room 2114. Phone: (916) 319–2081.