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

PRIORITY FOCUS

LEAGUE OF CALIFORNIA CITIES

IN THIS ISSUE:

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GOVERNOR SAYS BORROWING LOCAL GOVERNMENT AND TRANSPORTATION MONEY IS NOT A BUDGET SOLUTION

What is Your Legislator Saying?

While rumors of legislators offering up borrowing local property taxes and transportation funds continue to swirl like smoke out of the Capitol dome, city officials should remember that at least one person in Sacramento has pledged not to take local government and transportation revenue. *For more, see Page 2.*

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U.S. HOUSE AGREES TO INCLUDE NEIGHBORHOOD STABILIZATION FUNDING

House leaders reached agreement this week on a plan to include $3.9 billion in funding for state and local governments for foreclosed property acquisition and rehabilitation in the House version of a foreclosure crisis response package. House Speaker Nancy Pelosi (D-Calif.) and House Subcommittee on Housing and Community Opportunity Chair Maxine Waters (D-Calif.) were instrumental in working with House Financial Services Committee Chair Barney Frank (D-Mass.) to retain the funding in the measure. *For more, see Page 4.*

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CITIES ENCOURAGED TO TAKE POSITIONS ON MAJOR BILLS AFFECTING CITIES

As the Legislative Session winds down, it is important that city officials submit letters of support or opposition to their legislators on these bills. These letters are valuable and help with city lobbying efforts, not only in the Legislature but in helping make the case for Gov. Arnold Schwarzenegger to sign or veto legislation that may reach his desk. *For more, see Page 4.*

'Budget' Continued from Page 1…

In both his January budget and May revise budget, Gov. Arnold Schwarzenegger stood by local government, promising to maintain Proposition 1A protections of local revenues. Since early 2008, he has made numerous comments about the state's responsibility to close the state budget deficit without taking from local government to make up the shortfall.

Here are a few recent quotes from the Governor:

> ***State of the State Address, Jan. 8:*** *"It used to be that Sacramento plugged its deficits by just grabbing money anywhere it could; pension funds, local government, bonds, gas taxes that were meant for transportation. But we tightened that noose by taking away those options. We passed Proposition 1A, Proposition 58, and Proposition 42. We now have no way out except to face our budget demons."*
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> ***Charlie Rose, Television Program, April 17:*** *"So we can't steal any more money from local government if we run out of money."*
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> **State Capitol, Sacramento News Conference, July 16:** *"What message is it that that you go and you have spent too much and then you don't have a rainy day fund to cover yourself and then you go to the cities and counties where they do have a rainy day fund set aside for emergencies and now grab their money. See that's what you are talking about when you talk about borrowing. They're saying we didn't have a rainy day fund set aside to cover ourselves from the decline, they did. But let's grab their money now because we made a mistake."*

What City Officials Can Do: With these quotes in mind, city officials should thank the Governor for his leadership on this issue and also ask your own legislators about where they stand on this matter.

Most Assembly and Senate members have returned to their home districts or are on vacation with instructions from their leadership to be available to return to Sacramento on short notice. A majority of each house of the legislature is made up of former city council members and county supervisors. But some tough questions need to be asked: *Where are they on this issue? Do they agree with the Governor's position? Where does protecting local revenues and transportation funds rank in their priorities?*

Urgent League Action Alert: Earlier this week, the League distributed the alert below to city officials through the League's regional public affairs managers, listservs, and blast fax.

Keep Local Dollars Local: Tell the State To Cut Up Its Local Government Credit Card!

Executive Summary: Refusing to compromise on budget cuts, taxes and budget reform, state leaders may be headed toward Prop. 1A property tax and/or transportation sales tax "loans" from local government **unless** city officials call it what it is: fiscally irresponsible, dishonest and a clear violation of the voters' mandate on the 2004 and 2006 revenue protection measures. This memo explains how we can stop the state from using its city credit card again, worsening its own structural deficit and harming local services.

Background: The Legislative Budget Conference Committee concluded its work last week, adopting a budget on a party line vote because it included substantial tax increases and restored most of the budget cuts in the Governor's May Revise. Neither the Governor's budget nor the Budget Conference Committee supported any Prop. 1A "loans." That may be about to change…at least in the Legislature.

Both Prop. 1A in 2004 (property tax protection) and Prop. 1A in 2006 (transportation funding protection) contain provisions for "loans" from local government and transportation if the Governor declares a "severe state fiscal hardship," but **not** because the legislature fails to act responsibly. Two balanced budgets have now been produced without raiding local property tax and transportation revenues, showing it can be done.

Despite your calls to legislators over the last few weeks, we have picked up reliable rumors that the legislative leadership may be **near agreement** on a budget package that would rely on these loans, diversion of other revenues and other provisions. If this is true, it could be brought to the floors of the Senate and Assembly **as early as next week**.

What We Are Asking of You. We are asking you to help us implement our "Cut up the Local Government Credit Card" strategy, starting today, by doing the following:

1. **Call the Governor Today or Tomorrow**. Thank him for his responsible budget and his commitment not to support any budget that depends on local government or transportation "loans." **Governor's Office Phone No: (916) 445-2841**.

2. **Call the Legislative Leadership Today or Tomorrow.** Tell them to **leave local funds local**, to balance the **state** budget with **state** revenues and that local government and transportation "loans" to the state would be fiscally irresponsible.

   Senate President Pro Tem Don Perata: (916) 651-4009
   Senate Republican Leader Dave Cogdill: (916) 651-4014
   Assembly Speaker Karen Bass: (916) 319-2047
   Assembly Republican Leader Michael Villines: (916) 319-2029

3. **Respond Immediately When Called.** Respond immediately when your League Regional Public Affairs Manager calls in the next week and asks you to attend a news conference, author an op-ed piece or letter to the editor, or go to a meeting with a legislator(s) or the news media.

4. **Come to Sacramento When Called!** Be prepared to fly or drive to Sacramento to fight this if it ever gets to the floor of the legislature.

You will be hearing from us shortly. Thanks for your help. We can stop this fiscally irresponsible idea if we **ACT NOW**.

Budget Talking Points

- **Borrowing is Fiscally Irresponsible—Cut Up The Credit Card**! Borrowing local and transportation funds if **fiscally irresponsible**. It deepens the structural deficit and is dishonest. The legislature needs to ***cut up its local government and transportation credit card***!

- **Voters Oppose More Raids**. The voters made it clear in both 2004 (84 percent mandate) and 2006 (77 percent mandate) that they **oppose taking local and transportation funds again!**

- **Solutions Are At Hand—They Require Compromise**. The current situation is not a "severe state fiscal hardship"—state leaders already have two balanced budgets to consider that do not raid local or transportation funds.

- **Be Honest With the Public**. State leaders need to be honest with the voters that a solution to the budget crisis requires sacrifice from everyone.

- **Keep Local Funds Local**. The state should balance its budget with state funds—no more and no less.

What's Next

The League continues to monitor all budget developments very closely and will provide updates through alerts, *Priority Focus* and at www.cacities.org. City officials should pay close attention to the budget and be ready to act on short notice to help protect local funds from once again being taken by the state to fix its mistake.

'House' Continued from Page 1…

The neighborhood stabilization funding was originally included in the housing package (HR 3221 — the Housing and Economic Recovery Act). The bill was approved by the Senate on July 11. However, House leaders considered removing it to appease the White House, which had threatened last week to veto the measure if it contained those funds.

Take Action

The full House is scheduled to vote on HR 3221 on Wednesday, July 23. The League asks officials to contact congressional representatives immediately in support of the legislation. A sample letter is available on the League's Web site.
(http://www.cacities.org/resource_files/27015.7ForeclosureStabilizationCitiesSample3-08.rtf)

It is extremely crucial that all members of the California congressional delegation be contacted before next Wednesday to secure passage of this important legislation which contains critical funding for local governments. A complete list of California's delegation can be found at www.alllaw.com.
(http://www.alllaw.com/state_resources/california/congressional_delegation/)

'Major Legislation' Continued from Page 1…

Bills noted as in "Senate or Assembly Third Reading" will be going to the floor of that house for a vote in the coming weeks.

Community Services

AB 31 (De Leon): Would allocate $400 million of Proposition 84 funds to award competitive grants to park poor communities. (Support)
Bill location: Senate Appropriations Committee

AB 2427 (Eng): Prohibits a city or county from incidentally regulating a local business that is licensed or certified by the State Department of Consumer Affairs. (Oppose)
Bill location: Senate Third Reading

AB 2610 (Davis): Pre-empts local regulation of organizations that are soliciting donations through unattended collection boxes. (Oppose)
Bill location: Senate Third Reading

Employee Relations

AB 2716 (Ma): Mandates that all workers who work seven or more days in a calendar year are entitled to paid sick days. (Oppose)
Bill location: Senate Appropriations Committee

AB 2754 (Bass): Expands the scope of presumptions to include any methicillin-resistant Staphylococcus aureus (MRSA) skin infection. (Oppose)
Bill location: Senate Appropriations Committee

SB 1296 (Corbett): Makes declarations and findings relating to the jurisdiction of the Public Employment Relations Board to bolster firefighter rights. (Oppose)
Bill location: Assembly Third Reading

SB 1338 (Migden): Deletes the Dec. 31, 2009 repeal date pertaining to an employee's pre-designation of a personal physician. (Oppose)
Bill location: Assembly Third Reading

Environmental Quality

AB 2176 (Caballero): Establishes a mechanism through which the federal Energy Efficiency Block Grant (EEBG) funds received by the state would then be passed on to cities and counties in a cost efficient and expedited manner. (Support/Sponsor)
Bill location: At the Governor's desk

SB 1357 (Padilla): Authorizes the Department of Conservation to expend up to $20 million to fund grants for beverage container recycling and litter reduction programs or focused, regional community beverage container recycling and litter reduction programs. (Support)
Bill location: Assembly Appropriation – Suspense File

Housing/Land Use

AB 2000 (Mendoza): Provides an incentive to approve housing units by allowing local agencies to credit any excess of housing units that are actually constructed over the RHNA category allocation to the next planning period. (Support)
Bill location: Senate Inactive File

AB 2280 (Saldana): Makes changes to the Density Bonus Law to assure that developers make clear what concessions they are seeking at the beginning of the review process and makes several other technical fixes. (Support)
Bill location: Senate Third Reading

AB 2594 (Mullin): Addresses some issues related to high foreclosure rates by allowing redevelopment agencies to use tax increment funds (but not low and moderate income funds) to retain or purchase foreclosed units as a source of affordable housing. (Support)
Bill location: Senate Third Reading

SB 375 (Steinberg): Provides a detailed process for identifying resource areas and designating growth areas within the regional transportation plan in order to guide investment of transportation funds to reduce greenhouse gas emissions. Also provides for limited California Environmental Quality Act (CEQA) relief in infill and areas where development pattern is consistent with designations in the regional transportation plan. (Oppose, Unless Amended)
Bill location: Assembly Appropriations Committee

SB 1103 (Cedillo): Requires local agencies to provide ongoing reporting of costs and expenditures related to economic development; costs made or incurred for the purpose of stimulating economic development are reportable (except for expenses related to affordable housing). (Oppose)
Bill location: Assembly Third Reading

Public Safety

AB 38 (Nava): Consolidates the Governor's Office of Emergency Services and Office of Homeland Security into a single state Department of Emergency Services and Homeland Security to streamline disaster response and emergency assistance for local government agencies. (Support)
Bill location: Senate Appropriations Committee

AB 1033 (Caballero): Provides cities an additional tool to stem gang violence by creating a misdemeanor charge for any persons whose actions, or lack there of, contribute to a minor becoming part of a criminal street gang. (Support)
Bill location: Senate Third Reading

AB 2262 (Torrico): Allows cities to designate fire agencies as child safe surrender sites for children seven days old or younger. (Support)
Bill location: Senate Appropriations Committee - Suspense File

AB 2151 (Jones): Increases city authority in the transfer or renewal request process, under the Department of Alcoholic Beverage Control, of an alcoholic beverage license if it will contribute to blight or if the request is for a license within a redevelopment area. (Support)
Bill location: Senate Third Reading

SB 1519 (Yee): Provides cities the authority to terminate telephone services used to promote or conduct business of unlicensed taxi cabs within their jurisdiction. (Support)
Bill location: Assembly Third Reading

Transportation

AB 642 (Wolk): Allows cities to use design-build contracting for building construction projects as well as wastewater facilities, solid waste management facilities, or water recycling facilities for more efficient, cost-effective public works projects. (Support)
Bill location: Senate Appropriations Committee

AB 983 (Ma): Requires cities to provide full, complete, and accurate plans, including cost-estimates on all public works projects, which would reduce incentives for contractors to report errors in plans during bidding because additional expenses could be recouped through change-order claims against the public agency. (Oppose)
Bill location: Assembly Judiciary Committee

Supreme Court Finds Open Space Assessment Violates Proposition 218

The California Supreme Court earlier this week struck down an assessment to fund future open space acquisitions. In doing so, the court found that the Santa Clara County Open Space Authority (OSA) had not demonstrated a special benefit to the assessed property, and the amounts assessed were not proportional to any special benefits that the assessed property may receive.

There are potentially far-reaching impacts with this decision. This case demonstrates the importance of a properly drafted assessment engineer's report that accurately specifies the special benefit to each assessed property, and correctly assesses each property in proportion to the special benefit to each property.

The court emphasized that a general enhancement of property values in the community is by definition not a special benefit. It also criticized Santa Clara's OSA for determining the amount of the assessment based on what property owners would likely be willing to pay, and then determining an annual spending budget based on what the likely assessment would generate in revenues.

As one commentator on this case notes: "Thus, great care will now be required in drafting engineers' reports for such assessments and legal review of those reports is essential."

The case is *Silicon Valley Taxpayers Association v. San Clara County Open Space Authority.*

Cities Should Voice Comments on Climate Change Scoping Plan

The California State Air Resources Board (ARB) recently released its Draft Scoping Plan. Responsible for the implementation of California's climate change law (AB 32), the draft represents ARB's proposal on how to reach California's climate change goals of reducing greenhouse gas emissions (GHG) to 1990 levels by 2020.

A copy of ARB's Plan can be found online at the State's Climate Change Web portal. http://www.arb.ca.gov/cc/scopingplan/document/draftscopingplan.htm

The League encourages cities to comment on the draft which represents California's plan on how to reduce GHG in the state. League staff will be drafting comments for review by the League's Climate Change Working Group and other interested city officials. A copy of that draft will be available as early as Tuesday, July 22.

City officials who wish to share comments or review the proposed League comments should contact League Legislative Representative Kyra Ross (kross@cacities.org) by July 28.

Although the ARB Web site indicates that Aug. 1 is the final day for comments on the draft, it appears from conversations with ARB staff that they indicated to accept comments well beyond the Aug. 1 deadline.

Comments can be submitted on the State's Draft Scoping Plan Web site.http://www.arb.ca.gov/cc/scopingplan/spcomment.htm. Submitted organizational and individual comments are also available for viewing on this Web site.

Water Boards Take Action on Minimum Mandatory Penalty Violation Enforcement

The State Water Resources Control Board recently sent a letter to the California State Legislature to inform members that state and regional water boards are undertaking a significant enforcement initiative to eliminate their backlog of Mandatory Minimum Penalty (MMP) violations. State law mandates the imposition of minimum penalties of $3,000 per occurrence for specific violations of the federal Clean Water Act permits issued by the water boards.

The letter, dated July 3, explained that historically water boards have not consistently taken action to enforce MMP violations primarily due to resource constraints and other competing priorities. Consequently, there is a sizable backlog of MMP violations for which formal enforcement action has not been taken.

Current data from the water boards shows that action has not been taken on more than 7,200 MMP violations at 477 separate facilities which occurred between Jan. 1, 2000, and Dec. 31, 2007. These violations represent over $21 million in potentially uncollected administrative civil liability.

The water boards intend to substantially reduce this backlog by the end of 2008. The water boards plan to use a phased approach of first resolving uncontested MMP violations by sending letters to all facilities with MMPs and offering them the opportunity to resolve their violation(s) by acknowledging them, and providing full payment of any accrued penalties. Based on the response to the initial contact correspondence to facilities subject to the MMPs, the water boards will review and process the remaining contested MMPs through formal enforcement hearings.

The water boards are also implementing controls to ensure that new violations subject to MMPs are addressed promptly.

If your city faces MMPs and requests assistance scheduling meetings with the water boards or have questions about the MMPs, please contact League Legislative Representative Kyra Ross at (916) 658-8252.

Sustainability Feature Story: Riverside Blankets City with Trees

In the city of Riverside, an urban forest isn't so far from reality thanks to the city's Clean and Green Sustainable Riverside Action Plan. Called the '100,000 Trees by 2010 Initiative,' it was adopted after the success of the city's Tree Power program.

One of the reasons the city chose 100,000 as its target is because it's the approximate number of electric meters that Riverside Public Utilities serves. The goal is that there will be one tree per electric meter for every home or business in Riverside. Since 2000, more than 67,000 trees have been planted and the city is well on its way to meeting and possibly exceeding its 2010 goal.

Through the Riverside Public Utilities Tree Power program, customers can get a rebate for planting selected shade trees in certain locations around their home to help save on summer cooling costs. The city's utility estimates that well-placed trees around a structure can reduce air conditioning or cooling costs by as much as 20 percent. As part of the initiative, trees are also being planted in parks, on trails and paths and in city right-of-ways and easements.

Trees benefit the environment by improving air quality, reducing noise, providing privacy, adding aesthetic and economic value to our public and private landscape, preventing soil erosion and beautifying our surroundings. Non-dwarf citrus and other fruit trees are the most commonly planted trees through the program. The city is also planting other species including: Chinese Fringe, Golden Rain, Fern pine, Chinese Flame and camphor.

Riverside Mayor Ron Loveridge is a huge proponent of the city's green initiatives and was an early advocate of the tree program.

"The '100,000 Trees by 2010 Initiative' is important because it sets a benchmark, it commits us to a specific goal. Measuring the greening of our community by number of trees planted reflects our strong commitment to a cleaner and greener urban environment for all residents," said Loveridge.

Some areas of Riverside now have over 80 percent canopy coverage. According to the city's Sustainability Manager, Mike Bacich, Riverside has been formally designated as a "Tree City, USA" for the importance placed on its urban forest. The Tree City USA® program is sponsored by the Arbor Day Foundation in cooperation with the USDA Forest Service and the National Association of State Foresters. It provides direction, technical assistance, public attention, and national recognition for urban and community forestry programs in 3,216 communities across the country.

Tree maintenance depends on ownership. Residential customers are responsible for trees on their property, where as city trees are maintained by the city. For example the Parks and Recreation Department takes care of park trees and trees planted in the city right-of-ways are maintained by the Public Works Department's Urban Forestry and Landscape division. All city trees are on a city wide four-year trimming cycle.

For more information about the Green Riverside Action Plan visit www.GreenRiverside.com. To learn more about the benefits of Riverside's Tree Power Program visit http://www.riversideca.gov/utilities/resi-treepower.asp.

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.
