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

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UPDATE ON PROPOSITION 90—THE TAXPAYER TRAP

The **No on Proposition 90—The Taxpayer Trap** campaign committee filed opposition arguments with the Secretary of State this week. The League is strongly opposed to this measure, which will appear on the November statewide ballot. The opposition arguments are signed by some of our strong coalition partners, the California Police Chiefs Association, the California Fire Chiefs Association, and the American Farmland Trust.
For more, see Page 3.

WHAT CITY OFFICIALS NEED TO KNOW ABOUT PROPOSITION 90

The League of California Cities is strongly opposed to Proposition 90, and working with the "No on Proposition 90, Californians Against the Taxpayer Trap" coalition. We urge city officials to become familiar with the sweeping nature of this measure, to understand how it will affect your city's ability to carry out your zoning responsibilities, build affordable housing or protect the environment. *For more, see Page 4.*

FINAL INSTALLMENT OF FY 2005-06 PROP. 42 TRAFFIC CONGESTION PAYMENTS SCHEDULED

Cities and counties are scheduled to receive their fourth quarter installment of Traffic Congestion Relief Program (Proposition 42) funds. This will be the final installment of Proposition 42 funds for fiscal year 2005-06.
For more, see Page 2.

WANT MORE DETAILS ON BILLS?

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

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AB 2987 WORK CONTINUES

League legislative staff are continuing their discussions with legislative committee staff on AB 2987 (Núñez/Levine), the telephone-sponsored measure that would establish a state-issued franchise for video service.

The bill passed out of the Senate Energy, Utilities and Communications Committee on June 29 with a 9-0 vote. While amendments were taken to address some local issues, a number of concerns were not resolved. These include funding for PEG (public, education, government) channels and institutional networks (I-Net) for schools and other public buildings.

The League is also strongly opposed to an amendment that allows cable companies to "opt out" of their franchise agreements 10 days after a competitor announces that they have received a franchise to deploy service in the cable company's service territory. The cable company can then apply for a state franchise to provide service in the same service territory under the new AB 2987 franchising rules.

As legislative discussions play out, League regional representatives are continuing their outreach efforts to educate local business and community groups about concerns with the measure.

What You Can Do: Write Your Senators, Educate Your Community. City officials are urged to participate in lobbying by sending letters to their senators about these concerns. You can also help educate your community about the issues with this bill by writing to the editors of your local newspapers. Sample letters are available online at the League's Advocacy Center (www.cacities.org/advocacycenter). You can also help with coalition-building efforts; contact your League regional representative to learn more about this work.

The Legislature is currently on its summer recess. When it reconvenes on August 7, AB 2987 is expected to be taken up in Senate Appropriations. No hearing date has been set.

FEDERAL TELECOM UPDATE

Congress returned this week from its July 4 recess, but no action on federal telecom is anticipated.

In June, the House passed a federal franchising measure (H.R. 5252) that the League is strongly opposing. The Senate Commerce, Science and Transportation Committee approved S. 2686 on June 28, and re-numbered the bill to H.R. 5252. While an improvement over the House bill, the League is still opposed to the measure — newly named the Advanced Telecommunications and Opportunity Reform Act of 2006. The bill now moves to the full Senate, but we do not anticipate action soon. We will keep you informed of new developments.

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The State Controller's office (SCO) has scheduled the payment for Friday, July 14.

In addition, the SCO website (www.sco.ca.gov/ard/payments/traffic/index.shtml) has been updated with the payment amounts. If you have any questions, contact Bill Byall at the State Controllers Office at (916) 323-0740.

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Arguments by the Proposition 90 proponents are not yet available to us. When they are, the "No on Prop. 90" committee will file rebuttal arguments as well.

PROPOSITION 90 OPPOSITION ARGUMENT

The handful of wealthy landowners that paid to put Prop. 90 on the ballot are trying a classic bait and switch on California voters.

They want you to believe Prop. 90 is about eminent domain. That's the bait. But hidden in the fine print of the measure is the trap – a far-reaching section unrelated to eminent domain that would lead to huge new costs for *all California taxpayers.*

Prop. 90 would change California's constitution to enable large landowners and corporations to demand huge payouts from state and local taxpayers just by *claiming* a law has harmed the value of their property or business – no matter how important the law may be or far-fetched the claim.

According to William G. Hamm, formerly California's nonpartisan legislative analyst, "PROP. 90 could require BILLIONS OF DOLLARS IN NEW TAXPAYER COSTS EACH YEAR, if communities and the state continue to pass or enforce basic laws to protect neighborhoods, limit unwanted development, protect the environment, restrict unsavory businesses and protect consumers."

With no limit on the total costs, Prop. 90 traps taxpayers into signing a *blank check*. We all pay, while large landowners and corporations reap windfall payouts.

Here's an example of how the "taxpayer trap" works:

If local voters pass a measure to limit a new development to 500 houses – instead of 2,000 houses that a developer *wants* to build – under Prop. 90, the developer could demand a payment for the value of the remaining 1,500 houses. Even if local community services and infrastructure would be strained by the larger development, Prop. 90 would put taxpayers at risk for payment.

Prop. 90 is not just limited to land-use laws. Read the official analysis. Statewide consumer protection laws, restrictions on telemarketing, and worker protections would all trigger new demands for payouts.

As a result, Prop. 90 would lead to thousands of expensive lawsuits that would tie up our courts and result in added bureaucracy and red tape. The cost of these lawsuits and payouts would rob local communities of billions of dollars in limited resources that fund fire and police protection, paramedic response, schools, traffic congestion relief and other vital services. That's why the CALIFORNIA FIRE CHIEFS ASSOCIATION, CALIFORNIA POLICE CHIEFS ASSOCIATION, and CALIFORNIA SCHOOL BOARDS ASSOCIATION oppose Prop. 90.

PROP. 90 *would trap taxpayers in a LOSE-LOSE situation*. If communities act to protect their quality of life, taxpayers could be forced to make huge payouts. Or, if communities couldn't afford the payouts, basic quality-of-life protections simply couldn't be enacted. That's why conservation groups, including the CALIFORNIA LEAGUE OF CONSERVATION VOTERS and the PLANNING AND CONSERVATION LEAGUE, warn the measure would drastically limit our ability

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to protect California's coastline, open spaces, farmland, air and water quality.

For more information on Prop. 90, visit www.NoProp90.com.

When you vote, please join groups representing California taxpayers, firefighters, law enforcement officers, educators, small businesses, land conservationists, the environment and homeowners.

Say NO to the TAXPAYER TRAP. Vote NO on PROPOSITION 90.

Chief Michael L. Warren, President
California Fire Chiefs Association

Chief Steve Krull, President
California Police Chiefs Association

Edward Thompson, Jr., California Director
American Farmland Trust

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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Below is an educational fact sheet prepared by the "No on Proposition 90" campaign that can be used to educate individuals or organizations in your community about this measure. Additional materials can be found at www.NoProp90.com. (Please note that at the current time the website has basic information, but is still under development.) If you are interested in how you can get involved, please contact your League regional representative.

PROPOSITION 90

Official ballot title: *Government Acquisition, Regulation of Private Property. Initiative Constitutional Amendment*

PROP. 90 FACTS AT A GLANCE

- **Scope:** Applies to all public agencies and private entities such as utilities, all state and local government property acquisitions, and any state or local agency law, regulation, resolution or other action. Includes new federal laws that must be implemented at the state or local level. Even statutory initiatives passed by voters subject to measure's provisions.

- **Compensation by Taxpayers for New Regulations:** Requires taxpayers to compensate property owners for substantial impacts of traditional state and local government regulations on use of private property. Attorney General says, as a result, measure will "limit certain land use, housing, consumer, environmental and workplace laws and regulations."

- **Higher Costs for Public Works Projects:** Measure redefines "just compensation" to require higher payments for property acquisitions for public works projects. Would likely impact costs for a wide variety of public

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PROP. 90 FACTS AT A GLANCE

projects and infrastructure projects including schools, roads and highways, dams, levees, and affordable housing.

- **Significant Fiscal Impact:** State's Legislative Analyst's assessment of Prop. 90's fiscal impacts:
  - Unknown, but potentially significant future costs for state and local governments to pay damages and/or modify regulatory or other policies to conform to the measure's provisions.
  - Unknown, but potentially significant changes in governmental costs to acquire property for public purposes.

- **Can't Be Amended By Legislature:** If approved, it could only be changed by another initiative.

Prop. 90 Main Provisions

- **Redefines "damage" to require payment (at new and increased levels) for any government action or action by voters that results in "substantial economic loss" to property.** These changes to laws governing compensation for regulatory action would impact state & local governments' ability to enact and enforce a wide range of laws affecting property, including environmental, land use, consumer protection and housing laws and regulations, or require new payments to property owners for such actions. For example:
  - If voters act by initiative to limit the size of a new development to 100 houses, and the developer claims the property could hold 200 houses, this initiative could allow the developer to make a claim for a payment from the local government for the value for the 100 houses he wasn't allowed to build. Similar compensation claims could be filed with state and local governments for a wide range of government environmental, consumer protection, housing and land use regulations.

- **Redefines "just compensation."** Under the new definition, property taken for a proprietary government purpose would be valued not at the current standard of "fair market value," but at the increased value of the property as the government intends to use it.
  - For example, if a county acquires property for an airport, the owner could seek compensation for the value of the property as if an airport were on it - even if the owner was not legally allowed to construct and operate an airport under the applicable zoning.
  - Prohibits use of eminent domain unless the property acquired is owned and occupied by a governmental agency. Prohibitions on public/private partnerships would include those with non-profit organizations, such as non-profit homebuilders.