PRIORITY

FOCUS

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

October 6, 2006
Issue #39-2006

PROP. 90 UPDATE: REPORT EXPOSES 'DECEPTIVE' PROP. 90 FUNDING

'No Prop. 90' Editorials and Coalition Members Continue to Increase

More organizations and news outlets took a stand against Proposition 90, the "taxpayer trap" measure on the November ballot, this week. It was the *San Francisco Chronicle's* investigative report by Patrick Hoge, however, that grabbed headlines. *For more, see Page 7.*

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GOVERNOR HOLDS PRESS CONFERENCES TO ENCOURAGE SUPPORT FOR INFRASTRUCTURE BONDS

Earlier this week, Gov. Schwarzengger held a variety of press events across California in support of the infrastructure bond measures (Propositions 1A-1E) on the November ballot. *For more, see Page 9.*

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FEDERAL UPDATE

Below is an update on the federal issues the League is monitoring. The update includes an outlook on FY 2007 appropriations, homeland security appropriations, port security, immigration reform, property rights, water projects and information on the Senate confirmation of Mary E. Peters as Transportation Secretary. *For more, see Page 14.*

WANT MORE DETAILS ON BILLS?

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

IN THIS ISSUE:

LEAGUE TO HOST LEGISLATIVE BRIEFINGS IN NOVEMBER

The League of California Cities will be hosting legislative briefings in both Northern and Southern California next month, which will give a detailed overview on the 2006 legislative session.

The Northern California briefing will be held on November 15, at the Sacramento Convention Center in Sacramento, while the Southern California briefing will be conducted at the Paradise Pier Hotel in Anaheim on November 16. The same program will be held at both locations, with registration open at 8:30 a.m. The program will conclude at 2 p.m.

Registration is $140 per person, and may be done online at www.cacities.org/events. Contact the League of California Cities Conference Registration Desk at (916) 658-8291 for questions regarding this event.

Below is the schedule of events:

Registration Open - 8:30 a.m.

General Sessions - 9:30 - Noon

- General overview of the 2006 session: Getting Something Done
- Analysis of Election Results and Voter Trends, Including the Fate of the Infrastructure Package and Proposition 90
- The Legislature and The State Budget – What's Next?
- Revenue & Taxation Issues
- Telecommunications Issues
- Land Use and Housing Issues

General Luncheon - Noon – 1 p.m.

Commentary on the November Elections and Prospects for 2007

Northern California Speaker: *Pat Wiggins, Former Assembly Member, State Senate Candidate, 2nd District (Invited)*

Southern California Speaker: *Bob Hertzberg, Partner, Mayer, Brown, Rowe & Maw, LLP, Former Speaker, California State Assembly*

General Sessions – 1 p.m. – 2 p.m.

- Environmental Issues
- Transportation and Public Works Issues
- Public Safety Issues
- Employment Issues
- Public Records/Open Meetings

Adjourn – 2 p.m.

COMMUNITY MEDIA CONFERENCE SET FOR OCTOBER

The Alliance for Community Media (ACM) Western Region Board is hosting "Community Media: This Way Forward" – a regional conference focused on community media and technology – on October 27-28 at the Hilton San Jose.

The conference will feature more than 25 workshops on a variety of subjects, including telecommunications legislation, emerging digital media tools, innovative government and educational channels and much more. The event's luncheon keynote speaker will be Norm Soloman, a renowned media critic and author. The Wave film festival awards will also be held in conjunction with the conference on Friday, October 27, at the new San Jose City Hall and Rotunda.

For more information on the conference, and to register, visit www.acmwest.org.

Our Mission

Restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

EASIER WAY TO FINANCE CAPITAL PROJECTS—FAST

California Communities Introduces the $500 Million Funding Assets Statewide (FAST) Program

California Communities, the joint powers authority established by the League of California Cities and the California State Association of Counties (CSAC), is pleased to introduce the Funding Assets Statewide (FAST) program – a new financing option providing California cities and counties easy, efficient and low-cost financing for capital projects and equipment.

- Do you have a capital project or major equipment purchase that needs to be completed quickly?

- Do you have a financing need that seems to be just too small to justify all the steps needed to put together another bond transaction?

- Do you have a project which seems to fall outside the scope of your traditional bank/vendor leasing program?

- Does the whole public market financing process just seem to be too much work with all the competing priorities facing your city today?

If your answer to any of these questions is "yes," California Communities' FAST program may be for you!

Developed by the League and CSAC after a competitive RFP process, FAST can provide significant cost savings and other benefits versus traditional COP/Lease Revenue Bonds, Master Lease programs and vendor leasing alternatives

California Communities will make available up to $500 million under the FAST program, to be used by local agencies on a first-come, first-served basis. Local agencies that foresee the need to finance capital project expenditures or major equipment acquisition during the next 12 months are encouraged to apply now

For more information, please contact either of the following individuals:

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LEGISLATIVE ROUNDUP: ENVIRONMENTAL, ADMINISTRATIVE SERVICES, AND PUBLIC WORKS

It was down to the wire last week for several key bills followed by the League – as well as some modest "sleeper" bills. What was the Governor going to do? There was a mix of surprise, suspense, and no surprise. Here is a summary of some of the key environmental bills, as well as a sprinkling of bills in other areas.

Environmental

In the environmental arena, 2006 was quite an impressive year. The Governor signed AB 32 (Núñez), which dealt with climate change – one of the most highly publicized bills of the year. The League was neutral on AB 32. Although the flood bills stalled, action on a variety of other environmental bills will be of interest to cities.

For small cities, one of the most important bills is SB 1733 (Aanestad) and its trailer bill, AB 1752 (Levine). SB 1733 makes changes to the mandatory minimum penalty law for water quality violations. It provides more flexibility to small cities

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so that they may request directing penalties for waste water violations to fixing the problem that caused the violation. It redefines the definition of a small community and "financial hardship" so that more cities can request to take advantage of this option.

The following are a few modest "sleeper" bills signed by the Governor that will be of interest to cities:

- **AB 3056 (Hancock) –** makes changes to the bottle bill that will enhance the recycling of beverage containers. The League supported AB 3056.

- **AB 2211 (Karnette) –** illegal dumping grants; among other items, includes a provision authorizing partial grant funding for the removal or abatement of solid waste from a municipal storm water system. The League supported AB 2211.

- **AB 1341 (Ruskin) –** California Pollution Control Financing Authority (CPCFA); extends the sunset for the CPCFA's Sustainable Communities Grant and Loan Program from 2007 to 2012, and increases the total amount available for grants and loans to cities and counties from $5 million to $7.5 million; also requires an applicant for funding by CPCFA to provide documentation that the project has complied with CEQA or is not a project under CEQA before the issuance of bonds can be approved. The League supported AB 1341.

- **AB 2746 (Blakeslee) –** environmental mitigation; allows a public agency to authorize a nonprofit organization to hold title to, monitor, and manage an interest in real property that the agency requires a property owner to transfer to the agency to mitigate any adverse impact upon natural resources caused by permitting the development of a project or facility. The League supported AB 2746.

- **AB 2449 (Levine) –** plastic bag recycling; requires all stores over a certain size to establish a program for consumer take back and recycling of plastic grocery bags; includes limited local preemption. Cities and counties would be prohibited from enacting fees on plastic bags, but would be permitted to ban the use of plastic bags and adopt ordinances requiring stores not covered by the bill to establish plastic bag recycling programs. The bill sunsets in six years and the League was neutral on this end of the session negotiated measure.

Administrative Services

Perhaps one of the most exciting actions is the Governor's signature of AB 2951 (Goldberg), a bill dealing with capital facilities fees for local agency utilities. Previous versions of the bill were vetoed twice by Govs. Davis and Schwarzenegger - proving the old proverb, "third time's a charm."

AB 2951 clarifies existing law regarding the obligation of schools and other public agencies to pay their fair share of capital facilities fees for municipal utilities such as water and waste water service. The League thanks Assemblymember Jackie Goldberg for her leadership on this issue.

Unfortunately, the Governor vetoed SB 1818 (Alarcon), an action not unexpected. SB 1818 would have authorized local agencies that prevail in court when sued by big-box retailers to be awarded attorney fees, under certain circumstances. But, the Governor did sign SB 1179 (Morrow) several weeks ago, lowering the age threshold from 14 to 12 and extending the sunset for limited protection against lawsuits for injuries to skateboarders at public skateparks.

Public Works

The Governor signed AB 573 (Wolk), restricting the types of indemnification clauses that may be included in a public agency contract with a design or engineering firm and would instead specify the types of indemnity clauses that may be included. The League opposed AB 573, although some cities expressed strong opposition, while some indicated they can live with the bill and a few supported it.

HOUSING/LAND USE UPDATE: THAT'S A (LEGISLATIVE) WRAP

The Legislature has adjourned, Gov. Schwarzenegger has finished signing bills, and the dust is just settling over the newly adopted bills. But outside of the redevelopment issue, 2006 will be remembered as rather a ho-hum year for housing—unless, of course, either Prop. 90 or the Housing Bond (Prop. 1C) passes in November. Below is a summary of some of the League's legislative housing and land use efforts.

The League started this year by sponsoring a number of bills that would help create incentives for local agencies to build housing. For example, SB 1754 (Lowenthal) would have created increment finance zones for high density housing near transit; AB 2484 (Hancock) would have capped the application of the density bonus law where local agencies have already zoned at high levels; and AB 2468 (Salinas) would have allowed local governments to self-certify their housing elements if they voluntarily designate locations where their lower income housing allocations can be built "by right." Although these bills were held up at various points in the legislative process, they served an important purpose: they helped education the members of the Legislature of how local agencies are part of the housing solution.

If the League was unsuccessful in getting its legislation passed however, it was very successful in stopping several bills that cities opposed—such as a the creation of "housing opportunity plans" and a 20-year land supply (SB 1800 [Ducheny]); increased state oversight over affordable house (AB 2526 [Arambula]); expand attorney fee provisions for affordable housing litigation (SB 1330 [Dunn]), or to tweak the incentive and waiver provisions of the density bonus law yet again (SB 1177 [Hollingsworth]).

It would seem, then, that the year was a draw. Nevertheless, two bills were signed by the Governor that deserve mention:

- AB 2511 (Jones). Makes several changes to affordable housing laws: local agencies that do not file an annual report on progress on their housing elements will be subject to court sanction; the Anti-NIMBY Law will now be called the Housing Accountability Act; affordable housing eligible for expedited processing under the Permit Streamlining Act is now specifically defined.

- AB 2634 (Lieber). Clarifies that the very-low income number assigned under the RHNA process includes a proportional number of extremely low-income households based on census data.

A more complete list of housing bills will be available at the League's Legislative Update Conference to be held on November 15 in Sacramento and November 16 in Anaheim (see www.cacities.org/events for details).

Bills Vetoed. Also of note, however, were several bills that the Governor vetoed, not the least of which was SB 1322 (Cedillo), which limited local control over the siting and approval of emergency shelters and "super group homes" (seven or more beds).

The Governor also vetoed AB 2922 (Jones). This was another bill that started on the League's priority list because of the sweeping impacts it would have to housing and redevelopment law. In the end, however, it was limited to expanding the rights of those who could sue to enforce affordability covenants in redevelopment areas. In his veto message, however, the governor cited this expanded standing as the primary problem with the law.

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.

LEGISLATION UPDATE: GOVERNOR CONCLUDES ACTIONS TO SIGN AND VETO BILLS

As city officials know, the deadline for Gov. Schwarzenegger to sign or veto bills that reached his desk was midnight on September 30. Below is an update of the bills mentioned in last week's *Priority Focus* that had been pending at the time of last week's publication, but have now been acted upon by the Governor. A complete list of the bills the League was monitoring is available on the League website at www.cacities.org.

Administrative Services

SB 1818 (Alarcon). Attorney Fees. Big Box Lawsuits. SB 1818 would permit cities to recover attorney fees under certain circumstances when they are sued by big box retailers. **Staff: Yvonne Hunter, Position: Signature Requested. Status: VETOED**

Employee Relations

AB 1368 (Karnette). Workers' Compensation. AB 1368 would exempt public safety employee presumptive injury claims from the Governor's 2004 workers' compensation reforms, which included requiring physicians who prepare reports on claimed industrial disability to address the issue of causation. **Staff: P. Anthony Thomas, Position: Veto Requested. Status: SIGNED – Chapter 836, Statutes of 2006**

Environmental

AB 2951 (Goldberg). Capital Facilities Fees. AB 2951clarifies existing law regarding the obligation of schools and other public agencies to pay their fair share of capital facilities fees for municipal utilities such as water and waste water service. **Staff: Yvonne Hunter, Position: Signature Requested. Status: SIGNED – Chapter 866, Statutes of 2006**

Land Use and Housing

SB 1322 (Cedillo) – Housing. SB 1322 would limit an agency's discretion on "special needs facilities" serving seven or more people by limiting the authority to condition or deny a project on factors in current law. This limitation would apply to all special needs facilities regardless of size: a 150 bed facility must be treated the same as an eight-bed facility. SB 1322 would extend the attorney fee provisions to allow awards to anyone who could occupy a special need facility, social rehabilitation facility, adult day program facility, or community care facility. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process. **Staff: Bill Higgins, Position: Veto Requested. Status: VETOED**

Public Safety

AB 1873 (Torrico). Child Protection. Safe Surrender. AB 1873 will allow a local fire agency, upon approval of the appropriate governing board, to designate safe-surrender sites for accepting physical custody of a minor child 30 days old or younger. **Staff: Liisa Lawson Stark, Position: Signature Requested. Status: VETOED**

Revenue & Taxation

SB 1432 (Lowenthal). Mello-Roos Districts. SB 1432 would expand the authorized use of Mello-Roos districts to include lighting maintenance, street and road maintenance, plowing and removal of snow and graffiti management and removal. The bill also expands Mello-Roos districts to include programs to create incentives or to subsidize construction, rehabilitation or acquisition of housing for lower income households. **Staff: Dan Carrigg; Position: Signature Requested. Status: VETOED**

SB 1374 (Cedillo). Franchise Tax Board. SB 1374 will extend the sunset date of 2008 on existing law that allows cities to continue in their tax discovery efforts by allowing the Franchise Tax Board (FTB) to share taxpayer information. **Staff: Dan Carrigg; Position: Request Signature. Status: SIGNED – Chapter 513, Statutes of 2006**

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SB 1317 (Torlakson). Property Taxes. Energy Facilities. SB 1317 would allocate new property tax revenue related to newly constructed generation, substation facilities and transmission lines by a location-based method. SB 1317 would not change the allocation of property taxes for existing electric generation and transmission line facilities. **Staff: Dan Carrigg; Position: Request Signature. Status: SIGNED – Chapter 872, Statutes of 2006**

PROP. 90 from page 1

The report, which ran in the *Chronicle's* October 5 edition, exposes the complicated and shady web of out-of-state organizations bankrolling the campaign in support of Proposition 90. Hardly a grassroots movement, the *Chronicle* reveals "Yes on 90" is funded by a network of tax-exempt advocacy groups that "*operate with varying levels of openness*" and all with ties to New York real estate mogul Howie Rich, who "is *funneling millions of dollars to the (Prop. 90) campaign … in a way that cloaks the identity and number of financial supporters*."

For more, visit www.noprop90.com.

Editorials Against Prop. 90 Continue to Mount

The *San Jose Mercury News* ran an editorial calling Prop. 90 a *"serious threat to taxpayers, to consumers, to the environment."*

Here is a key quote from that editorial:

"[Prop. 90] would require the state or local government to pay property owners for 'substantial economic losses' that result from any new laws and rules... And it places no limit on lawsuits, so that even the most frivolous claims will lead to costly litigation." – *San Jose Mercury News (10/2/06)*

The *San Francisco Examiner* and *Woodland Daily Democrat* also followed suit, publishing their own editorials against the measure.

"Under Prop. 90, taxpayers would bail out a class of injured property owners. A taxpayer Armageddon, anyone?" – *San Francisco Examiner* (10/5/06)

"Far from protecting property rights, it will curtail the ability of communities and homeowners to influence development plans - unless taxpayers are prepared to pay millions to builders and land owners whose projects are rejected." **–** *Woodland Daily Democrat* (10/5/06)

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This now brings the total number of editorials against the measure to 13, which includes:

- *Woodland Daily Democrat* (10/5/06)
- *San Francisco Examiner* (10/5/06)
- *San Jose Mercury News* (10/2/06)
- *Pasadena Star News,* (9/27/06)
- *Whittier Daily News,* (9/27/06)
- *San Gabriel Valley Tribune,* (9/27/06)
- *Riverside Press-Enterprise,* (9/25/06)
- *Sacramento Bee*, (9/16/06)
- *Napa Valley Register,* (9/14/06)
- *Mountain View Voice,* (9/08/06)
- *Santa Rosa Press Democrat,* (9/11/06)
- *Torrance Daily Breeze,* (8/23/06)
- *San Diego Union-Tribune,* (8/22/06)

Study Finds Prop. 90 Would Cost Taxpayers 'Billions' Annually

A new independent study released by a team of economists at LECG Consulting, led by former legislative analyst Dr. William Hamm, has concluded that "the costs imposed on the taxpayers by Proposition 90 would amount to billions of dollars annually."

The report, "The Fiscal Impact of Proposition 90" was released on September 27. Among the key findings of the report are:

- Proposition 90 would increase the annual cost of state and local government in California by billions of dollars.
- By increasing the cost of public works, like schools, roads, water systems, flood protection and utility services, Prop. 90 would curtail infrastructure development. For example, Caltrans is projecting that Proposition 90 will lead to more than $180 million in project schedule delay costs over the next seven years, and another $43 million per year in added litigation-related expenses — without even considering the higher property acquisition costs that the measure will require the agency to pay for highway improvements.
- By increasing the cost of regulation, Prop 90 would reduce government's ability to regulate land use, protect consumers and workers, and safeguard the environment.

The new report also includes an in-depth analysis of the measure and its provisions, and the likely impact on state and local government actions in California.

According to LECG, two features of Proposition 90 are mainly responsible for the measure's multi-billion-dollar price tag:

- The measure would require government (and the taxpayers) to pay businesses and individuals whenever it passes laws or adopts regulations intended to protect the public's interest (other than health- and safety-related) that substantially affect property values.
- Proposition 90 also would significantly increase the amount that government and state-regulated, investor-owned utilities are required to pay owners when their property is acquired through eminent domain for public uses such as roads, schools, hospitals, airports, utility transmission lines, and power plants.

Under current law, government must compensate owners by paying them the fair market value of their property, taking into consideration existing limitations on how the property can be used (*e.g.,* zoning restrictions). In some cases, Proposition 90 would require government to pay owners *more than the fair market value* of their property by directing courts to ignore these use limitations.

For a copy of the full report, visit www.noprop90.com.

'No on Prop. 90' Coalition Continues to Grow. More and more organizations and individuals are joining the "No on Prop. 90" coalition, as they become more familiar with the cynical "taxpayer trap" provisions in this measure. Here is a list of ***those individuals and organizations that have joined this week.*** For a complete list, visit www.noprop.90.com.

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Business:

- Ventura County Economic Development Association
- Salinas Valley Chamber of Commerce
- Greater Concord Chamber of Commerce
- San Luis Obispo Chamber of Commerce
- Monterey Peninsula Chamber of Commerce
- Greater Riverside Chambers of Commerce

Housing Advocates/Providers:

- Council of Community Housing Organizations

Public Safety:

- National Guard Association of California – PAC

Organized Labor:

- Professional Engineers in California Government

Water:

- Yolo County Water Agency
- Western Municipal Water District
- Eastern Municipal Water District
- Elsinore Valley Municipal Water District
- Yolo County Flood Control & Water Conservation District

Environment:

- Wildlife Corridor Conservation Authority
- Golden Gate Audubon Society

Preservation:

- Los Angeles Conservancy

Government:

- American Planning Association, San Diego

'No on 90' Walk Pieces Available Soon

Planning to walk precincts in the next few weeks?

If so, please consider carrying a "No on 90" message with you when you do. The campaign is producing a two-sided color piece that you can use to help educate voters about this harmful measure. Similar to the piece that was available at "No on Prop. 90" information desk at the League's Annual Conference, it will outline the impacts of Prop. 90 to taxpayers, the environment, public safety, infrastructure and our communities on the front, and the back will feature a partial list of the diverse groups who are opposed. Walk pieces should be available soon. Contact your Regional Representative to reserve yours today.

Know the Rules for Ballot Measure Advocacy. City officials can participate in ballot measure advocacy if they do so **on their own time,** and without using any public resources. To make sure you understand the "do's and don'ts" of ballot measure advocacy, please review "Working on a Ballot Measure Campaign: Some Rules for City Officials," at www.cacities.org/ballotmeasures.

INFRASTRUCTURE from page 1

Held in Sherman Oaks, Bakersfield, San Pablo and Sacramento, the Governor and local officials from in and around the cities focused on the impact the bond measures' passage would have on the local area and the state as a whole. Cities, home to more than 80 percent of California's approximate 37 million residents, would particularly benefit from the increased funding for infrastructure projects, given the sharp influx of people into the state.

"Propositions 1A through 1E and 84 are crucial to the development of cities and communities throughout California," said League Executive Director Chris McKenzie at the Sherman Oaks event. "With the state's population increasing by 500,000 each year, cities need to respond with more housing, schools, improved transportation systems, flood control and other infrastructure projects to support California's growth. The infrastructure bond package will help provide the funding do that. Every city and community in California wins."

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These factors make it easy to see why increased funding for infrastructure is so crucial for California cities, and is a top priority for the League. It's why the League worked hard this past year to encourage the Legislature and Gov. Schwarzenegger to place the infrastructure funding measures on the November ballot – and why we are urging cities to support all six infrastructure measures: Propositions 1A, 1B, 1C, 1D, 1E (placed on the ballot by the Legislature) and Proposition 84 (placed on the ballot through the initiative process).

Your City Wins If Voters Pass These Measures. The following summarizes these measures, and why they are so important for cities. (See also the story on our website: "What Cities Can Do To Help Rebuild California's Infrastructure.")

Proposition 1A - Transportation Funding Protection. Legislative Constitutional Amendment. (Prop. 42 Reform)

This measure is not a bond, but a constitutional amendment designed to "fix" Proposition 42 – the 2002 ballot measures that funded transportation — by **permanently** dedicating the sales tax on gasoline to transportation purposes (with narrow exceptions).

Like the League-sponsored Prop. 1A of 2004, which protected local tax revenues from further state takeaways, this measure will restrict the Legislature's ability to borrow the Prop. 42 funds to the following:

- The Governor must declare that the state faces a severe fiscal hardship, and the Legislature must enact a statute authorizing the borrowing by two-thirds vote. At the same time, the Legislature must pass a bill specifying that they will repay the loan with interest within three years.
- The state can borrow the funds no more than twice in 10 years, and must repay a prior loan before borrowing.
- Any Prop. 42 transportation funds that were borrowed by the state but not repaid as of July 1, 2007, must be repaid within a 10 year period (no later than June 30, 2016) at payment of no less than one-tenth per year of the total amount owed.

The measure also authorizes the Legislature to provide for the issuance of bonds by state or local agencies in accordance with the established Prop. 42 allocation methodology. (See also: "Prop. 42 Funding: We Need to Pass Both Prop. 1A and 1B".)

Proposition 1B - Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act of 2006.

Specific allocations benefiting cities include the following:

- $2 billion for the Local Street and Road Improvement, Congestion Relief, and Traffic Safety Account, allocated directly to cities and counties for traffic congestion relief, traffic safety, transit, storm damage, maintenance, construction and other projects to improve the local street and road system. **$1 billion will go directly to cities (minimum $400,000 allocation), and $1 billion will go directly to counties.**
- $4.5 billion to Corridor Mobility Improvement Account to fund performance improvements on highly congested travel corridors. This includes major access routes to the state highway system on the local road systems that relieve congestion.
- $1 billion for improvements to State Route 99 traversing approximately 400 miles of the Central Valley.
- $3.1 billion for the California Ports Infrastructure, Security, and Air Quality Improvement Act. Of the $3.1 billion, $2 billion is to fund improvements to trade corridors, $1 billion to State Air Resources Board for emission reductions related to goods movement, and $100 million for the Office of Emergency Services for publicly - owned port, harbor and ferry terminal improvements.
- $200 million for school bus retrofitting and

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replacement to reduce air pollution.

- $2 billion for projects in the State Transportation Improvement Program (STIP).
- $4 billion for the Public Transportation Modernization Improvement and Service Enhancement Account for improvements to intercity rail and other transit-related projects and improvements. Of the $4 billion, $400 million is dedicated to rail improvements and purchase of railcars and locomotives.
- $1 billion for the State-Local Partnership Program Account for transportation projects nominated by a regional transportation agency. This program requires a dollar for dollar match of local funds.
- $1 billion for the Transit System Safety, Security and Disaster Response Account for projects that increase protection again security and safety and develop disaster response for public transit systems.
- $125 million for the Local Bridge Seismic Retrofit Account for seismic work on local bridges, ramps, and overpasses.
- $750 million for the Highway Safety, Rehabilitation and Preservation Account (SHOPP) for safety, rehabilitation and preservation projects on state highway systems. $250 million of the funds in this account are for technology-based improvements to improve safety, operations and effective capacity of local streets and roads.
- $250 million for the Highway-Railroad Crossing Safety Account for completion of high-priority grade separation and railroad crossing safety improvements.

Proposition 1C - Housing and Emergency Shelter Trust Fund Act of 2006.

Prop. 1C contains $2.85 billion in funding to address a range of housing needs, including $1.35 billion that helps cities address housing-related infrastructure issues:

- **Infill Housing Construction -** $850 million in grants for development of public infrastructure projects that facilitate or support infill housing construction. Projects could include water, sewer and transportation improvements, traffic mitigation, brownfield clean up and up to an additional $200 million for parks
- **Urban, Suburban and Rural Parks -** $200 million
- **Transit-Oriented Development -** $300 million to develop and construct housing and infrastructure projects within close proximity to transit stations

Cities also benefit from other funding contained in Prop. 1C:

- **Affordable Home Ownership Programs -** $725 million to help over 23,600 families become or remain homeowners
- **Affordable Housing Construction Programs -** $345 million for affordable rental housing for more than 4,000 families
- **Housing for Farmworkers -** $135 million to build rental and home ownership oppor- tunities to help farm workers
- **Homeless Permanent Housing Construction -** $245 million to build permanent housing for the homeless, those transitioning out of homelessness and foster care youth
- **Homeless Shelter Housing Construction -** $50 million to construct and expand homeless shelters of last resort and transitional housing for the homeless

For the Legislative Analyst's Office summary of Prop. 1C and all the November 2006 ballot measures, visit www.lao.ca.gov.

Proposition 1D - Kindergarten - University Public Education Facilities Bond Act of 2006.

This measure would provide $10.4 billion in bonds to be deposited into the 2006 State School Facilities fund, which will be used to meet capital outlay needs of higher educational facilities, and finance grants for construction and renovation of schools, including charter schools and facilities for career technical education programs, and to relieve overcrowded schools. **This also includes**

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$29 million to fund joint-use projects for construction of K-12 school facilities.

- $1.9 billion for new construction of school facilities.
- $500 million for providing school facilities to charter schools.
- $3.3 billion for modernization of school facilities.
- $500 million for facilities for career technical education programs.
- $1 billion for new construction to fund severely overcrowded school sites.
- $1.5 billion for CA Community Colleges.
- $890 million for UC and Hastings College of Law.
- $690 million for CSU.

Proposition 1E - Disaster Preparedness and Flood Prevention Bond Act of 2006.

This bond would provide a total of $4.09 billion to prevent flooding by repairing levees and other flood control infrastructure in the Sacramento-San Joaquin River Delta and elsewhere. The funds will be allocated as follows:

- $3 billion to evaluate, repair, rehabilitate, reconstruct or replace levees, weirs, bypasses and facilities contained in the state flood control plan; improve or add facilities to increase levels of flood prevention; and reduce the risk of levee failure.
- $500 million to cover the past and future obligations under the flood control subvention payments to local governments for qualifying projects.
- $290 million for the protection, creation, and enhancement of flood protection corridors and bypasses, including fund for floodplain mapping.
- $300 million for grants (with local match) to manage storm water runoff to reduce flood damage and provide benefits such as ground water recharge, water quality improvement and ecosystem.

Proposition 84 - Water Quality, Safety and Supply. Flood Control. Natural Resource Protection. Park Improvements. Bonds. Initiative Statute.

Proposition 84, a $5.4 billion initiative slated for the November 2006 statewide ballot, provides funding for all of the major natural resource protection and water programs at the state level. The total amount of funding for water programs is $2.714 billion and includes:

<u>$240 Million for Safe Drinking Water</u>

- $10 million for Emergency Safe Drinking Water Projects
- $180 million for Small Community Grants
- $50 million for Safe Drinking Water Revolving Fund

<u>$1.28 Billion for Integrated Water Management and Water Quality</u>

- $80 million for the Clean Water Revolving Fund
- $1 billion for Integrated Regional Water Management Grants (DWR)
- $60 million for Groundwater Cleanup Loans and Grants (DHS)
- $130 million for Delta Water Quality Improvement
- $15 million for Agricultural Pollution Reduction

<u>$800 Million for Flood Control</u>

- $30 million for Floodplain Mapping
- $275 million for Flood Control
- $275 million for Delta Levees
- $180 million for Subventions
- $40 million for Flood Corridors

<u>$65 Million for Statewide Water Planning and Design</u>

- Surface Water Storage Planning and Feasibility (CalFed)

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- Evaluation of Climate Change Impacts on Flood and Water Systems
- Flood Protection Improvement
- Other Studies Related to Integration of Flood and Water Systems

$928 Million for Protection of Rivers, Lakes and Streams

- $90 million for Stormwater Cleanup (TMDLs)
- $180 million for Environmental Conflicts Related to Water Projects
- $90 million for Colorado River, QSA and Salton Sea
- $54 million for Public Access to State Water Projects (State's obligation)
- $72 million for River Parkways and $18 million for Urban Streams
- $72 million for the LA/San Gabriel Rivers
- $36 million for the San Joaquin River
- $36 million for Coachella/Desert Area
- $45 million for the Santa Ana River
- $90 million for Sierra Nevada Rivers and Lake Tahoe
- $45 million for Restoration/Conservation projects (California Conservation Corps)
- $100 million for San Joaquin River Restoration

$450 Million for Wildlife and Forest Conservation

- $180 million for Forests
- $135 million for Wildlife
- $90 million for Natural Community Conservation Plans
- $45 million for Working Landscapes
- $15 million for Grazing Land
- $15 million for Oak Woodlands
- $10 million for Farmland Conservancy Program
- $5 million for Wildlife Stewardship Grants

$540 Million for Beaches, Bays and Coastal Protection

- $90 million for Clean Beaches (coastal stormwater/TMDLs)
- $225 million for Bays
- $108 million for the San Francisco Bay
- $45 million for the Monterey Bay
- $45 million for the Santa Monica Bay Watersheds
- $27 million for the San Diego Bay
- $135 million for the State Coastal Conservancy
- $90 million for the Ocean Protection Trust Fund

$500 Million for Parks and Nature Education Centers

- $400 million for State Parks
- $100 million for Nature Education Centers, Museums and Aquariums

$580 Million for Sustainable Communities

- $90 million for Urban Greening and Joint Use Projects
- $400 million for Local and Regional Parks
- $90 million for Planning and Incentives for Resource Conservation

Note: To view the language of any of these measures as well as support and opposition arguments, visit the Secretary of State's website at www.ss.ca.gov.

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

FY 2007 Appropriations Outlook

On Friday, September 29, Congress passed and the president signed into law a continuing resolution (CR), which will fund all federal programs that were not enacted through annual appropriations bills by the October 1 start of FY 2007. Defense and Homeland Security Appropriations are not covered under the CR, as Congress passed the FY 2007 spending bills shortly before adjourning to campaign for the November elections.

The CR will extend federal funding for the remaining federal programs through November 17 at the lowest of the House-passed or FY 2006 spending levels. An exception is the Labor-HHS-Education spending measure (H.R. 5647). Since the bill has not passed in the House or the Senate, funding for the programs covered by that bill will be left at the FY 2006 level.

House and Senate leaders hope to complete the 10 remaining appropriations bills when Congress returns for a post-election legislative session on November 13.

FY 2007 Homeland Security Appropriations

Also on September 29, Congress passed the conference agreement on H.R. 5441, the FY 2007 Homeland Security Appropriations bill. The legislation provides $31.9 billion in discretionary funding and $1.8 billion in emergency appropriations for border security, with $1.2 billion provided for a border fence that combines physical infrastructure, vehicle barriers and sensor technology. The agreement maintains current law for all formula grants, and provides the following amounts for domestic homeland security programs:

- $525 million for the State Homeland Security Grant Program (a $50 million decrease compared to FY 2006 enacted levels);
- $770 million for Urban Area Security Initiative grants (a $5 million increase compared to the FY 2006 enacted level);
- $375 million for Law Enforcement Terrorism Prevention Grant Program (a $65 million decrease compared to the FY 2006 enacted level);
- $547 million for FIRE Grants (a $108 million decrease compared to the FY 2006 enacted level);
- $200 million for Emergency Management Performance Grant Program (a $15 million increase compared to the FY 2006 enacted level);
- $210 million for port security grants (a $36 million increase over the FY 2006 enacted level);
- $175 million for rail and transit security grants (a $27 million increase compared to the FY 2006 enacted level);
- $50 million for buffer zone protection plan grants (a $1.5 million increase compared to the FY 2006 enacted level);
- $50 million for the commercial equipment direct assistance program (a $1.5 million increase over the FY 2006 enacted level);
- $145 million for the National Domestic Preparedness Consortium (a $1.45 million increase over the FY 2006 enacted level);
- $662 million for firefighter assistance grants, of which $115,000,000 is for SAFER Act grants (a $13.75 million increase over the FY 2006 enacted level)

Congress also included reforms to the Federal Emergency Management Agency (FEMA) in the FY 2007 spending bill. The measure contains language that will elevate the standing of the Federal Emergency Management Agency (FEMA) within the Department of Homeland Security and restore the nexus between emergency preparedness and response using an all hazards approach. The president signed the measure into law on October 4.

Port Security

On September 30, Congress passed the conference agreement on H.R. 4954, the Security and Accountability For Every (SAFE) Port Act. The

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conference report would authorize $400 million annually from FY 2007 through 2011 for local port security grants. It also would authorize $443 million for the container security initiative and $212 million for the Customs-Trade Partnership Against Terrorism (C-TPAT) over the life of the measure.

C-TPAT is a voluntary supply chain security program led by U.S. Customs and Border Protection (CBP) and focused on improving the security of private companies' supply chains with respect to terrorism. The bill would also require the 22 largest U.S. ports to scan all incoming containers for radiological weapons by the end of 2007.

The Conference report did not include $4.5 billion in rail and mass transit security from the Senate-passed version of the measure. The bill has been sent to the president, who is expected to sign the measure into law.

Immigration Reform

Prior to adjourning last week, the House passed a series of immigration reform measures comprised of elements of H.R. 4437, a broader border security/immigration reform bill passed by the chamber in November of 2005. Two of those bills were also adopted by the Senate—H.R. 4830 and H.R. 6061.

The language of H.R. 4830, which would set new criminal penalties for constructing tunnels under the U.S. border and double penalties for smuggling illegal immigrants, drugs, weapons of mass destruction or other illegal items through an illegal tunnel, was included in the final House and Senate-passed FY 2007 Homeland Security appropriations conference agreement. H.R. 6061 authorizes 700 miles of fencing along the southwestern border with Mexico. President Bush is expected to sign the bill, which would also authorize a "virtual fence" of sensors, cameras, unmanned aerial vehicles and other surveillance technology to be deployed along the border.

House and Senate leaders remain at odds over major provisions of a more expansive immigration reform package. House Republican leadership continues to embrace a border-security first approach to any overhaul of federal immigration law, and oppose language in the Senate-passed immigration reform measure (S. 2611) that would establish a guest worker program and a path to citizenship for the estimated 12 million illegal immigrants in the country. Facing a full legislative calendar when they return for a post-election session in November, legislators are unlikely to pass comprehensive immigration reform this year.

House Passes Local Zoning Pre-Emption Legislation

On September 29, the House approved H.R. 4772, the Private Property Rights Implementation Act of 2006 by a vote of 231-181. The measure failed to gain the requisite number of votes necessary for passage earlier in the week when Republican leaders brought it to the floor for consideration under suspension of the rules, an expedited procedure that requires a two-thirds majority (270 votes) for passage. The bill was successful upon returning to the floor on September 29 under a rule that required a simple majority to pass.

The bill would impact land-use regulation nationwide, allowing developers and property owners to challenge local and state rulings in federal court, rather than in state court, as current law dictates. The bill would also enable large developers with significant financial resources who are unhappy with unfavorable local zoning decisions to tie up cities and zoning boards in costly litigation every zoning decision in federal courts.

The majority of the California Congressional delegation opposed the measure. A breakdown of the delegation's vote on the measure is below. The Senate is not expected to act on the bill when Congress returns for a short legislative session following the November elections.

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Yeas (24)	Nays (29)
Baca	Becerra
Bilbray	Berman
Bono	Capps
Calvert	Davis
Campbell	Eshoo
Cardoza	Farr
Costa	Harman
Doolittle	Honda
Dreier	Lantos
Filner	Lee
Gallegly	Lofgren
Herger	Matsui
Hunter	Millender-McDonald
Issa	George Miller
Lewis	Napolitano
Lungren	Pelosi
McKeon	Roybal-Allard
Gary Miller	Loretta Sanchez
Nunes	Linda Sanchez
Pombo	Schiff
Radanovich	Sherman
Rohrabacher	Solis
Royce	Stark
Thomas	Tauscher
	Thompson
	Waters
	Watson
	Waxman
	Woolsey

Water Projects Bill Awaits Action in Post-Election Session

House and Senate conferees failed to reach agreement on the long-awaited re-authorization of the Water Resources Development Act (WRDA) prior to adjourning for the October recess. The bill in conference would authorize the Army Corps of Engineers to undertake hundreds of navigation, flood control, dredging and other water projects. The White House has raised concerns over the cost of the legislation, though it has not threatened to veto the bill.

Conference discussions remain stalled over how projects are reviewed and approved, and what oversight should be imposed on the Corps. Similar disagreements have stalled efforts to pass a water projects authorization bill for several years. None has been enacted since 2000 (PL 106-541). Conferees remain hopeful that they will be able to reach agreement on these outstanding issues and present a final conference report for House and Senate floor approval when Members return in November for the brief post-election session.

Senate Approves New Transportation Secretary

On September 30, the Senate confirmed Mary E. Peters as Transportation Secretary. The former head of the Federal Highway Administration, Peters helped negotiate last year's the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU; PL 109-59), and will be the second woman ever to lead the Transportation Department. Sen. Elizabeth Dole (R-N.C.) was the first female Transportation Secretary, and led the department from 1983 to 1987.

Peters headed the Federal Highway Administration from 2001 through 2005 and the Arizona Department of Transportation from 1998 through 2001. During her time as highway administrator, she was an outspoken supporter of increasing private investment in public roads, an affinity she recently reiterated. Since 2005 she has been the national director for transportation policy and consulting at the architectural, engineering and consulting firm HDR Inc.

Peters, a Republican, will replace Norman Mineta, the nation's longest-serving Transportation Secretary and the lone Democrat in President Bush's cabinet, who stepped down on July 7. Although Peters garnered bipartisan praise at her September 20 nomination hearing, senators did seek assurances that she would support transportation policies important to each of them. Sen.Frank Lautenberg (D-N.J.), urged Peters to ensure that the administration adequately supports all forms of transportation, particularly rail.