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

November 18, 2005
Issue #45-2005

The Legislature is in recess until January 4.

LEAGUE PREPARES FOR BUSY 2006 LEGISLATIVE YEAR

The legislative and policy-making apparatus in Sacramento is revving up for what could be a very busy 2006. Here is a summary of the key issues the League has been working on – issues that again appear at the forefront of the administration's and Legislature's agenda. *For more, see Page 2.*

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LAO RELEASES REPORT ON CALIFORNIA'S FISCAL OUTLOOK

The Legislative Analyst Office (LAO), California's non-partisan fiscal and policy advisor, has released its projections on the state's general fund revenues and expenditures for 2005-06 through 2010-11. *For more, see Page 3.*

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PARCEL TAX CHALLENGE REBUFFED

A Court of Appeal has rejected a non-resident property owner's legal challenge to a voter-approved parcel tax. The parcel tax I in dispute is a special tax to fund fire services, parks and recreation, police services, water services, and street improvements. The property owner alleged that the parcel tax violated various constitutional provisions, and also that the property owner, and other non-resident property owners, should have been allowed to vote on the parcel tax. The Court soundly rejected the property owner's arguments. *For more, see Page 2.*

WANT MORE DETAILS ON BILLS?

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

IN THIS ISSUE:

PARCEL TAX from page 1 • • • • • • • • • • • •

The property owner's first argument was that Proposition 13 does not permit the voters to place a special tax on real property. The Court disagreed, and held that both Propositions 13 and 218 do not prohibit special taxes on property.

The owner's next argument was that this parcel tax was in reality a general tax, not a special tax, and that Proposition 13 prohibits a general tax from being placed on property. The Court again disagreed, and held that the multiple governmental services being funded by the parcel tax did not transform the tax into a general tax.

Lastly, the owner argued that he, and other non-resident property owners, should have been allowed to vote on the parcel tax. The Court held that the City could properly limit eligible voters on the parcel tax to only those persons living in the city.

The case is *Neilsen v. City of California City* (2005). As the property owner still has the opportunity to appeal this case to the Supreme Court, the League will continue to monitor the case through the Legal Advocacy Committee.

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2006 LEGISLATIVE YEAR from page 1

HOUSING AND LAND USE/INFRASTRUCTURE

Discussions continue on legislative proposals to address the state's housing crisis.

League-Builders Housing/General Plan Task Force

Last month the League's board of directors adopted, a housing proposal recommended by city officials who had participated with the League-Builders Housing/General Plan Task Force.

The goal of the proposal is to respond – through an incentive-based approach – to provide greater certainty about where and under what conditions houses can be built, while preserving local decision-making authority and identifying new funding to pay for infrastructure and service needs.

League officers have since met with representatives of the California Building Industry Association. Both parties "agreed to disagree" about some matters, but to keep the lines of communication open as the League and the builders work their preferred legislative proposals.

Task Forces: Possible Legislation

The Schwarzenegger Administration is exploring its options through a series of task forces. In October, the secretaries of Business, Transportation and Housing (BT&H), Resources, Food and Agriculture and State and Consumer Services met with representatives of other organizations involved in land use (local government, environmental groups, housing advocates, farmland preserva-

Continued on Page 4

FUEL CELL WORKSHOP TO BE HELD IN DECEMBER

City officials interested in hydrogen fuel cell technology and hydrogen-powered fuel cell vehicles (council members and city managers, fire chiefs and fire prevention/operations officials, environmental personnel and others) are encouraged to attend a December 7 workshop on this topic in Torrance, Calif. The workshop will be sponsored by the Los Angeles Area Fire Marshals Association (LAAFMA) and the California Fuel Cell Partnership (CaFCP).

Experts will discuss a variety of topics related to fuel cell technology, including fueling stations, hydrogen myths, safety issues, vehicle design, and much more. The workshop also includes a test drive or ride in prototype hydrogen fuel cell vehicles by a variety of automakers.

The day-long workshop symposium is offered free of charge, and will be held from 9 a.m. to 4 p.m. at the Torrance Cultural Arts Center in the Toyota Meeting Hall, located on 330 Torrance Blvd.

Business and industry personnel, along with interested public officials, are all encouraged to attend.

To register, please visit the LAAFMA website at www.laareafiremarshals.org. To register by phone, call (310) 781-7637 and follow the prompts for registration.

Our Mission

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

LAO from page 1

Of special note to cities, the LAO highlighted early repayment of the VLF gap loan debt owed to cities and counties as a factor in reducing the state's long-term deficit, citing it as one reason for the state's improving fiscal situation.

The projections showed an overall improvement in the state budget, with the current year ending with a reserve of $5.2 billion – up approximately $4 billion from prior estimates. Revenues since July have gone up sharply, while expenditures have decreased at a modest rate.

Revenue increases were due to higher-than-anticipated personal income tax returns, significantly high corporate tax, and somewhat higher sales and use tax receipts. The report cited modest reductions in expenditures (about $80 million) as an additional factor helping to improve the 2005-06 budget picture. The largest changes consist of lower spending for Proposition 98 education partly offset by increases in state retirement costs (stemming from an assumed one-year delay in the sale of pension obligation bonds).

LAO also stated that the budget reserve should be sufficient to keep the 2006-07 budget balanced, without the need for significant program reductions or additional revenues.

Despite the state's improved economic outlook, however, LAO cautioned that multi-billion dollar operating deficits would be present through fiscal year 2010-11. Although those deficits are projected to decrease over time, the report encouraged the Legislature to take further steps to minimize operation costs and to continue building the budgetary reserve.

In addition to the budget overview, the LAO report delivered projections on state economics, demographics, revenues, and expenditures. The state Department of Finance will come out with its own revenue estimates next month in preparation for the presentation of the administration's budget package, which is due by January 10, 2006.

For a copy of the full LAO report, please visit the LAO website at www.lao.ca.gov.

tionists and others). The administration representatives asked for advice and consultation on elements that they believe should be included in a housing/planning reform package, including possible reforms to the California Environmental Quality Act (CEQA). The administration representatives said that while consensus was desirable, it was not a requirement for a final package.

As a follow-up to that meeting the League is working with other stakeholders to develop a package of financial incentives for communities that accept housing. This role is consistent with the concerns about funding for services and infrastructure that the League has stressed in its discussions with the builders.

Conclusion

2006 will be a year when numerous housing/land use proposals are introduced. The League is committed to working toward meaningful solutions – but will insist on proposals that preserve local decision-making and which address cities' critical need for funding to pay for services and infrastructure.

INFRASTRUCTURE/TRANSPORTATION

There are several efforts at play to find more money to pay for the state's infrastructure needs, particularly as they relate to transportation. The League is participating in discussions with a coalition of transportation stakeholders to explore the potential for a ballot measure or initiative that would permanently dedicate Prop. 42 funds – the sales tax on gasoline – to transportation. Such a constitutional amendment would put an end to the annual fight to make sure these transportation-derived revenues are always directed to transportation needs.

So far, however, the only proposed legislative measure in print is Senate Pro Tem Don Perata's SB 1024, a $10.2 billion package that includes $2.5 billion to repay Prop. 42 funds to projects that lost Prop. 42 money in 2003 and 2004, when the funds were transferred to other state needs.

SB 1024 also outlines proposed funding for several other areas including: $2.3 billion to improve the state's ports and trade corridors; $1.2 billion for flood protection; $1 billion for high-speed rail; $425 million for improvements to local streets and roads for local governments that have housing elements that have been approved by the State Department of Housing and Community Development, and met other requirements.

Sen. Perata was joined this week by Sen. Tom Torlakson (Antioch) in a press conference at the Port of Oakland, during which they talked about the need for this measure.

The League is also working on SAFETEA-LU, the recently passed federal reauthorization for distribution of the 18-cent federal gas tax to states for transportation.

Under this new act, California will receive a 34 percent increase in revenues over TEA 21 (was the previous federal transportation authorization). This increase will result in approximately $5 billion more in revenues for California's transportation needs, above those received in the six years of the previous federal act.

SAFETEA-LU must now be implemented at the state level through implementation legislation. The League is working with a statewide coalition of transportation stakeholders to collaborate and provide input to ensure that an equitable approach for distribution of the SAFETEA-LU revenues is adopted.

We're just getting started in this process, but can anticipate that SAFETEA-LU will be a focus of our efforts next year.

REDEVELOPMENT AND EMINENT DOMAIN

Protection of redevelopment funds was a key priority for the League in 2005. While concerns about protecting this funding from possible legislative action remains high, concern has shifted since the Supreme Court decision in *Kelo v. City of New London* to possible legislative action that

Continued on Page 5

could impact the ability of redevelopment agencies to use eminent domain to acquire property needed for affordable housing and other redevelopment projects.

The Senate Local Government Committee held a joint hearing this week involving four other committees, to explore reforms to the state's rules regarding the use of eminent domain. Reforms could include changing the definition of a finding of blight, which can trigger the involvement of a redevelopment agency in a project where eminent domain could be used. More action on this issue could occur in January, when the Legislature reconvenes.

Federal Action on Eminent Domain

Congress has also taken up the eminent domain issue. Last week, the House of Representatives overwhelmingly passed H.R. 4128, which pre-empts local government from receiving federal funds for any project involving the use of eminent domain.

The Senate has not yet acted on the issue. They could take up a different measure, adopt the House measure, or take not action at all.

The League is working closely with the National League of Cities (NLC) and other national and regional local government organizations to educate senators about the importance of preserving this critical redevelopment tool.

TELECOMMUNICATIONS REFORM

The legislative session shut down in September without the Legislature having moved any telecom reform measure. Assemblymember Levine, chair of the Assembly Utilities and Commerce Committee, had committed to continue discussions among all stakeholders throughout the fall.

At the national level, there was sudden movement the week of November 7, when the House Commerce Committee released a new version that was friendlier to the telephone industry than a previous draft, and scheduled a hearing to consider it on less than a week's notice.

The League, NLC and other local government partners do not support the new draft. As reported by NLC, cities' suggestions for changes to the first draft were ignored and the bill, as Rep. John Dingell (Mich.) explained, "shifted in the direction of a selected group of stakeholders," the telephone companies.

NLC identified two major concerns with the new draft:

- Local government has fewer means to enforce public safety under the new draft than the old draft. The industry sets public safety standards, not local government.

- Video franchise fees are limited to 5 percent of subscriber revenue, not the 5 percent of gross revenues that is standard today. There is also no recovery over 5 percent for public access channels or institutional networks.

The League of California Cities is working closely with NLC on responses to this latest development, including urging that the committee work in a bipartisan way to consider proposals that take local government concerns into account. We will keep members apprised as these discussions continue.

City Officials Need to "Get Smart" on Telecom!

These recent developments underscore the urgent need for California city officials to educate themselves about the telecom issue, and how reforms could affect local franchising authority. The current issue of *Western City* magazine includes a cover story on the telecom issue ("How the Telecommunications Revolution Will Affect Your City"). You may view a copy of the story on the *Western City* website (www.westerncity.com). Reprints of the story are also available by contacting League staff member Adrienne Sprenger (asprenger@cacities.org).

Continued on Page 6

PENSION REFORM

While pension reform stalled in 2005, the issue is by no means dead. In September Assemblymember Keith Richman introduced ACA 23, a “hybrid” version of the measures he introduced last January (ACA 5 and ACAX1 3). Those proposals incorporated the governor’s plan, by offering to new state and local employees only a defined contribution plan (like a 401k), rather the defined benefit available to public employees today.

Richman’s new proposal would again apply to both state and local agencies, but this time would offer a defined benefit plan coupled with a defined contribution pension plan. He has stated that if the Legislature will not pass his measure, he will take it to the ballot through the initiative process, probably for the November 2006 election.

The League’s Pension Reform Task Force met this week to confer about the new Richman proposal, and to discuss the likelihood of legislative action this year. The League’s position on pension reform is that it must be based upon sound actuarial analysis of what approaches will demonstrate cost savings to local government in the long-term.

The League also supports the task force recommendations, reached last spring, which state that any reform proposal should provide career employees with a fair retirement benefit that will maintain their standard of living in retirement; and that defined benefit programs should be maintained as the “central pension plan for retirees in California”.

The entire League Pension Reform Task Force report is available in the Issues and Legislation – Employee Relations section of the League’s website (www.cacities.org).

FLOOD CONTROL

In this post-Hurricane Katrina environment, flood control and development promises to be one of the more lively topics of the 2006 session.

While the issue was on the middle-burner during the 2005 session, the administration-sponsored AB 1665 (Laird) and ACA 13 (Harman), as well as AB 802 (Wolk), all stalled. In 2006, the issue of flood control and development in flood prone areas will definitely be a front burner concern.

Issues will include the status of levees in California, whether flood insurance should be mandatory or voluntary, property owner notification, improved mapping of flood zones, liability, and development in flood prone areas. The latter issue is the one that will be of most interest to and have the greatest impact on cities. The League is participating in the stakeholder meetings that have already begun on the topic of flood control and testified at a joint hearing of the Assembly Water Parks and Wildlife, Insurance and Judiciary Committee earlier this fall.

In order to thoughtfully participate in the legislative process, the League will form a working group of representatives from the League’s Environmental Quality and Housing, Community and Economic Development policy committees, as well as other city experts. The working group will evaluate the issues and propose guiding principles to the policy committees and League board for League staff to use as these issues move through the Legislature.

Key to any proposal to improve the state’s flood control system is funding. Thus, ACA 13, which deals with storm water and flood control fees and Proposition 218, is integral to any legislative proposal.

The League will be working with the administration, Assemblymember Harman’s office and city officials to build the necessary legislative support to move the bill out of committee, and to secure the two-thirds vote necessary to pass it in the Assembly and Senate and place it on the ballot.