

FOCUS

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

March 31, 2006
Issue #13-2006

AB 2468 (SALINAS/DAUCHER): LEAGUE-SPONSORED HOUSING BILL WOULD REWARD COMMUNITIES WITH EXEMPTION FROM STATE REVIEW OF PLANS

A League of California Cities-sponsored incentive-based housing measure is set for hearing in the Assembly Local Government Committee on April 19. *For more, see Page 5.*

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DRAFT FEDERAL TELECOMMUNICATIONS LAW REFORM PROPOSAL MOVES FORWARD

Congressional efforts to write new rules governing the delivery of telecommunications services across the country, moved forward this week when the House Energy and Commerce Subcommittee on Telecommunications and the Internet held a March 30 hearing on a draft proposal aimed at permitting telephone companies and new entrants to compete with cable operators in the video service market. *For more, see Page 6.*

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REGISTER FOR THE LEAGUE'S LEGISLATIVE ACTION DAYS

Be part of the League of California Cities' annual Legislative Action Days at the state Capitol on May 17-18. Join hundreds of local elected officials and appointed leaders from around the state to urge Legislators to protect our local services, and preserve local decision-making on land use and other critical issues. *For more, see Page 5.*

WANT MORE DETAILS ON BILLS?

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

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SB 1431 (COX): BILL WOULD ALLOW LOCAL GOVERNMENT TO USE DESIGN-BUILD CONTRACTING

The League of California Cities is supporting SB 1431, a bill that will allow all cities, upon approval of the city council, to use design-build contracting until January 1, 2017. The bill is set for hearing in the Senate Local Government Committee on April 5.

In addition to allowing cities to use design-build contracting for cities, the bill also allows design-build contracting for counties and special districts. Design-build can be used on construction projects costing more than \$2.5 million and has shown it is effective in reducing project cost and expediting project completion.

League Urges City Support for SB 1431

The League urges cities to review SB 1431 and submit letters of support to the Senate Local Government Committee prior to its April 5 hearing. **Please be sure to send a copy of your letter to League Policy Analyst Leticia Farris via e-mail at lfarris@cacities.org. Leticia can also be reached by phone at (916) 658-8214.**

Please also remember to cc the following people on your support letter:

- Chair and Members, Senate Local Government Committee - Fax: (916) 322-0298
- Peter Detwiler, consultant, Senate Local Government Committee - Fax: (916) 322-0298
- Crystal Chase, consultant, Senate Republican Caucus - Fax: (916) 445-3105
- Craig Swaim, consultant, Governor's Office of Planning and Research - Fax: (916) 323-2675

To view the League's letter of support (also a good sample support letter), a copy of the measure, the hearing schedule or obtain other information, please visit the Bill Search section of the League's website (www.cacities.org/billsearch).

If you have questions on this measure, contact League Legislative Representative Liisa Lawson-Stark via e-mail at llawson@cacities.org, or by phone at (916) 658-8249.

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SIGN-UP FOR THE LEAGUE'S CITY COUNCIL/CITY MANAGER LEADERSHIP TEAM WORKSHOP

Does your city need to regroup and refocus to get the job done for your community? Could your council and city manager work more effectively and efficiently? If so, join us this spring for the League of California Cities' City Council/City Manager Leadership Team Workshop.

The workshop is being held at two dates and locations. The first workshop is on May 10-12 in Lake Arrowhead, and will be conducted again on June 7-9 in South Lake Tahoe. Arrive as a team to learn:

- Skills to improve communication
- How to better fulfill your individual roles as council, mayor and/or city manager
- How to negotiate for what you want without giving in
- How to enhance decision-making as a group
- Leadership and communication skills you can use in all aspects of life
- How to create a climate to find common ground

The minimum number of participants from each city is **three** (two elected officials and the city manager). Past participating cities have found it best to have the full council participate. Spouse and guest attendance is discouraged for this intense learning format.

Registration for both dates is rapidly approaching. For the May workshop, the registration deadline is April 10 (36 slots remain or only five more cities), while the June workshop registration deadline is May 19 (space available for only one additional city).

Registration is available online at www.cacities.org/events.

REPORT DOCUMENTS CALIFORNIA'S INFILL HOUSING POTENTIAL

California Business, Transportation and Housing Agency Secretary Sunne Wright McPeak this week released a report estimating California's infill housing potential in the range of one to one-and-a-million units by 2025.

The report, "The Future of Infill Housing in California: Opportunities, Potential, Feasibility, and Demand" includes a new tool, the pilot Infill Parcel Locator, a web-based statewide parcel inventory. The report was prepared by a team of researchers led by Professor John Landis and Ms. Heather Hood of the Institute of Urban and Regional Development, at the University of California at Berkeley. The report is available at www.infill.org.

In addition to the number of units by 2025, the report also found that if the number of infill units could be doubled from the estimated range, approximately 100,000 acres of undeveloped land could be saved during the next 25 years.

In a message distributing information about the report, Housing and Community Development Deputy Director Cathy Creswell wrote: "The report and website are part of a continuing effort to provide resources and tools to address California's continuing housing needs. Meeting growing housing demand from population increases and the workforce, while protecting the state's natural and agricultural resources, requires more efficient use of land resources including increased infill development."

"While we recognize encouraging infill will not eliminate the need for additional Greenfield development, we hope this report will assist local officials, private and non-profit builders, community groups, and interested stakeholders to better evaluate the range of opportunities that exist in their communities through a balanced growth approach," Landis added.

For a summary of study findings and policy suggestions, please visit www.infill.gisc.berkeley.edu. Access the "About" section, and scroll down to "Final Report." For

additional information, contact Professor John Landis at the Institute of Urban and Regional Development, University of California, Berkeley, 316 Wurster Hall, Berkeley.

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INTERESTED IN SERVING ON THE LEAGUE'S BOARD OF DIRECTORS?

The League of California Cities welcomes nominations from elected officials interested in serving in **five** at-large positions (two-year term), or second vice president (one-year term). All nominees for second vice president must have previously served on the League's board of directors.

If you are interested in submitting your name (or another elected official's name) for nomination to the League board of directors, please provide the information requested on the nomination form, along with a bio and letter requesting consideration, to the League's Sacramento headquarters on or before end of business on **Friday, May 19**.

Nomination materials can be found on the "Governance" section League's website, under "About the League" at www.cacities.org or can be obtained by contacting Mimi Sharpe at (916) 658-8232 or by e-mail at sharpem@cacities.org. Please send all nomination applications to: Mimi Sharpe, League of California Cities, 1400 K Street, Sacramento, CA 95814. You can also fax the completed nomination form to Mimi's attention at (916) 658-8240.

League President Appoints Board of Directors Nominating Committee

League of California Cities President Alex Padilla (council member, Los Angeles) has appointed the 2006 Board of Directors Nominating Committee. Appointed to the committee and charged with the responsibility of nominating League officers and at-large directors, are:

Robert Jehn, council member, Cloverdale, chair; Bill Wallen, vice mayor, Turlock; Sedalia

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INITIAL CONCERNS WITH THE 'COMMUNICATIONS, PROMOTION, AND ENHANCEMENT ACT OF 2006'

The League of California Cities is still analyzing the draft telecommunications reform proposal released earlier this week by House Energy and Commerce Committee Chairman Joe Barton (R-Texas) and several Republican members of the committee.

The following summarizes some of the concerns with the draft measure noted by a coalition of national local government groups in the draft measure, including the National League of Cities, U.S. Conference of Mayors, National Association of Counties, National Association of Telecommunications Officers and Advisors and others. (Visit the League's website Telcom page at www.cacities.org/telecom to view testimony provided by Mayor Ken Fellman of Arvada, Colorado, on behalf of this coalition of groups.)

Franchises. The bill would establish a national franchise, issued by the Federal Communications Commission (FCC) for companies that want to provide cable services. The legislation would allow the incumbent cable operator to abandon the existing locally granted franchise as soon as the federally certified national franchise holder commences cable service in the incumbent's service area.

If a new provider decided to abandon the attempt to provide service under the national franchise in a service area, the incumbent cable operator would have to negotiate a new local franchise. The bill would not require the incumbent operator to resume complying with the previously-abandoned local franchise.

Build-Out/Cherry-Picking. Although the draft would prohibit discrimination based on income, it appears that it would allow a new cable provider through the national franchise to cherry pick which areas it plans to service. The draft is silent on the subject of build-out.

Consumer Protection. The bill would require the FCC to adopt national consumer protection standards, but appears to prohibit local authorities from imposing stricter local standards.

Local Rights-of-Way. Though the legislation would preserve local authority over the management of rights-of-way, it would fail to provide sufficient enforcement authority to assure compliance. While

the legislation is silent on the appropriate forum for resolving local rights-of-way disputes, by default that task would move to the Federal Communications Commission (FCC).

Franchise Fees. Although the bill would retain the current 5 percent gross revenue cap on franchise fees, the definition of "gross revenues" may be more limited than what is contained in local franchise agreements. Therefore, depending on how the local franchise agreement is drafted, some cities may see revenue reductions.

PEG Channels. The number of public, educational and governmental (PEG) channels would be determined by the number of PEG channels provided by the incumbent operator. If the franchise area, which would be designated solely by the cable operator, covers more than one jurisdiction, the number of PEG channels provided would be determined by the number of channels provided by the incumbent operator in the jurisdiction with the highest population. A new, additional PEG channel, or 10 percent increase, could be requested only every 10 years.

I-Net. The draft provides that existing institutional networks (I-Nets) would be "grandfathered" in – but there is no allowance for new I-Nets. Essentially, existing I-Nets would continue but local agencies cannot require cable operators who have national franchises to provide new I-Nets.

PEG and I-Net Support. The draft legislation provides one percent of gross revenues for "support" of PEG channels and I-Nets for local government needs such as fire, police, and other governmental communications. For some jurisdictions, these provisions may not be sufficient in addressing your community and residents' needs.

E-9-1-1. The draft preserves a city's ability to impose a fee for E-911 and 911 services.

Muni Broadband. Municipalities could continue to provide telecommunications services.

AB 2468 from page 1

The measure, AB 2468 (Salinas/Daucher), proposes to reward communities that have demonstrated that they are willing to pre-approve locations and densities necessary for low and very low income housing allocations, by exempting those communities from state review of their plans.

Housing Could be Built 'By Right'

To qualify, the local government would designate and zone its regional housing need allocation (RHNA) for low and very low income units on parcels where they may be constructed "by right," and certify to the Department of Housing that it is in compliance with the provisions of the RHNA law. The jurisdiction would also have to make findings, based upon substantial evidence that its housing element also complies with other key components of housing element law.

The "by right" threshold in this bill means that the local government would not require a conditional use permit, planned unit development permit, or other discretionary local government review, but could require design review as long as the design review is ministerial in nature.

Following passage by the Local Government Committee, the bill would next be heard by a second Assembly policy committee: Housing, Community and Economic Development.

League Urges City Support for AB 2468

The League urges cities to review AB 2468 and submit letters of support to the Assembly Local Government Committee prior to its April 19 hearing. **Please be sure to send a copy of your letter to League Policy Analyst Genevieve Morelos via e-mail at gmorelos@cacities.org. Genevieve can also be reached by phone at (916) 658-8254.**

To view a copy of the measure, check on the hearing schedule or obtain other information, please visit the Bill Search section of the League's website (www.cacities.org/billsearch). If you have questions on this measure, contact League Legislative Direc-

tor Dan Carrigg via e-mail at dcarrigg@cacities.org, or by phone at (916) 658-8222.

Visit 'Housing 2006' on League Website

Be sure to visit the League's new Housing 2006 webpage (www.cacities.org/housing2006). You can find information about all the incentive-based bills that comprise the League's housing bill package, as well as the package of bills sponsored by the California Association of Realtors and California Rural Legal Assistance.

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Bring Your Community Leaders

Plan to have an influential delegation attend and carry the message clearly and emphatically. Bring your elected leaders, public safety leaders, business leaders and community leaders to demonstrate the broad support for protecting funding for locally delivered programs and services. Help get the legislative attention needed to preserve local services by being part of this impressive conference. Meet one-on-one with legislators in their Capitol offices.

Registration is **free prior to May 10**, but hotel reservations at the League rate are only available until April 17, or until housing block is full, at the Sheraton Grand Sacramento Hotel, in Sacramento. So register early and online at www.cacities.org/events.

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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The proposal was released by Energy and Commerce Committee Chairman Joe Barton (R-Texas) shortly after a deal with leading Democrats on the committee fell through. The decision to move a Republican draft marked a sharp turn of events, coming several weeks after five top Republican and Democratic members of the committee had made significant progress on a bipartisan agreement.

The Republican-sponsored draft bill proposes to allow telecommunications operating companies and other new entrants into the video service market to obtain national, rather than local, video franchises. New entrants would obtain 10-year national franchises by filing with the Federal Communications Commission (FCC).

Draft Bill Unclear on Several Key Details

The draft is unclear on some details on how the system might operate. Key concerns for local government center on the lack of specific guidance on build-out to serve all areas of a community; definitions of "gross revenues" for the purpose of determining franchise fees and support for PEG channels; consumer protection; and enforcement of rules on local rights-of-way. (For more information see "Initial Concerns with the 'Communications, Promotion, and Enhancement Act of 2006,'" p. 4.)

Local Concerns Presented by Colorado Mayor and Committee Members

Local government concerns were presented at the hearing by Mayor Ken Fellman of Arvada, Colo., who provided testimony and served as a witness on behalf of the National League of Cities, the U.S. Conference of Mayors and other groups. Mayor Fellman did an outstanding job of presenting information about local government franchising and offering local government's concerns with the draft bill. (A copy of the mayor's testimony can be viewed on the League's Telecom webpage at www.cacities.org/telecom.)

California Congresswoman Hilda Solis (D-Los Angeles), a member of the Energy and Commerce Committee, also demonstrated support for local governments' concerns. The congresswoman asked that a more comprehensive build-out provision be

inserted into any federal telecommunications law reform legislation that the committee moves forward. Her concern was echoed by the committee and subcommittee's Ranking Members John Dingell (D-Mich.) and Edward Markey (D-Mass.), who also raised an issue with the bill's proposal to authorize the FCC to arbitrate franchise agreement violations.

Municipal broadband deployment was also addressed, with subcommittee member Rick Boucher (D-Va.) expressing his support for the draft bill's municipal broadband provision, and engaging in positive dialogue with Mayor Fellman on the subject.

Draft Moves to Mark up

Committee and subcommittee chairmen Joe Barton and Fred Upton (R-Mich.) continued to express their desire to move new competitors into the video service market as soon as possible, and assert their belief that their draft proposal could accomplish this objective through the creation of a national franchise system. Chairman Barton aims to move the unnumbered draft bill along quickly, and to mark up the bill at the subcommittee level next week.

The League is working with the national local government groups, as well as with California congressional delegation members of the Energy and Commerce Committee, to advance cities' top priority issues and gain a more detailed understanding of the bill.

What Cities Can Do

City officials are encouraged to call or write their members of Congress, and talk to them about cities' concerns with the shape of telecommunications regulatory reform. To access background materials, a sample letter, talking points and other advocacy tools, please visit the League's Telecom page at www.cacities.org/telecom. You can write letters online at the League's online Advocacy Center (www.cacities.org/advocacy).

League regional representatives are also

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working to set up district-level meetings with members of Congress and legislators. To find out more about this activity, please contact your League regional representative.

Tips for Effective Advocacy

Remember that personal contacts with your representatives are going to carry the most weight – a phone call, a visit to the district office, some type of personal meeting. You can use the talking points on the League's Advocacy Center to help get the conversation going. Second in the order of effectiveness: a snail mail letter – on your letter-head, or even hand written.

Finally, if you don't have time for the other options, use email. It's available on the Advocacy Center to make it easy for you to be an advocate for your city. It's much better than not writing at all – but if sent to your representative's office, is not likely to be as effective as a personal contact. (The exception: if you know your representative well enough to access his or her personal e-mail.)

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LEAGUE BOARD from page 6

Sanders, council member, El Centro; Ana Ventura Phares, mayor, Watsonville; Mike Segala, vice mayor, Suisun City; Richard Dixon, mayor, Lake Forest; David Doolittle, council member, Yuba City; Art Madrid, mayor, La Mesa; Dennis Downs, fire chief, Pasadena; Lorraine Dietrich, council member, Livermore; and Rudy Natoli, council member, Pismo Beach.

The Nominating Committee will meet on July 28 before the July 28-29 League board of directors meeting, to review the applications of potential nominees. The committee's recommendations will be announced during the Opening Session of the League's Annual Conference in San Diego on September 6.

The following are summaries of just a few of the legislative bills that are currently being acted upon by the League of California Cities. For more information about these and other bills, please **visit the League website's new "Issues and Advocacy" page (www.cacities.org/issuesandadvocacy)** – a one-stop location to access information about legislation, policy issues and related developments.

You can track information on bills (www.cacities.org/legtracking), locate legislators and legislative committees, send letters to legislators or the media through the online Advocacy Center, research League policy positions, access useful related links, and much more.

ENVIRONMENTAL QUALITY

AB 2951 (Goldberg). Capitol Facilities

Fees. Assemblymember Goldberg is once again taking on the difficult issue of capital facilities fees. AB 2951 would not change the current rate-setting practices of municipal utilities, but would clarify the existing Cortese Law regarding the separation of monthly utility rates from one-time capital facilities fees.

Under the current law, municipal utilities negotiate the one-time charges for extension of capital facilities to public education entities and state agencies, but monthly rates for water, sewer and electric service are billed as they are to all customers.

AB 2951 is drafted to protect all ratepayers. It would prevent any cost-shifting in monthly rates from public agencies to residential and commercial users. It would ensure a fair rate-setting process for public agencies to prevent any improper cost recovery from this class of ratepayer.

In addition, it will prevent confusion about the differences between extension of capital facilities to serve new customers and the necessary

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Legislative Bill Action

capital costs that must be recovered through monthly rates. It will also provide a better administrative process for public education agencies to have full rate information before rates are set and to continue to fully participate in the public process of municipal utility rate-setting.

These provisions ensure that if there are any inappropriate costs in rates of municipal utilities, they can be identified and addressed before they are set or before they are validated.

Municipal utilities have faced significant and costly litigation from public education providers in the state in recent years. None of this litigation has yet been resolved in any ruling on the meaning of the Cortese law. The provision of AB 2951 would in no way impact the outcome of any of those cases.

Former Assemblymember Cortese has written that it is a "gross Misinterpretation" of his legislation to infer he meant that capital costs in monthly rates to public agencies had to be negotiated. Until this ambiguity is resolved, municipal utilities will remain vulnerable to costly litigation.

AB 2951 changes no rate or charge to any public education agency or other public agency. It would simply continue the existing rate-setting processes of fairly spreading costs, including necessary capital costs, in monthly rates to all users and in preserving the compact between public agencies that require municipal utilities to negotiate one-time capital facilities fees with public education and state agencies.

The League thanks Assemblymember Goldberg for taking on this difficult issue again. In 2003 Assemblymember Goldberg authored AB 1051, which was similar to AB 2951. Please send letters of support to the author and Assembly Local Government Committee. **Staff:** Yvonne Hunter; **Status:** AsmLGov; **Position:** Support.

WANT TO SEND A LETTER IN SUPPORT OF A LEAGUE POSITION? HERE'S WHO TO CALL:

ASSEMBLY LOCAL GOVERNMENT (7)—Salinas (chair), Emmerson (vice chair), De La Torre, Houston, Lieber, Nation, and Wolk. Chief Consultant: J. Stacey Sullivan. Consultants: Anya Lawler, Katie Kolitsos. Secretary: Dixie Petty. 1020 N Street, Room 157. Phone: (916) 319-3958.

THE 2006 CITY HALL DIRECTORY IS COMING SOON!

Don't miss this opportunity to get the League's most useful reference tool. This comprehensive California directory provides important contact information for mayors, council members and city department heads. The directory also features the League's staff directory, League partners, affiliate organizations and a wide variety of advertisers.

INFORMATION YOU NEED, RIGHT AT YOUR FINGERTIPS!

Purchase this publication online at www.cacities.org/store or call (916) 658-8257 for an order form. City officials price \$30, non-city official price \$65, plus shipping & handling.