

FOCUS

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

July 1, 2005
Issue #26-2005

BUDGET DEAL NEAR?

As we go to print, there is a growing sense that a final agreement on the budget (SB 77) may be close. *For more, see Page 2.*

.....

TELECOM DEBATE IN CALIFORNIA MOVES TO THE FALL

At the urging of the League and other stakeholders with telecommunications interests, the Senate Energy, Utilities and Commerce Committee this week voted to pass two telecommunications bills out of the committee, and will work with Senate and Assembly leadership to establish an interim conference committee to develop compromise approaches on the telecommunications issues they raise. *For more, see Page 8.*

.....

CONGRESS PASSES 8TH EXTENSION FOR TRANSPORTATION REAUTHORIZATION BILL

As reported last week, it was expected that Congress would pass the Transportation Reauthorization bill. But on the evening of July 30, before concluding business and adjourning for the July 4 recess, the House and Senate passed another short-term extension of current highway and transit law. This will give conferees time to negotiate and iron out the policy details of a comprehensive reauthorization bill. *For more, see Page 2.*

WANT MORE DETAILS ON BILLS?

Visit the League of
California Cities
website at
[www.cacities.org/
billsearch](http://www.cacities.org/billsearch).

IN THIS ISSUE:

- Page 3 GREATER SAN DIEGO WINS 2005 REGIONAL STEWARDSHIP AWARD
- CANOGA PARK HONORED AS WINNER OF 2005 ALL-AMERICAN CITY AWARD
 - WEST HOLLYWOOD RECEIVES CITY LIVABILITY AWARD
- Page 4 LEGISLATIVE BILL SUMMARIES
- Page 8 LEAGUE URGES COMMUNITY DEBATES
- Page 9 TELECOMMUNICATIONS ISSUES AFFECTING CITIES

BUDGET from page 1 • • • • •

The Senate convened today, but recessed until noon on Sunday, July 3. Assembly Speaker Fabian Nunez sent Assemblymembers home, but has scheduled them for check-in sessions throughout the weekend.

Yesterday Gov. Schwarzenegger convened a meeting of the "Big Five"-Senate Pro Tem Don Perata, Senate Minority Leader Dick Ackerman, Assembly Speaker Fabian Nunez and Assembly Minority Leader Kevin McCarthy. Following their discussions, the Senate called a surprise session, as Democratic senators pushed to try to pass a budget that met the June 30 constitutional deadline for budget adoption.

While the effort was unsuccessful, there appeared to be more open acknowledgement by both sides that each has worked hard to try and meet the deadline. Both the Republicans and Democrats suggested they had made concessions on specific budget items since the June 15 failed vote on the budget. Republicans continued to express concerns over what they assert is a \$2 billion out-year budget deficit increase in the conference committee budget proposal, over the governor's May revision proposal. Democrats assert that they are really only \$400 to \$500 million.

There appeared to be a sentiment by both sides that the Senate will likely pass the budget before the Assembly, and possibly by next week. Senate President Pro Tem Perata announced that Senate leadership had rescinded a prior agreement that there would be a suspension of Senate committee hearings until after the budget is passed, and that the Senate will resume committee hearings the week after next. This could well be a signal that the Senate plans to push for passage quickly of a final budget agreement.

Please watch the League website for budget updates. If a deal emerges, we will work to obtain as much information as we can and post the information on the website.

TEA 21 from page 1 • • • • •

The new extension's deadline is set for July 19, giving House and Senate members less than two weeks to complete a final bill when they return from recess on July 11.

While conferees are close to reaching an agreement on the overall spending level of \$286.5 billion, they are still seeking consensus on an acceptable minimum guarantee threshold and other policy considerations. Conferees have also yet to agree on the following an adequate highways-transit split, which was an 80-20 percent split in the original TEA-21 law.

Additionally, the Bush administration has not signaled its approval for the compromise-spending total, the administration stated earlier this year that it would not sign a bill that was in excess of \$284 billion.

We will keep you posted as the conferees take up this issue again later this month

LOOKING FOR CALIFORNIA'S BEST TO FILL A POSITION IN YOUR CITY?

Western City magazine's job opportunity section is *the* source for job seekers looking for positions in local government. According to our reader survey, the job opportunity section is the best read section of our magazine!

When you place an ad in *Western City* magazine, it will be posted at no additional charge on our website, which receives over 80,000 hits per month.

Call to place your recruitment ad today!
We Have What You Need
(800) 262-1801 or visit our website at
www.westerncity.com

GREATER SAN DIEGO WINS 2005 REGIONAL STEWARDSHIP AWARD

The Greater San Diego's Partnership for the New Economy has won a 2005 Regional Stewardship Award from the Alliance for Regional Stewardship (ARS), a national, peer-to-peer network of regional stewards that share experiences and working collaboratively on innovative approaches to common regional challenges.

These annual awards recognize the innovative work of regional alliances and organizations that have demonstrated progress in all four elements of ARS' Principles for Regional Stewardship (collaborative governance, innovative economy, livable communities, and social inclusion) and have achieved tangible results, increased regional capacity, and shown the potential for sustainability.

The San Diego Partnership for the New Economy is a collaborative group made up of public officials, economic developers, educational institutions, and industry associations. Through forums and dialogue, the Partnership identified a number of key issues facing the San Diego region, including transit options, affordable housing, fiscal reform, economic prosperity, and educational opportunities.

For additional information on the award program and the 2005 winners, visit www.regionalstewardship.org/awards/.

2005 ANNUAL CONFERENCE: OCTOBER 6-8, MOSCONE WEST CONVENTION CENTER

Plan now to attend the 2005 Annual Conference this fall - the first time it has been in San Francisco since 1997.

Make your reservations through our online system at www.cacities.org/ac.

CANOGA PARK HONORED AS WINNER OF 2005 ALL-AMERICAN CITY AWARD

The National Civic League (NCL) recently announced the winners of the 2005 All-American City Awards. Canoga Park, Calif., was one of the 10 cities honored in this year's competition.

The All-America City Award encourages and recognizes civic excellence, and honors communities where citizens, the government, businesses and non-profit organizations demonstrate successful resolution of critical issues. Since 1949, more than 4,000 cities have competed with approximately 500 earning the prestigious designation as an All-America City.

The cities of Lincoln and Modesto were also among the 30 finalists in the 2005 competition. The League congratulates all three California cities on their achievements.

For more information on the program and this year's winners, visit <http://ncl.org/aac/index.html>.

WEST HOLLYWOOD MAYOR RECEIVES HONORABLE MENTION IN 2005 CITY LIVABILITY AWARDS

On June 11, the United States Conference of Mayors announced the 2005 City Livability Awards. John J. Duran, mayor of West Hollywood, Calif., was the sole recipient in the state of California, and received Honorable Mention in the category of cities with populations less than 100,000.

The awards recognize and honor mayors for exemplary leadership in developing and implementing programs that improve the quality of life in American's cities. An independent panel of judges, selected by the U.S. Conference of Mayors, determined the winning mayors from a pool of 151 applicants based on three criteria: mayoral leadership, creativity and innovation, and broad impact on the quality of life for residents.

The League congratulates Mayor Duran on his achievement. For more information on the 2005 awards, visit http://usmayors.org/73rdAnnualMeeting/citylivability_061105.pdf.

Legislative Bill Action

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

HOUSING AND LAND USE

AB 1335 (Vargas) Business Improvement Districts: This bill makes a number of changes to laws affecting the formation and terms affecting Business Improvement Districts. The League worked extensively with the author's staff to address technical issues with prior versions of this legislation, and sent a letter of support on the June 8, version of the bill. On June 27 and 29, however, the bill was amended to make significant changes. Key among these changes is an amendment that reduces the initial petition threshold for business owners from 50 to 30 percent. While a lower initial threshold may seem appealing to some, it can also be maintained that a significant level of business support is necessary to maintain a viable district. Given these recent changes, the League has notified the author that it is removing its prior support position because we have not received sufficient policy direction from our membership as to the advisability of the recent changes. Cities affected by this bill should carefully review the recent changes to this legislation. **Staff: Daniel Carrigg; Status: SenLG, Hrg. 7/6; Position: Review and Comment.**

SB 135 (Kehoe) Community Service Districts. This legislation contains a comprehensive update of statutes relating to community services districts, based upon the work of a task force hosted by the Senate Local Government Committee. Although the bill enjoys broad support because many of its provisions are helpful and non-controversial, the League re-

cently adopted an Oppose, Unless Amended position based upon the effect of a provision of legislation that partially erodes city authority versus the role of local agency formation commissions and community services districts.

The issue raised by the League focused on a change the bill makes to the permitted exercise of "latent powers" by a district that operates within an existing city. Under existing law, Section 61601 Government Code, a district may only exercise a latent power not listed in its original documents of formation with the approval of the voters and the Local Agency Formation Commission (LAFCO). This bill removes the voter approval requirement, and requires only LAFCO to approve. Further, this bill lists 31 separate latent powers that a community services district may exercise in the future with simple LAFCO approval. While LAFCO may be the appropriate body to consider service delivery outside the boundaries of incorporated cities, this bill – which is presented as a statutory clean-up vehicle – should not be permitted to weaken protection for city authority inside a city's boundaries.

While an amendment was taken to ensure that LAFCO could not approve duplicate services, the League requested that this measure be further amended to ensure that if a community services district proposes to expand a new service or exercise a new power to an area within a city's borders, the affected city can veto the expansion by objecting to it in writing with the appropriate LAFCO if the power or service duplicates one the city intends to provide or desires to reserve its right to provide.

Legislative Bill Action

The League's request for an amendment was not approved by the Assembly Local Government Committee. **Staff: Daniel Carrigg; Status: AsApps; Position: Oppose Unless Amended.**

ENVIRONMENTAL

SB 1059 (Escutia). Transmission Corridor Zones. Local Preemption. SB 1059 is a two-year bill and as such it is dead for the year! Sponsored by the Administration, this measure would authorize the California Energy Commission to designate "transmission corridor zones" (TCZs) and require local governments to amend their general plans to reflect any TCZ within their boundaries. While the League agrees with the need to do better long range planning for future transmission line needs, the process included in SB 1059 is severely flawed, to say the least.

The coalition of local governments opposed to SB 1059, led by the League, the California State Association of Counties (CSAC) and the Regional Council of Rural Counties (RCRC), were recently joined by a growing number of private business, landowner and developer groups, who either officially opposed the bill or expressed strong reservations about its provisions. Given this growing level of opposition, the author and Administration decided to make SB 1059 a two-year bill.

Discussions will take place during the fall to try to find a workable compromise that will promote better long range planning without the problems associated with the current version of SB 1059. Thanks to cities that responded to the League's requests to send letter of opposition. **Staff: Yvonne Hunter; Status: AsRules, two-year bill; Position: Oppose unless amended.**

ACA 13 (Harman). Storm Water and Flood Control Fees. Proposition 218. ACA 13, which is sponsored by the Administration and strongly supported by the League, would add storm water and flood control fees to those types of fees that currently are exempt from the voter approval

requirements of Proposition 218. The bill is part of the Administration's legislative package to address flood control issues, which also includes AB 1665 (Laird).

As a Constitutional amendment, ACA 13 faces the daunting task of securing a two-thirds vote on the Assembly Floor – and at this time, it is clear that in its current form, that is not possible. Thus, the League has been told by representatives of the Administration that ACA 13 will not move ahead in its current form this year and most likely is a two-year bill.

The negotiations on AB 1665, while ongoing and productive, appear to have stalled. The newly amended version of the bill now in print soon will form the basis of continued negotiations. It is unclear whether they have stalled temporarily or permanently this year. The League has no position on AB 1665, but has been participating in the stakeholder meetings. It appears at this time that AB 1665 is a two-year bill as well.

We'll keep you posted as events unfold. **Staff: Yvonne Hunter; Status: AsLG; Position: Support.**

SB 861 (Speier). Dangerous and Vicious Dogs. Local Regulation. As amended last week, SB 861 would authorize local governments to enact regulations related to dangerous and vicious dogs that are specific to individual breeds, provided that the local regulations do not constitute a ban on the breed. Additional amendments adopted by the author this week in the Assembly Local Government Committee would narrow the types of local agency regulation to breed-specific requirements for neutering and spaying, and breeding restrictions. The bill returns to local governments some limited regulatory authority that was lost in the late 1980s when legislation banned any type of breed-specific local ordinances.

SB 861 is in response to a number of tragic situations in which Pit Bulls and other large dogs

Legislative Bill Action

have attacked and injured or killed children and adults. As a result, the City of San Francisco recently evaluated what steps could be taken by local governments to prevent canine-related injuries. The report prepared by the city's animal control department recommends a number of sensible and proactive regulatory steps that local governments could enact for individual breeds, if existing law is changed to provide that such authorization. **SB 861** reflects several of the recommendations included in the report. A copy of the San Francisco report is posted on the League's website under the information included on **SB 861**.

The issue of animal control and local regulation of dogs is one that generates considerable passion in the Legislature. The League supports **SB 861** as a way to give local governments additional tools and flexibility to appropriately regulate dangerous and vicious dogs within their communities in order to protect their residents. In its amended form, it passed the Assembly Local Government Committee this week and will be heard next on the Assembly Floor. **Staff: Yvonne Hunter; Status: AsmFlr; Position: Support.**

SB 655 (Ortiz). Naturally Occurring Asbestos. **SB 655** (Ortiz) proposes a series of steps to identify the locations of and mitigate the exposure impacts of naturally occurring asbestos. While most of us know about the potential problems from asbestos in buildings, a newly emerging health problem and potential hazard if not mitigated properly is naturally occurring asbestos

As currently drafted, **SB 655** has a number of problems and is not workable. However, the author has worked with the League and others to identify conceptual amendments to her bill that would improve the mapping of areas where naturally occurring asbestos is located, best management practices that can be used to mitigate the impacts of the asbestos during construction projects, and property owner notification. The bill is the classic "work in progress." The author has committed to continue to work with the League and others in an attempt to resolve several of the bill's problems. Given those commitments, **SB 655** passed both

the Assembly Environmental Safety and Toxic Materials and Local Government Committees this week. We'll keep you posted. **Staff: Yvonne Hunter; Status: AsApps; Position: Watch.**

SB 412 (Figueroa). Massage Therapists. State and Local Regulation. Don't let the current version of **SB 412** rub you the wrong way! **SB 412** is the latest legislative attempt in the last few years to enact professional standards for the massage therapy industry. This is being done as a way of distinguishing legitimate massage therapy businesses from those activities that are, in reality, part of the more shady side of our society.

In its recently amended form, **SB 412** includes local agency preemption. The League has been in close contact with the bill's supporters and author's office about the need to modify the preemption provisions of the bill. While we do not object to local preemption related to professional standards, the League has emphasized that local agencies need to retain the right to regulate land use, impose business license fees and continue local inspections and enforcement of massage therapy businesses. We are confident that agreement can be reached regarding the preemption provisions of **SB 412**. Without this agreement, we know that cities will be bent out of shape over the preemption provisions of the bill.

The bill passed the Assembly Business and Professions Committee this week. **Staff: Yvonne Hunter; Status: AsApps; Position: Watch.**

PUBLIC SAFETY

SB 148 (Scott). Alcoholic Beverages. Licensing Restrictions. **SB 148** authorizes a city or county to amortize, terminate or impose conditions on liquor stores not currently subject to local regulation. Under current law, cities or counties can only enforce zoning ordinances that

Legislative Bill Action

.....

were present when a licensee obtained a license for alcohol sales and does not give cities the ability to change the law and enforce it. SB 148 requires retail liquor sales licensees issued a Type 20 or Type 21 off-sale retail license, to comply with zoning regulations which a city or county adopts after a licensee obtains a liquor license.

SB 148 would assist cities and counties throughout California in addressing repeated public safety problems often associated with nuisance liquor stores such as vandalism, littering, loitering, graffiti, excessive loud noises, public drunkenness and lewd conduct. **Staff: Liisa Lawson Stark; Status: AsGO, Hrg. June 8; Position: Support.**

AB 1329 (Wolk) Design Build Contracting: Cities. AB 1329 permits cities residing in the Yolo and Solano Counties to enter into design-build contracts until January 1, 2011, subject to the conditions and requirements currently applicable to design-build contracts in Alameda, Contra Costa, Sacramento, Santa Clara, Solano, Sonoma, and Tulare Counties. AB 1329 would limit city design-build contracting to projects for the erection of structures, but excludes from entering into design-build contracts for the construction of roads, bridges, and other transit and non-transit infrastructure. The League supports allowing design-build contracting as an option to cities. **Staff: Liisa Lawson Stark, Status: Hearing Date: Senate Local Gov. 7/6, Position: Support**

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

ASSEMBLY APPROPRIATIONS (18)—Chu (Chair), Runner (Vice Chair), Bass, Berg, Calderon, Emerson, Gordon, Haynes, Karnette, Klehs, Leno, Nakanishi, Nation, Oropeza, Ridley—Thomas, Saldaña, Walters, and Yee. Room 2114. Phone: (916) 319-2081.

ASSEMBLY GOVERNMENTAL ORGANIZATION (15)—J. Horton (Chair), Plescia (Vice Chair), Aghazarian, Bermúdez, Calderon, Chavez, Coto, Garcia, La Suer, Levine, Liu, Mountjoy, Negrete McLeod, Torrico, and Yee. 1020 N Street, Room 156. Phone: (916) 319-2531.

ASSEMBLY LOCAL GOVERNMENT (7)—Salinas (Chair), Emerson (Vice Chair), De La Torre, Houston, Lieber, Nation, and Wolk. 1020 N Street, Room 157. Phone: (916) 319-3958.

ASSEMBLY RULES (8)—Montañez (Chair), Cogdill (Vice-Chair), Baca, Benoit, Coto, Dymally, Karnette, and Villines (Alternates: 2 vacancies). Chief Administrative Officer: Jonathon Waldie. Secretary: Anna McCabe. Room 3016. Phone: (916) 319-2800.

SENATE LOCAL GOVERNMENT—(7)—Kehoe (Chair), Cox (Vice-Chair), Ackerman, Machado, McClintock, Soto, and Torlakson. Consultants: Peter Detwiler and Jennifer Swenson. Assistant: Elvia Diaz. Phone: (916) 445-9748. Room: 410.

Stay Up-To-Date on Bills That May Impact Your City

www.cacities.org/billsearch

Become a regular user of the League's online Legislative Tracking System. The League's website is your gateway to all the information you need: bills sorted by subject areas, showing the bill history, current status, committee analyses, votes, and much more. You can even view League letters of support or opposition, and access the League lobbyist working on the bill.

TELECOM from page 1

The bills addressed by the senate committee were AB 1547 (Levine) and AB 1735 (De la Torre). A third bill, SB 909 (Escutia) is being held in the Assembly Utilities and Commerce Committee.

The bills in the senate committee raise the issue of whether non-cable television companies (telephone companies and energy companies) should be exempted from local franchising authority. While we were prepared for a debate on the issue, led by Chairperson Martha Escutia the committee voted unanimously to gut the aforementioned bills and send them to a conference committee, with interim hearings to be held in the fall (between sessions). Some of chair's comments are paraphrased as follows:

- I am looking for a big push for conference committee language for all three bills
- I am damn serious about the process being fair.
- I would like to take the conference committee throughout the state, i.e. San Francisco, Fresno and Los Angeles. etc. This will guarantee that we receive input from throughout the state.
- This is not a show-and-tell-type of exercise — unlike other conference committees.
- I want to come back in January with language that all stakeholders have bought into, and to forward to two to three bills via the legislative process.

Conference Committee Urged

Senator Escutia said she will seek approval from Senate Pro Tem Don Perata to form the conference committee and request that he serve as a co-chair. She also encouraged Assemblyman Levine to follow the same approach with Speaker Fabian Nunez. With both Escutia and Levine requesting the creation of the conference committee, and the co-chair participation by their respective leaders, the leaders are likely to approve the request.

Contrary to an earlier report, the conference committee has not been officially approved by

either house leadership.

Many things can happen in a conference committee. Both Escutia and Senator Deborah Bowen, a member of the Energy, Utilities and Commerce Committee, intend for the conference committee to be substantive.

The cable television industry supports the creation of conference committee, as does the League. However, other groups apparently do not favor a conference committee and may approach legislative leadership trying to convince them to push ahead this session with more narrow legislation to address their industry-specific problems.

Levine Discussions Ongoing

The Assembly Utilities and Commerce Committee Chairperson, Assemblymember Levine, is holding weekly meetings with stakeholders in an attempt to develop a comprehensive regulatory scheme the communications industry in California. The assemblymember apparently plans to continue to hold the weekly meetings to gather further input (see "Telecommunications Issues Affecting Cities").

While these discussions are ongoing, the League strongly urges cities to begin the debate locally about how emerging telecommunications issues should be addressed at the local level (see "League Urges Community Debates"). In the meantime, we will keep you informed as this issue develops and a clearer agenda emerges.

LEAGUE URGES COMMUNITY DEBATES

The issue of a new regulatory scheme for the communications industry, video, data and voice, will be an extremely important issue for local governments over at least the next two years. If a discussion over these issues has not taken place in your community, we highly encourage cities to plan to hold such a debate. Communities that are

Continued on Page 9

TELECOM from page 8

prepared for this “new regulatory world” will do much better in shaping these services in their communities. Those communities that are unprepared will have these services shaped entirely by the industry and industry will not be concerned with the larger public policy issues in the deployment of a communications infrastructure (see “Telecommunications Issues Affecting Cities”).

We urge that cities move now to address these issues locally, while this debate continues at the state level. Plan to participate in the statewide meetings that will likely take place in conjunction with the work of the Legislature. To view an issue paper on the telecommunications issues, please visit the Transportation, Communications and Public Works section of the League’s website at www.cacities.org/tcpw.

TELECOMMUNICATIONS ISSUES AFFECTING CITIES

o **State Parameters for Local Franchises.**

One of the communications industry concerns can be described in general as “uniformity.” The argument is that the more “uniform” the franchise process is, the better it is for industry. It is a point that is consistent with the industry goal of “speed to market.” The contention is that the faster the industry gets to market the more “sound” the industry business plan. This issue has both pros and cons from a local government perspective. It runs the potential of being preemptory of local authority over the local franchise process. On the other hand, it may speed negotiations, which can easily become prolonged, on certain regulatory issues. As with any legislation, the details are important in how this issue develops.

o **Local Franchise Fees.** Local governments can currently collect a franchise fee from most utilities. It is a substantial amount of money on a statewide basis. Industry is raising the same “uniformity” issues when it comes to fees. The argument is that it would be easier to collect a fee at the state level and remit it back to local government. Local governments have not had a good

experience with state collected and remitted fees/taxes (remember vehicle license fees (VLF)?). Is there a compromise position on this issue? Will a franchise fee or some other fee apply to what are now the traditional telephone companies?

o **Utility User Taxes. In an attempt to achieve this industry concern for “uniformity,” there is interest in trying to lump franchise issues with utility user tax (UUT) issues.**

Among the problems with this concept is that a franchise fee is just that – a “fee” with a nexus to the public right-of-way. Utilities pay these fees for the privilege of putting down their infrastructure in the public’s right-of-way. On the other hand, a UUT is just that – a “tax” and is enacted by a city to pay for general fund services such as police and fire. Combining a tax and a fee is at best wrong, and presents numerous questions as to communities that have these two revenue sources may be held harmless. Approximately 150 local agencies have a UUT and the rates vary considerably across the state.

o **Public, Education and Government Channels (PEG).** The requirement of PEG channels for the community is a critical concern to many communities and is one of the more difficult issues in local franchise negotiations. While there is strong legislative sentiment about the need for PEG channels, there are questions about how many are needed and under what conditions? Is there a way to place a portion of the PEG requirements in state law, but allow local flexibility in negotiations?

o **Build-Out of Communications Systems.**

A key issue, again with good support in the Legislature, is the need to build out the communications infrastructure in a community in a manner that does not discriminate against one portion of the community over another. This is a consideration at the city level as well as at a statewide or regional level.