

FOCUS

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

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Annual Conference,
October 5-8, 2005 -
San Francisco

EMINENT DOMAIN UPDATE: PROPOSED CONSTITUTIONAL AMENDMENTS STALLED, MULLIN AND KEHOE LEGISLATIVE MEASURES ADVANCE

Reaction in the State Capitol to the recent United States Supreme Court decision in *Kelo vs. New London* continued this week, as both the Senate and the Assembly took up bills to restrict the use of eminent domain. *For more, see Page 6.*

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LEGISLATIVE TELECOMMUNICATIONS DISCUSSIONS POSTPONED UNTIL SEPT. 21

The Assembly Utilities and Commerce Committee, chaired by Assemblymember Lloyd Levine, postponed discussions on telecommunications legislation until September 21 - after the current legislative session has ended. *For more, see Page 2.*

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ILG RELEASES GUIDE TO FUNDING OPEN SPACE ACQUISITION PROGRAMS

Preserving open space is a critical challenge for local agencies in California. To help them meet this challenge, the Institute for Local Government (ILG) has published "Funding Open Space Acquisition Programs: A Guide for Local Agencies in California." *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).

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SUPPORT CALIFORNIA ARTS DAY ON OCTOBER 7

Celebrate "California Arts Day" on October 7! Promoted by the California Arts Council, this fifth annual celebration is designed to recognize the role that arts such as music, theater, visual art, poetry, dance, and creativity in general play in the state.

The nonprofit arts annually provide \$5.4 billion in statewide economic activity, supporting more than 160,000 jobs and generating \$300 million in local and state revenue, according to the 2004 study "The Arts, a Competitive Advantage for California," commissioned by the California Arts Council and conducted by KPMG Peat Marwick. The study also found that California has more arts-related businesses and more people employed in the creative industries than any other state.

Cities can do a number of things to support this cause. They can adopt a city council resolution recognizing the value of the arts in their community, write an editorial on how the arts play a critical role in the community, or highlight arts offerings of your community services department in your October newsletter.

The annual California Arts Day is always on the first Friday of October. For more ideas, sample resolutions, and additional information on the event, visit the California Arts Council website at www.cac.ca.gov.

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The delay gives the League time to focus its efforts on a comprehensive bill. The issue is far from over and will certainly come back again next year. It promises to be a very busy interim for telecommunications. As always, the League will keep you apprised on what's happening with this issue.

TAKING YOUR AIRPORT INTO THE 21ST CENTURY

Does your city or a neighboring city have a small airport? Then a new course put together jointly by the University of California (UC) and Caltrans may help you!

The new course, "Taking Your General Aviation Airport Into the 21st Century," is a short two-day course designed to give a broad overview of the rights and responsibilities of general aviation airports in California.

The course will cover the state and federal role in airports including rules, regulations and minimum standards, land use, environmental protection, pavement preservation, safety and security, managing funds and building revenue, and the airport's importance as a community asset and resource.

The course is designed for city and county level managers and elected officials and will be offered on October 12-13 in Buena Park, November 2-3 in Fresno, and on November 9-10 in Sacramento.

For more information and to register – please visit the UC website at www.techtransfer.berkeley.edu/training_for_the_Institute_of_Transportation_Studies.

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The guide serves as a starting point for local agencies analyzing open space planning, funding and acquisition. Whenever practical, the guide identifies additional resources for further information on issues covered. The publication can be accessed through ILG's website at www.ca-ilg.org/openspace, together with links to a wide variety of additional resources to help local agencies fund open space acquisition efforts. In addition, a complimentary copy will be sent to each city and county (to the community development or planning director).

The [Resources Legacy Fund](http://www.resourceslegacyfund.org), www.resourceslegacyfund.org, underwrote the costs of production and is making it possible to provide copies to local agencies throughout the state.

For more information, contact ILG's Land Use and Housing Project Director, Bill Higgins, at higginsb@cacities.org.

DEPARTMENT OF FINANCE RELEASES ESTIMATED TRIPLE FLIP PAYMENTS

Earlier this week, the California Department of Finance (DOF) sent county auditors its estimates for the 2005-06 triple flip payments and the 2004-05 triple flip "true-up" adjustment amounts owed to cities and counties.

A new method of calculation was used to determine these estimates, resulting in a negative adjustment of approximately \$173 million state-wide to the 2004-05 triple flip payments.

The Board of Equalization (BOE) submitted numbers to DOF based upon a different methodology than was used to calculate the initial 2004-05 triple flip estimates last year, which led to the negative adjustment. In effect, the estimated payments were made on a 10.5 months basis, while the DOF is basing the true-up on nine months (corresponding to the BOE quarterly reports of actual amounts owed).

The League of California Cities and others have worked with DOF over the past week to get the department to reconsider these estimates to be consistent with the earlier methodology, but has not yet prevailed. To view the updated triple flip estimates, please visit the League website at www.cacities.org.

CITY BALLOT MEASURE ACADEMY A HIT!

The League's new City Ballot Measure Academy (CBMA) held its third training session in Walnut Creek on August 25. The course is designed for local officials and others considering placing a measure on the ballot. This session drew attendees from over a dozen East Bay cities.

The CBMA helps local leaders decide whether a ballot measure would be feasible in their community, by walking community leaders through the key elements of passing a local ballot measure. CBMA topics include: legal do's and don'ts, building a campaign organization, organizing grassroots support and messaging.

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VEHICLE LICENSE FEES UPDATE

Last year, as a result of the Proposition 1A budget agreement, cities received property tax in lieu of a substantial portion of the vehicle license fees. These distributions were made in January and May of this year based on estimates devised in September 2004.

The State Controller's office is working to determine what the actual Vehicle License Fee (VLF) receipts were for the 2004-05 fiscal year to determine the amount of property tax that is needed to "true-up" (adjust) the VLF for last fiscal year. This number is due to be transmitted to counties on October 15.

While the League is not apprised of the exact amount, it looks as if the VLF receipts have run ahead of the estimates. If this proves to be accurate, the true-up on the property tax should reflect this. As soon as an update on this information is available, the League will alert members.

For more information, please contact League Legislative Representative Jean Korinke at (916) 658-8245, or e-mail at jkorinke@cacities.org.

SAVE THE DATE! LEAGUE ANNUAL CONFERENCE OPENS OCTOBER 5

The League of California Cities' 107th Annual Conference opens on Wednesday, October 5, at the Moscone Center West in San Francisco. Set with the theme "Stepping It Up," the conference will be attended by more than 2,000 California mayors, council members and city officials, all discussing issues important to cities.

Topics of interest include housing and infrastructure, telecommunications legislation, financing, effective management, leadership and government, and much more! Featured speakers will include National League of Cities President and Washington D.C. Mayor Anthony Williams, former California Public Health Officer Richard Jackson, M.D., and Dr. Steven D. Levitt, an economist with the University of Chicago and author of "Freakonomics."

For more information and to register, please visit the League's website at www.cacities.org/ac.

LEAGUE ANNUAL CONFERENCE WILL FEATURE SPECIAL SYMPOSIUM ON UNDERSTANDING PUBLIC OPINION

Have you signed up for the League Annual Conference Symposium luncheon sponsored by the Institute for Local Government (ILG)? The symposium will take place on Thursday, October 6, at the Moscone Center West in San Francisco. It will feature Daniel Yankelovich, a pre-eminent interpreter of public opinion trends in American society. He will speak on **"Gauging Public Opinions and Preferences: Polling and Beyond."**

Mr. Yankelovich, the renowned author of *The Magic of Dialogue*, comes highly regarded, particularly from Rancho Cordova Mayor Ken Cooley.

"In our civic roles, 'public opinion' is as pervasive as the air we breathe," Cooley explained. "Speaking from the unique storehouse of a long and vast career, Mr. Yankelovich's insights will inevitably change how you understand the currents in the public opinion you face."

"In addition to heightening your insights into polls and poll outcomes, his sense of how and why public opinion changes over time points to opportunities for new engagement strategies for local officials," the Rancho Cordova mayor added. "If you come seeking deeper insights into how ideas rise, gain visibility, and shape public attitudes, Daniel Yankelovich will send you away satisfied."

Celebrating its 50th anniversary, ILG's mission is to share forward-thinking information with local officials to assist them in their service to their communities. Copies of Mr. Yankelovich's book, *The Magic of Dialogue*, will also be available for purchase through CITYBOOKS at the symposium.

Attendance at this event is subject to a \$40 add-on fee to defray the cost of the lunch. ILG is seeking sponsors to defray other costs and to support the Institute's work program in general. To learn more or sign up for the symposium, go to www.ca-ilg.org/symposium.

NLC LEADERSHIP OPPORTUNITIES AVAILABLE FOR CITY OFFICIALS

Interested in bringing your leadership and professional experience to a national level? The National League of Cities (NLC) is now forming its 2006 committees and is accepting applications for various positions.

To be considered for NLC Chair and Vice Chair positions of any NLC committee, panel, or council, please download the application from the League of California Cities website at www.cacities.org. The deadline for this application is October 3, and this application must be mailed directly to NLC.

Similarly, if you are interested in being on any NLC committee, panel, or council, including the Policy & Advocacy Steering Committees, download the application from the League of California Cities website at www.cacities.org, and mail it directly to NLC. The deadline for these applications is November 14.

If you would like to be considered for the NLC Policy & Advocacy committee, again, download this application on the League website at www.cacities.org. However, this particular application must be mailed to the League of California Cities, and must be received no later than December 12.

For more information on NLC, visit the NLC website at www.nlc.org. If you have any questions regarding the application process, please contact League staff member Linda Welch Hicks at (916) 658-8224, or via e-mail at lhicks@cacities.org.

GREEN BUILDING 101 SEMINAR

What is a green building? And, is it for you?

Find out if green buildings make sense in your city, at a full day program sponsored jointly by the League and the Building Industry Association (BIA) of Southern California. The program will cover green building benefits in relation to implementation costs, and provide information that is vital to forward-thinking decision makers.

The "Green Building 101 Seminar" will be held on October 10, from 8:30 a.m. to 4 p.m., at the Downey Energy Resource Center in the city of Downey. Registration fees (\$169 for city officials) **include course manual, continental breakfast and lunch**. For more information, visit the Southern California BIA's website at www.biasc.org.

CALED ANNOUNCES UPCOMING EVENTS

The California Association for Local Economic Development (CALED) recently announced a number of upcoming events for the remainder of 2005, and into 2006.

Annual Workforce Policy and Leadership Conference: Sept. 6-8, 2005

The annual Workforce Policy and Leadership Conference – Meeting of the Minds in Monterey (M3), will include more than 300 participants from education, business, economic development, social service, labor, and workforce development. This year's theme, "From Tired to Inspired," is designed to spark new innovation and creativity for the workforce system.

For more information, please visit the conference's website at www.calworkforce.org, and click on "Conferences and Workshops." If you'd like to register by phone, please contact Monica Sobala at (916) 325-1610.

CALED San Diego Chapter Meeting: Sept. 15, 2005

CALED's San Diego Chapter would like to extend an invitation to all interested parties to attend a special meeting to bring together the area's economic development leaders and stakeholders to establish a core group of participants to shape the Chapter's mission and goals.

The meeting will be held on September 15, at 2:30 p.m. at the Four Points by Sheraton, located at 8110 Aero Drive in San Diego. For more information, or to RSVP, please contact Gurbax Sahota at gsahota@caled.org.

CALED Inland Empire Chapter Meeting: Oct. 20, 2005

Nancy Martin, chair of CALED's Inland Empire Chapter and economic development manager for the City of Corona, would like to invite all interested parties to attend the Chapter's next quarterly meeting on October 20 in Riverside. The meeting will take place at 9 a.m. in the Mayor's Ceremonial Room in Riverside City Hall.

The meeting will help set the topics for future meetings, and all attendees should be prepared to give a two-minute elevator pitch on a project you have underway or recently completed. For more information, or to RSVP, please contact Gurbax Sahota at gsahota@caled.org.

Keys to Successful Economic Development Training, Northern California: Jan. 18-20, 2006

CALED, in partnership with the California Academy for Economic Development, will present "Keys to Successful Economic Development" – a training course on the fundamental concepts, tools and skills needed to be successful in economic development given today's political, economic and business environment.

This course is a pathway to IEDC Certification. CALED encourages anyone interested in economic development to participate in this in-depth, interactive opportunity to gain a comprehensive understanding of the keys to successful economic development. For more information, visit the CALED website at www.caled.org/pdfs/trainingflyer.pdf

CALED Annual Spring Conference: April 24-26, 2006

Building on the success of last year's conference, CALED will present its 2006 Annual Conference in Palm Springs at the Wyndham Hotel on April 24-26, 2006.

Join CALED in a quality opportunity to network with peers, learn new ideas, and refresh your knowledge. For more information, contact Kay Reynolds, vice president of Special Projects at kreynolds@caled.org or call (916) 448-8252, ext. 104.

Keys to Successful Economic Development Training, Southern California: July 26-28, 2006

CALED, in partnership with the California Academy for Economic Development, will present

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Cost of Doing Business Survey Available

The Rose Institute of State and Local Government and the Kosmont Companies have once again collaborated to produce the Kosmont-Rose Institute Cost of Doing Business Survey. If you are a member of CALED, they are offering you the opportunity to purchase the survey or city profiles at a 20 percent discount. For more information visit the CALED website at www.caled.org/pdfs/05kosmontsurvey.pdf.

BALLOT MEASURE ACADEMY from page 3

Successful ballot measures are well-drafted and responsive to voter needs. They also require carefully planned and executed campaigns to pass. And, no public resources may be used for ballot measure advocacy—including staff time.

Is your city or agency considering placing a measure on the ballot in an upcoming election? If so, please contact your League regional representative for information on the CBMA. (Contact information for League regional representatives is available on the League’s website.)

Editor’s Note: These programs are intended for local officials who are in the exploratory stages relating to ballot measures. If your agency already has a measure on the ballot, please consult with your agency attorney about the extent to which public resources may be used to attend such a program.

In the Senate:

AB 1162 (Mullin). On August 31, the Senate Judiciary Committee voted 5-2 in favor of AB 1162, legislation that would put in place a two-year moratorium on the use of eminent domain for owner-occupied housing. It also calls for a study on the use of eminent domain over the last ten years, but the study has been expanded to include commercial as well as residential property. The aye votes were committee chairman Joe Dunn (Santa Ana), Gil Cedillo (Los Angeles), Martha Escutia (Whittier), Liz Figueroa (Sunol), and Sheila Kuehl (Santa Monica). The no votes were Senators Dick Ackerman (Irvine) and Bill Morrow (Oceanside).

SCA 15 (McClintock) and SCA 12 (Torlakson). Also considered at the hearing were SCA 15 (McClintock) and SCA 12 (Torlakson and Kehoe). SCA 15 would amend the constitution to prohibit the use of eminent domain for any property that will not be owned and occupied by a government agency. The measure is opposed by the League, the Western Center on Law and Poverty, the California Redevelopment Association (CRA), and a number of individual cities.

SCA 15 failed on a 2-3 vote, again along party lines with two Democrats not voting. Senators voting against were Senators Gil Cedillo, Martha Escutia, and Sheila Kuehl. Senators voting for SCA 15 were Dick Ackerman and Bill Morrow. The measure was granted reconsideration, which means that it can be brought up again for another vote.

The Torlakson measure, SCA 12, would amend the constitution to prohibit the use of eminent domain that would involve the taking of owner-occupied residential property for private use. Following discussion, that measure was held in committee at the request of the author.

Mullin Rejects Eminent Domain Ban. The votes on all the measures came after four hours of testimony at a quickly called meeting of the

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committee, with little prior notice. The committee first took testimony on all the measures. All the members then had an opportunity to comment on the use of eminent domain in California and whether, based upon the testimony received, they believed there was a need to strengthen California laws governing the use of eminent domain.

In presenting AB 1162, Assemblymember Mullin argued that his proposal for a temporary and focused moratorium combined with a study to gather the facts, was a reasonable alternative to the sweeping ban on all eminent domain actions where the public agency did not own and control the property.

Mullin also strongly cautioned the committee to reject the emotional arguments of property rights advocates for a ban on the taking of private property for public uses, when that public use benefits other private parties. He described the essential role eminent domain played in revitalizing South San Francisco during his tenure as a city councilmember. He argued that the committee should not pass a measure such as SCA 15 because it will limit the ability of local governments to build much-needed affordable housing and restore the economic health of their communities.

A number of committee members also questioned whether or not a moratorium was necessary, given that a number of land use experts have opined that the *Kelo* decision did not change California law, which contains numerous provisions more stringent than those used in the Connecticut decision.

League Presses for Crucial Amendments. Neither the League nor CRA formally opposed AB 1162, but both organizations pointed out problems with the bill, not the least of which is that it will delay or kill some redevelopment projects in the state.

Responding in part to these arguments, the committee passed the measure with the understanding that the that it would be amended to narrow the application of the moratorium so that it

would apply only to the use of eminent domain involving single family, owner-occupied homes. Other amendments will clarify the issues that should be addressed in the study to be undertaken by the Legislative Research Bureau during the two-year period that the moratorium is in effect.

Assembly Passes SB 1026 (Kehoe). The Assembly Judiciary Committee also acted on eminent domain on September 1, passing SB 1026 on a vote of 6-2. The measure was taken up one day after a rule waiver was granted on the floor of the Assembly that allowed the Assembly Rules Committee to meet off the floor to pass the measure on to the policy committee.

The plan appears to be for SB 1026 to contain language identical to AB 1162, and to move both bills. AB 1162 is expected to heard next week in Senate Appropriations; SB 1026 is slated for a hearing next week in Assembly Housing and Community Development and then Appropriations.

Assemblymember Salinas is a co-author of AB 1162, and Senator Kehoe and Assemblymember Evans are principal co-authors. Assemblymembers Mullin and Salinas have similarly signed on to SB 1026 as principal co-authors.

Mullin Exercises Leadership on Eminent Domain. City officials should thank Assemblymember Mullin for his thoughtful leadership on this critical issue. He has worked hard and very effectively to develop an approach that is clearly intended to slow down the misinformed anti-eminent domain juggernaut that has swept through the media since the *Kelo* decision some eight weeks ago.

The League will continue to argue that there is no demonstrated need for the moratorium, given that this and all eminent domain-related bills are a political reaction to the U.S. Supreme Court's *Kelo* decision, which had no effect on California laws.

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.

ADMINISTRATIVE

SB 861 has passed the legislature and is on its way to Gov. Schwarzenegger awaiting action. SB 861 would authorize local governments to enact additional 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.

In 1989, California enacted a law that limited the authority of local governments to adopt breed-specific local ordinances to regulate vicious dogs. Prior to that law, local governments were authorized to enact breed-specific laws. SB 861 properly revisits the decision to limit local authority.

SB 861 is in response to a number of tragic situations in which dogs have attacked and injured or killed children and adults. As a result, San Francisco evaluated what steps could be taken by local governments to prevent canine-related injuries. The report 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 a number of steps included in the report, but stops short of authorizing a local government to enact breed specific bans.

The League supports SB 861 as a way to give back to local governments additional tools and flexibility to appropriately regulate dangerous and vicious dogs within their communities in order to protect their residents. We believe it is a necessary step to returning to local governments some mea-

sure of authority to regulate vicious animals and to protect the health and safety of their community and citizens.

While some have described SB 861 as an animal control and local control issue, we believe that in addition, it is an important public safety issue. Local governments need to have, once again, some of the tools needed to enact local breed-specific animal regulations dealing with spaying and neutering of dogs to reflect local conditions in order to protect their citizens. Cities are encouraged to write the governor and request that he sign SB 861. **Staff:** Yvonne Hunter. **Status:** On Governor's Desk. **Position: Request Signature.**

ENVIRONMENTAL

SB 655 was amended on Friday, September 2 in the Assembly to respond to a number of issues raised by the League and others. As a result, the League is neutral on the bill. SB 655 addresses an important emerging health issue related to naturally occurring asbestos (NOA). The amended bill will be in print early next week.

The amendments requested by the League ensure that local governments will continue to have the flexibility to adopt mitigation requirements for construction projects that meet their local needs, while at the same time ensuring that property owners receive notice about development in NOA zones. The League thanks Sen. Ortiz and her staff for working with the League to address our concerns. **Staff:** Yvonne Hunter. **Status:** Pending on Assembly Floor. **Position: Neutral.**