



City Advocate Weekly

LEGISLATION AND POLICY AFFECTING CALIFORNIA CITIES

IN THIS ISSUE:

February 20, 2009
Issue #7-2009

Page 4: League Releases City Funding Book on Federal Economic Stimulus Package

Page 5: The New Law Could Mean Faster State Mandate Reimbursement

Page 6: ILG Offers AB 1234/Ethics Training Sessions in March

Avoiding Litigation among Public Agencies

Page 7: Find a Bill, Legislators, Leg Committee, or Ask League Leg Staff

CITY ADVOCATE WEEKLY REPLACES PRIORITY FOCUS

The League is pleased to announce a new name for its weekly newsletter: *City Advocate Weekly* (previously *Priority Focus*). With a tag line of "Legislation and Policy Affecting California Cities," the renamed publication will also feature a redesigned masthead. Stories will continue to focus on key legislation affecting cities and other items of interest to city officials. *For more, see Page 2.*

.....

COMPROMISE BUDGET PACKAGE PASSED

The long, hard-fought state budget negotiations came to a successful end early Thursday morning, when the Legislature passed a budget designed to address the current fiscal year deficit, and head off a deficit in the fiscal year that begins on July 1. Gov. Arnold Schwarzenegger is expected to sign the bill package today. *For more, see Page 2.*

.....

BUDGET PACKAGE MEASURES

At the time of this writing, the language for the budget package is not available for review. League staff will release a full analysis early next week. However, below is a list of the bills for your reference. *For more, see Page 3.*

'City Advocate Weekly' Continued from Page 1...

We believe that the name *City Advocate Weekly* better reflects the purpose and intent of our newsletter. This name change is just one part of the League's effort to better serve its members by updating and streamlining our communications tools. Subscribers will automatically receive *City Advocate Weekly* without having to re-subscribe.

'Budget' Continued from Page 1...

The budget package consists of actions over the next 17 months that comprise what the Governor calls "a four-legged stool": fiscal measures to increase revenues through temporary tax increases and borrowing from existing funds; reductions in current spending; various "economic stimulus" measures, including CEQA exemptions for state surplus property and changes in labor rules on some types of infrastructure projects; and reforms designed to "make government more efficient.

In sum, these include \$14.9 billion in reductions, \$12.5 billion in temporary tax increases, \$11.4 billion in borrowing and a reserve of \$1 billion. New taxes include increasing the state sales tax by 1 percent; and increasing personal income tax rates by 0.50 percent (which could be reduced, depending upon the level of federal economic stimulus funds received by the state). The package also increases the vehicle license fee from the current 0.65 percent, to 1.15 percent, of which 0.15 percent is dedicated to fund local public safety programs (approximately \$500 million annually). The package will also reduce the dependent credit Californians are allowed to claim on their taxes.

The package transfers, for two years approximately \$460 million in tax revenues from Proposition 63 (tax on millionaires for mental health services). It transfers approximately \$1.4 billion over four years from Proposition 10 (tobacco tax for early childhood education programs championed by then-actor Arnold Schwarzenegger) for state programs with similar objectives. The budget also assumes that the state will borrow about \$5 billion that will be securitized by a lottery modernization proposal passed as part of the initial 2008-09 budget (pending voter approval).

All the tax increases and borrowing would be in place for only two years. The tax increase proposals are contingent upon various triggers linked to the successful passage by voters of another critical piece of the budget package: an improved state reserve fund and a spending cap designed to impose greater discipline on spending when state revenues spike. That measure will be placed on the May 19 ballot along with the tax and borrowing measures.

Breaking the Logjam. The final budget package came together when Senate President Pro Tempore Darrell Steinberg (D-Sacramento) was able to win approval from his caucus for reforms sought by Sen. Abel Maldonado (R-Santa Maria). With these reforms, Maldonado agreed to provide the crucial 27th vote to achieve the two-thirds super-majority needed to pass the budget in the Senate.

Measures sought and won by Maldonado included constitutional amendments to establish an open primary system and ban legislative pay increases during deficit years. Both proposals will be placed on the June 2010 ballot for voter approval.

The early morning negotiating session also eliminated a proposed 12-cent increase in the gas tax that had been proposed to be primarily used to offset existing state transportation debt service. The \$2.1 billion that the gas tax was estimated to raise through June 2010 will be replaced with a 0.25 percent increase in the state income tax rate, and federal stimulus dollars.

Maldonado also sought but did not win approval for a "no budget-no pay" rule for legislators during periods when the budget is late.

Budget Cuts Will Be Felt Statewide. As we reported last week, this is a difficult budget, with cuts that are deep and painful. Key cuts include \$8.4 billion for K-12 education; 10 percent for UC and CSU; 10 percent for the Corrections Department's medical budget; and elimination of cost-of-living increases for CALWorks and SSI-SSP recipients. The budget includes state furlough

provisions estimated to save the state \$1.4 billion, reductions in overtime, and elimination of some state holidays. The budget also reduces state funding for local public transit agencies.

What the Budget Means for Cities. City officials facing their own difficult budgets will be relieved to know that the final package appears to leave cities' revenues largely intact. Specifically, the package does not suspend Proposition 1A protections for local property and sales tax, nor will it shift or borrow additional funds from redevelopment agencies. Furthermore, it will preserve local public safety funds (COPS, juvenile justice and booking fees).

City officials understand very well that this was a very difficult budget for our state leaders to negotiate. They faced enormous challenges: declining revenues, an on-going imbalance between revenues and budgeted expenditures, and the complications of our own state constitutional constraints.

Voting for this budget was difficult for legislators on both sides of the aisle. But it was a necessary vote to bring both certainty and closure to Californians. Passage of this budget compromise helps ensure that California is better positioned to participate with the federal government in re-investing in our people and our infrastructure.

City officials can now proceed with a greater certainty about managing their own resources, and solving their own fiscal problems without the immediate risk that the state will deepen the local fiscal problems by taking local revenues. The state can once again pay its own bills, issue tax refunds, and authorize the release of voter-supported state infrastructure bond funds to work on local transportation and housing projects.

The League encourages city officials to thank the Governor and our legislators for their hard work and leadership.

More Details to Come. *As we go to print, many of the budget-related bills are not yet in print. The League will produce a detailed analysis of the budget package, once complete information is available. (For a listing of the budget bills, see also "Budget Package Measures".)*

'Bills' Continued from Page 1...

2008-09 and 2009-10 Budget Bills Passed by the Legislature

SB x3 1	2009-10 Budget Bill
SB x3 2	2008-09 Budget Bill (revises the current 2008-09 Budget)
AB x3 3	Tax Increases
SB x3 4	Education Omnibus Bill
AB x3 5	Health Omnibus Bill
SB x3 6	Human Services Omnibus Bill
SB x3 7	Transportation Omnibus Bill
SB x3 8	General Government Omnibus Bill
SB x3 10	Proposition 63 Revisions (requires voter approval)
AB x3 11	Elections Provisions for Ballot Measures
AB x3 12	Lottery Fixes (requires voter approval)
AB x3 13	Cash Management Omnibus Bill
SB x3 14	AB 900 Clean-up
SB x3 15	Tax Cuts
AB x3 16	Trigger Modifications/Increases
AB x3 17	Proposition 10 Revisions (requires voter approval)
SB x3 19	Elections Provisions for Ballot Measures
SB x3 20	State Controller Furniture
ACA x3 1	Spending Cap (requires voter approval)
ACA x3 2	Education Supplemental Payment (requires voter approval)
SB x2 3	Carl Moyer Program Revisions
SB x2 4	Design-Build and Public-Private Partnerships Authority

2008-09 and 2009-10 Budget Bills Passed by the Legislature (cont.)

AB x2 5	Employee Flex Schedule Provisions
SB x2 7	Mortgage Foreclosures
AB x2 8	CEQA, Permitting, Surplus Property, Engine Retrofits
SB x2 9	Prevailing Wage, Labor Compliance Provisions
SB x2 10	Vehicle License Fees Pass-Through
SB x2 11	Judicial Benefits Status Quo
SB x2 12	Courthouse Construction Continuous Appropriation
SB x2 15	Personal Income Tax – Homebuyer Credit
SB x2 16	Fair Funding/Horseracing
SCA 4	Open Primary (requires voter approval)
SCA 8	Legislative Salary Increases (requires voter approval)
SB 6	Open Primary Statutes

League Releases City Funding Book on Federal Economic Stimulus Package

The League of California Cities has released a “City Funding Book” to guide cities on how to access and apply for federal funds available through the American Recovery and Reinvestment Act of 2009 (ARRA), signed by President Barack Obama earlier this week. Because of the substantial interest in the ARRA by California’s cities, the League has compiled the City Funding Book to assist cities in their pursuit of funding. The Book can be viewed online at http://www.cacities.org/resource_files/27711.2009ARRA%20Report21908.pdf.

The ARRA's purpose is to preserve and create jobs and promote economic recovery by providing needed investments in transportation, environmental protection, and other infrastructure projects that will provide long-term economic benefits.

The total cost of the package is \$828 billion, and consists of nearly \$396 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects; \$144 billion in state and local fiscal relief; and \$288 billion in personal and business tax credits.

Also of note are the unprecedented accountability and transparency requirements that are included in the ARRA. To meet these requirements, the government has set up a Web site (<http://www.recovery.gov/>) that will list each recipient of funds and project details. City officials will want to review the first few pages of the City Funding Book for important details on accountability and transparency requirements.

In addition, the first few pages of the City Funding Book provide important details on how to register your city to be eligible for any federal dollars.

The first version of the City Funding Book (http://www.cacities.org/resource_files/27711.2009ARRA%20Report21908.pdf) was released yesterday and is now available on the Federal Economic Stimulus section of the League’s Web site (www.cacities.org/federalstimulus). There will also be regular updates to the Book available on the League’s Web site as more information becomes available.

First Application Deadline Next Week. Earlier this week, the State Department of Public Health announced details on how to get federal funds related to drinking water.

The Safe Drinking Water State Revolving Fund (SDWSRF) provides low interest loans/grants to assist public water systems in achieving or maintaining compliance with the federal Safe Drinking Water Act (SDWA). Projects must be from a public water system, must be needed to comply with the SDWA, and must be on the program's project priority list.

Eligible uses include water treatment facilities, replacement of aging infrastructure, planning studies, consolidation of water systems, and source water protection. Ineligible uses include dams or rehab of dams, O&M costs and projects mainly for fire protection.

Universal pre-applications for federal stimulus loans and grants through the SDWSRF are **DUE FEB. 27, 2009.**

Please visit the Department of Public Health's Web site at <http://www.cdph.ca.gov/services/funding/Documents/EconomicRecoveryFundsInformationAttachment.pdf> for more information on the SDWSRF loans and grants.

The New Law Could Mean Faster State Mandate Reimbursement

The city of Newport Beach continues negotiating with the Department of Finance (DOF) over the costs imposed by the Firefighters Procedural Bill of Rights Act (AB 220) (http://ct2k2.capitoltrack.com/07/Bills/asm/ab_0201-0250/ab_220_bill_20071013_chaptered.pdf) under the authority of a recent law designed to bypass the current lengthy mandate claim process. Results could pave the way for cities to receive faster claim processing and reimbursements on other unfunded mandates.

Newport Beach's efforts follow the passage of **AB 1222** (http://ct2k2.capitoltrack.com/07/Bills/asm/ab_1201-1250/ab_1222_bill_20071008_chaptered.pdf) in 2007, which provides cities with an alternative "legislative determined mandate" (LDM) method to the current lengthy and extensive administrative "test claim" process, which often takes up to six years to deliver results.

LDM allows a local agency, or statewide associations representing local governments, to enter into discussions with the DOF on statutes and executive orders to negotiate and jointly develop a proposed amount of reimbursement, and submit it to the legislature for its approval. If the Legislature determines that local governments are entitled to reimbursement, it adopts the proposed methodology, and appropriates funds or suspends the operation of the program. Most significantly, notification of the State Mandates Commission of an agreement pursuing an LDM also suspends the statute of limitations for the filing of a test claim. By statute, the test claims must be filed within one-year after the mandate becomes effective, or costs are first incurred. If a test claim succeeds, it qualifies all local agencies with costs in the same area to seek reimbursement.

Cities that do not individually file for test claims often don't know they can claim the costs of new state mandated programs until the test claim is approved, or may not have the records and documentation needed to file claims for the prior years. Consequently, by the time a reimbursable mandate is identified, the cost for delivering the program locally for the first year may not be reimbursable for many cities. LDM's would provide cities with the opportunity to recover their cost going back to the first day the mandate becomes effective, or costs are first incurred.

Another key provision of AB 1222 is that local agencies are no longer required to maintain and submit detailed actual time records to support their mandated cost claims. Instead, a formula or simplified method consisting of unit time or costs called a reasonable reimbursement methodology (RRM) is available.

Newport Beach has been utilizing the resources of the League and California State Association of Counties (CSAC) joint advisory committee on state mandates, the "SB 90 Advisory Committee." Named after SB 90 of 1972, instituting the principle of the state reimbursing local governments for mandates, the advisory committee has been assisting the cities and counties for nearly 20 years with identifying new mandates that are eligible for reimbursement, and provides technical assistance to cities with filing test claims with the State Mandates Commission.

At a time when cities feel the pain of declining revenues, following the City of Newport Beach's steps and pursuing the LDM option to identify unfunded mandates could mean getting faster results and reimbursement. The League is strongly encouraging your city to closely look and identify programs mandated by statutes, executive orders, and regulations that may be eligible for

reimbursement, and contact the advisory committee at <http://www.sb90service.com/go/sb90/> for assistance.



ILG Offers AB 1234/Ethics Training Sessions in March

The League's nonprofit research arm, the Institute for Local Government (ILG), will be offering three AB 1234 ethics training sessions in March. The three sessions are scheduled for:

- March 4: hosted by the city of Pleasant Hill, (also open to neighboring cities.) View the Information flyer at http://www.cacities.org/resource_files/27611.Pleasant%20Hill%20flyer.doc;
- March 5: hosted by the Los Angeles Division. View the Information flyer at http://www.cacities.org/resource_files/27696.LA%20Division%20AB1234%20Email%20Rsvp%20030509%20MAP.pdf ; and
- March 26: in Anaheim, in conjunction with the League of California Cities Planner's Institute. Visit www.cacities.org/events for more information.

Another session will also be held on May 29, in San Diego, in conjunction with the League's Mayor & Council Members Executive Forum. Please visit www.cacities.org/events for more information.

Avoiding Litigation among Public Agencies

The Institute for Local Government (ILG) has launched a new project to encourage and support local officials' use of alternative dispute resolution to address disputes and disagreements between public agencies. As part of this effort, the project recently released two pamphlets.

- ***A Local Official's Guide to Intergovernmental Conflict Resolution*** is an introductory pamphlet that explains what alternative dispute resolution is and how it might be used to resolve disputes among public agencies. ILG is grateful for the financial support of McDonough, Holland and Allen on this pamphlet.
- ***Alternative Dispute Resolution: Navigating Special Legal Issues in Public Agency Disputes*** alerts local agency counsel and dispute resolution professionals to the special legal issues that can arise when using alternative dispute resolution with public agencies. It includes a sample resolution to help address some of these issues. ILG is grateful for the financial support of Renne, Sloan, Holtzman and Sakai on this pamphlet.

City managers and county administrators received hard copies of the first publication; city attorneys and county counsel will receive hard copies of the second. Both guides are available without charge in electronic form at www.ca-ilg.org/intergovtconflictresolution. Hardcopies are also available for a small charge.

ILG is especially interested in hearing about (positive or negative) experiences local agencies have had with alternative dispute resolution. If you or your members have information to share, please contact Betsy Strauss at bstrauss@ca-ilg.org or (916) 658-8208. ILG is grateful for the support of the JAMS Foundation for the overall program.

ILG is the 501(c)(3) research affiliate of the League of California Cities and the California State Association of Counties. The organization produces a range of resources to help local officials in their service to their communities. In addition to alternative dispute resolution, ILG's program areas include: public service ethics, land use, civic engagement, climate change and "local government 101." All ILG resources are available without charge in electronic form from

www.ca-ilg.org, although proceeds from hardcopy sales support the ILG's work and the development of additional resources. Please also visit the ILG Facebook page. (<http://www.facebook.com/pages/manage/#/pages/Institute-for-Local-Government/45592789674>).

Find a Bill, Legislators, Leg Committee, or Ask League Leg Staff

Visit (and bookmark!) the League's [Legislative Resources](http://www.cacities.org/legresources) Web 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.
