PRIORITY

FOCUS

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

June 9, 2006
Issue #23-2006

HOUSE REJECTS CITIES' AMENDMENTS, PASSES FEDERAL TELECOM REFORM (H.R. 5252)

On the evening of Thursday, June 8, the House passed H.R. 5252, the Communications Opportunity, Promotion, and Enhancement Act of 2006 (COPE Act) by a vote of 321-101, with 11 members abstaining from the vote, including California Congresswoman Mary Bono. The COPE Act would replace the local franchising process with a national franchise scheme for broadband and video service providers. *For more, see Page 9.*

TELECOM UPDATE

League efforts on telecommunications reform legislation continued this week at both the federal and state levels. *For more, see Page 7.*

FLOOD BILLS INUNDATE LEGISLATURE

As legislative bills move from their house of origin to the second house, the myriad of flood bills working their way through the Legislature are receiving more intense scrutiny and refinement. The realization has hit that some type of coordination among and between the bills will be necessary to avoid passing conflicting policy or similar language in multiple bills that is cancelled out. *For more, see Page 5.*

WANT MORE DETAILS ON BILLS?

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

IN THIS ISSUE:

AB 2987 (NÚÑEZ/LEVINE): WHY THIS BILL NEEDS WORK

AB 2987 (Núñez/Levine) would create a new statewide franchise for cable and video service providers, issued by the California Department of Consumer Affairs. The bill's supporters claim that AB 2987 will guarantee "speed to market" for telephone companies that want to offer video services that compete with cable companies. They argue that increased competition will offer consumers lower rates and better service.

The League of California Cities supports competition and a streamlined approach to franchising. But we are greatly concerned over a number of problems in AB 2987 that the authors have yet to address.

The following summary identifies issues, and possible amendments to address these concerns:

Discrimination/Build-Out/Redlining

Problem: Access to telephone service is available to all Californians, regardless of income levels and regardless of whether they live in urban or rural areas, not due to market forces but because it was required by the state. Cable service is available throughout most cities not because of market forces but because it was required as part of the local franchising process.

AB 2987 prohibits discrimination on the basis of income, but only contains vague legislative intent language concerning build-out. It pre-empts local build-out requirements and is silent on statewide build-out issues. AT&T has a business build-out strategy that <u>depends</u> upon cherry-picking.

Solution: Amend the bill to require that state franchises must provide the same landline-based broadband service throughout each local jurisdiction within a specified number of years of providing the service to the first customer within that jurisdiction. Provide that state franchisees must offer the same landline-based broadband service throughout their telephone service territory within the state within a specified number of years. Deployment throughout the state must occur according to a phasing plan whereby phases alternate between higher-income areas and lower-income areas and between urban and rural areas.

Customer Service

Problem: Local agencies typically adopt and enforce consumer protection/customer service standards. The Federal Communications Commission (FCC) has also established model customer service standards that are not mandatory but which many local agencies adopt or supplement. Local agencies use a variety of enforcement tools ranging from informal intervention when customers have problems to imposition of liquidated damages or civil penalties to franchise termination.

AB 2987 pre-empts local customer service standards, preserving only the more limited state standards. As amended, the bill requires local agencies to enforce the standards and authorizes the imposition of liquidated damages, but pre-empts franchise termination as a remedy. In other words, the bill gives local agencies the responsibility for ensuring consumer protection with little real authority.

Solution. Leave in place local agency authority to adopt customer service standards; at a minimum, adopt the FCC standards as state standards. Leave in place local authority to enforce those standards, including franchise termination in extreme cases.

Rights-of-Way Management

Problem: AB 2987 contains confusing and conflicting language about who controls the public rights-of-way. Proposed section 53058.7 provides that a state franchisee can install a network within public rights-of-way under the same terms and conditions applicable to telephone corporations. This is completely inconsistent with the remainder of the bill, as it means that video providers can provide services pursuant to Public Utilities Code section 7901 without obtaining a franchise, paying franchise fees, etc.

Continued on Page 3

BUDGET UPDATE: PROP 42 REPAYMENT STILL UNKNOWN

The Budget Conference Committee continued to meet this week to work on a compromise between the Governor's proposal, and Assembly and Senate recommendations on state budget expenditures. Most outstanding budget items have been agreed upon, but the fate of Proposition 42 repayments is still undecided.

The League has heard several ideas circulating about the Proposition 42 repayments, including:

- It will be part of negotiations between the "Big 5" as a closer for the entire budget package. (The Big 5 includes the Governor, Senate President pro Tem Don Perata, Senate Minority Leader Dick Ackerman, Assembly Speaker Fabian Nunez, and Assembly Minority Leader Kevin McCarthy)
- The transportation portion of the budget will be one package that includes Prop. 42 repayment and spillover revenue payments, instead of two separate items. For more information on spillover revenue, see "**What Are the Spillover Funds?**" located at www.cacities.org/revandtax.
- $460 million of the Governor's proposed $920 million payback is being considered to fund urban parks. The Senate recommendation was to fund the payback at $460 million (half of the Governor's proposal) and put $460 million back in to the General Fund.

With a budget deadline of June 15 fast approaching, Legislative staff members have expressed extreme optimism that a state budget will be passed on-time, or close to on-time, so we anticipate action on the Proposition 42 repayment budget item soon.

The League appreciates all correspondence cities have made urging the early repayment of $920 million of borrowed Proposition 42 funds, including $245 million for local streets and roads.

AB 2987 from page 2

Additionally, the bill defines "right of way" as "the area along and upon any public road or highway, or along or across any of the waters or lands within the state." Therefore a holder of a state franchise could theoretically place facilities on any land within the state, public **or private**.

With AT&T planning to install large utility boxes in order to deliver its "Project Lightspeed" service, neighborhoods could be significantly impacted by a loss of control over the rights-of-way.

Solution: Amend the bill to provide that nothing in the bill affects the authority of local agencies to regulate the time/place/manner of the use of the public rights-of-way provided it is done in a manner consistent with the bill. Develop a better definition of rights-of-way.

PEG Funding – Amount and Use

Problem: AB 2987 currently includes a blank for the percentage of gross revenues that the state franchised provider would pay to support public, education and government channels ("PEG") – but an earlier version gave the provider the choice of paying either 1 percent of gross revenues or, at the provider's option, a pro rata share of the unpaid cash obligations of the incumbent to fund both PEG channels and an Institutional Network (i.e. telecommunications lines connecting schools, libraries and other public buildings).

One percent is woefully inadequate to even fund PEG, let alone an I-Net, and is far less than what many existing local franchises require. Further, the option to pay a pro rata share of unpaid cash obligations of the incumbent will often be little or nothing, either because the incumbent paid a large share of the funding up front or because the incumbent provides in-kind services and equipment rather than funding.

In addition, the bill limits use of the funds to capital expenses, whereas many local franchises

Continued on Page 4

AB 2987 from page 3

allow the funds to be used for operational expenses. (Federal law limits use of these funds to capital expenses unless the franchise agreement allows use for operational expenses.)

Solution: Amend AB 2987 to provide that operators shall pay a specified amount of gross revenues for PEG only (not I-Net, which should be funded separately). Provide that these funds may be used for either capital or operational expenses.

Franchise Fees

Problem: There are two problems. One is that AB 2987 currently imposes a state franchise fee that is remitted to the local agency. The reason that a franchise fee generally is not considered a tax is that it is essentially rent for use of property.

However, the state does not own local streets, so it cannot impose the fee without it arguably becoming a tax. Also, there is no purpose served by having the fee imposed by the state and remitted to the local agency rather than it simply being imposed directly by the local agency. The state-imposition approach will likely lead to litigation.

The other issue is that while AB 2987 provides that local agencies will receive 5 percent of gross revenues, it includes exclusions to the definition of gross revenues that will result in a loss of revenues to those local agencies.

Solution: Authorize local agencies to impose a franchise fee not to exceed 5 percent of gross revenues, provided that the fee is the same for all equivalent providers. Provide that revenues from bundled services shall be allocated between each type of service in proportion to the price of each service if provided separately.

Service to Schools, Libraries and Other Public Buildings

Problem: Many local franchises require operators to provide free video and data services to public schools, libraries and other public buildings. These requirements ensure that our kids have the full range of educational tools, that people without access to broadband can get it at libraries, and that government agencies can better serve the public. The bill would preempt these requirements.

Solution: Require operators to provide free service to all public schools, libraries and other public buildings.

Institutional Networks

Problem: Many local franchises require the cable operator to provide an "Institutional Network" (i.e. telecommunications lines connecting schools and/or other government buildings). Institutional Networks provide a tremendous benefit to local government by providing high capacity voice/video/data networks that they could never afford on their own, while costing the operator relatively little due to the fact that the incremental cost of building additional capacity is relatively low.

The initial version of AB 2987 only provided for funding of 1 percent of gross revenues to be used for both PEG and Institutional Networks. As discussed above, 1 percent is insufficient, and is less than many agencies currently receive, for PEG alone.

Further, even if the funding were sufficient, AB 2987 doesn't require operators to provide an Institutional Network even if paid for by the local agency. The bill would effectively terminate existing Institutional Networks and prevent the deployment of new Institutional Networks.

Solution: Amend the bill to require operators to provide an Institutional Network, with the number of network connections or sites based on the population of the local agency. Alternatively, require existing Institutional Networks provided by incumbents to continue, but require new entrants to pay a proportionate share of the cost to the incumbent.

Amended versions of several major bills have now been published and can be reviewed by city officials. Hearings on these bills are scheduled for the next two or three weeks, prior to the anticipated legislative summer recess.

The following is a recap of the main flood bills and the issues being discussed:

AB 1899 (Wolk). Show Me the Flood Protection.

AB 1899 is limited to the Sacramento and San Joaquin Rivers watershed. It would require any new development in a greenfield area (i.e., not infill) that will flood to a depth of three feet or more to have firm, 100-year flood protection before the development is approved.

The measure would require a plan to be implemented that would provide 200-year protection for that development in 10 years. In the interim, the developer would be required to provide notice to buyers that the area is at risk for flooding and to provide flood insurance for the property until it reaches 200-year protection, but for no more than 10 years.

The League has no position on AB 1899 at this time. Assemblymember Wolk's office has accepted a number of amendments requested by the League. City officials from the League's flood working group, as well as from impacted cities, will meet in the League office to evaluate the bill and develop a recommendation on what position the League should take that will be considered by League policy committees and the board of directors.

Interesting, earlier this week, representatives from the League, the California State Association of Counties (CSAC), Regional Council of Rural Counties (RCRC) and the American Planning Association, California Chapter (APA) met with representatives of the Department of Water Resources (DWR) to be briefed on a proposal DWR is developing that could be considered as an alternative to the process contained in AB 1899.

The dialogue at that meeting was productive, although at this time, no formal proposal is available. The League will continue to be very much engaged in the discussions surrounding AB 1899 and other proposals.

AB 1899 will be heard in the Senate Local Government Committee on June 21 and if passed, will then be heard in the Senate Judiciary Committee hearing on June 27.

AB 802 (Wolk). Flood Protection. General Plans.

The new amendments of AB 802 reflect many months of collaborative work between Assemblymember Wolk's office and the League, CSAC, RCRC and APA. As amended, AB 802 would require cities and counties to amend their general plans to include more robust policies on flood protection and mitigation.

For example, the measure takes several options from the General Plan Guidelines that address flood issues in the safety element which are currently optional and makes them mandatory. These items were selected because they are considered to be the type of basic topics that safety elements should address.

The bill also includes a provision to require that when a city or county receives its Regional Housing Needs Assessment (RHNA) number from the Council of Governments or the California Department of Housing and Community Development (HCD), that the factors used to determine the RHNA number include consideration of flood risk on land available for housing and/or the cost of housing. Discussions are still ongoing to craft language to authorize fees to be charged to cover the mandated costs to local agencies to comply with the bill.

Continued on Page 6

The League anticipates ultimately supporting AB 802. We thank the author and her staff for their willingness to work through the issues with local governments. AB 802 will be heard in the Senate Local Government Committee on June 21.

AB 1665 (Laird). Flood Control.

Last year, AB 1665 was the lead flood bill moving through the Legislature, focusing on notification of flood risk, analysis of levee integrity and other moderate steps improve flood prevention in California. Notwithstanding the effects from Hurricane Katrina, however, the bill stalled, in spite of weeks of intense negotiations among many stakeholders.

This week, AB 1665 was substantially amended to address a variety of new issues, many of which are designed to enable the Department of Water Resources to better plan for and respond to flood risks. It applies only to areas within the geographical jurisdiction of the State Reclamation Board – the watershed of the Sacramento and San Joaquin Rivers.

While most of the provisions deal with administrative or procedural issues, several may be of interest to local governments that are behind levees, regardless of whether or not the levees are owned or operated by another local agency. Cities are encouraged to review those sections and send their comments to Assemblymember Laird and the League.

Of significant interest to cities is a provision that is designed to provide liability relief to the state for flooding from failures in state project levees. Since the state paid out nearly $500 billion in damages due to the *Paterno* decision (*Paterno v. State of California*, [2003]), it has searched for ways to share that liability with cities and counties, even if the cities and counties have no control over the ownership and operation of a levee.

Section 12657 of AB 1665 (pages 19-20, especially lines 7 to 17 on page 20) would require that before the state will contribute any funds to upgrade a levee beyond its original design flows, cities and counties that "lie in whole or in part within the benefited area of that provide" must have executed an agreement with DWR whereby "those cities and counties agree to be subject to joint liability and contribution when any action related to the project is brought against the state."

The liability sharing requirement does not apply to "projects where repairs are being made to restore previous levels of flood protection associated with specific design flows." The League views this provision as counterproductive to improving flood protection. Why would a local government help fund a levee upgrade beyond its original design specifications – or even beyond the minimum state or federal requirements – if by doing so the city would share in the state's liability?

This is a disincentive to local governments to improve flood protection and could be viewed as an incentive to deny new housing developments in areas where increased flood protection is needed. It could also be viewed as a disincentive to improve levee protection in existing urbanized areas where aging levees need upgrading. The League has shared these views with DWR representatives.

The League is studying AB 1665, but unless the liability provision is deleted the League will oppose the bill. Impacted cities should review AB 1665 and send their comments to Assemblymember Laird and the League office. AB 1665 will be heard in the Senate Natural Resources and Water Committee on June 20.

SB 1796 (Florez). Reclamation Board.

SB 1796 proposes to restructure the State Reclamation Board and to direct the board to review development projects and land use plans to ensure flood protection. While the League does not have a position on the Reclamation Board composition portion of the bill, we had expressed concern

Continued on Page 7

FLOOD BILLS from page 6

about the ambiguities in the bill regarding the Reclamation Board's land use authority.

At the bill's hearing in the Senate Natural Resources and Water Committee several months ago, the Sen. Florez committed to work with interested parties, including the League, to clarify any ambiguity to make sure that the Reclamation Board does not step into land use authority. An agreement has been reached on language necessary to address the League's concerns, and we anticipate amendments will be in print shortly. SB 1796 has passed the Senate and is pending in the Assembly.

Liability Still a Concern for Local Government

Although AB 3050 (Jones), which would have required cities and counties to share in the state's liability for flood damages, failed in the Assembly, the issue is far from dead. Besides being included in AB 1665, we anticipate that this issue will appear in several other bills.

The League's position is that we oppose efforts to shift all or part of the state's flood liability on to cities and counties simply because they approve development in areas behind levees. In addition, the League believes that if the local government approves the development consistent with existing state or federal law related to development in floodplains or behind levees, then cities and counties should not be liable.

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.

TELECOM from page 1

In Congress, the House of Representatives took up and passed H.R. 5252, the "Communications Opportunity, Promotion and Enhancement Act of 2006" ("COPE"), on a vote of 321-101. (See "House Rejects Cities' Amendments, Passes Federal Telecom Reform H.R. 5252", p. 1.)

AB 2987 Lobbying Continues

In California, League lobbying staff joined with the California State Association of Counties (CSAC), and other groups in a meeting to discuss amendments to AB 2987 (Núñez/Levine) with key legislative policy staff.

This bill has now advanced to the Senate, and is likely to be heard in the Senate Committee on Energy, Utilities and Communications (Sen. E, U & C) on June 20. Sen. Martha Escutia (D–Whittier) chairs the committee. Other committee members are: Sen. Richard Alarcon (D-Sun Valley), Sen. Jim Battin (R–La Quinta), Sen. Debra Bowen (D-Marina del Rey), Sen. Dave Cox, vice chair (R-Fair Oaks), Sen. Joseph Dunn (D-Santa Ana), Sen. Bob Dutton (R-Rancho Cucamonga), Sen. Christine Kehoe (D-San Diego), Sen. Kevin Murray (D-Los Angeles), and Sen. Joe Simitian (D-Palo Alto).

We understand that there is a possibility that following its hearing in Sen. E, U & C, the bill could be referred to the Senate Local Government Committee, chaired by Sen. Kehoe. This is not a certainty; Sen. Kehoe is also a member of the Sen. E, U & C Committee, and could satisfy her questions and concerns during that committee's hearing of the bill.

Redlining Remains a Key Concern

The League is continuing to work on several fronts to educate legislators about the need to amend AB 2987 to address the very serious issues that the bill presents for communities: redlining of services; lack of customer service

Continued on Page 8

TELECOM from page 7

protections; loss of control over local rights-of-way; loss of funding for public, education and government stations ("PEG") and I-NET systems (Internet systems for schools, libraries and other government organizations); reduced franchise fees and other concerns.

Sen. Escutia has long expressed a deep concern about protecting communities from economic redlining – something that the League and other organizations are deeply concerned would in fact occur with AB 2987.

Legislative and Grassroots Lobbying Intensifies

The League is intensifying its grassroots lobbying and media outreach efforts on this bill. City managers are being urged to get involved with this issue, and encourage their council members to do so as well. The League's regional staff is reaching out to identify local groups with whom city officials can work in coalition to send the message to legislators that AB 2987 is a badly flawed bill.

And these efforts are paying off. Increasing numbers of organizations and individuals are visiting the "No on AB 2987" page on the League website (www.cacities.org/ab2987) to get information about the bill, and to download the coalition sign-up form. The names on the growing list of coalition members will be updated weekly.

At the statewide level, the League is working to build a coalition with other statewide and regional organizations around our shared concerns with the bill. The League is reaching out to media around the state to brief them on cities' issues and concerns with the bill. These affiliations will become increasingly helpful as the League works for amendments to a bill intended to foster competition and choice for consumers, but which carries many untended consequences for cities.

Electric Energy Deregulation Déjà Vu!

City officials should continue to remind their legislators of what happened with electric energy deregulation. It provides a useful example of what can happen when a complicated bill is passed without sufficient scrutiny. Remember that legislation – like AB 2987 – was sold to legislators with arguments that it would foster competition, and that competition would produce lower rates for consumers and greater consumer choice of services.

As we all now know, electric energy deregulation was a disaster for California. It did not reduce rates; it did not create greater consumer choice. And it left the state vulnerable to rip-offs from energy producers and suppliers that had only their profits in mind.

What You Can Do

Visit the League's website (www.cacities.org/ab2987) to download a sample letter to send to Sen. Martha Escutia, talking points, fact sheets and other materials you can use in talking to legislators about this bill. The materials are also helpful to help recruit organizations and individuals who will be directly impacted by this poorly drafted measure. Be sure to join the coalition the League is building on this bill; there's a form on the website you can download and fax to the League.

For more information on this and other League issues, visit www.cacities.org.

Under the bill, local governments would lose the authority to enforce local laws pertaining to the use of local rights-of-way, with enforcement resting with the Federal Communications Commission (FCC) — 3,000 miles away from California in Washington, D.C. The bill is also silent on the appropriate forum to resolve rights-of-way disputes, leaving that authority to the FCC.

The COPE Act is silent on the issue of build-out. In addition, while the measure includes an anti-discrimination-related provision, the provision is nullified by other language in the bill that would allow new providers to self-select their service areas. As such, a new broadband video service provider – through a national franchise – could pick and choose which neighborhoods they wish to serve while bypassing all others completely.

The League has worked closely with the National League of Cities (NLC), California State Association of Counties (CSAC) and the California Congressional delegation to amend the bill to address California cities' concerns with the public rights-of-way enforcement and build-out provisions of the bill since House Energy and Commerce Committee Chairman Joe Barton (R-Texas) introduced the legislation in March.

Over the last several weeks, California cities have made significant inroads with the delegation. The League has worked closely with Congresswomen Hilda Solis and Diane Watson to construct an amendment on build-out, and with Congressman Gary Miller and Congresswoman Susan Davis to develop a bipartisan amendment that would address cities' concerns with the public rights-of-way enforcement issues created by the bill.

We owe a special thanks to Congresswomen Solis and Watson who came to the floor several times on Thursday night to speak out on these important issues. Congresswoman Solis also proposed to send the bill back to the Energy and Commerce Committee to be amended. This proposal garnered a vote of 165-256 (30 of California's current 52 members voted to send the bill back). Solis' and Watson's full statements are available at www.cacities.org/telecom.

Unfortunately, the House Rules Committee voted to oppose floor consideration of both the Miller-Davis and Solis-Watson amendments, leaving no way to improve the bill before it reached the House floor.

Cities' Outreach Made A Difference

Thanks are also in order to all of the California cities who sent letters and made calls to their members urging them to amend or oppose the legislation. These efforts ultimately helped to convince the majority of the delegation to vote against the measure.

The League and CSAC also distributed a letter to the delegation urging opposition to the measure on the afternoon of the Floor vote. A copy of that letter is available on the League website at www.cacities.org/telecom. A final tally of the California Congressional delegation's vote on the bill (28 of our 52 Members voted "NO" - over half of California's Congressional delegation) can be viewed at "How Did Your Representative Vote on H.R. 5252?"

What's Next?

The focus of the federal debate on telecommunications law reform now moves to the Senate, where the Senate Commerce, Science and Transportation Committee is scheduled to hold a June 13 hearing on a revised version of Chairman Ted Stevens (R-Alaska) draft legislation—the Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686).

The revised proposal has not yet been released, but is expected to offer greater support for the concerns of California cities than the original version released by the chairman's office last month.

At the May 18 opening hearing on the draft bill, Chairman Stevens pledged to work with the Committee's Ranking Member Daniel Inouye (D-Hawaii) to address the issues raised by the National

Continued on Page 10

HOW DID YOUR REPRESENTATIVES VOTE ON H.R. 5252?

Final California Congressional Delegation Vote Results for Passage of H.R. 5252, the Communications, Opportunity, Promotion and Enhancement Act Of 2006. (The League was urging a "Nay" vote.)

YEAS (23)

Baca
Calvert
Campbell
Cardoza
Costa
Doolittle
Dreier
Gallegly
Harman
Herger
Hunter
Issa
Lewis
Lungren
McKeon
Miller, Gary
Nunes
Pombo
Radanovich
Rohrabacher
Royce
Sanchez, Loretta
Thomas

NOT VOTING (1)

Bono

NAYS (28)

Becerra
Berman
Capps
Davis
Eshoo
Farr
Filner
Honda
Lantos
Lee
Lofgren
Matsui
Millender McDonald
Miller, George
Napolitano
Pelosi
Roybal-Allard
Sanchez, Linda
Schiff
Sherman
Solis
Stark
Tauscher
Thompson
Waters
Watson
Waxman
Woolsey

H.R. 5252 from page 9

League of Cities (NLC), National Association of Counties (NAC), the U.S. Conference of Mayors (USCM), the Government Finance Officers Association (GFOA) and the National Association of Telecommunications Officers and Advisors (NATOA). California Senator Barbara Boxer was particularly vocal at the hearing about the effect that the draft measure would have on local governments at the hearing, raising many of the League's major concerns with the bill, including rights-of-way, build-out and anti-redlining. (For the full article on the hearing, please read the May 19 edition of *Priority Focus*, located at www.cacities.org/priorityfocus2006.)

Following the hearing, the committee intends to hold a markup of the legislation on June 20.

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.

PUBLIC SAFETY

AB 1688 (Niello). Illegal Dumping Enforcement Officers. AB 1688 will grant illegal dumping enforcement officers powers of arrest to enforce illegal dumping laws. This will allow these enforcement officers to conduct complete investigations without further burdening limited police resources for basic investigative procedures.

Properly empowered civil enforcement officers are important to California's effort to fight the epidemic of illegal dumping. Illegal dumping poses a public safety, health, and environmental hazard on communities, which costs taxpayers and governments money in clean up and mitigation expenditures.

AB 1688 represents a means to effectively utilize current resources without increasing costs or draining limited police resources to protect the environment and reduce the millions of taxpayer dollars spent each year to clean up illegal dumping. **Staff:** Liisa Lawson Stark; **Status:** SenPubSafe; 6/13, **Position: Support.**

AB 2836 (Karnette). Fire Protection. Residential Care Facility for the Elderly. AB 2836 will require a residential care facility for the elderly with four or more residents to install and maintain an operable automatic fire sprinkler system approved by the State Fire Marshal no later than January 1, 2014. If a facility is licensed on or after January 1, 2010, it is automatically required to install and maintain an automatic fire sprinkler system.

Automatic fire sprinklers will provide residents of care facilities the precious time needed to safely evacuate a building. In addition, fire sprinklers will eliminate hostile and dangerous fire conditions emergency service personnel face in fire and rescue operations. **Staff:** Liisa Lawson Stark; **Status:** SenHumanS, 6/13; **Position: Support.**

SB 412 (Figueroa). Massage Therapy. Just when it seemed like the supporters had thrown in the towel and were not going pursue SB 412, which would establish a statewide licensing scheme to regulate the practice of massage therapy, a newly amended version of the bill was in print this week.

Many who reviewed the previous version were significantly bent out of shape due to many of its provisions. These included provisions that preempted city and county regulatory authority over massage therapists. The newly amended version attempts to respond to many of the issues raised by the League, based upon comments by city attorneys and public safety representatives who have worked with the League on the bill.

As amended, SB 412 would establish experience and educational requirements for an individual to become certified as a massage therapist. Individuals with such certification would not be required to meet additional experience and education requirements in order to practice in any city or county.

Legislative Bill Action

Local governments would be restricted in the type of local regulatory authority they would have, except that cities and counties could adopt and enforce a local ordinance dealing with government zoning, business licensing and reasonable health and safety requirements for massage businesses that meet the requirements established by the bill and as long as the local requirements are no different from the fees or requirements applied to any person operating any other lawful professional or personal services business within the jurisdiction.

The amendments attempt to walk the fine line between reasonable restrictions on local governments regarding regulation of legitimate businesses (i.e., legitimate massage therapists) and the need to enforce against businesses that are fronts for illegal activities (i.e., prostitution).

Cities should review the June 5 version of SB 412 and send their comments to the League. The League's Public Safety Policy Committee will review the measure at its June 23 meeting. **Staff:** Yvonne Hunter; **Status:** Pending in AsmAppr; **Position: Pending.**

ENVIRONMENTAL

SB 1778 (Alarcon). Solid Waste. Alternative Daily Cover. Several cities have inquired about the status of SB 1778. Opposed by the League, SB 1778 would have restricted the ability of cities and counties to receive AB 939 credit when green waste is used as alternative daily cover (ADC) on landfills. The bill has stalled on the Senate Appropriations Committee Suspense File and is dead for the year.

It appears that if the bill had moved out of the Appropriations Committee, it would not have restricted use of ADC, but instead would have required a study. **Staff:** Yvonne Hunter; **Status:** SenAppr Suspense File; **Position: Oppose.**

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

SENATE PUBLIC SAFETY—(6)—Migden (Chair), Poochigian (Vice–Chair), Cedillo, Margett, Perata, and Romero. Chief Counsel: Alison Anderson. Counsels: Mary Kennedy, Jerome McGuire and Steven Meinrath. Assistants: Barbara Reynolds and Mona Cano. Phone: (916) 651–4118. Room: 2031.

SENATE HUMAN SERVICES—(5)— Alquist (Chair), Maldonado (Vice–Chair), Aanestad, Chesbro and Romero. Consultants: Jack Hailey and Sue North. Assistant: Joy Traylor. Phone: (916) 651–4112. Room: 2195.

SENATE APPROPRIATIONS—(13)— Murray (Chair), Aanestad (Vice–Chair), Alarcon, Alquist, Ashburn, Battin, Dutton, Escutia, Florez, Ortiz, Poochigian, Romero and Torlakson. Staff Director: Bob Franzoia. Consultants: Miriam Barcellona Ingenito, John Decker, Nora Lynn, Mark McKenzie, John Miller and Maureen Ortiz. Assistant: Sally Ann Romo and Krimilda Hodson. Phone: (916) 651–4101. Room: 2206.

ASSEMBLY APPROPRIATIONS— (18)— Chu (Chair), Runner (Vice-Chair), Bass, Berg, Calderon, De La Torre, Emmerson, Haynes, Karnette, Klehs, Leno, Nakanishi, Nation, Oropeza, Ridley–Thomas, Saldaña, Walters, and Yee. Chief Consultant: Geoff Long. Principal Consultants: Julie Salley–Gray, Steve Archibald, Scott Bain, Chuck Nicol, Kimberly Rodriguez, Stephen Shea. Secretary: Laura Lynn Gondek. Phone: (916) 319–2081. Room: 2114.