

# 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

## STEPPING IT UP! LEAGUE ANNUAL CONFERENCE SET FOR OCTOBER 5-8 IN SAN FRANCISCO

One year after the League's outstanding victory winning Proposition 1A on the statewide ballot, the League of California Cities' 2005 Annual Conference is back in San Francisco — for the first time since 1997 — with a theme of "Stepping it Up." This is the conference you won't want to miss – and can't afford to miss if you want to join in this effort to raise the level of achievements for California cities. *For more, see Page 6.*

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## LEAGUE EXPRESSES OPPOSITION OF S. 1504 TO FEINSTEIN AND BOXER

The League of California Cities wrote to Sens. Dianne Feinstein and Barbara Boxer this week, expressing its opposition to S. 1504, the "Broad-band Investment and Consumer Choice Act." *For more, see Page 4.*

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## SENATE HEARING FOCUSES ON EMINENT DOMAIN

The Senate Local Government Committee held an informational hearing on August 17 to examine how the U.S. Supreme Court decision in *Kelo v. City of New London* affects California law. *For more, see Page 7.*

### 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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## FAIR POLITICAL PRACTICES COMMISSION ENGAGES IN STRATEGIC PLANNING PROCESS

The state Fair Political Practices Commission (FPPC) is engaged in a strategic planning process, and seeks input and comment from local officials.

The FPPC is the state agency charged with enforcing and advising upon the Political Reform Act, portions of which apply to local officials.

The focus of the FPPC's new plan appears to be on improving or developing new methods used to carry out the FPPC's mission. The FPPC's mission is to "promote the integrity of representative state and local government in California through fair, impartial interpretation and enforcement of political campaign, lobbying, and conflict of interest laws."

The draft plan has three parts:

- 1) Service to the Public
- 2) Changes to the Political Reform Act
- 3) Resources/Staff Development

According to materials distributed at the July FPPC meeting, changes made in the FPPC's service to the public will primarily consist of evaluating the effectiveness of FPPC telephone, written, and web advice, developing a time/cost accounting system, and reducing the backlog of cases. Materials regarding the Commission's strategic planning effort were included as part of item 13 on the Commission's July agenda materials, which are available at [www.fppc.ca.gov](http://www.fppc.ca.gov).

At a recent Institute for Local Government (ILG) board meeting, FPPC Commissioner Ray Remy emphasized FPPC's interest in hearing from local officials on the FPPC's strategic planning efforts. FPPC hopes to finalize the plan during the fall.

To offer thoughts on the FPPC's strategic planning efforts, please write FPPC Executive Director Mark Krausse at 428 J Street, Suite 620, Sacramento, CA 95814, so he can share them with the Commission.

## ICMA TO HOLD WEBCAST ON BRAC

The International City/County Management Association (ICMA) will hold a webcast on base realignment and closure (BRAC) topics on Tuesday, September 13, at 11 a.m. PST.

The webcast is sponsored in part by Lennar-LNR, and is for local government officials and others likely to be impacted by the 2005 BRAC round.

The webcast is designed to help local governments and community stakeholders understand the BRAC process by sharing the successes achieved and obstacles faced by city managers, federal environmental and defense officials, and private sector experts in the cleanup and redevelopment of closed military bases.

"BRAC 05: The Good, the Bad, and the Expedited-Trends, Tools, and Challenges" will discuss a number of topics including early transfers, conservation conveyances, public sales, land use controls and management tools, the distress of rural communities, and much more. Greg Morell, vice president, Land Group, Lennar-LNR; Richard Engel of Marstel-Day, LLC; and Steven Powers, county administrator, County of Marquette, Mich., will present this webcast jointly.

Those who should attend include city and county managers, economic development directors, public works directors, general counsels, other senior local government officials, and private sector consultants working on behalf of local governments. Requirements for participants include a computer with Internet access (56k modem or higher) and a separate telephone line for the audio portion of the webcast.

The webcast costs \$95 per site. For more information, and to register, visit [www.lgean.org/html/training](http://www.lgean.org/html/training) or call toll-free at (877) 865-4326.

## ILG RELEASES 'ETHICS LAW COMPLIANCE BEST PRACTICES' GUIDE

What steps can a public agency take to minimize the likelihood of an ethics scandal? One way is to engage in self-assessment of the agency's current compliance practices.

The Institute for Local Government (ILG), the League's nonprofit research, arm has just released a handy tool to engage in such self-assessment. Entitled "Ethics Law Compliance Best Practices," the checklist includes a series of questions agency officials can ask themselves to make sure the agency has practices in place designed to maximize compliance with a wide variety of ethics-related laws.

The guide reflects the recognition that compliance with ethics laws is best accomplished through a series of affirmative steps. Because of the breadth and complexity of ethics-related laws, it's hard for compliance to "just happen."

ILG's mission is to develop forward-thinking resources to assist local officials in serving their communities. The Best Practices checklist is a part of ILG's continuing work in the area of promoting public confidence in local government. ILG is very grateful to the law firm of Best, Best and Krieger for its financial support of this resource, as well those who responded to the ILG's request for peer reviewers on the League's listserves.

Hard copies of the checklist are being mailed to city managers and city attorneys this month as an enclosure in their respective department newsletters. You can also review the electronic version of the checklist at [www.ca-ilg.org/bestpractices](http://www.ca-ilg.org/bestpractices). The checklist will also be one of the handouts at the "Ethics Best Practices and Tools For Local Officials" session at the League's Annual Conference, offered as part of the leadership and governance track.

Those interested in thinking more about what it takes to foster a culture of ethics in an agency are encouraged to review an additional series of questions at [www.ca-ilg.org/culturechecks](http://www.ca-ilg.org/culturechecks). ILG hopes to be able to offer this self-assessment tool online as a database, which would tabulate a given agency's officials' and employees' responses to the questions.

For more information, contact ILG's Executive Director, JoAnne Speers, at [speersj@cacities.org](mailto:speersj@cacities.org).

## W2I DIGITAL CITIES CONVENTION SET FOR OCTOBER

### READY TO TAKE YOUR CITY DIGITAL?

The W2i Digital Cities Convention will be held on October 10-12, at the San Francisco Airport Marriott in San Mateo, and will be co-hosted by the City and County of San Francisco & the Wireless Internet Institute ([www.w2i.org](http://www.w2i.org)). The convention will bring together local government officials, systems integrators and technology and service providers to explore the full range of opportunities surrounding the planning and deployment of broadband wireless networks for cities, counties and regions.

Co-Chaired by Chris A. Vein, senior advisor for technology to San Francisco Mayor Gavin Newsom, this interactive two-day session will put an emphasis on applications and services to improve municipal workforce productivity and share excess capacity for broadband digital inclusion. The convention will also provide cities the opportunity to interact with pioneering local government peers in an informal environment. It will feature:

- Two days of conference keynotes and interactive plenary sessions with an emphasis on shared infrastructure, emerging cooperation agreements between local governments and service operators, sharing of best-practices and understanding what is required to build and operate a productive wireless network infrastructure.
- A showcase exhibit featuring select emerging technology vendors, systems integrators and service providers to discuss their work with local-government professionals.
- Vendors exhibiting include Intel, IBM, Motorola, EarthLink, HP, Airpath, Neoreach Wireless and BelAir Networks.

Over the last two years, W2i has led a global effort to accelerate the adoption of broadband wireless Internet in cooperation with international development organizations (including the UN and

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## HOUSING RESOURCE CENTER CONTINUES TO EXPAND

Have you visited the Institute for Local Government's (ILG) Housing Resource Center lately? ILG just uploaded a variety of redevelopment agency case studies as part of the "tools" section of the resource center. Like the other tools described on the website, redevelopment offers one mechanism to address the state's need for housing.

The shortcut to these case studies is [www.ca-ilg.org/rdacasestudies](http://www.ca-ilg.org/rdacasestudies), but feel encouraged to browse the resource center's other offerings. ILG is very grateful to the Fannie Mae Foundation for its support of the Housing Resource Center project.

Does your city have a housing experience from which others can learn? We are adding to the resource center weekly and welcome leads on information to include. To share your success stories, please contact Shana Graham at [sgraham@cacities.org](mailto:sgraham@cacities.org).

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## W2I UPDATE from page 3

World Bank), as well as industry standards organizations and private sector stakeholders. It has primarily focused its activities on exploring the opportunities for broadband wireless infrastructure to improve local government workforce productivity, foster economic development and accelerate digital inclusion for all communities.

The conference will also feature Wireless Communities Best Practices Awards. Submissions for these awards are due on September 1. You may download the nomination form from the conference website.

Registration discounts are available before September 1. Visit [www.w2idigitalcitiesconvention.com](http://www.w2idigitalcitiesconvention.com) for conference details and other information on this expanding issue for cities.

## FEINSTEIN/BOXER from page 1 . . . . .

The bill seeks to eliminate or nationalize the cable and video franchising process. In its letter of opposition, the League stressed that if the measure were signed into law, it would deprive local governments of part of their ability to manage, ensure safety, and receive compensation for the public rights-of-way. In addition, the League expressed concern that the bill would severely hamper the overall effort to have broadband deployed in communities because of the costly burdens on local government.

"Local governments' ability to ensure that public safety is maintained would be seriously jeopardized without authority over the physical rights-of-way established through the franchising process," explained League Executive Director Chris McKenzie, in the letter. "While citizens want better programming at lower prices, they do not want potholes in their roads, water main breaks, and traffic jams during rush hour as a consequence."

McKenzie also maintained that the League looks forward to working with both Sens. Feinstein and Boxer to address California cities' concerns with S. 1504 and other telecommunications measures that advance in the future.

For a copy of the League's recently adopted "Telecommunications Principles," please visit the League website at [www.cacities.org](http://www.cacities.org).

### 2005 LEAGUE ANNUAL CONFERENCE: OCTOBER 5-8, MOSCON CONVENTION CENTER, SAN FRANCISCO

Plan now to attend the League's 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](http://www.cacities.org/ac).

# Legislative Bill Action

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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](http://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](http://www.cacities.org/advocacycenter)), research League policy positions, access useful related links, and much more.

## ENVIRONMENTAL

### **AB 1665 (Laird). Flood Control. Levees.**

AB 1665 is sponsored by the administration and is intended to begin addressing the very serious problem of protecting Californians from possible flooding due to levee failures. The seriousness of the levee situation, the political dynamics of attempting to reach resolution, the financial impacts, and the various conflicting perspectives were clearly outlined by *Sacramento Bee* columnist Dan Walters on Sunday, August 14.

As Walters' column observed, "Largely hidden, if sometimes heated, clashes have resulted between those who want to build and buy and those who worry about the dangers of placing more homes and families behind levees of dubious strength." (For the full article go to [www.sacbee.com](http://www.sacbee.com), Sunday, August 14, 2005). In its current form, however, AB 1665 ducks that difficult issue.

Walters' column referenced a position statement issued in January by the California Department of Water Resources that stated, "California's Central Valley flood control system is deteriorating and, in some places, literally washing away." The paper continued: "Furthermore, the Central Valley's growing population is pushing new housing developments and job centers into areas that are particularly vulnerable to flooding. Yet in recent years, funding to maintain and upgrade the flood protection infrastructure has sharply declined."

Complicating the situation is the recent *Paterno* decision. In that case, the court found

that the state was liable for damages arising from failure of so-called "project levees" built by the federal government with state participation. The state had to pay nearly \$500 million to cover damages as a result of the case.

After months of negotiations among various stakeholders, including the League, AB 1665 was amended this week to reflect a relatively narrow proposal that focuses on mapping of "levee failure inundation zones," information gathering about the status of levees, and notification of property owners that live in the inundation zones with the suggestion that they purchase flood insurance. A key piece of the levee situation includes funding to upgrade and maintain levees. Unfortunately, another administration-sponsored bill, ACA 13 (Harman), which would exempt from Proposition 218's voter approval requirements fees related to levee repair (and storm water), is stalled in the Assembly Local Government Committee.

AB 1665 applies primarily to federal levees that are defined as "...any levee that is part of the federal and state authorized flood control project located in the Sacramento and San Joaquin Rivers drainage for which the [state Reclamation] board or the department [of Water Resources] has given the nonfederal assurances to the United States required for the project." However, it also includes some reporting requirements to other levees operated or maintained by other agencies.

Cities that are impacted by the levee system covered in the bill, either because they are within a potential levee failure inundation zone or because they own or operate a levee, should carefully

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## Legislative Bill Action

review AB 1665 and send their comments to the League and the bill's author. At this time, the League does not have a position on AB 1665 and is studying its provisions carefully.

The future of AB 1665 remains uncertain. It is unclear whether the bill will receive the necessary rule waivers to be heard in the last month of the session, and even if it is heard, whether or not it has the votes to pass. However, the topic of flood control and how to improve the levee system in California is a major issue facing the state that will continue to be on the table for discussion in the future. **Staff:** Yvonne Hunter; **Status:** Pending in Senate Natural Resources and Water Committee; **Position:** Review and Comment.

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## CONFERENCE from page 1

The conference will be held at Moscone Center West on October 5-8, and will feature a number of guest speakers and informative sessions that will give city officials and League members the edge they need to build upon prior successes.

### Keynote and General Session Speakers to Deliver

National League of Cities President and Washington, D.C. Mayor **Anthony Williams** will provide the keynote address, sharing his thoughts on federal issues that will affect your city, and his insights on how cities relationships with the federal government are evolving. Other general session speakers are:

- **Richard Jackson**, M.D., MPH, California's former director of public health, and a world-renowned expert on healthy cities. Dr. Jackson will address another general session on the public health impacts of sprawl and traffic, and how we can build cities that are more conducive to healthier living.

- **Steven D. Levitt**, Ph.D., an economist with the University of Chicago and author of the best-selling book, "Freakonomics." Dr. Levitt's research

will challenge convention assumptions about numerous policy issues affecting your city and society as a whole. He will set forth his argument that economics is really the study of incentives, and how people can get what they want or need when other people want or need the same thing.

A returning speaker, the ever popular **Arch Lustberg**, will speak on dynamic communication, based on his background of coaching governors, congressional leaders, presidential appointees and business leaders on effective communication. **Susan RoAne**, a nationwide expert on networking, will also be speaking.

**Housing, Infrastructure, Telecom and More.** More than 70 sessions are planned for the conference, including sessions on housing and infrastructure, telecommunications legislation, financing, successfully handling ballot measures, effective management, leadership and governance, and much more! There will also be programming directed specifically at small cities, and all the programs will include shorter and less formal briefings, leaving time for more discussion.

**Exposition: Vendors and Services YOU NEED!** The expo portion of the League's Annual Conference promises to be one of the most well attended in conference history. More than 250 exhibitors will be on-hand featuring services and products to assist in streamlining your city's operations, save money, and help respond to the concerns of your residents. Your city hall colleagues who may not otherwise attend the conference can visit the expo for free! Just have them go to the Exhibit Registration Desk and sign up for an admission badge.

**Networking Opportunities.** Social events are another important opportunity for city officials to share information and learn from one another. To aid this process, the nearly 100 businesses and organizations that are 2005 League Partners will host a reception on the evening of October 6, along with exhibitors. Network and chat with colleagues or with the exhibitors!

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## EMINENT DOMAIN from page 1 .....

The hearing opened with testimony from Chief Deputy Attorney General for Legal Affairs Richard Frank. He testified that the *Kelo* decision did not expand upon eminent domain authority available to state and local governments. He also identified differences between Connecticut and California that ensure that private property owners in California enjoy stronger protections in eminent domain cases than were available to the homeowners in the *Kelo* case.

The California Redevelopment Association (CRA) was represented at the hearing by Joe Coomes, Jr., from CRA's general counsel, McDonough Holland & Allen. Bill Higgins, a land use attorney with the League's Institute for Local Government (ILG), testified on behalf of the League and ILG.

Both witnesses emphasized that the *Kelo* decision had no affect on California law and that existing rights and procedural protections for property owners in redevelopment areas remain in place.

Two private property rights advocates spoke for the need for stronger protections for California property owners. They urged support for SCA 15 (McClintock) and ACA 22 (LaMalfa), two identical constitutional amendments that would ban the use of eminent domain to take any kind of private property from one party and transferring it to another private party - even property damaged by natural disasters, environmentally hazardous properties, blighted properties taken to construct affordable housing, etc.

The League is opposing these two measures, because we believe they are an over-reaction to the Supreme Court decision, and fail to take into consideration the vastly stronger protections that exist in California to protect property owners from local governments' improper or unreasonable use of eminent domain.

The committee took no action, but did talk about the need for further study to determine whether additional legislation is needed to

strengthen protections for property owners by amending the definition of blight or providing some reform of the civil procedures required of a redevelopment agency before it can embark on eminent domain proceedings.

Committee Chairwoman Christine Kehoe (San Diego) announced that she was introducing three measures dealing with eminent domain: SCA 12 (co-author Sen. Tom Torlakson); SB 53 and SB 1026. The chairwoman also said there would be additional study and discussion of the eminent domain issue during the three-and-a-half weeks before the Legislature recesses on September 9.

For more on the eminent domain bills, see "Senate Introduces Eminent Domain Legislation" on page 8.

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## CONFERENCE from page 6

**ILG Symposium on Emerging Issues.** The League's nonprofit research arm, the Institute for Local Government (ILG) has a Luncheon Symposium, which is a new addition to this year's events. The symposium will be held on October 6 from 12:30 p.m. to 2 p.m. and will feature author ***Daniel Yankelovich***, who will speak on emerging issues that cities face in the years ahead and what you can do now to prepare for them. Tickets for this event are \$40, and you can sign up when you register for the conference at [www.ca-ilg.org/symposium](http://www.ca-ilg.org/symposium).

To register for the League Annual Conference, visit the League website at [www.cacities.org/ed](http://www.cacities.org/ed). For more information, you can also contact the League's Conference Registration Desk at (916) 658-8291. **Please note that attendees will need to make their own hotel reservations for this event.**

## SENATE INTRODUCES EMINENT DOMAIN LEGISLATION

There were four measures introduced in the Senate this week dealing with questions relating to eminent domain. They are:

- **SCA 12** by Sens. Tom Torlakson and Christine Kehoe (principal co-authors are Assemblymembers Gene Mullin and Simon Salinas) is a proposed constitutional amendment that, if approved by the voters, would prohibit the use of eminent domain for the taking of "owner-occupied residential property" for private use.
- **SB 53** by Sen. Christine Kehoe would require new and existing redevelopment plans to declare whether eminent domain will be used and specifically allows the agency to prohibit the use of eminent domain for certain uses such as owner-occupied residential property or in certain geographic areas. (Agencies have the authority to do that now.)

The use of eminent domain in new plans would be initially limited to 10 years (instead of 12 in current law) from adoption of the plan. For plans adopted before January 1, 2006, they would have to be amended before July 1, 2006 to include the planned uses of eminent domain and a time limit on the use of eminent domain not beyond July 1, 2009. This bill may be a "spot bill" that will be kept available for further amendments.

- **SB 1026** by Sen. Kehoe would impose a two-year moratorium on the use of eminent domain for the taking of "owner-occupied residential property" for private use. It would also require the California Research Bureau to report to the Legislature by January 1, 2007 on all condemnations of owner-occupied residential property for private use from 1996 to 2006, and what became of those properties.

Companion measures to SCA 12 and SB 1026 are expected to be introduced in the Assembly in the next few days.

- **SB 1099** by Sen. Dennis Hollingsworth would prohibit the use of eminent domain for "agricultural property" unless the condemning government retains direct ownership of the property or the property is transferred to a private entity for health care facilities, public utilities, or transit facilities.

SCA 12 and SB 1026, along with the companion Assembly bills when they are amended, represent the Democratic alternatives to SCA 15 (McClintock) and ACA 22 (LaMalfa), extreme measures that would all but end the use of eminent domain for redevelopment.

**League Remains Opposed to SCA 15 and ACA 22.** While the League has not taken positions on these newest bills, we continue to oppose to SCA 15 and ACA 22, along with the California Redevelopment Association (CRA). We urge local government officials to let legislators know of your opposition to these two bills and the adverse affect they would have on the ability to do local community improvements if you have not already done so.

For examples of communities using eminent domain to reduce crime and restore blighted areas, please visit the League's website at [www.cacities.org](http://www.cacities.org).

For more information on this and other League issues, visit [www.cacities.org](http://www.cacities.org).