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

PRIORITY FOCUS

LEAGUE OF CALIFORNIA CITIES

IN THIS ISSUE:

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LEAGUE HONORS NINE MEMBERS OF THE CALIFORNIA STATE LEGISLATURE

(From left to right) Front row: Sen. Dave Cox, Sen. Bob Dutton, Asm. Anna Caballero, Sen. Mike Machado and League of California Cities President Jim Madaffer. Back row: Asm. Cameron Smyth, Asm. Jarred Huffman, Sen. Joe Simitian. (League Photo/Yvonne Hunter)

Hundreds of city officials turned out to honor the nine legislators the League recognized for their support of local government in 2007 at a reception Wednesday, Jan. 16. The event was held at the Sutter Club in Sacramento following the first day of the 2008 New Mayors and Council Academy.
For more, see Page 2.

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TEMPLATE FOR PROP. 1B LOCAL STREET AND ROAD FUNDS NOW AVAILABLE

The California Department of Finance (DOF) released the instructions and forms for accessing Proposition 1B local street and road funds this week. *For more, see Page 2.*

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ANTI-RENT CONTROL MEASURE QUALIFIES FOR JUNE 2008 BALLOT

On Wednesday, Jan. 16, the Secretary of State's office announced that the so-called California Property Owners and Farmland Protection Act qualified for the June ballot. *For more, see Page 2.*

'Legislator Recognition Reception' Continued from Page 1…

Along with Assembly Member Anna Caballero (D-Salinas), the League's "2007 Legislator of the Year," eight other legislators were honored including Senator Dave Cox (R-Fair Oaks), Senator Bob Dutton (R-Inland Empire), Assembly Member Jarred Huffman (D-San Rafael), Senator Mike Machado (D-Linden), Senator Joe Simitian (D-Palo Alto) and Assembly Member Cameron Smyth (R-Santa Clarita).

The nine legislators were also featured in the January issue of *Western City* magazine, which can be accessed at www.westerncity.com.

In addition to the legislators who were honored, many other assembly members and senators joined city officials to discuss local issues and recognize their colleagues including, Assembly Member John Laird (D-Santa Cruz), Assembly Member John Benoit (R-Palm Desert), Senator Tom Torlakson (D-Antioch), Attorney General Jerry Brown, Housing and Community Development Director Lynn Jacobs and Secretary for Resources Mike Christman.

'Prop. 1B Template' Continued from Page 1…

Cities should have received application instructions electronically. Materials from DOF include a letter explaining how to apply for the funds as well as a list which includes each city's proportional share of the funds. Links to these documents as well as the Prop. 1B implementation guidelines are below.

Resources

The League has provided the DOF letter, the city-by-city list of funds, and Prop. 1B implementation guidelines online at www.cacities.org/infrastructure.

'Anti-Rent Control Measure Qualifies' Continued from Page 1…

This sinister measure, also known as the "Hidden Agendas Scheme," will eliminate rent control, eviscerate local land use planning, gut environmental protections and undermine public water projects needed to ensure the state an adequate supply of clean drinking water. Funding for the deeply-flawed Hidden Agendas Scheme comes from wealthy apartment owners and mobile home park owners.

Homeowners Protection Act Measure Expected to Qualify Soon

Eminent Domain Reform Now, the coalition working to support responsible eminent domain reform, expects the **Homeowners Protection Act** will qualify for the June 2008 California statewide ballot as soon as today or within the next few days.

If passed by voters, the **Homeowners Protection Act** would provide solid protections for homeowners by prohibiting governments from taking an owner-occupied home to transfer to a private party. The measure is a direct response to the U.S. Supreme Court's infamous *Kelo v. City of New London* decision of 2005.

The broad coalition supporting the **Homeowners Protection Act** includes seniors, homeowners, business, labor, environmentalists, affordable housing advocates, public safety leaders and local government.

For more information on these initiatives and the campaign, visit www.eminentdomainreformnow.com.

Health Care Legislation Will Have No Fiscal Impact on Cities

Analysis by League staff has determined that cities would not have to address the funding issues contained in ABX1 1 (Nuñéz and Perata), the California Health Care Security Cost Act. Passed by the Assembly on Dec. 17, the legislation is designed to provide coverage for most uninsured Californians. Gov. Arnold Schwarzenegger supports the bill.

ABX1 1 has many moving parts, but the mandated employer contribution is one of the most significant portions of the bill impacting employers. The bill calls for employers to contribute/pay a health care fee equal to 1-to-6.5 percent of annual Social Security wages in the prior calendar year depending on size of the entities' payroll. The fee portion of the proposal is scheduled to be on the November 2008 ballot.

Because cities are self-insured and meet the existing contribution levels for the bill, cities will not have to address the funding issue involved with the California Health Care Security Cost Act.

Counties however have a different situation. Counties serve as "providers of last resort" for the uninsured. The proposed legislation calls for the state to institute coverage for the uninsured. The authors contend that this will provide savings for counties because they will no longer be responsible for this function. County officials however believe that there is too much discretion to determine the actual amount of county savings if ABX1 1 passes.

Democrats say that the $14 billion plan will pay for itself via proposed fees and taxes on employers, workers and the tobacco industry. Republicans expect the proposal to meet its demise at the ballot box due to the anticipated fee and tax hikes.

Funding from the proposal will come from the following sources:

- Employer fee in lieu of providing coverage: $1.6 billion
- Employers who provide coverage through the pool: $900 million
- Hospital tax: $2.3 billion
- Federal funds: $4.7 million
- Tobacco tax: $1.6 billion
- Individual premiums to pool: $2.1 billion

The bill has moved on to the Senate Health Care Committee where it is scheduled to be heard Jan. 23. The League will continue to monitor the legislation and will provide updates through *Priority Focus* and the League's Web site at www.cacities.org.

Highway Users Tax Primer Available

Gov. Arnold Schwarzenegger has proposed a series of cash management solutions to address projected state general fund revenue shortfall for FY 2007-08 including "a one to five month delay in gas tax disbursements for local streets and roads, increasing borrowable resources."

This proposal would delay approximately $500 million of Highway Users Tax payments to cities and counties, in the amount of about $100 million per month starting in April. These taxes, also known as the "Motor Vehicle Fuel Taxes" or "Gasoline Excise Taxes," would be paid in full to cities and counties without interest in September 2008.

League Fiscal Policy Advisor Michael Coleman has prepared a detailed explanation of city Highway Users Tax revenue allocations with city-by-city estimates of the amount of revenue that would be delayed. The primer can be accessed at www.californiacityfinance.com (http://www.californiacityfinance.com/HUT080110.pdf)

The League is continuing to gather information on the Governor's proposal and potential impact to cities and is conducting a close review of the size and scope of the state's cash flow challenges and other possible solutions to address the deficit.

Federal Update: 110th Congress Begins Second Session

The U.S. Senate and House of Representatives reconvened this week for the second session of the 110th Congress with an agenda dominated by the economy.

Leaders from both houses hope to collaborate with the Administration to develop a bipartisan economic stimulus package. This issue along with health care, energy and the environment are expected to be top issues in Congress as well as at the forefront of the presidential campaign in the coming year.

Below is an update on federal budget issues followed by a recap on housing, public safety, water, eminent domain and internet legislation the League has been tracking in both houses of Congress.

Appropriations for FY 2008 and 2009

The extended appropriations negotiations late last year between Congress and the Administration for the fiscal year that started Oct. 1 produced mixed results for local government. The final multi-bill appropriations package, P.L. 110-161, included $578.233 million for the Community Oriented Policing Services (COPS) program. This is $45.233 million more than what was appropriated in FY 2007, but $120 million less than the House and Senate proposed for the program for this year.

The omnibus spending bill signed by President Bush in December also included $3.6 billion for the Community Development Block Grant (CDBG) program, which is $100 million less than last year and $600 million more than the President proposed this year.

The FY 2008 budget negotiations were lengthy because of disagreements between Congress and the Administration on appropriate spending levels for domestic programs. Initially, Congress proposed to spend 2.5 percent more than the Administration on domestic programs and the President vowed to veto any spending legislation that exceeded his proposed budget. When Congress ultimately agreed to the President's total FY spending level of $933 billion, they chose to steer funding into programs which they determined had the greatest need.

The release of President Bush's proposed FY 2009 budget on Feb. 4 is just the beginning of the federal budget negotiation process, which similar to FY 2008, will be difficult and fraught with partisan differences. After the President's proposal is released, Congress will begin reviewing the budget and setting its own spending priorities for the upcoming fiscal year. It is extremely likely that Congress' budget agenda may not align with the White House's due to partisan divisions.

The League will continue to monitor federal budget issues as they relate to local government in the coming months. Updates will be issued through *Priority Focus* and the Web site at www.cacities.org.

2007 Legislative Recap

Congress will return to work this year on several pieces of key legislation being closely tracked by the League. This legislation includes:

The Energy Independence and Security Act of 2007

In December, the President signed this legislation (P.L. 110-140) into law, which includes a provision to authorize the Energy Efficiency and Conservation Block Grant program at $2 billion annually through FY 2012. The program would provide grants to states and local governments to help reduce fossil fuel emissions, reduce energy usage, and improve energy efficiency in transportation, building, and other appropriate sectors.

Appropriated funds would be split into two primary portions, with 68 percent of funds allocated to local governments and 28 percent of funds allocated to states, including DC, Puerto Rico, and territories and possessions. The remaining 4 percent would be split between Indian tribes and special grants. This year, the House and Senate will determine the program's FY 2009 funding level. The Department of Energy is expected to organize guidelines.

The Affordable Housing Trust Fund

The House passed the National Affordable Housing Trust Fund Act (HR 2985, HR 1852, HR 1427) last October. Together, these three bills would provide more than $1 billion in new resources annually for the production, preservation, and rehabilitation of 1.5 million affordable homes over 10 years.

Cities and towns would receive 60 percent of the funds with the remaining 40 percent going to states. These funds could be used for construction, rehabilitation, acquisition, and preservation of affordable housing. The Senate will consider its version of the legislation (S. 2523) this year.

Federal Foreclosure Legislation

The Mortgage Reform and Anti-Predatory Lending Act of 2007 (HR 3915), passed by the House last November, would aid subprime loan holders with repayment and refinancing. The Senate passed similar legislation (S 2338) in December.

The House and the Senate must now reconcile differences between the two measures and secure White House approval before it can be signed into law. No timeline has been established for accomplishing this and additional legislative efforts on this issue will likely emerge this session.

Gang Abatement and Prevention Act of 2007

Sen. Diane Feinstein's Gang Abatement and Prevention Act of 2007 (S 456) was approved by the Senate in September. The House version of the measure (HR 3547) is scheduled to receive committee-level consideration early this session, though no date for committee review of the measure has been set yet.

The bills would create High Intensity Interstate Gang Activity Areas (HIIGAA) and provide Federal assistance to local governments to combat, investigate and prosecute criminal street gangs.

The COPS Improvements Act of 2007

The COPS Improvement Act of 2007(HR 1700) passed the House in May. The legislation would authorize $1.15 million annually through FY 2014 for COPS. The Senate version of the measure (S 368) was approved by the Senate Judiciary Committee in May as well, and is awaiting final action on the Senate floor. No date has been scheduled for consideration of the measure.

The Public Safety Employer-Employee Cooperation Act of 2007

The House passed its version of this legislation (HR 980) in July, while the Senate attempted to attach its version (S 2123) of the measure to the Food and Energy Security Act of 2007 in December. Although this failed, this legislation should gain momentum this session.

In addition to imposing Federal collective bargaining requirements on states and local governments that do not currently permit collective bargaining, this legislation may impose the federal requirements on those states that already permit collective bargaining.

The Clean Water Restoration Act of 2007

The House and Senate will continue hearings on their versions of the Clean Water Restoration Act of 2007 (HR 2421 and S 1870 respectively) in 2008. The measures would amend the Clean Water Act to replace the term "navigable waters" throughout the Act with the term "waters of the United States." This term would be defined to mean all waters subject to the ebb and flow of the tide, the territorial seas, and all interstate and intrastate waters and their tributaries to the fullest extent that the waters, or activities affecting them, are subject to the legislative power of Congress under the Constitution.

Federal Eminent Domain Legislation

Last December, an amendment to the Senate's Food and Energy Security Act of 2007 was defeated that would have preempted state and local land use laws by prohibiting any state or local government from exercising eminent domain authority over any "farmland or grazing land for the purpose of a park, recreation, open space, conservation, preservation view, scenic vista or similar purpose."

While little action is expected on eminent domain this session, three measures have been introduced on the issue: the Private Property Rights Protection Act of 2007 (HR 3053/S 48) and the Strengthening the Ownership of Private Property Act of 2007 (HR 926).

The Internet Tax Freedom Amendments Act of 2007

The President signed the Internet Tax Freedom Amendments Act of 2007 (P.L. 110-108) in October, which extended the moratorium on internet access taxes that expired in November of 2007 until 2014. The legislation also amended the definition of Internet access to make clear that the moratorium applies only to the service that connect a user to the Internet and not to goods and services sold over the Internet. No additional legislation is expected on this issue this session.

State Controller Issues Advisory Letter on Property Tax Administrative Charges

The audit division of the State Controllers Office issued a letter Jan. 7 clarifying its recent legal opinion on the appropriate method for calculating property tax administrative charges related to the triple flip and property tax in lieu of Vehicle License Fees (VLF).

In recent months, numerous city officials have voiced concerns about a significant increase in property tax administrative charges related to the administration of the triple flip and property tax in lieu of VLF. The triple flip is the mechanism by which the state reimburses cities and counties with property tax for local sales tax taken to pay off the Economic Recovery Bonds under Proposition 57 (2004). Property tax in lieu of VLF is the additional property tax revenue cities and counties receive since the VLF for Property Tax Swap of 2004.

These concerns raised an issue requiring legal interpretation. Under the law, beginning in FY 2006-07, a county may impose a fee for administrative costs of implementing the triple flip and property tax in lieu of VLF, but the fee, charge, or other levy may not exceed the actual cost of providing these services. County auditors had been redistributing the total costs of property tax administration in proportion to the distributions of triple flip and property tax in lieu of VLF, resulting in substantially larger additional charges than actual cost.

Interested cities should visit http://www.californiacityfinance.com/#PROPTAXADMINFEES to review the letter from the audit division of the State Controllers Office.

Sustainable Cities Feature Launches

This week *Priority Focus* runs the first sustainable cities feature with a profile of Palo Alto Green, the city's program that enables residents to purchase renewable energy. The sustainable cities series highlights innovative practices California cities are using to promote sustainability.

We are now collecting stories for this new series and want to hear about what your city is doing to be more sustainable. Has your city recently converted its vehicle fleet, installed solar on city buses or perhaps developed a public awareness campaign to encourage city residents to conduct an energy audit at home? These are the kinds of stories we want to hear.

Questions and submissions should be sent to League Communications Director Eva Spiegel at espiegel@cacities.org.

Sustainable Cities Feature: Palo Alto National Leader in Clean Energy Use

Palo Alto has become one of the nation's top clean energy providers by offering its residents the opportunity to purchase renewable energy. The city is doing this through Palo Alto Green, a program through which residents voluntarily pay an extra 1.5 cents per kilowatt-hour on their utility bill to fund the purchase of clean energy. It's considered a voluntary utility tax, and on average, participating customers are charged approximately $10 each month.

Launched in 2003, Palo Alto Green now has 22 percent of the city's residents participating, making it a national leader. The average participation rate for other American cities with similar programs is just 1.8 percent.

The purchased renewable energy comes from a combination of 97.5 percent wind and 2.5 percent solar generators from facilities located throughout California including Solano County, Davis, San Ramon and Pleasanton.

Annually, Palo Alto's municipal utility department purchases about 41.5 megawatt-hours of energy with 13 percent coming from renewable energy. This program prevents about 700 million pounds of CO_2 from being released each year.

Palo Alto is unusual among cities in that it provides all utilities for its residents, not just water and refuse collection. Palo Alto Green is possible because the city is able to contract for green power.

Assistant City Manager Emily Harrison remarked on why Palo Alto is so committed to addressing climate issues. "Our council adopted a sustainability policy in 1997 and since we've implemented a broad array of programs including Green Palo Alto. Just last month we adopted a climate protection plan to achieve carbon neutrality by 2050. This will mean massive changes to city operations as well as significant changes from every sector of the community."

Palo Alto is getting national attention for its sustainable focus. In 2006, the Environmental Protection Agency recognized the city a Green Energy Community because of the innovative program. The California Climate Action Registry has also designated Palo Alto a Climate Action Leader.

To learn more about Palo Alto Green please visit www.city.palo-alto.ca.us/ and search the term "Green Palo Alto."

Register Now for Green California Summit and Exposition

The Green California Summit and Exposition is scheduled April 7-9, at the Sacramento Convention Center. This event was created to support efforts by local and state government to implement effective and innovative green services, products and solutions.

Session topics include:

- Climate change
- Energy innovation
- Green building
- Environmentally preferable purchasing
- Waste management
- Transportation
- Water management
- Developing an organizational "green culture"
- Planning and development
- Funding

Registration

Register online at www.green-technology.org.

Early bird registration ends March 1 for a discounted entry fee. Registration will be open until the conference starts at full price. Special group rates for the education program are available for groups of four or more. The keynote speeches and expo floor are free, but you must register to attend.

For questions, please contact Cindy Dangberg at (916) 838-3339.

Registration Deadline Jan. 31 for Census Formula Information

Although the 2010 Census is still three years away, the U.S. Census Bureau needs local governments to provide updated addresses and population information for their communities by Jan. 31.

All state, local and tribal governments should have already received informational booklets from the Census Bureau about the Local Update of Census Addresses (LUCA) program.

This joint and voluntary program between the Census Bureau and local governments is the official start of the 2010 Census. The Bureau projects that by 2010, there will be more than 310 million people living in the 50 states, Washington, D.C. and Puerto Rico.

In partnership with the Census Bureau, local governments will use their area knowledge to improve the list of addresses for housing units and group quarters, including growth from new construction or annexation.

After registering for LUCA, participating governments will receive review materials to improve the address list.

The information contained in the address list is confidential by law, and those governments that choose to participate in the LUCA program will be provided an option to review the Census Bureau's address list. Like all census employees, those who review and update a confidential address list are subject to a jail term, a fine or both if they disclose any protected information.

After LUCA, but prior to the 2010 Census questionnaire delivery, address listers will perform a field canvass across the country to make sure the latest address list is correct. Using global positioning system (GPS) mapping on hand-held computers, workers will be able to update information electronically while out in the field.

For more information, visit the 2010 Census LUCA Program at www.census.gov/geo/www/luca2010/luca.html, or call the Census Bureau Geography Division at (866) 511-5822.

California Sex Offender Management Board Holds Public Hearings

The California Sex Offender Management Board (CASOMB) held public hearings in San Francisco, Bakersfield and San Bernardino the week of Jan. 7 to provide local government, law enforcement agencies, victim advocates, and community members the opportunity to ask questions and express concerns about sex offender management policies under review by board members.

Charged with conducting an assessment of current management practices for adult sex offenders residing in California communities, CASOMB is expected to report to the Governor and Legislature early this year. Information gathered at the public hearings last week will be used in this report.

Background

CASOMB was created in 2006 when Governor Schwarzenegger signed Assembly Bill (AB) 1015 (Chu and Spitzer). The board held its first meeting last June and has continued to meet monthly to address this issue. The meetings focus on all aspects of the systems that manage the population of registered sex offenders in California, with particular attention given to those sex offenders living in the community under the direct supervision of the criminal justice system.

The California Department of Corrections and Rehabilitation (http://www.cdcr.ca.gov/News/PublicNotices.html) has more information online about CASOMB and scheduled meetings. Go to www.cdcr.ca.gov/ and search the term "California Sex Offender Management Board."

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

Visit (and bookmark!) the League's Legislative Resources 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.
