PRIORITY

FOCUS

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

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The Legislature is in recess until January 4.

INITIATIVES TARGET USE OF EMINENT DOMAIN

Three voter initiatives have been filed with the Attorney General targeted at eliminating the use of eminent domain for any property that would not be owned and used by a public entity. *For more, see Page 3.*

NEGOTIATIONS PUSH HOUSE ACTION ON OVERHAULING TELECOM LAW INTO NEXT YEAR

House action on legislation aimed at updating telecommunications laws likely will wait until next year as a bipartisan group of lawmakers work on a deal on a variety of complex issues, from regulating online video services to setting rules to ensure consumers have unfettered access to the Web.
For more, see Page 3.

WANT MORE DETAILS ON BILLS?

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

TELECOM IN THE NEWS

Technological advances in telecommunications are creating enormous pressure in Congress and throughout the United States for regulatory reforms that could dramatically affect cities' ability to protect consumers and public rights-of-way, and maintain revenues needed for local services. *For more, see Page 4.*

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ECONOMIC DEVELOPMENT IN THE NEWS

The following was sent to the League from the California Association for Local Economic Development:

LAEDC Speaks Out on Business Climate

The Los Angeles County Economic Development Corporation called on state officials to improve California's business climate with a letter asking "Why haven't we learned our Economic Development 101 lesson yet?" Visit www.dailybreeze.com to read the article titled "Group Urges Drive to Save Local Jobs."

Biotech Jobs Needed Here

BayBio is seeking to build political support for biotech manufacturing. Visit www.bizjournals.com to read the full article.

"County to County Commuting by California Residents"

This article contains maps for 25 counties that show the number of commuters to and from surrounding counties. Visit www.labormarketinfo.edd.ca.gov to read the full article.

Economic Development Resources You Should Know About

Access links to important economic development contacts at www.don-iannone.com, in the article titled "Important ED Resources You Should Know About."

Reading List for Beginners

Access links to beneficial books, reports, and articles regarding economic development issues at www.don-iannone.com, in the article titled "ED Reading List for Beginners."

IDENTITY THEFT SUMMIT TO BE HELD IN FEBRUARY

Identity theft is a growing problem throughout society, affecting city residents, businesses and local law enforcement. As a result, the League of California Cities is delighted to take part in the 2006 Identity Theft Summit as a member of the Advisory Committee.

The summit will provide city officials with the opportunity to become better educated on issues relating to identity theft and steps that cities can take to combat it. The summit will take place in Los Angeles on February 23, 2006, and will be presented by Gov. Schwarzenegger, the California Consumer Services Agency, the California State Department of Consumer Affairs, and the California Office of Privacy and Protection. It will be hosted by the California District Attorneys Association.

For more information, please visit www.idtheftsummit.ca.gov or contact League Legislative Analyst Leticia Farris at (916) 658-8214 or lfarris@cacities.org.

Leaving City Office? Retiring?

The League wants to stay in touch! Just because you are leaving your position with the city doesn't mean you stop caring about or wanting to be involved in city issues. Keep abreast of developments affecting cities and the League by becoming part of the League's alumni group. Members will receive periodic updates on city issues and League activities. This is the League's way of saying "thank you" for your public service—there is no fee for this service.

To join, go to www.cacities.org/alumni or send your contact information to dharrison@cacities.org.

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Joe L. Barton, R-Texas, chairman of the House Energy and Commerce Committee, had been hoping a subcommittee of his panel would mark up draft telecommunications legislation next week. But the chairman agreed Thursday to postpone that plan, aides to committee members said, because both Republicans and Democrats on the panel said they needed more negotiating time.

Barton has said he wants to enact legislation sooner rather than later that would update the Telecommunications Act of 1996 (PL 104-104) and set new rules for Internet-based video and voice services.

But winning consensus among industry stakeholders has been challenging. A draft bill, introduced in September, ran into substantial opposition from regional Bell phone companies which thought it would not provide enough regulatory relief. A second draft measure, released last month, addressed the Bells' concerns, but flopped with Democrats, forcing the chairman to push back his time line further.

The Senate Commerce, Science and Transportation Committee also plans to take up telecommunications legislation early next year. Chairman Ted Stevens, R-Alaska, has scheduled a series of hearings on telecommunications issues for after the holiday recess and also is said to be working on a draft bill.

Barton's panel is farther along and key members of his committee plan to meet next week to try to make headway on their legislation. Among those participating in the committee's informal talks are Barton; Vice Chairman Charles W. "Chip" Pickering Jr., R-Miss.; ranking Democrat John D. Dingell of Michigan; Fred Upton, R-Mich., chairman of the subcommittee on Telecommunications and the Internet; and Edward J. Markey of Massachusetts, the subcommittee's ranking Democrat.

"This is the beginning of a conversation at the member level, where we can explain our positions, understand each other's goals for the bill and duly consider what consequences different proposals

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Sen. Tom McClintock, Orange County Supervisor Chris Norby, and Jon Coupal, President of the Howard Jarvis Taxpayers Association, submitted two measures last week, one of which is also sponsored by Assemblymember Doug LaMalfa. A third was filed this week signed by Douglas Adams McNea and Karin Annette Hipona. McNea is a Republican candidate for the 16th Congressional District. Hipona is a trustee with the Jefferson Union High School District in San Mateo County.

The common thread in these measures is that they are attempting to capitalize on the issue raised in the U.S. Supreme Court case, *Kelo v. Town of New London,* to make broad, sweeping changes in property rights law that would favor landowners over public investment.

- ***Homeowners and Private Property Protection Act of 2006.*** The first of the McClintock/Norby/Coupal measures, this initiative would make sweeping changes to the calculation of just compensation. It defines the terms "taken" and "damaged" to include any action that reduces the use of property in whole or in part and would require compensation for these actions. It also includes a prohibition regulating resale and rental programs that would effectively transform most inclusionary housing programs into compensable takings. Additionally, it includes a limited reacquisition right and requires attorneys' fees when a court or jury awards a value that is higher than the original offer.

- ***California Property Owner Protection Act.*** The second McClintock/Norby/Coupal measure focuses more on the means of compensation, providing that condemnation for economic development must be conditioned on the owner's permission. The measure also goes beyond that, by applying additional conditions to **ALL** eminent domain actions. It includes provisions for an owner's perpetual right of reacquisition, requiring attorneys' fees when the agency's original offer is lower than a court award, and makes these changes retroactive to June 23, 2005, (the date of the *Kelo* decision).

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The League plans to run "Telecom in the News" in Priority Focus at least every other week, to spotlight events and trends of interest to city officials.

BellSouth Withdraws Donation Over Wireless Network

In New Orleans, La., BellSouth Corp. has withdrawn an offer to donate one of its buildings in the area that would have served as the new police headquarters.

According to city officials, BellSouth was angered over New Orleans' plan to unveil a city-owned wireless Internet network that would bring high-speed Internet service for free to homes and businesses in New Orleans, in an effort to jump-start resettlement and relocation in the city.

For the complete story, visit www.washingtonpost.com and search for the article titled "Angry BellSouth Withdrew Donation, New Orleans Says."

Lafayette Mayor Claims Phone Company Trying to Hinder Broadband Plan

Local officials in Lafayette, La., have become frustrated with the alleged efforts of BellSouth to block the city's plan to build an advanced broadband network.

In an article run by *USA Today*, Gene Kimmelman of Consumers Union commented that the blockage of municipal governments from entering the broadband market would have adverse effects on the ability of citizens to afford high-speed Internet services.

For the complete story, visit www.usatoday.com and search for the article titled "Bells Dig in to Dominate High-Speed Internet Realm."

Verizon Calls N.J. Legislation a 'Barrier to Entry'

Recently, New Jersey introduced the first draft of A4430 – a bill aimed at authoring a statewide franchise for certain providers of cable-television services, and specifies that a complete telecommunications buildout of the state would be required in six years.

Verizon Communications, which had lobbied New Jersey for the bill, now considers the current draft to be a barrier to entry.

For the complete story, visit www.multichannel.com and search for the article titled "Surprise for Verizon in N.J."

Poll Shows N.J. Residents Prefer Local Cable Franchises

In a recent poll conducted by Penn, Schoen, & Berland for the New Jersey Cable Telecommunications Association, 68 percent of New Jersey residents are not interested in cable television competition if it requires payment of Verizon's cable tax through higher franchise fees.

In addition, 75 percent of the poll respondents said they preferred local cable franchises over statewide cable television franchises.

For the complete story, visit www.prnewswire.com and search for the article titled "New Poll Shows New Jersey Residents Strongly Reject Verizon's Cable Tax."

WiMax to be Tested in Taiwan

WiMax, a technology intended to provide users with wireless, high-speed Internet access at much greater distances than Wi-Fi, will be tested in Taiwan.

Intel has agreed to work with the country to develop the technology, and test it on an island-wide basis.

For the complete story, visit www.pcworld.com and search for the article titled "Taiwan Tests Island-Wide WiMax."

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may have for our local communities, consumers and competition," Markey said.

The negotiations to write a third draft bill are expected to focus in large part on whether franchising rules should apply to new broadband video services. The Bell companies are beginning to offer such features over their fiber-optic networks and compete head-to-head with cable television operators.

Aides to several committee members said there is general consensus that new broadband video services should be subject to a national franchise agreement, rather than the local franchise agreements that now govern cable companies.

The Bells say that being forced to negotiate franchise agreements on a city-by-city or county-by-county basis could delay the roll out of new broadband video services.

But lawmakers are still arguing over how to define broadband vide> service and under what conditions a national franchise should be allowed. Members also are debating whether cable TV operators should also be able to obtain a national franchise in certain circumstances.

"There is a parity issue here that we are trying to resolve," Pickering said.

In addition, Democrats want to ensure that municipalities, which fear losing their franchising powers, would still be able to require video operators to provide channels for public, educational and government use and communications networks for police officers, firefighters and other local officials.

Democrats also are pushing for tougher language on "Net neutrality" -- a stipulation that broadband providers cannot block customers from accessing certain Web sites and services. Democrats have warned that without such protections, broadband companies could prevent customers from accessing online services, such as phone or video, offered by their competitors. Virginia Democrat Rick Boucher, a member of Upton's subcommittee, said some Internet companies, including Google Inc. and Yahoo Inc., also are concerned that broadband providers could charge them a toll to reach Web users.

There is widespread support for a "Net neutrality" provision, but members are still debating what exceptions should apply to ensure that broadband providers can keep their networks secure, prevent users from hogging bandwidth and offer services such as spam filters.

Democrats are also pushing for language that would require broadband providers to make high-speed Internet access widely available, and not just roll out their services in lucrative urban and suburban markets.

Source: CQ Today

This story was reprinted with permission. Author: Joelle Tessler, CQ staff, with contributions from Amol Sharma.

• **The California Eminent Domain Limitations Act.** The McNea/Hipona measure requires a jury to determine just compensation before a taking of private property through eminent domain, and prohibits taking private property for economic development purposes. It includes within the definition of "economic development" takings, "to increase tax revenue, tax base, employment, housing density, or general economic health."

Measures Could Undermine Housing Efforts, Encourage Sprawl

The likely effect of these proposals — if they qualify for the ballot and are approved by the voters – could be to significantly limit efforts by cities and redevelopment agencies to revitalize blighted areas, thereby condemning many economically stressed neighborhoods to a continuing downward spiral. The measures could make it much harder to build in-fill projects, and thus could force new housing growth into surrounding open space and farmland.

Taken as a whole, these measures all forward a substantial reconstruction of eminent domain that would significantly undermine the ability of the state and local governments to make public investments in roads, schools, housing and other essential infrastructure. In other words, they go well beyond the issue raised in *Kelo*, which was the extent to which land could be taken as part of a broader economic development plan.

The League of California Cities will not consider adopting a formal position on these or other measures until they have actually qualified for the ballot. (See "How an Initiative Gets to the Ballot".)

HOW AN INITIATIVE GETS TO THE BALLOT

Filing initiatives with the Attorney General (AG) is the first required step leading to qualifying a measure for a statewide ballot. The AG's office has to prepare a "title and summary" of the primary points and purpose of the initiative which are returned to the sponsors and sent to the Secretary of State. This language is then used to print petitions that will be circulated for signatures by registered voters. Signatures collected will then be filed with appropriate county officials who determine the total number of valid signatures on the petitions and report that to the Secretary of State.

The Secretary of State will then determine whether the total number of signatures is sufficient to qualify the initiative for the ballot. The sponsors' goal will likely be to collect about 1 million signatures to assure enough valid signatures are on the petitions to qualify any of the measures.