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

PRIORITY FOCUS

LEAGUE OF CALIFORNIA CITIES

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FACT ACT COMPLIANCE REQUIRED BY NOVEMBER

Final rules have been set out by the Fair and Accurate Credit Transactions (FACT) Act of 2003 which requires compliance by Nov. 1, 2008. The FACT Act added new provisions to the Federal Credit Reporting Act to protect consumers against identity theft. New regulations published Nov. 1, 2007 require that financial institutions and creditors develop and implement written identity theft prevention programs. *For more, see Page 2.*

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BARELY DRY STATE BUDGET ALREADY IN TROUBLE

By Dwight Stenbakken

While the state budget was signed roughly three weeks ago, it's now being reported that this "infant" FY 2008-09 state budget is in reality approximately $5 billion short of being "balanced." What happened? *For more, see Page 2.*

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INFRASTRUCTURE BOND IMPLEMENTATION UPDATE

With the passage of the FY 2008-09 budget, additional allocations of the state infrastructure bonds are being made available. The League has prepared a brief update on the implementation of each of the infrastructure bonds passed in November 2006. As new developments occur with each bond, updates will be distributed through the League's Web site and *Priority Focus*.
For more, see Page 3.

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It is important for city officials to understand that they may be considered a “creditor” as it is defined in the act, according to the Federal Trade Commission. A city could be considered a creditor if they provide for deferred payments on goods or services. “Deferring payments” refers to postponing payments to a future date and/or installment payments on fines or costs. Likely examples for cities may include providing public utility services or providing a payment plan for parking tickets.

To comply with the new FACT Act regulations, known as the Red Flag Rules, entities will be required to provide for the identification, detection, and response to patterns, practices, or specific activities (“red flags”) that could indicate identity theft in their identity theft prevention programs.

To learn more about these new regulations and what your city can do to prepare please visit: www.cacities.org/RedFlagRules

Contact League Legislative Analyst Natasha Karl with questions at (916) 658-8254 or nkarl@cacities.org.

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“What happened” is a series of extraordinary events in the economy coupled with a state budget that falls far short of any standards of excellence. The United States economy is in turmoil with no clear indication of where, when or if it will ultimately recover. Congress has acted to bail out major financial institutions, a 500 point drop in the stock market is becoming routine and unemployment statistics continue to climb.

With this backdrop, the “get-out-of-town,” gimmick-filled, state budget passed by the Legislature and signed by Gov. Arnold Schwarzenegger on Sept. 23 is beginning to unravel. The revenue estimates used to put the budget together, albeit over 80 days late, are already outdated due to what’s happened in the economy in just these short weeks. If the infant budget is already $5 billion short, it’s likely that when the Legislature begins to tackle the FY 2009-2010 budget, the state may be facing another $15 to $18 billion deficit.

The most immediate fiscal challenge to California is trying to sell a Revenue Anticipation Note (RAN) in the teetering financial markets. RANs ensure that the state has the cash to meet its obligations until tax revenues start to come in later in the fiscal year. The state routinely does this annually but it may be considerably more difficult this year in a financial market that, to be kind, is having its own problems and where the practice of lending is hard to find.

Earlier this week, the Governor announced that he was concerned about the difficulties the state would face trying to sell a RAN to meet cash flow demands. He said he would seek a federal bailout if the markets don’t/can’t buy the state’s RAN. In addition to getting into the banking business in a big way, it looks as though the federal government could also find itself in the “state business.” Could California become a federal subsidiary or have we already become one?

It now appears optimistic that California and other states will be able to sell short term debt. Massachusetts went to the short-term market for the same reasons and found multiple institutions interested in purchasing the state’s paper.

If California can also be successful in the market, this may provide at least some short–term stability for the state budget, although “stability” is a word not much in fashion in today’s financial world. Most importantly for cities, California’s ability to secure the sale of its RAN, means the state will be able to deliver the money to the programs outlined in its budget, including money that goes to local governments. It is a critical first step to calming the financial climate.

The Governor and legislative leadership met this week to talk about a special session to open up the FY 2008-09 budget to make adjustments that will reduce the problem before the next fiscal year. No decision was made in regard to a special session. Many question whether a special session would be productive given the entrenchment on both sides of the aisle in the taxes versus cuts debate.

The League will continue to provide regular updates on this year's budget, and developments that occur as lawmakers begin to tackle the FY 2009-2010 budget in earnest and the impact to California cities and critical services provided to their residents.

Dwight Stenbakken is the League's deputy executive director.

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Transportation Bond: Proposition 1B

This measure provides $19.92 billion for various transportation projects to rebuild California. Comprehensive information on various aspects of Prop. 1B are available at www.bondaccountability.dot.ca.gov/bondacc/.

Priority transportation programs of significant interest to California cities are:

Local Street and Road Funds. A total of $550 million was made available to cities and counties in FY 2007-08. The allocation guarantees that each city receives a minimum of $400,000, or half of their total bond funds, whichever is greater. However, prior to receiving an allocation, local governments must submit a list of projects expected to be funded with these funds to the Department of Finance (DOF).

DOF reports to the Controller monthly on which agencies have submitted the list. As of Sept. 26, 456 of the state's 478 eligible cities have received an initial allocation, totaling $486.5 million. Twenty-two cities have yet to request their initial allocation and the League advises that these cities do so immediately.

DOF has Prop. 1B information on its Web site at: www.dof.ca.gov/bonds/proposition_1b_disbursements/2007-08_appropriation/.

The League was successful in securing an additional $187 million allocation of these funds in the FY 2008-09 budget, AB 88 (Budget Trailer Bill). This appropriation will be available on a first-come, first-served basis to cities that have already received their full allocation in FY 2007-08. Cities must meet the following criteria to be eligible for funding:

1. Received full allocation for FY 2007-08;
2. Submitted Prop. 1B LSR Annual Report to Department of Finance for FY 2007-08 (*We expect the reporting criteria to be released in October, and the report to be due in November)*;
3. Agreed to use the funds only for projects that do not currently have dedicated funding;
4. Must have committed the funds to projects before July 1, 2009; and
5. Must certify that the unencumbered balance of their road fund is no more than three months of anticipated Highway User Tax Account (HUTA) and Prop. 42 incomes. If the unencumbered balance exceeds this amount, the city must agree to decrease the unencumbered balance to either of the following:
    a. An amount equivalent to the allocation received in FY 2008-09, or
    b. Until the unencumbered balance is no more than three months of anticipated HUTA and Prop. 42 incomes.

Note: For the purpose of this item, "unencumbered" means any portion of funding that is not designated, through prior approval by the city council, for use on the planning, review, design, or construction phase of a project currently underway at the time of the road fund report.

State-Local Partnership Program. The budget appropriates approximately $200 million in FY 2008-09. The Legislature also included implementing language for the Prop. 1B State-Local Partnership Program in AB 268 (Transportation Trailer Bill). This $1 billion program requires a dollar-for-dollar match to access funds and creates two separate sub-accounts.

Ninety-five percent of the funds will be available by matching funds from voter-approved fees or taxes solely dedicated to transportation purposes, and 5 percent will be available by matching funds from uniform developer fees through a competitive grant program. The California Transportation Commission (CTC) released draft program guidelines on October 1, which can be found at http://www.catc.ca.gov/Draft_SLPP_Guidelines.pdf. The CTC will discuss the draft guidelines at the October 29-30 meeting in Riverside, and the December 10-11 meeting in Oakland.

Additional information on these and other transportation programs can be found online at:

CTC: www.catc.ca.gov/programs/

DOT: www.dot.ca.gov/hq/transprog/ibond.htm

High-Priority Grade Separation Projects. $122.5 million in the FY 2007-08 budget, and an additional $63 million in AB 1252 (Caballero), Chapter 39 of 2008, was allocated for high-priority grade separation projects.

Local Bridge Seismic Retrofit. $13.5 million (with the potential authority for an additional $2.8 million) was allocated in the FY 2007-08 budget, and an additional $21 million in the FY 2008-09 budget, to CTC for this program. These funds are to be allocated prior to June 30, 2010 and will be administered by Caltrans to provide the federal match requirement for local agencies for work on bridges, overpasses and ramps.

Public Transportation Capital Improvements. Prop. 1B designated $4 billion for various transit improvements, of which $3.6 billion will be distributed per an established formula among the state's transit agencies. $600 million was allocated for these transit capital improvements projects in the FY 2007-08 budget and an additional $350 million in the FY 2008-09 budget.

Housing and Infrastructure Bond Proposition 1C

This measure allocates $2.85 billion for housing and infrastructure projects, most of which will be distributed by the Department of Housing and Community Development (HCD).

Approximately half of the bond, $1.45 billion, will fund existing programs including the Multifamily Housing Program (MHP), Emergency Housing Assistance Program (EHAP), and Building Equity and Growth in Neighborhoods (BEGIN) programs. The remaining $1.4 billion is designated for infill infrastructure ($850 million), parks ($200 million), transit-oriented development ($300 million), and innovative programs ($100 million).

Additional information on available funds can be found on HCD's Web site at: www.hcd.ca.gov/fa/.

Funding for Infill Infrastructure. $540 million total. $240 million was allocated in the FY 2007-08 Budget, and an additional $100 million in AB 1252 (Caballero), Chapter 39 of 2008, and an additional $200 million allocation was included in the FY 2008-09 budget.

These funds have been made available for a wide variety of capital improvements to support infill development. Grants are available to local agencies and non-profit or for profit developers for developing in qualifying infill areas. Housing element compliance is a precondition.

Fifteen percent of housing units must be affordable (for very low income households if the units are rental, or for moderate income households if the units are owner-occupied). Priorities will be given to projects that can demonstrate project readiness, higher density, proximity to transit, parks, schools and jobs, consistency with adopted regional blueprints, and demonstrated local support. Additional guidelines are provided by HCD.

Brownfield Remediation. $60 million is allocated for loans and grants in the FY 2008-09 budget to cleanup brownfields that promote infill residential and mixed use development consistent with regional and local land use plans. This program is required to be administered, in consultation with HCD, through the California Recycle Underutilized Sites (CALReUse) program operated under the state Treasurer's Office.

Additional information can be found online at: www.treasurer.ca.gov/cpcfa/calreuse/faq.pdf.

Transit Oriented Development. $240 million was allocated over the last two years ($95 million in the FY 2007-08 budget, and an additional $50 million in AB 1252 (Caballero), Chapter 39 of 2008. The FY 2008-09 budget includes another $95 million for this popular program designed to provide assistance to public agencies and developers with developing higher density housing within one-quarter mile of a transit station.

Parks and Housing. AB 2494 (Caballero), Chapter 641, Statutes of 2008, a League supported bill, contained implementation criteria for this program that rewards the production of housing with funds to develop and rehabilitate local or regional parks. (Cities should note that parks development is also an eligible use of funds under the infill infrastructure program listed above.) The FY 2008-09 budget includes $200 million for this program. The earliest that grants are expected to be available is 2010. The HCD is planning to host stakeholder discussions when developing guidelines for this program.

Housing Innovations Fund. $95.5 million for FY 2008-09 budget from Prop. 1C for the Housing Innovations Fund among four programs as follows:

1. $35 million is designated for the local housing trust fund matching grant program established under Proposition 46 (*Guidelines should be available for this program in mid October);*
2. $50 million is designated to fund the acquisition of property to develop or preserve affordable housing;
3. $5 million is available for the Construction Liability Insurance Reform Pilot Program (The purpose of the program is to promote best practices for residential construction quality control as a means of reducing insurance rates for condominium developers); and
4. $10 million is available to increase and maintain affordable homeownership opportunities for Californians with lower incomes.

Proposition 84: Environmental Quality Bond

This measure designates $5.4 billion for improving natural resources and water programs including state projects and flood control, safe drinking water, water quality improvement, integrated water management, water planning and sustainable communities.

- **$400 Million in Park Funds.** AB 31(De Leon), Chapter 623, Statutes of 2008, requires the California Department of Parks and Recreation (DPR) to establish a local assistance program to distribute grants to the most park needy communities across the state, with funding derived from the $400 million that was designated for this purpose in Proposition 84.

  The Parks Department Web site has additional information at: www.parks.ca.gov/?Page_id=24452

- **$90 Million in Planning Funds and $90 Million in Urban Greening.** SB 732 (Steinberg), Chapter 729, Statutes of 2008, creates a "Sustainable Communities Council" to coordinate the activities of various state agencies that aim to improve air and water quality, natural resource protection, affordable housing, and transportation through land use planning.

  The Council is also tasked with developing guidelines and criteria to allocate the $90 million in planning funds. The first priority for these funds is for regional planning efforts not funded through federal funds, in effect; prioritizing these funds to assist the regional planning purposes of SB 375 (Steinberg), but funding other local planning purposes may also be eligible. Plans must be deemed consistent with state planning principles and reduce greenhouse gas emissions.

The Council will also prepare criteria to allocate the $90 million in “urban greening” funds. Cities, counties and non profits will be eligible to apply directly for a wide variety of “urban greening” projects. The Resources Agency was allocated $500,000 to begin the guideline development process, but no additional information from the agency is yet available.

Additional information can be found online at http://resources.ca.gov.

October Meetings on Transit Oriented Development and Infill Incentive Grant Program

The California Department of Housing and Community Development (HCD) has announced a series of stakeholder meetings for Proposition 1C transit oriented development and infill incentive grant program funds. The next meetings are scheduled Oct. 17 in Los Angeles, and Oct. 20 in Sacramento. Additional information about the meetings can be found on HCD’s Web site at www.hcd.ca.gov. (www.hcd.ca.gov/fa/Bond_Program_Workshops.pdf)

Meeting Schedule

The meetings are scheduled from 9 a.m.–4 p.m. with an hour break at noon for lunch. The morning session will address infrastructure funding (water, sewer, traffic, site cleanup, etc.). The afternoon session will focus on funding for housing and related infrastructure near transit stations.

Oct. 15: San Diego
Civic Center Concourse Building
202 C Street, Silver Room

Oct. 17: Los Angeles
Ronald Reagan Building, First Floor Auditorium
300 South Spring Street

Oct. 20: Sacramento
400 R Street, River Room

ARB Proposed Scoping Plan Release Delayed

The California Air Resources Board (ARB) has delayed the release of the next draft of its Scoping Plan, originally scheduled for Oct. 3. ARB was expected to take up the final Scoping Plan at its November board meeting in time to meet the AB 32 deadline of Jan. 1, 2009 for approval.

The Global Warming Solutions Act of 2006 (AB 32) requires ARB to prepare a Scoping Plan to meet California’s greenhouse gas emission (GHG) reduction goals. ARB released an initial Scoping Plan on June 26. Subsequently, League staff held conference calls with city officials and provided comments on the draft to ARB.

League staff anticipates that ARB will release the Proposed Scoping Plan in the immediate future. Information will be forwarded to city officials and it is likely conference calls will be scheduled to discuss major components of the draft. Please watch for updates in *Priority Focus* and through the League’s listservs.

New Sharps Waste Disposal Program Guidelines Now Available

The California Integrated Waste Management Board has released program information for syringe and sharps disposal, following the Sept. 1 enactment of the new law that makes it illegal to dispose of sharps waste in the trash or recycling containers. The new law also requires that all sharps waste be transported to a collection center in an approved sharps container.

For more information on collection, disposal, and other guidelines for local jurisdictions, please visit http://www.ciwmb.ca.gov/HHW/Sharps/default.htm.

Sustainability Feature: Pasadena's Think Green Training Module

Pasadena's employees are more green thanks to an interactive online environmental education program launched as part of the city's Green Action Plan. In just under four months, half of the city's 2,300 employees have taken the 10 minute course. Developed to inform, educate, motivate and inspire city employees and the community, the program focuses on the city's Green Initiatives.

Pasadena's plan is modeled around the United Nation's Urban Environmental Accords and is organized around seven core areas: energy, water, urban nature, urban design, environmental health, waste production and transportation. Although the online course is designed for people new to sustainability concepts, it also has the depth of information that makes it applicable to more knowledgeable environmentalists.

The program includes information about sustainability, the city's action plan and tips users can implement at work and home to improve the environment. Each section of the site introduces the user to the sustainability concept, outlines the city's action on the concept and features a quick tip that can be easily implemented.

Ursula Schmidt, environmental analyst with Pasadena, worked with the city's green team to create the online training. "We hope they get an understanding of what the city is doing related to sustainability, that they feel inspired to support and participate in the initiative and get a sense of awareness of how their every day actions contribute to environmental conservation," said Schmidt.

City staff have encouraged community members to take advantage of the training. There were press releases and stories published in the *Pasadena Journal* and featured in the city newsletter, *In Focus,* that reaches 146,000 residents. They are also working with Pasadena Water & Power and the local Chamber of Commerce to notify the public about this resource.

For more information about the online training program visit Pasadena's Green Web site.

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.