

PRIORITY FOCUS



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LEGISLATIVE BUDGET CONFERENCE COMMITTEE BEGINS **City Leaders Urged to Remain in Close Contact with Legislators**

The Legislative Conference Committee began its work of reconciling differences between the Assembly and Senate versions of the budget on Thursday, June 12. The Senate conferees are Sens. Denise Ducheny (D-San Diego), Bob Dutton (R-Inland Empire) and Mike Machado (D-Linden). The Assembly is represented by Assembly Members John Laird (D-Santa Cruz), Roger Niello (R-Sacramento), and Mark Leno (D-San Francisco). *For more, see Page 2.*

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LEAGUE OPPOSES ENERGY INITIATIVE ON NOVEMBER BALLOT **"Solar and Clean Energy Act" Could Thwart Efforts to Secure More Renewable Power and Would Undermine Local Control**

A growing coalition that includes local governments, renewable energy providers, environmentalists, business and labor leaders have opposed the Solar and Clean Energy Act of 2008. The initiative qualified June 2 for the November 2008 ballot. For cities, one of the most significant issues is that, if passed, this measure would significantly erode local control over the permitting of new power plants. The measure could also undermine the ability of municipal and local government-run utilities to determine the power portfolio appropriate for their customers. *For more, see Page 2.*

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HOUSING BILL AMENDED TO INCLUDE ADDITIONAL \$150 MILLION FOR INFILL INFRASTRUCTURE AND TOD **Senate Appropriations Committee Will Hear AB 1252 Monday**

AB 1252 (Caballero, Saldana) has been gutted and amended to include the allocation of an additional \$150 million in funding from the Proposition 1C Infill Infrastructure and Transit Oriented Development (TOD) Fund for FY 2007-08: \$100 million for infill and \$50 million for TOD. *For more, see Page 3.*

'Budget Conference Committee' Continued from Page 1...

The Conference Committee recently released a potential schedule of meeting times—proposing to meet almost daily between now and June 30, when a budget bill will be scheduled for a vote. Although this may be the official calendar, there continues to be wide speculation on when a budget will ultimately be adopted.

Senate leadership recently announced that they were rejecting Gov. Arnold Schwarzenegger's lottery proposal and proposing \$11.5 billion in unspecified revenue increases to resolve the budget. Sen. Don Perata (D-Oakland) was also recently quoted as giving an Aug. 1 date for the potential adoption of the budget.

In the typical budget process, the Conference Committee focuses on closing out as many issues as possible, while leaving major outstanding issues for the "big five" which is comprised of Gov. Arnold Schwarzenegger, Senate President Pro Tem Don Perata (D-Oakland), Senate Republican Leader Dave Cogdill (R-Fresno), Assembly Speaker Karen Bass (D-Los Angeles), and Assembly Republican Leader Mike Villines (R-Clovis).

The most significant item for cities for the Conference Committee to address remains the status of local public safety funding. The most recent listing of the city-by-city allocations of COPS funding and Booking Fees is available on www.californiacityfinance.com. (<http://www.californiacityfinance.com/COPsBkgFeelImpacts.pdf>)

City officials are advised to stay in close contact with their legislators as the budget process continues this summer. It is also advisable to approach discussions with legislators with some caution and patience because these are opening moves in what will likely become a major partisan battle over potential revenue increases as a component of the budget solution.

'Energy Initiative' Continued from Page 1...

The League's board of directors voted unanimously to oppose the initiative at its April meeting in Sacramento.

While all these groups, including the League, support efforts to move to more renewable supplies of power, environmental and energy experts warn that significant drafting flaws could actually thwart clean power development by locking into law barriers to renewable development, and could result in rate increases for all consumers.

The initiative would require all utilities, including municipal utilities, to provide 50 percent of power from renewable sources by 2025, without truly addressing existing barriers to renewable development, including transmission development.

Current California law provides for the most aggressive targets in the nation, requiring that by 2010, 20 percent of electricity must come from a renewable source. State agencies and Gov. Arnold Schwarzenegger have established a 33 percent target by 2020.

Some of the key problems the League has identified with the Solar and Clean Energy Act of 2008 are:

Preempts Local Land Use Authority: The initiative would reassign permitting authority from local governments to the California Energy Commission (CEC) to approve solar and clean energy plants and related facilities. Local agencies would have 100 days after a project application is filed with CEC to provide final comments, determinations, or opinions to CEC. It is unclear whether the Commission has any obligation to defer to a city's determination, for example, what happens when a plant location does not comply with the city's General Plan.

Removes Local Control Over Resource Mix: Existing law in the Public Utilities Code encourages municipalities who own utilities to consider renewable energy, while taking into consideration rates, reliability, financial resources, and the goal of environmental improvement. The initiative would remove local control over local decisions on resource mix and may impact a utility's financial resources. Also, as technologies become cheaper and more efficient, there is

nothing in this existing code section that would prevent a government-owned utility from making the decision to switch technologies or pursue a different resource mix.

The diverse group of organizations that oppose this measure include: the Natural Resources Defense Council, the California League of Conservation Voters, the California Small Business Association, California Municipal Utilities Association, Coalition of California Utility Employees, International Brotherhood of Electrical Workers, Locals 47, 1245 and 9th District, California Chamber of Commerce, PG&E, Semptra, Southern California Edison and the California Solar Energy Industries Association.

The League will continue to monitor the Solar and Clean Energy Act of 2008 and will provide updates through the League's Web site and *Priority Focus*.

'Housing Bill' Continued from Page 1...

Because this funding would be allocated for the fiscal year ending June 30, AB 1252 is expected to be heard June 16 by the Senate Appropriations Committee due to its urgency. The bill also has the added benefit of invigorating the economy at a time when California is experiencing great economic strain. Promoting infill and TOD contributes to the reduction of greenhouse gas emissions.

For FY 2007-08, the Legislature appropriated \$240 million from the Infill Incentives Grant Program and \$95 million for TOD. However, the applications submitted for this initial appropriation significantly outstripped the appropriated funds. In fact, the Infill Infrastructure Fund received 124 applications that exceeded \$1 billion—four times the amount of the original \$240 million. Applications for TOD funding were five times greater than the allocated \$95 million.

Take Action!

Cities with applications pending for these Prop. 1C funds are urged to submit support letters to their senator. The League's letter of support can be found online at www.cacities.org/billsearch. Plug in AB 1252 to pull up the letter.

Conflict Over Labor Dispute Jurisdictions May Go to Supreme Court

Last March, *Priority Focus* reported on a case in which California's Sixth District Court of Appeal concluded that the Public Employment Relations Board (PERB) has exclusive initial jurisdiction over labor disputes between public agencies and their employees whose job duties are essential to preserving public health and safety. The Sixth District's decision was disappointing to local governments that want the option of going to court in lieu of PERB when a dispute arises.

Recently, however, another California appellate court—the First District—examined this same issue and ruled the opposite: PERB does not have exclusive initial jurisdiction over these types of disputes. Rather, local governments may bypass PERB and go directly to the courts when a planned strike threatens public health and safety.

In this recent case, *County of Contra Costa v. Public Employees Union Local One*, the county sued several public employee unions to prevent certain "essential employees" from participating in a one-day strike. The trial court granted the county's request for a temporary restraining order, thereby preventing approximately 160 employees from striking, including airport operations specialists, animal service workers, probation counselors, and various county hospital workers. The PERB intervened, arguing that it had exclusive jurisdiction over the matter because the proposed strike was "arguably protected or prohibited by the [Meyers-Milias-Brown Act]," one of the statutes PERB is charged with enforcing.

The appellate court disagreed. Instead, the court sided with the county and concluded that because the county did not allege any "unfair practice" under the Meyers-Milias-Brown-Act, which is a prerequisite for PERB jurisdiction, the county was free to go straight to court to seek an order protecting the public from imminent threats to health and safety.

The court also dismissed the assertion that PERB rather than a court was better suited to handle these types of disputes. The court commented, "Although we recognize that this balancing process [in determining whether the public interest overrides the basic right to strike] may impose an additional burden on the judiciary, it is neither a novel nor unmanageable task."

As for the Sixth District's differing analysis, the First District stated, "We recognize that our colleagues in the Sixth District arrived at the opposite conclusion . . . We believe [that] court's reasoning is overly broad."

This disagreement among the appellate courts makes the issue ripe for review by the California Supreme Court. The high court has yet to decide whether it will accept the case for review.

The League along with the California State Association of Counties submitted an amicus brief to the First District in support of the county.

U.S. Supreme Court Rules Against Allowing Public Employees to Sue for "Class-of-One" Violations

Guided by the "common sense realization that government offices could not function if every employment decision became a constitutional matter," the United States Supreme Court has ruled that public employees cannot sue their employers for alleged "class-of-one" equal protection violations.

The High Court's decision brings a sigh of relief to public entities, as a contrary decision could have jeopardized the concept of at-will employment and put public agencies at risk for defending every employment decision such as hiring, promotion, transfer, and discipline in court.

In *Engquist v. Oregon Department of Agriculture*, Anup Engquist, an employee of the Oregon Department of Agriculture (ODA), sued her employer for a variety of problems she experienced while at ODA. Engquist sued under a variety of theories including that she was fired for "arbitrary, vindictive, and malicious reasons" in violation of her "class-of-one" equal protection rights. At issue before the Court was whether this was a proper basis for filing a lawsuit.

The Court stated, "The federal court is not the appropriate forum in which to review the multitude of personnel decisions that are made daily by public agencies." Allowing employees to go forward with these types of claims would force governments to "defend a multitude of such claims . . . and courts will be obliged to sort through them in a search for the proverbial needle in a haystack."

The Court's decision does not affect a public employee's ability to sue an employer for violating other rights such as the right to be free from discrimination on the basis of race, religious creed, color, national origin, ancestry, physical or mental disability, medical condition, marital status, sex, age, or sexual orientation.

Rather, the Court's decision makes clear that an employee cannot sue an employer simply because the employee feels he or she was treated arbitrarily, vindictively, or maliciously. Had the court ruled the other way, public entities would have found it difficult to exercise their rights as at-will employers as every employment decision could later be the subject of a lawsuit.

The League filed an amicus brief with the Supreme Court in support of the Oregon Department of Agriculture. The League thanks Melanie M. Poturica, Brian P. Walter, David A. Urban, and Alex Y. Wong of Liebert Cassidy Whitmore for drafting the League's brief.

New Web Site Engages More African American Local Officials

The newly launched League of California Cities African American Caucus Web site is a vehicle to inform and connect all African American local elected and appointed officials in the state. Log on to the Web site at www.loccaac.org.

An affiliate of the League, the African American Caucus represents the interests of African American city officials and the greater African American community. The caucus also collaborates with the California Legislative Black Caucus (LBC) and the National Black Caucus of Local Elected Officials (NBCLEO).

Visitors to www.loccaac.org will find information about the caucus' work, membership and upcoming events. The caucus continues to identify African American elected and appointed officials across California, engage them in the organization and help support the League of California Cities' mission to protect local control and authority.

"The African American Caucus has built incredible momentum, so it was natural for us to create a Web site to better serve our members and utilize the site as another vehicle to accomplish our goals," commented John Shoals, caucus president and mayor, City of Grover Beach.

El Centro Council Member Sedalia Sanders has been involved with the caucus since its inception and says the organization has a great contribution to make in California.

"We want people to recognize that this is a substantive group that is interested in addressing the concerns of the African American community in California. This community folds into the larger community. So while we focus on this niche, this niche blossoms out and is something that affects all Californians with issues like housing, jobs, health care and quality education being at the forefront," said Council Member Sanders.

Addressing the Impacts of Foreclosure Crisis Los Angeles Symposium Helps Local Leaders Deal with the Aftermath of the Mortgage Meltdown

City officials are encouraged to attend "Stabilizing Communities: Addressing the Negative Impacts of Foreclosure," July 15-16 at the Hollywood Renaissance Hotel in Los Angeles.

Hosted by the Federal Reserve Bank of San Francisco, the Stabilizing Communities symposium will bring together national experts to share best practices for mitigating the negative impacts of foreclosure on borrowers and neighborhoods. The objective is to provide local leaders and practitioners with tangible examples of how to address the foreclosure crisis within their communities, with a special emphasis on the issues facing high-cost markets such as those in Arizona, California and Nevada. Over the two days, panels and concurrent workshops will answer the following questions:

- What models and strategies are available to help borrowers and convert real estate-owned (REO) properties into affordable homeownership or rental units?
- How might these strategies need to be adapted for high-cost real estate markets?
- What are the challenges that governments and nonprofits face in acquiring, rehabilitating, and managing foreclosed properties?
- And how can governments and nonprofits work with service providers and lenders to successfully convert foreclosed properties into community assets?

This symposium is part of a broader Federal Reserve System series, "Recovery—Renewal—Rebuilding," that seeks to develop and disseminate innovative strategies and policies that can help to address the broad range of challenges related to the rise in mortgage delinquencies and foreclosures.

Space is limited, so please register by June 30. Registration information, lodging details and the agenda can be found at www.frbsf.org/community.

2008 Annual Conference Offers First-Time Attendees Orientation

Registration is open for the 2008 League of California Cities Annual Conference, slated for Sept. 24-27 in Long Beach. First-time attendees are encouraged to attend a special orientation from

2:30-3:30 p.m. on Wednesday, Sept. 24 for helpful tips on how to make the most of their annual conference experience.

The registration fee for the League's annual conference is an outstanding value for the breadth and quality of information, resources and networking activities provided. The program has a core agenda of policy, plenary sessions with outstanding keynote speakers, 50 workshop sessions plus an exposition with 250 industry-related vendors.

Register for the 2008 Annual Conference online at www.cacities.org/ac. Remember to book your hotel room as well because accommodations are limited.

ILG Luncheon at Annual Conference Focuses on California Demographics

USC Professor Manuel Pastor will speak on the changing demographics in California at the Institute for Local Government (ILG)'s Symposium during the League's 2008 Annual Conference on Sept. 25 in Long Beach.

By 2012, naturalized adults, naturalization-eligible immigrants, and young-adult citizen children of immigrants could represent 7.7 million voters in California, or 29 percent of the electorate. Pastor, a professor in USC's departments of geography and American studies and ethnicity, will present his perspectives on the state's changing demographics and the opportunities and challenges they present for local officials.

Register for the luncheon when you register for the League's 2008 Annual Conference. League staff Julia Stagg is also registering people for the luncheon. Contact her via e-mail at lstagg@cacities.org. The luncheon is \$45 to attend.

The symposium flyer has additional information.
(http://www.cacities.org/resource_files/26913.2008SymposiumFlyerFinal.pdf)

The luncheon will be followed up on the afternoon of Sept. 25 with a session titled "Immigrant Integration and Engagement: Ideas & Resources for Local Leaders." Participating panelists will discuss opportunities, challenges and resources for local officials to support immigrant integration and engagement in their cities.

ILG is the nonprofit research affiliate of the League and the California State Association of Counties.

Software Makes Reporting Affordable Housing Funding Easy U.S. Communities' FOCUS Software Helps Cities Comply with AB 987

When AB 987 became effective on Jan. 1, it required that all redevelopment agencies (RDAs) compile a database of affordable housing units that are assisted with low- and moderate-income housing funds. This database must be updated annually and made available to the public via the Internet.

U.S. Communities developed specialized software to help cities comply with this new law. Originally created in 2006, FOCUS Housing Compliance Software recently added a component which formats the AB 987-required data into a report which is then posted on the agency's Web site. Additionally, as new RDA loans are made, the AB 987 report is automatically updated with the new property information.

For those agencies interested in meeting the AB 987 requirements only – without needing the full spectrum of the FOCUS software – U.S. Communities will license the AB 987 module on a standalone basis. AB 987 does allow agencies to recoup the cost of preparing the database from the owners of the affordable housing.

FOCUS Compliance Software

U.S. Communities developed FOCUS Compliance Software, a web-based compliance monitoring software and reporting system for public agencies and developers with affordable housing compliance monitoring obligations. The software automates a series of complex and time-consuming income and rent calculations that must be performed for every tenant to ensure individual tenants and the overall property are in compliance with federal, state and local income and rent restrictions.

FOCUS is used to monitor over 500 affordable housing properties representing over 55,000 units. The program has proven to significantly reduce the time and cost associated with compliance monitoring while improving reporting compliance, reducing paperwork and increasing accuracy.

U.S. Communities can provide the custom software or additional compliance services (including, but not limited to compliance training and/or consulting support) to assist cities in managing their affordable housing compliance requirements.

U.S. Communities is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties. Its mission is to create programs that assist local authorities to build better communities, stimulate social and economic growth and save public agencies time and resources.

Please visit www.housingcompliance.org for additional information about compliance issues. Lorna Henri is also available to answer questions, and can be reached by e-mail at lhenni@cacommunities.org.

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

Visit (and bookmark!) the League's [Legislative Resources](http://www.cacities.org/legresources) 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.
