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CITY OFFICIALS DESCEND ON CAPITOL TO OPPOSE BUDGET PROPOSALS AFFECTING CITIES

Close to 150 officials descended on Sacramento on Wednesday, June 3 to tell lawmakers about the dire consequences that cities would experience if the state borrows local property taxes, or attempts to seize or borrow transportation revenues to help close the state's $24.3 billion deficit. The city officials came to the Capitol as part of the League's Budget Action Day. *For more, see Page 2.*

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MUNICIPAL BANKRUPTCY BILL MOVES OFF ASSEMBLY FLOOR

AB 155 (Mendoza) moved off the Assembly floor on Wednesday, June 3 on a 47-25 vote and now moves to the Senate. The bill would require local agencies contemplating bankruptcy to first obtain approval from the California Debt and Investment Advisory Commission (CDIAC) prior to filing for bankruptcy. Recent amendments would also authorize CDIAC to charge local governments a fee to cover the costs associated with rendering a decision as to whether a municipality would be granted the ability to file for bankruptcy. *For more, see Page 5.*

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INVITATION TO LOCAL GOVERNMENT SUMMIT ON GOVERNANCE AND FISCAL REFORM: JULY 17-18, SACRAMENTO

City officials are invited to attend and participate in a historic summit meeting of city, county and school officials in Sacramento, July 17-18 at the Hyatt Regency to discuss and debate the emerging proposals to reform California's governance and fiscal systems. *For more, see Page 5.*

'Budget' Continued from Page 1…

Budget Action Day began with a briefing at the Citizen Hotel that included presentations by League President and Rolling Hills Estates Mayor Judy Mitchell, League Executive Director Chris McKenzie, League Legislative Director Dan Carrigg and League Fiscal Consultant Michael Coleman. Tom Vu, California Special Districts Association legislative director also made a brief presentation. City officials were joined by representatives from the California Special Districts Association as well as approximately 60 firefighters from Sacramento Metro Fire.

State Controller John Chiang addressed the group. The city officials assembled at the Citizen were anxious to hear Controller Chiang discuss the state's cash flow crisis. Previously the Controller has said that he is opposed to borrowing local government revenues to help close the state's budget deficit.

Many of the city officials at Budget Action Day came from the more than 200 cities that have declared a state of severe fiscal hardship.

During the event, the League's regional public affairs managers were armed with video cameras and recorded testimonials by city officials who had not had the opportunity to create a video for www.SaveYourCity.net. A large group of firefighters recorded a joint video outside the Capitol to tell lawmakers in unison not to take local funds. There are now more than 300 testimonials on the Web site.

Budget Action Day ended with a briefing in the Capitol where the following legislators came to address the League:

Sen. Alex Padilla (D-Los Angeles)
Senate Republican Leader Dennis Hollingsworth (R-Murrieta)
Assembly Member Alyson Huber (D-Lodi)
Assembly Member Cameron Smyth (R-Santa Clarita)
Assembly Member Anna Caballero (D-Salinas)
Assembly Member Jim Nielsen (R-Biggs)
Assembly Member Dan Logue (R-Chico)

Budget Proposal Summary

There have been a number of different budget proposals put forward in recent weeks that would borrow or take local government revenues. Below is a summary of these proposals.

Proposition 1A

Borrowing local government property taxes under Proposition 1A (2004) remains on the table. The Department of Finance (DOF) proposed an 8 percent across-the-board approach. The Legislative Analyst Office (LAO) and others have suggested alternate formulas which could mean that enterprise special districts should lose their remaining property tax shares because they can raise fees. The LAO has also suggested that the Legislature is free to come up with other means of distributing the hits

Transportation Funding

DOF and LAO have proposed both cutting and borrowing local transportation funding as part of the solution to balance the state budget.

DOF proposes to take virtually all of the local share of Highway User Tax Account (gas tax) in FY 2009-10 and 72 percent going forward to pay for highway bond debt each year until the debt is retired. The local share would be reduced in most years from $1.03 billion to approximately $300 million. However, in the coming fiscal year, through a formula adjustment involving weight fees, the local share would be reduced from $1.03 billion to just $44 million. DOF claims that the California Constitution (Section 5 of Article XIX) allows the state to take 25 percent of gas tax revenues for bond debt repayment and can take all of this from the local share. This would relieve pressure on the General Fund to pay debt service.

Local gas tax funds have been a reliable source of funding since the 1970's, and losing these funds would be devastating to local road maintenance and repair. Local transportation projects also provide jobs, which in turn provide income tax and sales tax revenue to the state. Taking these funds is an "anti-stimulus" proposal which will only hurt California communities and businesses, and ultimately will reduce state revenues.

League attorneys have analyzed the legalities of this proposal and believe it is unconstitutional on several fronts.

LAO proposes both a one-year suspension of the local gas tax revenues, and a partial suspension of the Proposition 42 transfer, the sales tax on gas.

Borrowing Local Gas Tax Subventions: Rather than take local gas taxes as DOF proposes, LAO proposes instead to borrow $1.03 billion in gas tax funds from local governments in FY 2009-10. LAO says the state would repay it with interest within three years, as required pursuant of Article XIX, Section 6 of the California Constitution.

Borrowing Prop 42 (Sales Tax on Gas): LAO proposes to suspend 80 percent of the Prop. 42 transfer for FY 2009-10, resulting in less funding for state highway projects and for local streets and roads. The suspended amount would be approximately $1.2 billion (approximately $600 million from cities and counties). It would have to be repaid within three years according to the same criteria that applies to borrowing local property taxes under Prop. 1A (2004). LAO has also proposed a repeal of Prop. 42, but the voters would need to approve this proposal.

Transit: DOF has proposed redirecting $315 million in Public Transportation Account funds to pay for debt service on transit bonds.

Corrections/Public Safety

The Governor's budget includes nearly $1.2 billion in cuts to the California Department of Corrections and Rehabilitation (CDCR), in addition to a $400 million unallocated cut made in the budget passed in February. The new proposals include commutations of sentences for undocumented immigrants (which would be turned over to the federal government for deportation), early release of prisoners to be monitored by GPS, and changes in sentencing options for specific crimes that can be treated as either felonies or misdemeanors (wobblers). The largest part of the cuts would come from elimination of most rehabilitative services such as substance abuse treatment and education programs.

COPS/Booking Fees: COPS, Booking Fee and other local public safety programs are currently being funded by the new 0.15 percent increase (Approx $500 million per year) in the Vehicle License Fee adopted as part of the February Budget. LAO has proposed taking one half of these revenues for the General Fund.

Emergency Response Funding: Discussions continue over the details of DOF's proposal to allocate $76 million from a new 4.8 percent surcharge on insurance policies to partially fund CAL Fire and local response agencies. Local agencies can receive reimbursement for costs incurred for responding to emergencies as part of the state's mutual aid system.

Mandates

DOF released a proposal to suspend all Non Prop 98 mandates (except those related to law enforcement and property taxes), and defer payments for current mandate claims. LAO has recommended suspension of mandates related to animal shelters. Under Proposition 1A, local governments are not obligated to perform mandates that the legislature suspends.

Redevelopment

Cities with redevelopment agencies need to remain on guard against budget proposals affecting redevelopment. Even though the California Redevelopment Association (CRA) prevailed against the state in its recent lawsuit challenging a September 2008, legislative effort to take $350 million from redevelopment agencies, rumors and discussions continue among legislative staff and others about additional efforts to take redevelopment funds or "redevelopment reform."

Clearly any proposal dealing with redevelopment would have fiscal impact to local governments. The League has been working with CRA to prepare to respond to any proposals that emerge.

State-Local Government Fiscal Relationship Reform

Senate President Pro Tem Darrell Steinberg (D-Sacramento) has mentioned his interest in instigating a larger discussion of reforming the state-local government fiscal relationship. While no details are available, one aspect of this discussion involves shifting some health care responsibilities to local governments.

According to an article in the Los Angeles Times June 3, funding for the programs would come from the state, however, locals would have to keep the costs contained or find funding if the costs rise. Another aspect of this discussion would involve lowering the voter threshold at the local level for tax increases. It is unclear when such discussions would occur.

Bottle Bill Program Deficit

The Department of Conservation on Monday, June 1, announced that the state's beverage container program has a negative balance of $157 million. This bottle bill program funds city and county grant payments for recycling (at $10 million annually) as well as the state's bottle and can CRV recycling program.

The administration's plan to address this massive deficit, submitted to the legislative budget committees this week, makes proportional cuts to the program. It also included a policy that grants could only be given if the program had a surplus.

List of Officials Opposed to Borrowing Grows

Along with Controller Chiang, other constitutional officers and legislators have come out against borrowing. A number of these state officials have made a video for www.SaveYourCity.net including Republican Gubernatorial Candidate Tom Campbell, Sen. Dave Cogdill (R-Fresno), Sen. Jeff Denham (R-Merced) and Assembly Member Tom Berryhill (R-Modesto).

Other state level officials who have publically said they oppose borrowing local government revenues include Insurance Commissioner and Republican Gubernatorial Candidate Steve Poizner, Senate Republican Leaders Dennis Hollingsworth (R-Murrieta), Sen. George Runner (R-Antelope Valley), Sen. Bob Huff (R-Glendora), Assembly Member Steve Knight (R-Palmdale) and Assembly Member Jim Nielsen (R-Biggs).

Key Budget Process Players

The Budget Conference Committee includes five legislators from the each the Assembly and Senate: Assembly Member Noreen Evans (D-Santa Rosa) is chair. Other appointed members include: Assembly Member Kevin de Leon (D-Los Angeles), Assembly Member Bob Blumenfield (D-Woodland Hills), Assembly Member Roger Niello (R-Sacramento), Assembly Member Jim Nielsen (R-Biggs), Sen. Denise Ducheny (D-San Diego), Sen. Bob Dutton (R-Rancho Cucamonga), Sen. Mark Leno (D-San Francisco), Sen. Alan Lowenthal (D-Long Beach) and Sen. Mimi Walters (R-Laguna Hills).

The "Big Five" is comprised of the Governor, Senate President Pro Tem Darrell Steinberg, Assembly Speaker Karen Bass, Senate Republican Leader Dennis Hollingsworth and Assembly Republican Leader Sam Blakeslee.

Call to Action:

1. **Keep Up The Pressure!** City officials need to continue to speak to their legislators about the impacts of these pending budget proposals on their communities. The most recent talking points used by city officials are on the League's Web site.

http://www.cacities.org/resource_files/28084.BAD_budget_talking_points_FINAL.doc

2. **Spread The Word!** Local officials are community leaders. Make sure you harness the power of your community by educating your residents, business leaders, labor and other groups about the importance of these proposals to your community.
3. **Record a Video Testimonial:** City officials who have not made a video testimonial for www.SaveYourCity.net should contact their regional public affairs manager. Encourage others in your community do so as well.

'AB 155' Continued from Page 1…

Assembly Republicans held strong in opposing the measure. Assembly Member Juan Arambula (D-Fresno) also opposed the bill stating that a vote in favor of it was clearly a move toward thwarting local authority. He continued that the decision to go into bankruptcy is not a decision that is taken lightly among locally-elected officials.

The League opposes AB 155 because the bill is an unnecessary intrusion into what is fundamentally a local government's fiscal decision. Cities don't take bankruptcy lightly; in fact it's often a decision of last resort.

The Legislature should be focused on finding ways to balance its own budget instead of thwarting local authority to make fiscal decisions. Local governments would be better served with a guarantee that their revenues are safe from seizure by the state. Not only does the state's taking of local revenues harm the fiscal health of cities, it also puts vital public services, such as police and fire, at risk of being dramatically reduced.

Cities that have not taken action should do so now. It's a matter of preserving local authority and it is vital that your city weigh in on this issue.

The League urges city officials to send opposition letters to their legislator and to the office of Gov. Arnold Schwarzenegger. An updated sample letter can be found on the League's Web site at www.cacities.org/billsearch. Enter "AB 155" into the search field to locate the letter.

City officials with additional questions can contact Natasha Karl, League legislative analyst at nkarl@cacities.org or Dwight Stenbakken, deputy executive director at dstenbakken@cacities.org.

'Summit' Continued from Page 1…

Co-sponsored by the League through the City County School Partnership, the event is a great opportunity to help influence the future direction of the state. The summit was originally proposed by the League's board of directors.

Summit participants will:

- Hear from experts;
- Consider whether we need a constitutional convention; and
- Work with peers to create a plan for reform local governments need.

Details

Registration for the summit is $80 for elected and senior appointed city and county officials and school board members, $120 for others.

Register online at www.cacities.org/events. County officials should register through CSAC and school board members through CSBA.

Hotel reservations can be made through Hyatt. Call (800) 233-1234 and ask for the special Local Government Summit room block rate of $124 plus taxes for the night of July 17.

The memo League Executive Director Chris McKenzie sent this week is available on the League's Web site.
http://www.cacities.org/resource_files/28073.CityofficialmemoJune1.pdf

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League of California Cities Major Bill List

Each legislative session, the League tracks hundreds of bills with potential impacts to cities but focuses its lobbying on a much smaller amount of legislation with the greatest potential impact.

As of June 2, below is a list of major bills affecting cities with a brief description. The League's letters and sample letters are available at www.cacities.org/billsearch.

This list will be updated periodically through the legislative year. **Below are the major bills pending in the Legislature of interest to cities and the League:**

Oppose

AB 155 (Mendoza) Local government: bankruptcy proceedings. Requires local agencies contemplating bankruptcy to first obtain approval from the California Debt and Investment Advisory Committee (CDIAC) before filing for bankruptcy.

AB 291 (Saldana) Coastal resources: coastal development permits. Prohibits any city that has been issued a notice of intent, cease and desist order, notice of violation, or a restoration order under the Coastal Act from being eligible to submit an application for a coastal development permit until the violation has been resolved.

AB 479 (Chesbro) Solid waste: diversion. Proposes to increase a jurisdiction's diversion requirements for solid waste and dramatically increases the state's solid waste disposal fee. Specifically, this bill requires the owner or operator of a business that contracts for solid waste services and generates more than four cubic yards of total solid waste and recyclable materials per week to arrange for recycling service, consistent with state and local laws and requirements, to the extent that these services are offered and reasonably available from a local service provider. Requires specified local agencies, by Jan. 1, 2011, to adopt commercial recycling ordinances that include certain minimum requirements. Increases the fee a solid waste facility operator collects (tip fee) to $3.90 per ton of solid waste.

AB 815 (Ma) Public contracts: bidding procedures: Has place-holder language**,** clarifying existing law shall not be construed to prohibit a local public entity from requiring a bidder to review all relevant bid documents provided by the local public entity, including but not limited to architectural or engineering plans and specifications, prior to submission of a bid, and report any errors and omissions noted by the contractor to the architect or owner. The legislation intends to address the decision on a public contracting case before the California Supreme Court that could potentially hold local agencies responsible for costly change orders if the local agencies fail to provide complete, full, and accurate plans and specifications, including cost efforts. This premature effort should be put on hold entirely until the courts render their decision.

AB 853 (Arambula) Local government: organization. Requires Local Agency Formation Commission boards to process annexation applications for economically disadvantaged areas near city borders upon receiving support of 25 percent of the residents in that area.

SB 802 (Leno) Public contracts: retention proceeds. Removes the authority of public entities to decide the appropriate amount of retention. This bill would require that contract retention proceeds not exceed 5 percent of the payment of all contracts entered into after January 2010 between a public entity and an original contractor, between an original contractor and a subcontractor, and between all subcontractors.

SB 786 (Yee) Civil procedure: attorney's fees and costs. This measure prohibits a prevailing defendant from being awarded attorney's fees in any anti-SLAAP claim (Code of Civil Procedure Section 425.16) in which the underlying litigation arose from an action under the Brown Act, Public Records Act, or Bagley Keene Act.

Support

AB 18 (Knight) Local government: city councils. Extends the appointment period to fill a city council vacancy from 30 days to 60 days.

AB 83 (Feuer) Torts: personal liability immunity. Expands Good Samaritan protections for volunteer law enforcement, fire, and medical personnel for medical and non-medical acts of emergency care.

AB 210 (Hayashi) Green building standards. Clarifies the ability of a local government to adopt green building standards which are more stringent than those adopted by the State and published in the State Building Standards code.

AB 262 (Bass) American Recovery and Reinvestment Plan: energy activities, programs, or projects. Revises state law to ensure that federal funds may be allocated according to the specifications of the American Recovery and Reinvestment Act of 2009 (ARRA).

AB 469 (Eng) Sales and use taxes: qualified use tax payment. Improves the collection of use tax revenues owed to the state and local governments by consumers and businesses through clarifications made to state income tax return forms.

AB 715 (Caballero) City ordinances: publishing and posting requirements. Authorizes a city, within 15 days after the passage of an ordinance, to post the ordinance on its official Web site and to mail notice of passage of the ordinance to those who have filed a written request for mailed notices in lieu of publishing the ordinance in a newspaper of general circulation.

AB 726 (Nielsen) Transportation capital improvement projects. Includes "local road rehabilitation" among the list of eligible types of projects that may receive STIP funding, subject to regional discretion pursuant to current law.

ACA 9 (Huffman) Local government bonds: special taxes: voter approval. Proposes a constitutional amendment to be submitted before the state's voters to allow them to decide if it was appropriate to adjust voter thresholds for local infrastructure bonds or a special tax to a 55 percent super majority.

SB 93 (Kehoe) Redevelopment: funding construction of public facilities. Restricts the funding of public facilities outside a redevelopment project area. In order to fund public facilities outside of, or not contiguous to, a project area the legislative body would have to make specified findings and these findings would be subject to legal challenges. The revised amendments, however, make no substantive changes in redevelopment agency authority to fund public facilities inside or contiguous to a redevelopment project area.

SB 268 (Harman) Alcoholism or drug abuse recovery or treatment facilities: licensing. Assures that state licensed drug and alcohol facilities comply with local zoning codes. It asks applicants to certify that they are consistent with local zoning codes and then asks the Department of Drug and Alcohol Programs to verify that statement. In addition, it assures that state licensed facilities conform to fire codes.

SB 415 (Oropeza) Alcoholic beverages: licenses: local government review. Provides local agencies with more reasonable standards by which they may review alcoholic beverage license applications. Specifically, this measure provides that any of the notified local authorities may request the time extension, and that the review would be extended from 20 days to 30 days.

SCA 18 (Liu) Local government: property-related fees. This measure would include fees for storm water management programs to those exemptions already included in Proposition 218. In doing so, it would make it easier for cities to fund and comply with new and increasingly stringent storm water quality permit requirements adopted by the regional water quality control boards.

Cities Continue to Declare State of Severe Fiscal Hardship in Wake of Budget Proposals

Since May 11, 211 cities across California have declared a state of severe fiscal hardship and opposed a proposal to take local property tax revenues to finance the state budget. Cities are already struggling to balance their own budgets: enacting drastic cuts including public safety reductions, employee layoffs, hiring freezes, project delays, program reductions and more.

Below is a list of the cities that have declared a state of severe fiscal hardship to date:

Adelanto
Albany
Antioch
Apple Valley
Arcata
Arroyo Grande
Artesia
Arvin
Atascadero
Atherton
Bakersfield
Baldwin Park
Banning
Beaumont
Bellflower
Benicia
Biggs
Blythe
Buena Park
Calimesa
Calipatria
Canyon Lake
Carlsbad
Carmel
Carson
Cathedral City
Ceres
Chowchilla
Chula Vista
Citrus Heights
Claremont
Clayton
Cloverdale
Clovis
Coachella
Coalinga
Colfax
Colusa
Commerce
Concord
Corning
Corona
Coronado
Covina
Crescent City
Culver City
Del Mar
Delano
Desert Hot Springs

Dinuba
Dorris
Duarte
Dunsmuir
El Cajon
El Cerito
El Monte
Elk Grove
Encinitas
Escondido
Eureka
Fairfield
Folsom
Fort Bragg
Fortuna
Fowler
Fremont
Gardena
Grass Valley
Grover Beach
Hanford
Hawthorne
Hemet
Hermosa Beach
Hesperia
Highland
Hollister
Imperial
Imperial Beach
Indian Wells
Indio
Ione
Irwindale
Jackson
La Canada Flintride
La Mesa
La Puente
La Quinta
La Verne
Lake Elsinore
Lakewood
Larkspur
Lathrop
Lemon Grove
Lindsay
Lodi
Lomita
Long Beach
Los Angeles
Los Banos

Los Gatos
Loyalton
Lynwood
Mammoth Lakes
Marina
Marysville
McFarland
Menifee
Merced
Millbrae
Modesto
Monrovia
Montebello
Monterey Park
Moreno Valley
Morro Bay
Mount Shasta
Mountain View
Murrieta
National City
Nevada City
Norco
Norwalk
Novato
Oakdale
Oceanside
Ontario
Orinda
Orland
Oroville
Pacific Grove
Palmdale
Palm Springs
Palmdale
Palo Alto
Paradise
Perris
Petaluma
Pittsburg
Placentia
Plymouth
Pomona
Portola
Poway
Rancho Cordova
Rancho Cucamonga
Rancho Mirage
Red Bluff
Redding
Redlands

Redondo Beach
Rio Vista
Riverside
Riverbank
Rocklin
Rohnert Park
Rosemead
Sacramento
Salinas
San Anselmo
San Bernardino
San Carlos
San Clemente
San Francisco
San Gabriel
San Jacinto
San Leandro
San Luis Obispo
San Marcos
San Rafael
Sand City
Sanger

Santa Clara
Santa Clarita
Santa Cruz
Santa Fe Springs
Santa Maria
Santee
Seaside
Sebastopol
Selma
Solana Beach
Sonoma
Sonora
South Gate
South Lake Tahoe
South San Francisco
Stockton
Susanville
Taft
Tehachapi
Temecula
Torrance
Tulare

Vacaville
Vallejo
Victorville
Visalia
Vista
Walnut
Walnut Creek
Wasco
Watsonville
Weed
West Covina
Wheatland
Whittier
Wildomar
Williams
Willows
Windsor
Woodland
Yountville
Yucaipa

Appellate Court Says No to Taxpayer Class Actions

Local governments secured an important win last week when the Second District Court of Appeal issued its decision in *Ardon v. City of Los Angeles*. In this case, the court confirmed that a single taxpayer cannot bring a class action lawsuit "on behalf of himself and all others similarly situated" for a tax refund. Rather each individual must bring a separate claim.

A contrary ruling would have imposed substantial but unknown potential liabilities on local governments. When presented with a class claim, local governments would not know who or how many were claiming a tax refund and for what amounts. This potential for uncertain liability would have placed local governments between a rock and a hard place when budgeting.

"Such class claims for tax refunds [would] force local governments either to impound tax revenue and thus make revenue unavailable to meet basic needs—or to spend the revenue to meet basic needs now, and risk major budget cuts or the issuance of bonds later. Class claims thus defeat the chief purpose of the pre-lawsuit claim presentation requirement, which is to allow governments to accurately plan for potential liabilities," explained Peter Keith, Deputy City Attorney for the City and County of San Francisco and drafter of the League's amicus brief in this case.

The taxpayer is likely to seek review by the California Supreme Court. The League will continue to monitor this case, and if review is granted, the League will file an amicus brief in support of the City.

The court's full opinion is available online at http://www.courtinfo.ca.gov/opinions/.

NLC Update on Federal Climate Change Legislation

Several weeks ago, the federal House Energy and Commerce Committee passed comprehensive energy reform and climate change legislation. While this legislation is nowhere near its final form, National League of Cities (NLC) staff has provided a short summary of key provisions as they relate to local government.

Eight other House committees are expected to consider portions of the bill that fall under their jurisdiction: Agriculture, Education and Labor, Financial Services, Foreign Affairs, Natural

Resources, Science and Technology, Transportation and Infrastructure, and Ways and Means. As the bill continues to move through the House, NLC will continue to advocate for funding for the Energy Efficiency and Conservation Block Grant, local adaptation projects and energy efficient transportation solutions. The U.S. Senate has not yet drafted companion legislation.

State Energy and Environmental Development Account

The bill establishes a State Energy and Environmental Development (SEED) account, which would serve as the state repository for managing and accounting for emission allowances for renewable energy and energy efficiency purposes. Not less than 12.5 percent shall be distributed to local governments for energy efficiency and renewable energy purposes.

Buildings

There are several sections of the bill pertaining to residential and commercial buildings, including establishing a building retrofit program and a building energy performance labeling program. While municipal buildings are not specifically mentioned in these programs, they are not specifically excluded either. The provision that would affect local governments most directly is the proposal for a National Building Code Energy Efficiency Target and a National Energy Efficiency Building Code for residential and commercial buildings.

States and local governments with code authority would be required to adopt the national code or other code that meets or exceeds the target. From 2012 through 2050, states would receive emissions allowances for their SEED account for building code compliance. In any state that is out of compliance and a local government is in compliance, emission allowances would be provided to the local government. Local governments would be able to use their SEED allocations for this purpose as well.

Adaptation

The bill would establish a National Climate Service within the National Oceanic and Atmospheric Administration to develop climate information, data, forecasts, and warnings at the national and regional scales, and to distribute information related to climate impacts to state, local, and tribal governments and the public to facilitate the development and implementation of strategies to reduce society's vulnerability to climate variability and change. States will be required to develop a climate change adaptation plan.

Renewable Electricity Standard

The bill would establish a renewable portfolio standard, which would apply to utilities that sell more than 4 million megawatt hours (MWh) of electricity to consumers, requiring 20 percent of electricity to come from renewable resources by 2020, and allowing up to one quarter of the requirement to come from energy efficiency measures. States could petition to reduce their renewable requirement to 12 percent and 8 percent efficiency. Based on 2007 data from the Energy Information Administration, 21 public utilities produced more than 4 million MWh.

It is important to note that in California, investor owned utilities are already required to comply with a 20 percent RPS by 2010. The California legislature and state agencies are additionally contemplating a 33 percent renewable portfolio standard for investor owned and publicly owned utilities by 2020.

Transportation

Under this provision, each state would be required to submit to EPA goals for transportation-related greenhouse gas emissions (GHG) reductions. Each MPO with a population greater than 200,000 must submit a transportation plan to EPA/DOT outlining the strategies to be used to achieve the goals. EPA/DOT may award grants to states or MPOs to support related activities.

For California regions, the likely result of this provision would require the regional MPOs to submit their plan to achieve a regional transportation related target as required by SB 375 to the federal government

Energy Efficiency and Conservation Block Grant

The bill amends the Energy Independence and Security Act of 2007 pertaining to the Energy Efficiency and Conservation Block Grant (EECBG):

1) removes limits on funds received by communities through the EECBG program that can be used to fund revolving loan accounts;
2) allows small communities to join with other neighboring small communities in a joint program of sufficient size to be defined as an eligible local government recipient under the EECBG program.

"Red Flags" Rule Delayed Until Aug. 1

The Federal Trade Commission (FTC) announced on April 30 that it would once again delay enforcement of the "Red Flags" rule requirement until Aug. 1.

The League raised Fair and Accurate Credit Transaction (FACT) Act compliance last August and many cities have experienced pressure to comply with the new "Red Flags" rule, which requires some cities to implement written identity theft prevention programs. The Federal Trade Commission has moved the deadline for compliance from to May 1 to Aug. 1.

The FACT Act added new provisions to the Federal Credit Reporting Act to protect consumers against identity theft. New regulations require financial institutions and creditors to develop and implement written identity theft prevention programs.

The FTC has developed a Web site (http://www.ftc.gov/redflagsrule) to help entities covered by these rules design and implement identity theft prevention programs.

Please contact Natasha Karl, legislative analyst, with questions regarding these new rules at nkarl@caciteis.org.

Federal Collective Bargaining Bill May Have Little Impact on California Public Employers

For the third consecutive year, the U.S. House of Representatives has introduced the Public Safety Employer-Employee Cooperation Act. H.R. 413. Sponsored by Dale E. Kildee (D-MI), this legislation has been hailed by federal Democrats as a necessary measure and President Obama has said he would sign the bill.

H.R. 413 would require local governments to collectively bargain with public safety officers and outlines a number of minimum requirements including: granting safety officers the right to join and form unions; provide for bargaining over hours, wages, and terms and conditions of employment; make available an interest impasse resolution mechanism; and, require enforcement through the courts.

According to Liebert Cassidy Whitmore analysis, California does meet the requirements set out in the bill and it is likely that we would not be subject to it should it become law and California would continue to bargain under the Meyers-Milias-Brown Act. However, if litigation is pursued regarding this bill the courts may ultimately determine whether California's collective bargaining laws would be exempt.

Giving exclusive authority to the Federal Labor Relations Authority (FLRA) to enforce the requirements laid out in H.R. 413 as well as tasking the entity with making the determination as to whether California and other states satisfy the criteria has been a hot issue. Giving such authority to a federal agency has raised a number of concerns among states that currently have collectively bargaining laws in place.

CalPERS Evaluates New Health Plan Design Options with Cost-Sharing In Mind

On May 29, members of the Health Benefits Committee of the CalPERS board continued to evaluate new health plan design options in an effort to keep premiums as low as possible. This discussion happened a few weeks after Gov. Arnold Schwarzenegger released the May budget revise. The Governor, to save $132 million, proposed having the state negotiate and contract directly with health care providers instead of through CalPERS.

While CalPERS hasn't released any details as to what it's considering, members of the Health Benefits Committee contend that CalPERS' goal is to "balance the members' need for low premiums with an opportunity for each member to have meaningful benefit choices."

Labor groups attending the meeting raised a number of concerns including the issue of adverse selection or the pattern in the health care industry where individuals choose their health care plan options based on their own assumed risk of getting ill. Those who see themselves using their plan more may choose a more substantial plan, whereas individuals that assume they are less likely to become sick may choose a less substantial plan. According to labor, by isolating individuals that are more likely to use their health plan at a higher rate you may inadvertently make the cost of those plans rise, but only on those the individuals that utilize their plan more and this can cause a disparity.

CalPERS is considering a number of plan design options which would decrease monthly premiums through increased cost-sharing in the form of higher co-pays and out-of-pocket maximums. The new plan offering will consider cost-sharing in office visits, hospital inpatient and outpatient services, emergency room services, generic and brand-name prescription drugs, and out-of-pocket maximums.

Labor representatives asked the committee to think about this as a cost-shift option from employer to employee not a cost-sharing option. Regardless of whether CalPERS' health care plan designs are going to be seen as a cost-shift or cost-sharing, health care costs continue to rise and public employers are bearing the brunt. Employer groups have argued that with city revenues declining, the Governor's threat to raid city coffers, and the enormous cost of health care—something has to be done.

CalPERS will be scheduling stakeholder meetings to discuss this concept. League staff will continue to keep members informed.

Please contact Natasha Karl, legislative analyst, with any questions at nkarl@cacities.org.

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.

Upcoming Events

June

The American Recovery and Reinvestment Act of 2009: Capital Fund Recovery Competition Grants. The federal Department of Housing and Urban Development (HUD) will begin accepting applications from public housing authorities for $1 billion available from this program. Applications for grants in the Energy Efficiency category are due by July 21**.** Applications for the other three categories are due by Aug. 18. (For more information see the section on Public Housing Capital Fund in the League's City Funding Book, www.cacities.org/federalstimulus.)

5 1 - 3 p.m., Redding, Eureka, Santa Rosa - The California Energy Commission, administering the Energy Efficiency and Conservation Block Grant (EECBG) Program funds for small cities and counties, will hold workshops in Redding at Shasta College, Eureka at Eureka City Hall, and Santa Rosa at the Justice Joseph A. Rattigan State Building to discuss the EECBG program and guideline development. For more information please visit www.energy.ca.gov/recovery.

5 Last day for Assembly to pass Assembly and Senate bills

8 1 - 3 p.m., Modesto, Monterey, Riverside - The California Energy Commission, administering the Energy Efficiency and Conservation Block Grant (EECBG) Program funds for small cities and counties, will hold workshops in Modesto at Stanislaus County Chambers, Monterey at Monterey Peninsula College, and Riverside at the California Tower to discuss the EECBG program and guideline development. For more information please visit www.energy.ca.gov/recovery.

15 Budget Bill must be passed by Midnight

19 **The American Recovery and Reinvestment Act of 2009: Financing Opportunities for California's Public Agencies.** All-day seminar sponsored by CA I-Bank and CA Debt Investment and Advisory Commission. Information for public agencies on accessing the "recovery Zone Economic Development Bonds", a new type of financing vehicle for infrastructure, job training and other projects authorized by the federal stimulus legislation. For information and registration, go to http://www.treasurer.ca.gov/cdiac/seminars.asp.

Upcoming League Events:

July
17-18 Summit on Governance and Fiscal Reform, Sacramento