

PRIORITY FOCUS



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SB 303 (DUCHENY) SIGNIFICANTLY AMENDED, LEAGUE CONTINUES ITS OPPOSITION

SB 303 (Ducheny), a bill with major land use implications for local government, including a requirement for local agencies to establish a 10-year land supply, was significantly amended prior to passing unanimously by the Senate Environmental Quality Committee on Thursday, April 26.

For more, see Page 6.

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PLAN TO ADDRESS PRISON OVERCROWDING HEADS TO GOVERNOR'S DESK

A plan to address the issue of overcrowding in California's prison system passed both the State Assembly and Senate on Thursday, April 26. The \$7.4 billion plan, outlined in AB 900 (Solorio), is headed to Gov. Arnold Schwarzenegger's desk. **For more, see Page 7.**

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INFRASTRUCTURE IMPLEMENTATION BILLS UPDATE

With the California Legislature back from its spring recess, a number of bills that address the infrastructure bond measures passed in 2006 are starting to evolve. The League is keeping a close eye on 48 bills that are moving through both the State Senate and Assembly, all with various implementation impacts on Propositions 1B, 1C, and 84. **For more, see Page 8.**

WANT MORE DETAILS ON BILLS?

Visit the League of
California Cities
Web site at
[www.cacities.org/
billsearch](http://www.cacities.org/billsearch).

LEAGUE'S LEGAL ADVOCACY COMMITTEE PUBLISHES QUARTERLY REPORT

Summary Provides Details on 31 Cases

The League of California Cities' Legal Advocacy Committee published its quarterly report last week. The summary provides details on 31 cases the committee reviewed from January 1 through April 18. It also includes developments concerning the California Voting Rights Act and communication system fees.

Of particular note in the report were developments in *Bay Area Cellular Telephone v. City of Union City* and *Sanchez v. City of Modesto*.

Bay Area Cellular Telephone involves the legality of Union City's 9-1-1 fee ordinance. The trial court concluded the fee was a special tax that could only be imposed by voters. The matter is still pending, as Union City has appealed. The League will file an amicus brief in support of the city.

In *Sanchez*, Latino voters sued the city under the California Voting Rights Act (CVRA) alleging they were precluded from electing any candidates in the city's at-large city council elections due to racially polarized voting. After the trial, the court granted the city's motion for judgment on the pleadings, the appellate court reversed, holding the CVRA constitutional.

The holding called into question a city's ability to hold at-large elections and the Supreme Court declined to Modesto's petition for review.

Copies of all the League's amicus filings in the report are available online at www.cacities.org/recentfilings.

'SMALL CITIES CAN BE COOL' VIRTUAL SEMINAR A SUCCESS

On April 11, the League of California Cities sponsored a virtual seminar entitled "Small Cities Can Be Cool." The seminar was a great success, featuring 55 individual listening sites, representing eight states and 42 California cities – 263 participants in total.

The seminar included speaker Dave Ivan of Michigan State University. Ivan was a popular presenter last year at the League's Annual Conference in San Diego.

Based on a research project he conducted, Ivan identified successful themes that "cool" small communities shared. These included citizen engagement; realistic and flexible land use opportunities; adaptable zoning regulations; cultural economic development; engaging and retaining youth and families; preserving a town's heritage and natural amenities and a willingness to do it yourselves.

As a result of the event's success, the League is now looking into other virtual seminar possibilities. A CD-ROM that contains a Windows Media recording of the event that you can play on your computer and handout materials in .pdf format, is available at www.cacities.org/coolsmallcities.

If you have a suggestion, please contact Lorraine Okabe at lokabe@cacities.org.

SIGN-UP NOW FOR FLEX YOUR POWER'S FLEX ALERTS!

Flex Your Power has created a Flex Alert Network to help prevent California electrical emergencies. Flex Alerts are sent via e-mail 24 hours in advance of impending energy crunches.

Each e-mail includes important tips for conserving electricity immediately. Join the Flex Alert network now and help spread the word before the lights begin to dim. To sign-up, visit www.FlexYourPower.org/now. For more energy saving tools and programs provided by Flex Your Power, visit www.FlexYourPower.org.

SB 375: ANOTHER VISION FOR HOW CALIFORNIA SHOULD GROW

SB 303 is not the only bill concerning land use and housing policy this session. SB 375, recently amended by Sen. Darrell Steinberg, would elevate the role of the regional transportation plans of Metropolitan Planning Organizations (MPSs) as the framework for planning on a regional basis for all land use needs, including housing.

Under this proposal, SB 375 would also serve as the framework for allocating transportation funding within each region. In addition, the measure provides important California Environmental Quality Act (CEQA) relief.

Sponsored by the League of California Conservation Voters (a key League ally in defeating Prop. 90 last year), SB 375 would have regional transportation agencies (MPOs) develop “preferred growth scenarios” as part of the next regional transportation plan.

These plans would be based on a variety of standards, but would also be used to achieve certain air quality standards as set by local air quality boards.

While the bill states that these plans should not affect local land use authority, SB 375 provides that the MPOs expenditure of various transportation funds on projects shall be consistent with the preferred growth scenario. The measure also includes language that would relax CEQA review for projects consistent with the preferred growth scenario.

Will the Bill Produce Better Results?

On many levels, the idea behind this bill makes sense. Many cities have recognized the need for coordinated regional planning. Unlike the “housing first” approach included in SB 303, SB 375 introduces a more balanced framework to consider these issues regionally.

Cities have long complained that silo-like state policies favoring competing goals in housing,

resource protection, farmland protection, and business development without any coordination at the state or regional level give cities an impossible task in carrying out their land use responsibilities. SB 375 may provide a vehicle for considering all of these goals in the context of a regional growth scenario, developed by locally elected officials.

As the legislation is analyzed and evaluated, there are a number of key questions to consider:

- Is this a preferred approach to the one-size-fits-all model of SB 303 and legislation of its vintage?
- Will it produce better results for cities and their residents? Will it lead to more sustainable development?
- Can a regional “preferred growth scenario” be used as an adequate yardstick to fund and plan for regional and local transportation projects?
- Will the CEQA relief contained in the measure be meaningful and promote more sustainable development?
- How specifically will the “preferred growth scenario” be developed, and what are the potential impacts could it have on local land use authority?

League Position/Involvement

The League will not have a position on SB 375 until questions such as these are carefully answered. However, the League has indicated a willingness to discuss with Sen. Steinberg how SB 375 might work.

There are a number of concerns, but the bill touches on a variety of matters the League is currently addressing, including housing, climate change, air quality and flooding.

SB 1020 AND SB 1016: BILLS WOULD IMPACT SOLID WASTE DIVERSION IN CALIFORNIA

The League has received a number of inquiries about SB 1020 (Padilla) and SB 1016 (Wiggins). Both measures, if passed, would have significant impact on the California Integrated Waste Management Act of 1989 (commonly referred to as AB 939).

If signed into law, SB 1020 would increase the AB 939 solid waste diversion mandate from 50 percent to 75 percent for all jurisdictions in California beginning on Jan. 1, 2012.

SB 1016 had originally proposed a number of major changes regarding how local jurisdictions track and report their compliance with AB 939. These changes were based on a series of stakeholder meetings held in 2004 by the California Integrated Waste Management Board (CIWMB).

It was clear, however, that the language did not reflect the intent of the CIWMB and the language was subsequently amended out of the bill on April 10.

In its current form, SB 1016 would authorize the California Integrated Waste Management Board (CIWMB) to allow a city or county to submit their annual report every two years, if the jurisdiction has diverted more than 50 percent of its solid waste from landfill disposal through source reduction, recycling and composting activities.

League Position

The League currently has **no position** on SB 1020 or SB 1016. Existing League policy does not address increasing the statewide diversion requirements above 50 percent. Based on League policy committee review of similar past bills, however, the League has indicated that while it does not have a position on an increased AB 939 goal, any such proposal must also include significant efforts to streamline the provisions of AB 939 to assist in compliance.

In addition, existing League policy supports legislation to provide changes to AB 939 to place more emphasis on implementation of waste diversion programs and less upon strict mathematical accounting (i.e. bean counting); and expansion of market development activities. This includes the development

of non-burn transformation technologies and providing funding for research and development of recyclable materials.

Future Developments

SB 1016 and 1020 passed the Senate Environmental Quality Committee on Monday, March 16 and will now go to the Senate Appropriations Committee where they will likely be heard in May.

Stay tuned to *Priority Focus* for future updates as these bills are amended or negotiations on alternatives progress.

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REPUBLICAN LEGISLATORS ASK GOVERNOR TO ADOPT 'GOOD NEIGHBOR' POLICY ON GROUP HOMES

Assemblyman Bill Emmerson (R-Redlands) and Sen. Bob Dutton (R-Inland Empire) recently circulated a letter to their respective colleagues in the Assembly and Senate. This letter asks them to sign a letter to Gov. Schwarzenegger requesting a meeting to discuss the adoption by the Administration of a "good neighbor policy" designed to improve that interaction between state agencies and local communities over the siting and operation of group home facilities.

The petition letters were signed by all Republican members of the Assembly and the Senate and delivered to the Governor.

The letters discussed the different agencies that either license or refer individuals to group home facilities. They also stressed the need for an adoption of practices that would significantly improve coordination between the various agencies that license these facilities and the communities in which they are sited.

The League commends both Assemblyman Emmerson and Sen. Dutton on their dedication to addressing the group homes issue and will continue to issue updates on this petition as developments occur.

RESIDENTIAL GROUP HOMES LEGISLATION: BILLS CONTINUE TO MOVE THROUGH LEGISLATURE

During the last few weeks, a number of bills addressing different aspects of residential group homes have been heard in the Legislature. Although many of the measures received support, only a handful passed out of their first committee – AB 724, SB 992, AB 411, SB 709 and AB 370.

Below is an update of these League-supported bills, and where they currently reside in the Legislature:

- **AB 724 (Benoit) Sober Living Homes –**

AB 724 provides local governments the ability to distinguish between a legitimate sober living home and an illegitimate one. If signed into law, the bill would create a definition of “sober living home” in order to clarify a local government’s authority to regulate the use and occupancy of a single-family residence location in a single-family residential zone that is not a sober living home or other licensed facility.

AB 724 has been referred to the Assembly Committee on Appropriations for a future hearing.

- **SB 992 (Wiggins) Adult Recovery Maintenance Facilities –** This measure would create a new class of alcohol and drug recovery facilities known as “Adult Recovery Maintenance Facilities” (ARMF) to be licensed by the Department of Alcohol and Drug Programs (ADP).

SB 992 provides quality assurance and accountability for programs that already exist in the continuum of services available for people who are in the process of recovering from drug or alcohol dependency.

The bill is currently in the Senate Appropriations Committee.

- **AB 411 (Emmerson) and SB 709 (Dutton) Residential Care Facilities: Overconcentration –** If signed into law, these measures would authorize a city or county to submit to the Director of the Department of Social

Services (DSS) additional documentation and evidence regarding the siting of a proposed facility designed for six or fewer residents.

AB 411 and SB 709 would require the director to review and consider the information to determine whether the adjacent uses are compatible with the proposed facility. If the director determines that the proposed location is not appropriate, he or she may suggest to the applicant to consider alternative siting locations.

AB 411 provides an opportunity for the director of DSS to have full information of the conditions that exist at a proposed location, which will promote improved siting decisions.

Currently, AB 411 is in the Assembly Committee on Appropriations suspense file, while SB 709 is on the Senate Appropriations Committee suspense file. While the costs in these bills are negligible, this mechanism was used to kill similar bills last year.

- **AB 370 (Adams) Sex Offenders: Residency Restrictions –** This bill would permit a city or county to prohibit a registered sex offender released on parole from residing with any other person on parole in a residential facility serving six or fewer residents. The exception is if the other resident is related by blood, marriage or adoption.

AB 370 has been re-referred to the Assembly Committee on Public Safety.

For more information on these bills, contact League Legislative Analyst Genevieve Morelos at gmorelos@cacities.org.

Our Mission

Restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

SB 303 from page 5

After the bill was closely scrutinized by the committee for more than two hours earlier in the week, and again in a special hearing, Sen. Ducheny agreed to take out a number of troublesome provisions in the bill.

The major items that were removed from SB 303:

- Removed the narrowed the definition of “health and safety”
- Removed the required a four-fifths vote
- Removed language requiring courts to give the California Department of Housing and Community Development (HCD) determinations about local housing elements greater deference

Many of the League’s concerns were amended out of the bill, but several issues remain. These include:

- **10-Year Update.** Requires each element in the general plan to be updated as needed every 10 years.

- **10-Year RHNA Number; Five (5)-Year Review.** The Regional Housing Needs Assessment (RHNA) planning period would stay at five years. Local agencies would be given a 10-year number, however, with the idea that this will provide a longer term outlook in the planning process.

- **Five (5)-year zoning + Five (5)-year designation.** Those who are “in the know” are wondering what cities will do with a 10-year RHNA number and a five-year planning period. Cities will have to zone for five years and designate intended areas to zone for the second five years.

This is likely to cause problems with general plan consistency requirements and SB 303’s language will have to be read closely when it comes into print.

- **Three years to pre-zone the RHNA.** Local agencies will be given two years to complete their housing element when they are given their

RHNA number, and then have one year after that to complete their zoning for the five-year planning period. Therefore, the zoning would have to be complete one year after the housing element is completed.

- **Charter City Consistency.** The requirement that zoning will have to be consistent with the general plan would apply to charter cities by January 1, 2011.

- **Funding and Mandates.** There is no word yet on how all of this will get funded. Significant mandates are involved. Sen. Ducheny has agreed to keep working on this issue.

- **Health and Safety Finding.** Though the super-majority vote requirement is gone, local agencies would be limited to the extent that they could change a zoning designation after an application if filed upon a simple majority of the legislative body making specific health and safety findings.

- **Required Review of Open Space Element.** Environmentalists requested certainty on environmental concerns to counter the emphasis on housing and development in SB 303. Sen. Ducheny agreed to amendments that would require periodic updates of the open space element of the general plan. The language to these amendments will follow shortly.

SB 303 will next go to the Senate Appropriations Committee, where some of the significant funding and cost issues are likely to be addressed. The League continues its opposition to the bill and requests cities to submit oppose letters to the Legislature.

For more information and a sample opposition letter on SB 303, visit www.cacities.org/billsearch and look up the measure. Further updates on this legislation will appear in future editions of Priority Focus.

Questions should be directed to League Legislative Representative Bill Higgins at bhiggins@cacities.org or Legislative Director Dan Carrigg at dcarrigg@cacities.org.

PRISON REFORM from page 1

While AB 900 passed off the Assembly Floor with virtually no discussion, the measure faced a larger hurdle in the Senate. The plan was debated primarily by Republicans, who said they needed more time to renew the plan after having just hours to study the language before the vote.

Senate President Pro Tem Don Perata revealed that while the plan isn't ideal, action was needed to avoid federal involvement.

"Democrats are not in favor of the plan as a whole, but the Legislature has not acted to give Governor Schwarzenegger the authority or plan to deal with the overpopulation issue," Perata said. "Something has to be done now to avoid the federal government from taking over California's prison system."

Sen. Perata also said that the AB 900 plan is more responsible than many of the measures that move through the Legislature because it contains two phases. Specifically, it requires reporting on the success of Phase I prior to seeking authorization to implement Phase II.

Re-entry Facilities, a Role for Cities?

While much of the two-phased plan calls for 16,000 "infill" beds at existing prisons, of particular interest to local governments is the addition of 16,000 "re-entry" beds at facilities at the local level. These "re-entry" beds would be used to house short-term parole violators and inmates in the final months of their terms.

Each facility would include 500 beds and house inmates within one year prior to being released from custody. The plan stipulates that re-entry facilities will only be cited in communities that request a facility and a city or county has authority to identify the proposed location of the facility.

The purpose of the re-entry facilities is to break California's entrenched cycle of parolee failure. The goal is to reduce post-release criminal behavior of high risk offenders by returning parolees to their county of last legal residence, and to scale back the failure rate of at-risk parolees revoked with no new prison term.

Details of the Plan

The prison plan will be funded primarily through lease revenue bonds. It also includes local match funding for county jail facilities as well as General Fund appropriations. The plan adds 53,000 beds to new and existing state and local facilities in two phases as follows:

Phase I:

- 12,000 infill beds at existing state facilities
- 6,000 beds at re-entry facilities
- 6,000 beds at health care facilities
- 8,000 beds at county jail facilities

Phase II:

- 4,000 infill beds at existing state facilities
- 10,000 beds at re-entry facilities
- 2,000 beds at health care facilities
- 5,000 beds at county jail facilities

In addition, the plan includes the following:

- Transfer of inmates to out of state prison facilities
- Mitigation funds for local governments impacted by prison facilities (details are not yet available)
- Funding for infrastructure improvements at facilities expected to receive infill beds
- Program requirements for facilities accommodating infill beds to include academic or vocational education, drug treatment, work programs, etc.
- Mental health day treatment programs
- The development of a "prison-to-work" program
- Establishes an 11-member Correctional Rehabilitation Oversight Board

Updates to this issue will be reported in Priority Focus and on the Public Safety section of the League's Web site (www.cacities.org/ps) as they develop.

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INFRASTRUCTURE from page 1

There are a number of bills of particular interest to cities. Here is a brief summary on some of these measures, and where they currently stand in the Legislature:

Proposition 1B

Local Street and Road Funds

- **SB 286 (Dutton).** SB 286 is a League-sponsored bill that defines an allocation schedule for the \$2 billion included in Prop.1B as a direct allocation to cities and counties. Specifically, SB 286 guarantees that every city will receive at least half of their Prop. 1B funds to spend in the next two fiscal years (the 2007-08 Prop. 42 “gap” year and 2008-09).

This is extremely important for local governments. Without significant funding in the 2007-08 Prop 42 “gap” year, cities and counties will not receive any money for local streets and roads. SB 286 allocates any remaining funds (funds not spent in 2007-08 and 2008-09) to cities no later than January 1, 2010 for fiscal years 2009-10 and 2010-11.

Recent Activity: SB 286 passed out of the Senate Transportation and Housing Committee on Tuesday, April 24, with a 10-1 vote. Next, it will be heard in the Senate Appropriations Committee. The League continues to advocate for accelerated payments of these funds to cities and will seek a full appropriation in the state budget of the \$1 billion for cities.

Cities should send support letters on this bill. For a sample letter, look up SB 286 at www.cacities.org/billsearch.

State-Local Partnership Program Legislation

Prop. 1B includes \$1 billion for the State-Local Partnership Program (SLPP), which requires local matching funds to access bond money. There are three bills currently moving forward in the Legislature that attempt to outline the criteria and eligibility

requirements for implementing the SLPP. Those measures are:

- AB 1351 (Levine)
- SB 748 (Corbett)
- SB 872 (Ackerman)

These measures outline the sources of the local eligible match required to compete for the funding, though not all outline the same source (i.e. voter approved sales taxes vs. parcel taxes vs. bridge tolls vs. other voter approved taxes and fees dedicated to transportation purposes).

The League is advocating for maximum flexibility for the local match. A comparison of the three measures can be found at www.cacities.org/infrastructure.

Goods Movement

- **SB 9 (Lowenthal).** This bill establishes a process for selecting projects under the \$2 billion Trade Corridor Improvement Fund. The measure requires that proposed projects be included in an approved regional transportation plan.

Factors in selection include:

- An estimate of the emissions produced during the construction
- Operation of a proposed project
- Ongoing monitoring and mitigation of air impacts of projects funded by these bond funds

Recent Activity: SB 9 passed out of the Senate Transportation and Housing Committee and was referred to the Senate Appropriations Committee.

- **SB 19 (Lowenthal).** SB 19 specifies projects eligible to receive \$1 billion in funding made available under Prop. 1B to reduce air emissions associated with goods movement.

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Recent Activity: This bill passed out of the Senate Transportation and Housing Committee and was referred to the Senate Appropriations Committee for a future hearing.

The League encourages cities interested in goods movement to track both SB 9 and SB 19 and engage in discussions on these issues as appropriate.

Proposition 1C: Housing and Infrastructure Bond

More than half of Prop. 1C funds are allocated to traditional state housing programs that do not require additional legislative action. As a result, the legislative focus is concentrated in three areas:

- Allocating \$850 million in infill infrastructure funds
- Allocating 200 million in funding urban, suburban and rural parks
- Allocating \$100 million in housing innovation funds (In addition, there has been some legislative action to add requirements to the \$300 million transit-oriented development fund.

Allocation of \$850 Million:

While there have been numerous bills introduced relating to this topic, the following two measures are likely to emerge as the implementation measures:

- **SB 46 (Perata).** Requires the California Department of Housing and Community Development (HCD) to establish and administer a competitive grant program to allocate those funds to selected qualifying infill projects.

Recent Activity: The Senate Transportation and Housing Committee recommended that the bill be passed, but first required that it be re-referred to the Senate Appropriations Committee for a hearing. This measure will likely have a hearing in May.

- **AB 1053 (Nunez).** Although this bill continues to be a work in progress, the League believes that this bill will eventually emerge as the main Assembly vehicle on this issue.

Recent Activity: AB 1053 was heard and passed in the Assembly Committee on Housing and Community Development early this week. It was referred to the Assembly Committee on Appropriations for a future hearing.

Allocation of \$200 Million for Parks:

- **AB 1252 (Caballero).** If signed into law, AB 1252 would create the Housing-Related Parks Program within the Department of Parks and Recreation using the \$200 million in funding allocated for housing-related parks grants in urban, suburban and rural areas in Prop. 1C.

Overall, the bill would provide grants to cities and counties (on a per bedroom basis for related new or underserved affordable housing) for the creation or rehabilitation of parks in conjunction with eligible housing projects.

Recent Activity: AB 1252 was amended and passed through the Assembly Committee on Housing and Community Development. It will next be heard at the Assembly Committee on Appropriations, most likely in May.

Housing Innovation Funds:

- **SB 582 (Dutton).** Since Sen. Dutton was the key vote in getting out the housing bond, most predict that his bill will be the vehicle to watch. Currently, SB 586 creates four separate accounts for this money:
 - \$50 million for a revolving land acquisition account to help jumpstart affordable housing
 - \$5 million for a construction liability insurance reform program
 - \$35 million for a local housing trust fund

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INFRASTRUCTURE from page 9

- matching program that would emphasize first time homebuyer programs
- \$10 million for the existing Mobile Home Park Ownership Program.

Recent Activity: This fund is somewhat unique because the language in Prop. 1C states that the criteria for the \$100 million in this fund must be approved by a two-thirds vote of the Legislature. This bill will be heard in the Senate Appropriations Committee on May 7.

Proposition 84 - The Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006

While there are a number of bills in both houses that direct funds from Prop. 84 to different specific uses (funds for urban parks, urban greening, groundwater contamination, and flood protection), SB 732 (Steinberg) is emerging as the most comprehensive of all Prop. 84 bond bills.

Budget proposals, budget trailer bills, and more comprehensive Assembly bills will likely surface as the legislative session continues. However, at this time, there are no other bills that have taken as broad a look at funds under Prop. 84.

- **SB 732 (Steinberg).** This measure is the Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006. SB 732 establishes a number of requirements and guidelines about the allocation of the \$580 million available through Prop. 84.

Recent Activity: The bill was heard in and passed by the Senate Committee on Natural Resources and Water. It was referred to the Senate Committee on Appropriations for a future hearing.

- **AB 1253 (Caballero).** AB 1253 would create the Sustainable Communities Regional

and Local Land Use Planning Program within the Resources Agency. The program would use the \$90 million made available from Prop. 84 for planning grants and incentives for the development of specified regional and local land use plans.

Grants and loans to local governments, councils of governments, and other public agencies would be made for these purposes, subject to specified criteria developed by the Office of Planning and Research.

Recent Activity: AB 1253 was heard in and passed by the Assembly Committee on Water, Parks and Wildlife on Monday, April 23. The measure was referred to the Assembly Committee on Appropriations for a future hearing.

- **SB 167 (McLeod).** This bill would require the Governor's Office of Planning and Research to administer a grants and loan program to prepare, adopt, and amend general plans and regional blueprints.

The program would use the \$90 million made available from Prop. 84 for planning grants and incentives for the development of specified regional and local land use plans. The measure would draw from the same source of funds as AB 1253 (Caballero).

Recent Activity: AB 1253 passed out of the Senate Local Government Committee and is now off to the Senate Appropriations Committee for its next hearing.

For further updates to these bills and other measures affecting infrastructure implementation, please visit www.cacities.org/infrastructure. Information will also be published in future issues of *Priority Focus*.