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

PRIORITY FOCUS

LEAGUE OF CALIFORNIA CITIES

IN THIS ISSUE:

Aug. 10, 2007
Issue #31-2007

LEAGUE OFFICIALLY TAKES AN OPPOSE POSITION ON SB 375
Cities Should Act Now to Help Defeat the Measure

The League of California Cities has formally taken an "oppose" position on SB 375 (Steinberg), a measure that would essentially allow a regional authority to make local land use decisions.

Unfortunately, after months of intense negotiations, e-mails, and counterproposals with Sen. Steinberg, D-Sacramento, the bill is still not where it needs to be to draw League support.
For more, see Page 2.

●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●

PUBLIC ADVOCATES IDENTIFY THE 'WORST OF THE WORST' EMPLOYEE RELATIONS BILLS

While the California Legislature is in recess, work continues to defeat the immense number of harmful employee relations bills that have been introduced during this legislative session.

The League of California Cities held a meeting earlier this week with a number of public agency advocates in order to identify the "top five" employee relations bills that would adversely affect local governments. *For more, see Page 3.*

●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●●

FEDERAL UPDATE: HOUSE APPROVES ENERGY BILL, TEMPORARY EXTENSION OF INTERNET MORATORIUM TAX NOT INTRODUCED

On Saturday, Aug. 4, the U.S. House of Representatives passed H.R. 3221, a broad energy package that includes a $10 billion Energy Efficiency Block Grant for cities. H.R. 3221 passed by a vote of 241-172, and the new block grant will provide funding for communities to further develop energy efficiency strategies to help reduce greenhouse gas emissions. *For more, see Page 4.*

'SB 375' Continued from Page 1…

As currently written, SB 375 would require Metropolitan Planning Organizations (MPOs) to develop a "preferred growth scenario" within the regional transportation plan (RTP). The goal would be to channel new growth and investment in a manner that would reduce carbon emissions.

The MPO would also have to designate "significant resource areas" as defined by SB 375. Local projects that are contrary to the MPO's designation would not be eligible for transportation funding. In essence, a regional authority would be making local land use designations.

Why the League Is Acting Now

The League agrees that emissions reduction from the transportation sector will be part of how the state complies with the stated targets included in AB 32 (the climate change bill from 2006). As a result, League has attempted to work with Sen. Steinberg to focus on emissions reductions strategies and planning, rather than growth controls.

The League invited the League of Conservation Voters (sponsor of SB 375) to directly address the League's board of directors at its July meeting in Monterey. The board devoted 2.5 hours to discuss the bill. In the final analysis, however, the board believed that though they were willing to continue working with Sen. Steinberg on the measure, there were too many problems and ambiguities to be worked out in the last five weeks of the legislative session.

As a result, they asked Sen. Steinberg to make this a two-year bill. In return, the board promised to fully engage League time and resources in finding a resolution. Otherwise, the League would have to oppose the bill. Ultimately, that offer was declined.

League Issues with SB 375

The League made the following points in its opposition letter to SB 375 that was sent to Sen. Steinberg:

- **The Focus Should be on Emissions Reduction, Not Growth Control.** SB 375 attempts to dictate specific growth policies, rather than providing local agencies with the necessary flexibility to address the stated goal of emissions reduction. But directing growth at this level of detail is unnecessary.

  Emissions reduction can be advanced by regional transportation agencies by giving preferences to transportation projects that help achieve emission reduction targets without designating where growth should and should not go.

- **Broad Scope of Growth Controls Compel Further Consideration.** The proposed **preferred growth scenario** would severely curtail the development of specific categories of land called "significant resource areas." As such, consideration of this bill requires more in-depth discussions than what has occurred.

- **Coordination with Other Efforts Needed.** Since the enactment of AB 32, one of the difficulties is getting clarity on the many different emissions reduction efforts that are underway. For instance, the Air Resources Board is proceeding according to its statutory schedule. The California Transportation Commission is holding stakeholder meetings on these issues to develop guidelines.

  If SB 375 is going to be a workable law that can be effectively implemented, then the time needs to be taken to integrate the bill with other ongoing efforts and applicable laws.

- **CEQA Promises Yet to Materialize.** The League has carefully reviewed the California Environmental Quality Act (CEQA) language in the bill and found it insufficient. We remain willing to develop meaningful CEQA streamlining for projects that advance emission reduction goals. That discussion will take time.

- **Conflicts with RHNA Process Not Yet Addressed.** SB 375 would give direction to regional authorities to place housing in a way that will reduce carbon emissions. Yet the Regional Housing Need Allocation (RHNA) process requires that the units be distributed on a fair share basis.

  This bill makes no attempt to reconcile these two conflicting goals. Cities cannot comply with potentially conflicting reporting requirements. This is a critically important issue that must be handled appropriately.

- **Broad Stakeholder Input Needed.** If SB 375 is to be fully embraced, then needs a broader dialogue involving transportation agencies, Local Agency Formation Commissions (LAFCO's), cities, counties, those in the Schwarzenegger Administration already implementing AB 32, the housing and development industry. The League stands ready to fully engage in such a process.

Next Steps: What Cities Need to Do

There are five main actions that local officials can take to help oppose SB 375:

1. **Take a Position.** Send an oppose letter to your Assembly Member and Senator. A sample letter is posted on the League Web site (to access it, look up SB 375 using the League Web site's bill search function at www.cacities.org/billsearch.)

2. **Contact Your Legislators Personally.** The Legislature is still in Summer Recess. Thus, your legislators are probably in their districts for another week.

3. **Talk to Your COG of MPO.** Many of the Councils of Governments (COGs) and MPOs have taken a neutral or support position on this bill. As an association of local governments, their position should be consistent with their members.

4. **Engage Contract Lobbyists.** Those cities that have a contract lobbyist should provide direction that opposing this bill is one of your legislative priorities for the end of the year.

5. **Make Time At The Annual Conference.** If this bill is still moving, officials who are attending the League's Annual Conference in Sacramento (which coincides with the second to last week of the Legislative session) should come prepared to speak to their legislator.

The League will continue to send updated information in the coming days and weeks about SB 375. Stay tuned to the League Web site at www.cacities.org and future issues of *Priority Focus*.

'Employee Relations Bills' Continued from Page 1…

The public agency advocates attending the League's meeting (a group including the California State Association of Counties [CSAC], California Coalition on Workers Compensation [CCWC] and the Regional Council of Rural Counties [RCRC]) came to a consensus that the following five bills should be killed or vetoed if they make it to Gov. Arnold Schwarzenegger's desk:

- **AB 419 (Lieber).** This measure would provide extended temporary disability workers' compensation benefits to specified public safety employees for 100 percent of salary for up to one year of disability. The un-reimbursed state mandate costs resulting from expansion of Labor Code 4850 benefits would be substantial to cities.

- **AB 220 (Bass).** AB 220 attempts to duplicate the Public Safety Officers Procedural Bill of Rights (POBAR). The bill would permit firefighters to engage in specified political activities and provide procedures and conditions for the investigation and interrogation of an employee that could lead to punitive action.

  AB 220 is unnecessary and burdensome. Firefighters are not the subject of investigations and interrogations to the same extent as peace officers. Firefighters already have substantial procedural and due process rights and collective bargaining rights. This bill would impose substantial unfunded mandated costs on local government.

- **AB 213 (Fuentes).** This measure would eliminate an employer's right to object to a specific location by an injured employee for an adjudication of a claim.

- **AB 553 (Hernandez).** AB 553 would exclusively authorize the Public Employees Relations Board (PERB) to determine, under the Meyers Milias Brown Act (MMBA), whether to seek from a court of competent jurisdiction injunctive relief involving employee strikes, work stoppages, or lockouts.

  This bill seeks to expand PERB authority into areas in which it has no existing authority or expertise. In addition, AB 553 would directly pre-empt existing litigation; usurp city and county authority over matters involving public health and safety and add unacceptable delays to seeking injunctive relief to protect the public health and safety.

- **SB 942 (Migden).** This measure would require an employer to reinstate an employee to their pre-injury job within five working days upon release of the treating physician or reimburse the worker for the lost wages and work benefits. SB 942 would prohibit additional physical duty assignments not performed prior to injuries condition of return to work.

Terms such as "expands," "eliminates," "gives to," and "provides exclusive for" are prevalent in all of the above bills and many others that are moving through the Legislature. Other bills that are equally as detrimental but did not make the top five are AB 1073 (Nava), AB 338 (Coto), SB 936 (Perata) and AB 437 (Jones).

The League had previously published a two-part series on legislation in this area to alert cities on the negative impacts of various bills. To view those articles, visit www.cacities.org/er. The League, CSAC, CWCC and RCRC, along with other organizations, will stay in opposition to any measure that restricts or extracts local decision authority or impacts any agency financially.

For more information on all workers' compensation legislation, look up the measures at www.cacities.org/billsearch, www.assembly.ca.gov or www.senate.ca.gov. If you have questions, please contact League Legislative Representative P. Anthony Thomas at (916) 658-8279.

'Federal Update' Continued from Page 1…

The Energy Efficiency Block grant will:

- Authorize a total of $2 billion per year from 2008-2012
- Allocate funds to participating communities on a population formula basis (modeled after the successful Federal Community Development Block Grant (CDBG) program

The U.S. Department of Energy will oversee the administration of the program. Eligible activities include encouraging energy efficiency and conservation programs in commercial, residential and municipal building; energy audits; and energy technical assistance.

There are other provisions in H.R. 3221 that the League is still analyzing. For an idea of the other provisions, the House Energy and Commerce Committee put together a background piece with a section by section breakdown. The document is located at http://energycommerce.house.gov.

The Senate's energy package, H.R. 6 (Rahall-W.Va.), the Clean Energy Act of 2007, focuses on renewable energy and provides tax incentives to encourage research and development to achieve this goal. Also included in H.R. 6 is the language from S. 1115 (Bingaman-N.M.), the Energy Efficiency Promotion Act of 2007.

Once Congress returns from recess, a conference committee will be named to reconcile the differences between H.R. 6 and H.R. 3221.

House Breaks for Recess - Temporary Extension of the Internet Moratorium Tax Not Introduced: Letters of Support Needed

With the Temporary Extension on Internet Taxes ready to expire on Nov. 1, the U.S. House of Representatives left for recess without introducing legislation that would extend the Internet Moratorium.

The House Judiciary Committee held a hearing to discuss the Internet Moratorium the last week of June, but was unable to introduce new legislation before the August recess. Currently, no House version of the temporary extension of the Internet Moratorium legislation has been introduced, although several permanent extension measures have.

Take Action!

The League of California Cities is in support of a temporary extension and is asking Utility Users Tax (UUT) cities with members on the House Judiciary Committee to write their Congress member to urge them to introduce or co-sponsor legislation that would extend the Internet Moratorium for another three years.

A sample letter is located at www.cacities.org/federalresources.

Background

Earlier this year, in both the House and the Senate, bills were introduced -- H.R. 743 (Eshoo-Calif.), H.R. 1077 (Campbell-Calif.) and S. 156 (Wyden-Ore.) -- that would make the moratorium on Internet access taxes and multiple and discriminatory taxes on electronic commerce permanent.

In the Senate, however, another proposal has emerged, S.1453 (Carper-Del.), which would extend the Internet Moratorium for four more years. California Sen. Dianne Feinstein has signed on as a co-sponsor of S. 1453. The League will continue to monitor the issue as it develops.

'Shaping California's Future' – League of California Cities' Annual Conference Opens Sept. 5

The League of California Cities' 109th annual conference opens on Sept. 5, in Sacramento. Join more than 1,800 city officials for a roundup of legislative updates on the League's strategic priorities of infrastructure, affordable housing and eminent domain reform.

The conference will also feature three diverse general session keynote speakers - Seattle Mayor Greg Nickels, Mark Sanborn, and Sir Ken Robinson, Ph.D. – that will deliver presentations on climate change, leadership and creativity, respectively.

For more information on the conference and how to register, visit www.cacities.org/ac.

On-Camera Media Training Available for City Officials at the Annual Conference

Do you need to deliver your city's message more effectively during media interviews? If so, take advantage of this free opportunity for professional on-camera media training at the League's Annual Conference on Sept. 5-8, in Sacramento.

This 45-minute training session will include a short, on-camera interview, where instructors will ask questions about issues vital to your city; critique your "performance" and provide an opportunity for a follow-up interview. A DVD copy of your session will be available to take home for your own personal review.

The training session instructors are noted public information and media experts from cities throughout California. After this brief introductory session, you'll feel more comfortable with delivering your city's important messages in newspaper, radio and on-camera interviews.

Only Two Spots Left! Register Now!

There are only two spots left for these one-on-one sessions. The training will be held in the League Press Room at the Sacramento Convention Center, which is convenient to all conference sessions.

Contact Eva Spiegel, League communications director at (916) 658-8228 or espiegel@cacities.org, to take advantage of this outstanding opportunity, which can regularly cost thousands of dollars.

Reservations will be accepted on a **paid** first-come, first-served basis. Please note that, while there is no charge for the training, in an attempt to address the problem of "no-shows," there is a $20 charge, refundable as a $20 CityBooks coupon for those who attend the training. No refunds or coupons will be issued for "no shows."

On-Camera Interview Training Session Times (Still Available)

Saturday, Sept. 8

8 a.m. – 8:45 a.m.
10 a.m. – 10:45 a.m.

***If you get voicemail when making a reservation please:**

- Leave a message with your preferred time slot.
- Tell in some detail about an important issue facing your city so that we can prepare interview questions that are tailored to your community.
- Leave your complete contact info including cell phone.

Public Safety Employer-Employee Cooperation Act of 2007 Moves to the U.S. Senate

Measure Could Pre-empt California's Collective Bargaining Laws

H.R. 980, the "Public Safety Employer-Employee Cooperation Act of 2007," was passed by the U.S. House of Representatives last month. The measure, which could possibly pre-empt all or parts of California's state laws regarding collective bargaining systems, now moves to the U.S. Senate for consideration after the U.S. Congress returns from its August recess.

If signed into law, H.R. 980 would require that the Federal Labor Relation Authority determine within 180 days of the act's passage) whether each state's labor laws:

- Grant public safety officers the right to form and join a labor union
- Require that public safety employers recognize the employees' labor union
- Provide for bargaining over house, wages, and the terms and conditions of employment, but excludes pensions
- Provide for an impasse resolution process; and
- Require that state courts enforce the rights established by H.R. 980

If a state's laws fail to meet these requirements, even if the state currently recognizes collective bargaining rights, the bill would require the state to amend its laws to comply with H.R. 980 within two years of the bill's effective date. California's collective bargaining laws would be vulnerable to federal pre-emption under this bill.

A similar bill is expected to be introduced in the Senate after recess. The League is opposed to H.R. 980 and will continue to monitor the issue and work with national groups to defeat the bill when Congress returns from its recess.

Don't Miss 'How Should California Grow?'

Western City **Article Series Examines the State's Growth-Related Issues**

California's booming population growth presents significant challenges for its elected officials, whether they serve at the local or state level. These challenges include providing services — transportation, housing and water, to name just a few — to meet the needs of a steadily increasing number of residents.

It's time for a rational, strategic discussion to address these challenges. Toward that end, *Western City* magazine is running a series of articles designed to stimulate the dialogue. Titled "How Should California Grow?", the series presents a variety of perspectives on the state's major growth-related issues.

We are in a new era, where things that worked in the past aren't necessarily going to work for our future. While local governments and the state are grappling with this new reality, many of us are realizing that we need to find much more aggressive and proactive ways of addressing our most urgent problems.

"How Should California Grow?" examines demographics and growth patterns, various scenarios for future development, water supply, environmental concerns, housing affordability, infill, density and gentrification issues, transportation, infrastructure financing and more.

Bill Fulton, one of the most prominent thinkers and experts on land use in California and a Ventura City council member, kicked off the series in the June 2007 issue with an introductory article that is thought-provoking and incisive. He encourages elected officials to think long-term about the issues associated with growth and offers a framework for doing so.

To read the entire series so far, visit www.westerncity.com/grow.

New Housing Publication Available from the Institute for Local Government

The Institute for Local Government (ILG), the League of California Cities and California State Association of Counties' nonprofit research affiliate, has published "Building Public Support for Affordable Housing: A Toolbox for California Officials."

The publication provides tools and strategies for local officials in responding to public concerns about affordable housing projects.

Hard copies of "Building Public Support for Affordable Housing: A Toolbox for California Officials" are being been mailed to city and county planning directors this week. In addition, a digital copy of the publication is available for free download at www.ca-ilg.org/yimby.

Additional hardcopy versions of the publication may be ordered from ILG for $30 or at discounted bulk rates. For more information, visit www.ca-ilg.org/ilgpubs.

"Building Public Support for Affordable Housing: A Toolbox for California Officials" was published thanks to the generous support of the Bank of America Foundation, with additional support from the Non-Profit Housing Association of Northern California and the League of California Cities Partner Program.

League Pension Bond Program: Cities Are Saving Millions in Pension Costs

To address the continuing high costs for pensions, a group of cities is proceeding with the issuance of Pension Obligation Bonds through California Communities.

Pension obligation bonds (POBs) will reduce annual pension costs because they are the equivalent of refinancing the pension debt the city has to the CalPERS system at a lower interest rate. POBs for CalPERS employers with unfunded liabilities in the Risk Sharing Pools will have the benefit of locking in the earnings rate on the liability pre-payment at 7.75 percent; a fixed rate that exceeds the POB cost of funds.

Other employers will have the added benefit of earning the actual CalPERS earnings rate that has been between 12.3 percent and 19.1 percent in recent years; rates that far exceed the POB cost of funds.

In order to help local governments save money, California Communities established the Pension Obligation Bond Program, which has refinanced $410 million in California Public Employees Retirement System (CalPERS) unfunded liability for 23 local governments since 2004. The expected cumulative savings from the pension bond program for these 23 agencies is more than $110 million. California Communities is the financing authority jointly sponsored by the League of California Cities and the California State Association of Counties (CSAC).

The California Communities program provides:

- A streamlined bond issuance process
- A team of experts handle the details
- Minimal internal staff requirements

If you are interested in determining the benefits of issuing pension bonds and possibly joining the current program, contact California Communities Program Manager Terrence Murphy at (800) 635-3993 (ext. 223) or tmurphy@cacommunities.org. You can also contact RBC Capital Markets Managing Director Catherine Bando at (9213) 362-4137 or catherine.bando@rbccm.com.

California Senate Publishes Guide to Joint Working Powers Agreements

The California State Senate recently published "Governments Working Together: A Citizen's Guide to Joint Powers Agreements." The publication is useful for community activists, local officials, public employees and researchers.

A joint powers agreement (JPA) refers to situations in which governments agree to combine powers and resources to address common concerns. The guide provides details on how JPAs work, discusses pros and cons associated with JPAs as well as information about how public officials can use JPAs to better deliver services and facilities. The 32-page citizen guide also features a frequently asked question section and additional resources for users.

To order, request "Governments Working Together – stock number 1404-S," and send a check (credit cards not accepted) for $8.08 made payable to the Senate Rules Committee to:

Senate Publications & Flags
1020 N Street, Room B-53
Sacramento, CA 95814

For more information, call the Senate Publications & Flags office at (916) 651-1538.

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.
