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ANALYSIS, COMMENTARY & UPDATES  
**PRIORITY FOCUS**  
ON LEGISLATIVE AND POLICY ISSUES THAT AFFECT CALIFORNIA

November 26, 2003  
Issue #46-2003

**Hot Bills  
Act Now**

**SB 5X 1 (Burton).**  
VLF Backfill  
Position: **Support**

**SB 4X 1 (Burton).**  
Workers Compensation  
Position: **Oppose.**

Want more details on these and other bills? Log on to the League of California Cities Web site at [www.cacities.org/legtracking](http://www.cacities.org/legtracking).

**DEPARTMENT OF FINANCE REVEALS MORE DETAILS OF MID-YEAR BUDGET CORRECTION PLAN**

The post-inaugural "action" on the state budget continued at a brisk pace in a busy, but short, week here in Sacramento. Each new day a bit more detail on the Governor's proposed budget changes was unveiled. *For more, see page 4.*



**TWO VLF LAWSUITS PENDING ON REALIGNMENT AND DAVIS' VLF "TRIGGER" ACTION**

As if the situation with VLF funding was not confusing enough, there are also two pending legal actions that add to the VLF stew. These are a lawsuit filed against the state by San Diego County relating to the 1991 "realignment" of welfare programs; and a new lawsuit on the VLF "trigger-pulling" filed by the Howard Jarvis Taxpayers Association. Here's the run down on these lawsuits. *For more, see page 6.*



**LEAGUE, CSAC LOBBY FOR WORKERS COMPENSATION REFORM BILLS**

The Senate Labor and Industrial Relations Committee continues to meet on a daily basis to discuss Governor Schwarzenegger's workers compensation proposal. The League of California Cities has participated in the hearings, along with the California State Association of Counties (CSAC), expressing our joint support for additional reform. *For more, see page 7.*

- Page 2 CALIFORNIA TRANSPORTATION COMMISSION HEARING GOVERNOR SCHWARZENEGGER PROPOSAL FOR CURRENT YEAR REDUCTION INSPECIAL SESSION REGISTER NOW FOR THE CITY MANAGER ANNUAL CONFERENCE**
- Page 3 LEGISLATURE MOVES TO REPEAL SB 60 RECENT LEGAL ADVOCACY FILINGS**

## CALIFORNIA TRANSPORTATION COMMISSION HEARING

The California Transportation Commission (CTC) held a special hearing on Monday, November 24 to review the 2004 Fund Estimate that determines how much money would be available for the various transportation accounts over the next 5 years. The CTC found that the 2004 State Transportation Improvement Program (STIP), which spans the next five years through 2008-09, would have no new funding capacity. Lack of funding means that the STIP will be forced to simply reschedule the remaining \$5.4 billion in projects already programmed for delivery over the next three years to over the next five years.

The current crisis in transportation funding may be primarily attributed to the nearly \$2.5 billion that has been rendered unavailable for transportation purposes due to loans to the State's General Fund; uncertainty over reauthorization funding levels in the Federal Act which could mean a loss of \$2.8 billion due to the lower ethanol tax levels; and uncertainty as to whether Proposition 42 monies totaling over \$1 billion annually will actually be transferred to transportation, resulting in another several billion dollar reduction. The cumulative effect of these actions means that there will be significant slippage in the delivery of transportation projects and thus a major drain on an important element of the State's economic engine.

## GOVERNOR SCHWARZENEGGER PROPOSAL FOR CURRENT YEAR REDUCTION IN SPECIAL SESSION

On Tuesday, November 15, Governor Schwarzenegger released current year transportation reductions, which appear to shift 141 Traffic Congestion Relief Projects from Proposition 42 monies in this fiscal year to \$189 million previously proposed for the General Fund. Further, the proposal would require these projects to secure other funding through either the STIP or local funding mechanisms.

The mid-year cuts also propose another \$800 million that would be recouped by the General Fund utilizing cash management. The implications appear to affect the Public Transportation Account (PTA) and potentially the State Highway Account, but the details were not clear.

Also the proposal requires retaining all excess funds from higher than anticipated gasoline prices in the General Fund rather than transferring them to the Public Transportation Account.

### REGISTER NOW FOR THE CITY MANAGERS "RIDING THE WAVES OF CHANGE" ANNUAL CONFERENCE FEBRUARY 4-6, 2004 IN HUNTINGTON BEACH

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Register by January 12 and receive a \$25 coupon for CityBooks, the League's on-site bookstore, [www.cacities.org/store](http://www.cacities.org/store).

Visit the League's website at [www.cacities.org/ed](http://www.cacities.org/ed) to register online, make your room reservation and view the current program or outline; or call (916) 658-8227 for additional information.

## LEGISLATURE MOVES TO REPEAL SB 60

On Monday, November 24, 2003 SB X3 1 (Oller) passed out of the Senate Transportation Committee by a vote of 9-2. The bill then was passed on the Senate Floor by a vote of 33-0 and sent to the Assembly for assignment. Tuesday, November 25, 2003, ABX3 1 (Benoit) passed out of the Assembly Transportation Committee by a vote of 15-0. The bill will move onto Assembly Appropriations and then to the Assembly floor for a vote.

SB X3 1 and AB X3 1 are identical bills that repeal the provisions in SB 60 (Cedillo) which was signed into law by Governor Davis and becomes effective on January 1, 2004. SB 60 makes several changes regarding the eligibility requirement for an original driver's license or identification card (ID). The bill allows persons who do not have legal presence in the United States eligibility to apply for a California driver's license or ID card by permitting license applicants to submit a federal taxpayer ID number or other identifier number deemed appropriate by the State Department of Motor Vehicles, rather than a social security number. Additionally, SB 60 provides for a signed affidavit procedure if the applicant does not have a social security account, and increases fees for specified driver's licenses and deletes fees for senior ID cards.

SB X3 1 and AB X3 1 reinstate the current law that requires an applicant for the issuance or renewal by the Department of Motor Vehicles of a driver's license or identification card to provide his or her social security account number. Existing law requires an applicant for an original driver's license or identification card to submit satisfactory proof that the applicant's presence in the United States is authorized under federal law, and prohibits the department from issuing a license or card to a person who does not do so. Existing law also requires the department to adopt regulations including procedures for verifying citizenship or legal residency of applicants for driver's licenses and identification cards.

## RECENT LEGAL ADVOCACY FILINGS

The League would like to provide special thanks to the individuals listed below who wrote friend-of-the-court briefs and letters for their efforts on behalf of the League. League action and a brief summary of the case appear below. Copies of the filings are available at: [www.cacities.org/recentfilings](http://www.cacities.org/recentfilings).

### Charter Cities and Prevailing Wages

The League filed a friend-of-the-court brief advocating that charter cities may pay prevailing wages in public works construction projects, but should not be required to do so. **The League thanks Kathy Jenson, City Attorney, La Quinta** and with **Rutan & Tucker**, for writing the brief on behalf of the League to the California Supreme Court, and for previously writing the letter successfully urging that the California Supreme Court to review this case. The name of the case is *City of Long Beach v. California Department of Industrial Relations*, No. S118450.

### Interim Contracts for Waste Management Services and Referendum

The League filed a letter urging the California Supreme Court to review a case involving whether an interim contract can be adopted by a town for waste management services without violating the stay provisions of the Elections Code section 9241 involving referendums. **League staff** wrote the letter on behalf of the League to the California Supreme Court. The League is seeking review because the court's ruling failed to take into account that waste service contracts involve public health issues and should be considered urgency measures not subject to the stay provisions of Elections Code section 9241. The name of the case is *Lindelli v. Town of San Anselmo*, 111 Cal.App.4<sup>th</sup> 1099, 4 Cal.Rptr.3d 453 (1<sup>st</sup> Dist. Sept.3, 2003), *petition for review filed*, Oct. 16, 2003.

**Don't Miss The December Issue of Western City Magazine: "2003 Annual Conference Review" and "Adopting a Code of Ethics"**

- Taking Charge of Our Economic Future, by League President, Ron Loveridge.
- City Forum: A Budget-Neutral Way Cities Can Help California's Uninsured Children.
- Adopting a Code of Ethics, Promoting Public Confidence Through Ethics Codes.
- 2003 League of California Cities Annual Conference Review.
- Tough Questions and Tight Spots: Everyday Ethics for Local Officials – How can you say "no" to constituents and politically live to tell the tale?

**Plus – An Update on the League's Ethics Education Task Force.**

**Plus – Helen Putnam Award Winners! Long Beach's Budget Deficit Forges Vastly Improved Relationship With Constituents, Santa Maria Focuses on Teen Pregnancy Project and Willits Views Itself Through the Eyes of Teens.**

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## **BUDGET from page 1 .....**

On Monday, the Administration released a list of \$1.9 billion in proposed current year budget cuts. The cuts do not have a direct effect on cities and focus primarily on health and welfare programs.

On Tuesday, Assembly and Senate budget committees met separately to hear a presentation from the Department of Finance on the cuts and other proposed budget actions. The DOF was joined by the Legislative Analyst and the State Treasurer to provide full perspective and feedback on the proposals.

Also on Tuesday, 7 of California's 10 big city mayors met with the Governor, with one participating by conference call. The mayors emerged saying that the Governor had reassured them that cities and counties would indeed be backfilled for the VLF loss that began last week with the Governor's "unpulling" of the VLF trigger.

### **Differences in Estimates of VLF "Gap" Do NOT Mean New City Cuts**

The most important "news item" for cities coming out of the Tuesday hearings was the announcement that, according to the Department of Finance, the VLF "gap" that was part of the 2003-04 state budget has grown to approximately \$1.3 billion, some \$475 million more than estimates used for the 2003-04 budget. However, this new "gap" figure differs with the Controller's office reports on the actual VLF revenues the state received during the gap period (late June to October 1<sup>st</sup>).

(There definitely needs to be some reconciliation of these two numbers. During this special session period, it has been very difficult to get consistent figures from the various budget actors. When more solid figures are available, we will get them to you.)

City officials hearing the new "gap" figure of \$1.3 billion immediately asked the League if this meant a new and deeper cut level for city revenues. The answer is no! It does not mean greater

*Continued on Page 5*

**BUDGET from page 4** .....

cuts than already experienced during the gap period. If this "new" and larger "gap" figure proves to be accurate, it simply means that there was an unexpected revenue increase due to factors that may include early payment of VLF fees or increased car sales. The increased revenue will be allocated to help close the budget deficit.

To put it in another perspective, it is revenue that cities never would have received under the 2003-04 budget. The DOF plan for the "new" VLF "gap" figure is to roll the additional \$475 million into the loan repayment to be made by the state to local governments starting in July of 2006.

Can cities and counties take this loan repayment promise of \$1.3 billion to the bank in three years? This "promise" is only as good as any of the many made by the state to local government in recent years. A lot is going to happen before July 1, 2004 that makes much of this recent budget maneuvering very tenuous.

**SB 5X 1 Update**

We understand that Senator Brulte plans to proceed with his SB 5X 1. This bill would appropriate money to backfill local governments' VLF losses resulting from the Governor's recent action to rescind the VLF tax increase authorized by the Davis Administration. Most recent announcements peg the appropriation amount in the bill at approximately \$3.2 billion--consistent with the DOF estimates. The bill is expected to be heard by both the Senate Local Government Committee and the Senate Revenue and Taxation Committee, but no hearings have been set by the Senate leadership.

**What About the December and January VLF Payments?**

As stated above, the revised VLF "gap" estimate is not accurately characterized as a direct cut of VLF revenues, since cities did not expect to receive VLF backfill payments in the first three months of the current fiscal year. But there are indications that in the absence of immediate passage of SB 5X 1 (Brulte) that the December 10 and January 10 VLF payments may be lower than

the base VLF amount collected due to planned refunds of overpayments. We are in discussions with the Administration now about their plans and how they could affect these payments.

The bottom line is that by November 17, the date the VLF trigger was "unpulled" by the Governor, the state had collected at least one and one-half months of overpayments that the Administration intends to refund in January. **If the refunds to vehicle owners are drawn from the VLF fund, it will have a direct financial impact on payments to cities and counties.**

**What does all this mean for cities?**

The good news for cities is that the Administration's proposal continues to reflect an understanding of the state's obligation to keep its promise to keep city and county services funded by backfilling the VLF. But the budget committee members in both houses had many questions about how the administration proposal would work from a technical perspective, and whether it would succeed in putting the state's fiscal house in order. It is also troubling that SB 5X 1 has not yet been set for hearing.

The new questions about December and January VLF payments underscore the importance of city officials contacting their legislators and the Governor about the importance of backfilling local governments for lost VLF revenues. Tell them:

- The refunds to vehicle owners are a state responsibility – not the responsibility of local governments.
- The state must not delay in keeping its promise to provide a VLF backfill to fund local services. Effective November 17, cities and counties are losing more than \$300 million each month — \$105 million for cities alone. We need a solution to this funding loss NOW.

For a sample letter, please visit the League's website at [www.cacities.org/advocacycenter](http://www.cacities.org/advocacycenter).

## VLF LAWSUITS from page 1.....

### The San Diego Case: Court Ruling May Lead to Reduction in VLF Rates

In 1991, the state transferred the responsibility for administering a number of programs assisting medically indigent persons to the counties. To help pay for these services, the state extended the depreciation schedule used for establishing vehicle license fee rates. Doing so generated additional revenues that were then paid to the counties to fund these new programs.

The legislation setting out the groundwork for the realignment of these programs included several "poison pill" provisions. One of these provisions provided that if a court of appeal or the state Supreme Court issued a ruling that the state was obligated to reimburse counties for the costs of providing these services, the vehicle tax would revert to its pre-1991 levels. This provision was intended to prevent counties from challenging the realignment plan.

Subsequently, San Diego County sued the state claiming that the state failed to fully fund these new programs. The county claimed it found itself forced to provide services without adequate state compensation. The court of appeal agreed and awarded the county \$3.4 million. Because of the ruling, the "poison pill" provision could be invoked repealing the 1991 change in the depreciation schedule. This would reduce VLF revenues by approximately 24%.

Governor-elect Schwarzenegger has agreed to appeal the court decision. While vowing to repeal the June increase in VLF rates, the decision – if left to stand – would cut the VLF more than he intends. This would make it harder for the state to compensate cities and counties that depend on VLF revenues to fund essential public services.

The state Supreme Court's decision whether to modify the ruling is expected by the end of the year.

### Taxpayers Group Files Second Lawsuit on VLF Trigger

On November 17, the Howard Jarvis Taxpayers Association filed a second amended complaint

challenging the pulling of the VLF trigger. Even though the trigger was "unpulled" by Governor Schwarzenegger that same day, the attorneys for the HJTA assert that the entire VLF statutory scheme is invalid and that any governor is still "free to raise car taxes."

Last month, Judge Thomas Cecil of the Sacramento County Superior Court ruled that he would dismiss the lawsuit because none of the parties bringing the action had actually paid the higher vehicle fees. Now, in their third attempt to file a valid complaint, senators Ross Johnson and Pete Knight, and assembly members John Campbell, Dave Cogdill, Doug LaMalfa, Bill Maze, and Kevin McCarthy claim they have paid the higher fees. In addition, they assert that they have asked for a refund of the higher fee amounts and that their requests for a refund have been denied by the Department of Motor Vehicles.

The state must file a response to the lawsuit within 30 days. The League will continue to monitor the lawsuit and keep cities informed of further developments.

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**WORKERS COMP from page 1 . . . . .**

On Monday, November 24th, the committee discussed the projected cost savings to the workers compensation system that would occur when reform legislation enacted in 2003 goes into effect (SB 227/AB 228). Bill McClure, workers' compensation expert for the County of Los Angeles, explained that the county estimates savings of approximately \$10 million for the 2004/05 fiscal year with the reforms enacted in this bill package. Speaking on behalf of all the cities and counties, Bill McClure stated that there still is a dire need for the legislature to pass additional reform.

**Burton Proposes Repeal of Current Reforms**

In a new twist, Senator Burton has introduced SB 4X 1 to repeal significant portions of SB 227/AB 228 – what appears to be an attempt to start the workers' compensation reform process all over again.

The League and CSAC opposed the repeal. We believe the reforms that would be repealed by SB 4X 1 are an important first step in a reform process that we would like to see continued. Rather than repealing the excellent work begun by the Legislature and starting over again with new workers' compensation reform, we urge the Legislature to augment existing reforms with additional reform proposals. We look forward to working with the Legislature in proposing such additional reforms.

SB 4X 1 passed out of Senate Labor and Industrial Relations and now goes to Senate Appropriations. Discussions will continue in the Senate Labor and Industrial Relations Committee next week.

A copy of the League's letter of opposition to SB 4X 1 is available on the legislative tracking section of the League's website [www.cacities.org/legtracking](http://www.cacities.org/legtracking).

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