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ANALYSIS, COMMENTARY & UPDATES
PRIORITY FOCUS

ON LEGISLATIVE AND POLICY ISSUES THAT AFFECT CALIFORNIA CITIES

December 5, 2003
Issue #47-2003

Hot Bills
Act Now

Support these Bills to restore VLF Backfill.

SB 5X 1 (Burton).

AB X5 3 (Cox).

AB X5 7
(Lowenthal).

NEW RISKS TO LOCAL SALES TAX, VEHICLE LICENSE FEES

There were two developments this week in the State Capitol of major significance to city officials worried about how the state's fiscal mess might affect funding for local services. One was a new scheme in the Senate to extend the use of the "triple flip" to finance the state debt. The other was a new, very serious risk to VLF funding. *For more, see page 5.*



LEAGUE PRESSES GOVERNOR AND LEGISLATORS FOR IMMEDIATE ACTION ON VLF BACKFILL

The League this week called on Governor Schwarzenegger, legislative leadership in both houses and all individual legislators to act immediately to protect local services from funding cuts of more than \$300 million a month that will occur without an appropriation of vehicle license fee (VLF) backfill. *For more, see page 4.*



LOSS OF VLF FUNDING WILL HAVE DEVASTATING IMPACTS

The Legislature must act quickly to backfill the more than \$300 million per month cuts to local services that will occur, starting December 10, from reduced vehicle license fees (VLF). *For more, see page 6.*

Want more details on these and other bills? Log on to the League of California Cities Web site at www.cacities.org/iegracking.

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ACTION CONTINUES ON DEVELOPMENT OF E-WASTE REGULATIONS

Almost immediately upon being sworn, Governor Schwarzenegger signed an Executive Order placing a 180-day moratorium on the adoption of new regulations. A number of city officials have asked the League how this moratorium intersects with the new regulations being developed by the California Integrated Waste Management Board and the Department of Toxic Substances Control to implement SB 20 (Sher), the e-waste legislation enacted this year. Besides the timing issue, some city officials apparently believe the Executive Order actually repeals SB 20. (It does NOT repeal SB 20!)

After researching the question, we can provide the following guidance. Generally, the Executive Order only applies to regulations that have been submitted to the Office of Administrative Law (OAL) for approval. Since the Waste Board and DTSC are in the early stages of developing the regulations, at this time the 180-day moratorium does not apply to the SB 20 regulations. Thus, the SB 20 stakeholder meetings and other consultations will continue and both agencies will move ahead in developing the regulations.

At this time, it appears that the Waste Board will review and possibly adopt the final regulations in April 2004; the regulatory package would then go to OAL for review and approval. Thus, it is quite possible that the 180-day moratorium will be over by the time the SB 20 regulations are finalized and sent to OAL. An exemption from the Executive Order could be sought if the timeline necessitates it.

The League is an active participant in the SB 20 regulatory process. City officials interested in keeping abreast of the latest developments or in participating in the stakeholder meetings should visit the SB 20 page of the Waste Board's website at www.ciwmb.ca.gov/Electronics/Act2003/.

AIR RESOURCES BOARD CONSIDERS RETROFIT RULE FOR PUBLIC AGENCY DIESEL FLEETS

The California Air Resources Board is continuing its efforts to develop regulations that require the retrofit of diesel powered fleets in order to reduce the amount of particulate matter emissions. The ARB's regulations covering public and private garbage trucks are still in the works and the League continues to be an active player in this effort.

The ARB is also developing regulations that cover diesel powered public agency fleets (i.e. non-garbage truck public agency trucks). This week, the ARB held a workshop on the latest draft of the regulations. Comments on the regulations are due to the ARB January 16, 2004. Information about the regulations and the ARB workshops may be found on the ARB website at: www.arb.ca.gov/msprog/publicfleets/publicfleets.htm.

A prior version of the public agency fleet retrofit regulations would have required public agencies to be responsible for the retrofit of the trucks owned by firms that contract with the public agency. This was similar to the requirement previously proposed for the garbage truck retrofit rule, as has been discussed in part issues of Priority Focus. The League and other public agency associations strongly objected to the requirement – and thus it has been deleted from the current version of both sets of regulations.

Cities with public fleets are encouraged to review the material on the ARB website, including the regulations, and submit their comments to the ARB in January. At this time, it is not known how the Governor's 180-day moratorium on new regulations will impact either the garbage truck retrofit rule or this new public agency fleet rule. While the League has posed the question to both the ARB staff and the Office of Administrative Law, a definitive answer has not yet been forthcoming.

STATE PUBLISHES ENVIRONMENTAL GOALS AND POLICY REPORT

In the final days of the Davis Administration, the Governor's Office of Planning and Research released the updated Environmental Goals and Policy Report (EPGR). The report provides a long-range (20-30 year) overview of state growth and development. It includes a statement and implementation plan for state goals related to land use, development, transportation, air and water quality, and the conservation of natural resources.

Originally, the EPGR was to be updated every few years. However, the last report was completed in 1978. With the passage of AB 857 (Wiggins, 2002), however, the report garnered new importance. This legislation required that the EPGR must be consistent with the following goals statewide land use planning goals:

- Promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and reuse of previously developed, underutilized land that is served by essential services, particularly in underserved areas.
- Protect environmental and agricultural resources by protecting, preserving, and enhancing the state's most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space.
- Encourage efficient development patterns by ensuring that any infrastructure associated with development other than infill supports new development that uses land efficiently; is built adjacent to existing developed areas to the extent consistent with the other two priorities; is located in an area appropriately planned for growth; is served by adequate transportation and other essential utilities and services; and minimizes ongoing costs

OPR has sent to all local agencies in California. The League has also posted a copy on its

web site. (Insert Site). For cities, the report is significant because it could affect the way that state implements policy and disburses money. For example, infill projects will likely be favored over greenfield developments for state funding with those agencies that implement the EPGR fully. The League will continue to monitor developments in how the new administration intends to implement the report.

For more information about the EPGR and how it was developed, see www.opr.ca.gov (look for "Environmental Goals and Policy Report" header).

Contact: Bill Higgins, Senior Staff Attorney, e-mail: Higginsb@cacities.org, phone 916/658-8250.



GOVERNOR SIGNS BILL TO REPEAL SB 60

On Wednesday, November 3, 2003, Governor Schwarzenegger signed into law SB X3 1 (Oller) to repeal SB 60 (Cedillo), signed into law earlier this year by Governor Davis, that would have allowed undocumented immigrants to obtain driver's license in California. The bill passed out of the Assembly by a vote of 64-9 with 8 members absents, abstaining or not voting on Tuesday, December 2, 2003.

SB X3 1 reinstates the current law that requires an applicant for the issuance or renewal by the Department of Motor Vehicles (DMV) of a driver's license or identification (ID) 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 by federal law, and prohibits the DMV from issuing a license or ID card 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 license and ID cards.

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NEW LEAGUE ON-LINE COURSE FOR FISCAL OFFICERS, MANAGERS

Visit the LeaguE-Campus and register online for "The Basics of Municipal Finance - Guardians of the Public Checkbook". This course is the first in a planned series, and is recommended for elected officials who want to discover more about managing their city's finances.

The course is based on *Local Government Dollars & Sense: 225 Financial Tips for Guarding the Public Checkbook* and *Little Budget Book*, (both) by Len Wood. You will discover how the League and its members can take charge of their fiscal future, learn how to sustain high level performance in your organization, and observe a forecast of the State's and Nation's Economy. The course outline can serve as a guide to city officials and may be helpful if city officials propose questions after having taken the course.

Fiscal officers and city managers may find it worthwhile to have a number of officials in their city take this course. If you would like to register multiple participants for this course or another course and receive a savings, please visit the LeaguE-Campus at www.cacities.org/ed.

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VLF from page 1

In the letter to the Governor, League President and Riverside Mayor Ron Loveridge said, "Throughout your campaign you promised to fund the VLF offset and to keep local services from being cut as a result of the reduction of the VLF. I commend you for that commitment, and I write respectfully today to ask your immediate and concerted leadership to ensure the Legislature does not go home without passing one of the bills currently pending that would keep that commitment.

"We understand your focus on the economic recovery package, but it will do the state little good to get its own finances in order if it leaves those of cities and counties in disarray.

In fact, it would be highly irresponsible and damaging to the public safety and well being of our citizens.

"The failure of the legislature to pass VLF offset legislation immediately will be devastating to cities and counties, resulting in a loss, beginning December 10, of **over \$300 million per month** in funds for public safety and other vital services."

The League's letters also referred to budget-slashing scenarios reported by numerous cities. Examples:

City of Pacifica: "If the VLF is cut, the Mayor should give the keys for city hall to the Governor... the only thing left to cut is police and fire."

City of Highland: "...we will have to make a substantial reduction in law enforcement and other critical services if the VLF is not back filled."

City of Hemet "...a 72% loss of (General Fund) funding would result in substantial restructuring of our police and fire departments, including reduction in the number of officers."

City of Salinas: "...the VLF backfill equates to a reduction of 60 police officer positions (or 30 police officer positions and 30 fire fighter positions)."

"The Governor did the right thing in calling for a special session to keep local services funded", said League Executive Director Chris McKenzie. "Now we're calling on both the Governor and legislators to keep the promise the state made to local government, by immediately passing a backfill appropriation."

Visit the League's website to view copies of the letters and more information about possible city service cuts.

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VLF Payments Face New Jeopardy

We learned Thursday that the Department of Motor Vehicles now views the 67.5% higher level of VLF collected in October (estimated between \$469 – 600 million) as “money collected in error” – a position consistent with the Administration’s view that the June 20 pulling of the VLF “trigger” was in error. The department further believes that the state is required by law to place a higher priority on issuing refunds to consumers who paid the full 2% VLF charge, than disbursing to cities and counties even the reduced, one-third level of current and future VLF receipts.

In effect, the department’s interpretation is that cities and counties who received the higher levels of VLF collected after October 1 were actually overpaid! Their correction plan calls for withholding VLF payments to cities and counties entirely during January and part of February, while the state accumulates sufficient funds to issue vehicle owner refunds. VLF payments to local governments at new rate would presumably start up again in late February or March.

This is an outrageous proposal. Consumer refunds are a state responsibility - they should be paid, but not by defunding local services.

We are currently seeking additional information to determine how widely accepted is this approach – and what the Governor plans to do to make sure that local services don’t experience a complete, devastating gap in funding. But that’s not the only impact under consideration in the State Capitol this week:

Senate Offers “Triple Flip” Alternative

Also this week, both the Assembly and Senate Budget Committees met to further consider the Governor’s \$15 billion deficit bond package, and a new Senate counter-proposal for the same amount. While the Governor proposes to pay off the deficit bonds with general fund revenues over 15 to 20 years, the

Senate proposal would finance the bonds over 8 years with the ½ cent sales tax that was enacted earlier this year as part of the budget “triple flip”. In that convoluted arrangement, the Bradley-Burns local sales tax was reduced by a half cent, the state sales tax was increased by a like amount, and the increased state tax was dedicated to financing \$10.7 billion in deficit bonds.

A key element in the Senate proposal is that while the 8 year repayment increases the amount of annual debt service, it shortens the length of time needed to retire the bonds.

For cities, a key consideration is that the Senate proposal extends the current and infamous “triple flip” law. As you recall, the current “triple flip” would affect local sales tax revenues for a period of 5 years, during which cities and counties are to be reimbursed for the sales tax loss with an equal amount of property taxes from ERAF accounts. In the new the Senate deficit bond proposal, the “triple-flip” lasts from 5 years to 8 years!! From a city perspective this doesn’t appear to be progress, but rather a step or two backwards.

The League testified at the Senate hearing that the proposal would not meet with much enthusiasm among city officials. Unless there was some mechanism to resolve the immediate dilemma faced by cities and counties – loss of 2/3rds of the VLF backfill revenue starting on Wednesday of next week – the bond proposal did not offer much to meet city needs.

What Next?

City officials must deliver two clear messages:

To Legislators: Don’t Come Home Until You Have Fixed The VLF Backfill Problem!!!

To the Governor: Give Us Details of How You Will Keep Your Promise to Protect Local Government Services from Your Action to Cut the VLF Tax!!!

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CITY STORIES from page 1

Here are just a few of the possible cuts that cities must consider, if funding is not restored quickly:

"The City of Big Bear Lake's law enforcement contract is over \$1.5 million. Without the VLF backfill, we cannot fund out current level of law enforcement."

Michael Perry, City Manager
City of Big Bear Lake
Letter to Assembly Members Roy Ashburn and Russ Bogh and Senator Jim Brulte

"The VLF funds represent 25% of our General Fund, which pays for law enforcement and other critical city services. Highland will take a \$1.8 million hit if the VLF backfill is not restored. Since our total city payroll with benefits is about \$2 million not including the law enforcement personnel, we will have to make a substantial reduction in law enforcement and other critical services if the VLF is not back filled."

Larry McCallon, City Council Member
City of Highland
Letter to Bob Dutton
Letter to Assembly Member Dennis Mountjoy and Senator Jim Brulte

"The Town has already lost this year \$313,000 in VLF fees due to the "loan" to the state that was forced on us. A loss of the VLF backfill would result in a devastating loss of \$1,056,000 to the Town's General Fund."

Gerald W. Carrigan, Chief of Police
Town of Paradise
Letter to Senator Samuel Aanestad and Assembly Member Letter to Rick Keene

"Rescinding the VLF increase will result in a loss to the City of Gardena of approximately \$600,000, or six full time police officers."

Rod Lyons, Chief of Police
Gardena Police Department
Letter to U.S. Senator Barbara Boxer and Diane Feinstein, and Representative Maxine Walters

"Our City will already lose an estimated \$1.7 million in VLF backfill payments this year, and we

simply cannot afford to give up any more of this Constitutionally protected local revenue source."

Julia E. Miller, Mayor
City of Sunnyvale
Letter to Senators John Vasconcellos, Byron Sher and Liz Figueroa, and Assembly Member Sally Lieber

"In Redwood City alone, a loss of VLF means the loss of over \$3 million this year if a reimbursement is not initiated. Our City Council will then have to consider very serious, additional budget cuts in that amount..."

Jeff Ira, Vice Mayor
Redwood City
Letter to Governor Arnold Schwarzenegger, Senator Byron Sher and Assembly Member Simitian

"The City of Hemet stands to lose \$2.5 million dollars from its General Fund with the loss of the VLF. Currently, 72% of General Fund revenue is used for Public Safety. Such a loss of funding would result in substantial restructuring of our police and fire departments, including reduction in the number of officers."

Peter Hewitt, Chief of Police
City of Hemet
Letter to Senator Jim Battin

"Without the VLF backfill, the City of Salinas will have an annual reduction to its General Fund of \$6 million. This equates to a reduction of 60 police officer positions (or 30 police officer positions and 30 fire fighter positions)."

Daniel Ortega, Chief of Police
City of Salinas
Letter to Assembly Member Simon Salinas and Senator Jeffery Denham

"No backfill represents an additional loss of 4.7 million dollars to our community. Needless to say this would have serious repercussions to public safety in the city of El Monte and collectively with other agencies, the State of California."

Ken Weldon, Chief of Police
City of El Monte
Letter to Senator Gloria Romero and Assembly Member Judy Chu

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CITY STORIES from page 6

"If the "backfill" were lost, it would be the equivalent of about 25% of our Police personnel costs or 75% of our street maintenance budget...We cannot sustain further cuts without decimating basic services."

George Metropolis, Mayor
City of Belmont
Letter to Governor Arnold Schwarzenegger,
Senator Jackie Speier, and Assembly Member
Gene Mullin

"King City has been hit especially hard this past year with budget cuts and we rely heavily on the VLF funds to support our law enforcement efforts. King City relies on \$460,000 each year, which is essentially used for police funding and local services."

Jim Copsey, Chief of Police
King City
Letter to Assembly Member Simon Salinas

"For the City of Seaside, the loss of the VLF backfill will result in a loss of \$1.8 million from a general fund budget of \$16.6 million, or about 11% of the total city budget. Over sixty-percent of that money is dedicated to police and fire services."

Anthony Sollecito, Chief of Police
City of Seaside
Letter to Senator Bruce McPherson

"If the anticipated two-thirds (2/3) cut is not backfilled by another source, law enforcement and fire protection would be greatly impacted by the \$480,000 dollar loss."

John Foster, Chief of Police
City of Grass Valley
Letter to Senator Samuel Aanestad
Letter to Assembly Member Rick Keene

"The loss of our VLF equates to roughly \$450,000. We cannot afford to lose that from our general fund. ...If we lose the \$450,000, we will be forced to lose four police officer positions and one dispatcher."

Susan Jones, Chief of Police
City of Healdsburg
Letter to Assembly Member Patty Berg
Letter to Senator Wesley Chesbro

"To the City of Hesperia, VLF represents approximately a third of our General Fund and provides irreplaceable dollars for vital City services such as public safety."

Dennis J. Nowicki
City of Hesperia
Letter to Senator William "Pete" Knight

"The elimination of the VLF backfill would result in a \$2.3 million loss to San Clemente in FY 2003-04, which could potentially jeopardize police, fire and emergency medical services because a large portion of public safety services are funded with these dollars."

Stephanie Dorey, Mayor
City of San Clemente
Letter to Assembly Member Patricia Bates and
Senator Bill Morrow

"In Fremont, we are at risk of losing \$9 million if the Legislature fails to fulfill the promise it made to cities and counties to hold us harmless from any reductions in vehicle license fees. ...We have already reduced the Police Department by 51 positions, including 24 police officers, and we have reduced the Fire Department by 19 positions, including 12 firefighters. We simply cannot reduce our public safety staff anymore."

Gus Morrison, Mayor
City of Fremont
Letter to Senator Liz Figueroa

"If the City of Yuba were to lose its anticipated VLF revenue, the fire department would be severely impacted. Planned expenditures for essential safety equipment and training would have to be abandoned."

Marc Boomgaarden, Fire Chief
City of Yuba City
Letter to Assembly Member Doug LaMalfa and
Senator Sam Aanestad