

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

April 30, 2004
Issue #17-2004

**LOCAL INITIATIVE CAMPAIGN CONTINUES FULL STEAM
BUDGET/BALLOT MEASURE DISCUSSIONS CONTINUE**

BOARD CALLS LEAGUE GENERAL ASSEMBLY – MAY 13

As initial reports begin to come in from county election officers about the over 1.1 million signatures that were filed on April 16 to qualify the *Local Tax-payers and Public Safety Protection Act* (the "LOCAL" initiative), the LOCAL initiative campaign continues full speed ahead with coalition building and fundraising. Within the last week a number of new coalition allies have been added, including Assembly Member John Dutra.

While the League and our LOCAL partners are confident the initiative will qualify for the November ballot, we are awaiting final certification of that fact from the Secretary of State, which is not expected until June. Once received, the LOCAL initiative will be on the November ballot. Nothing can change that fact now. *For more, see Page 6*



**MAYORS AND COUNCIL MEMBERS ACADEMY HOLDS BASIC
LEADERSHIP FORUM**

Sacramento played host to the Mayors and Council Members Academy Basic Leadership Program this week, which was attended by over one hundred city officials. The conference spanned three days at the downtown Sacramento Hyatt Regency, just two blocks from the State Capitol.

For more, see Page 4

**Hot Bills
Act Now**

- **AB 2406 (Bermudez).**
Fire Safety. Position:
Oppose.
- **AB 2702 (Steinberg)**
Second Units.
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.

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RECENT COURT FILINGS

The League would like to provide special thanks to the individuals listed below, who wrote friend-of-the-court letters or briefs, 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.

Land Use and Religious Exercise

The League filed a friend-of-the-court brief with the Ninth Circuit Court of Appeals urging the court to reverse a lower court decision concluding that an individual or group may challenge a land use regulation under the Religious Land Use and Institutionalized Persons Act (RLUIPA) if the regulation merely inhibits religious exercise, rather than significantly restricts it. This interpretation would lead to an increase in challenges to local land regulations as violations of RLUIPA. The League thanks **Jennifer Henning, Litigation Counsel** with the **California State Association of Counties** for writing the brief on behalf of the League and CSAC.

The name of the case is *Guru Nanak Sikh Society of Yuba City v. County of Sutter*, No. 03-17343, ___ F.3d___ (9th Cir).

City's Hiring of Temporary Police Officers Not Subject to Meet and Confer Provisions

The League filed a friend-of-the-court letter brief asking the court of appeals to publish a decision concluding that a city's decision to hire retired peace officers to fill a severe and unexpected short-term staffing shortage of police officers was an appropriate managerial decision, and the city was not required to meet and confer with the police union before implementing the policy. The decision was recently published. The League thanks **Jeffrey Sloan** with **Renne Sloan Holtzman & Sakai** for writing the letter in support of publication on behalf of the League.

The name of the case is *Sacramento Police Officers Association v. City of Sacramento*, ___ Cal. App. 3d___, ___ Cal. Rptr. 3d ___ (3d Dist. Mar. 30, 2004).

Additional Storm Water Requirements and Economic Considerations

The League filed a friend-of-the-court brief urging the California Supreme Court to conclude that a regional water board may not impose additional requirements on local governments in order to obtain necessary permits relating to controlling storm water without considering the economic burden placed local governments.

The League thanks **John Roddy** with **Richards Watson & Gershon** for writing the brief on behalf of the League.

The name of the case is *City of Burbank v. State Water Resources Control Board*, ___ Cal. 3d ___, ___ Cal. Rptr. 3d ___.



2004 GOVERNOR'S ENVIRONMENTAL AND ECONOMIC LEADERSHIP AWARDS COMPETITION

The State of California is pleased to announce the 2004 Governor's Environmental and Economic Leadership Awards competition. These awards represent the State's highest and most prestigious environmental honor. The awards recognize achievements by individuals, organizations, and businesses related to the conservation of California's precious resources, protection and enhancement of California's environment, and the building of public-private partnerships. Award categories are:

- Children's Environmental Education;
- Watershed & Ecosystem Restoration;
- Sustainable Practices;
- Environmental-Economic Partnerships;
- Land Use;
- Technology Innovation; and
- Sustainable Facilities.

The 2004 application can be obtained at the following link: <http://www.calepa.ca.gov/Awards/GEELA/>

Due date for receipt is **Monday, August 2, 2004**. Should you have any questions, please contact Leslie Ford with the California Environmental Protection Agency at (916) 322-7649.

ATTENTION CITIES WITH WILLIAMSON ACT LAND: AB 1820 MAY AFFECT YOU...

SB 1820 (Machado) cancels the existing city protest mechanism for contracts that were entered into within one mile of a city's boundary, prior to January 1, 1991. In addition, this measure provides the Department of Conservation with authority to determine that the current fair market valuations are inaccurate, as specified. The League is on record in opposition to SB 1820.

Prior to 1991, the Williamson Act contained a provision that authorized a city to file a protest with LAFCO when the county entered into a Williamson Act contract within a mile of the city's boundary. Williamson Act contracts are voluntary agreements between a local government and a landowner. In exchange for agreeing to continue to use the land for agricultural purposes for ten years, the property owner pays a reduced amount of property tax. The local government is reimbursed for a portion of its property tax losses by the state. Contracts are annually self-renewing for ten-year periods, but may be "non-renewed" by either party. When a contract is non-renewed, the contract winds down over a ten-year period. Property owners may only "cancel" their contract if significant findings can be made, and the property owner pays various penalties.

If a city filed a valid protest prior to 1991, the affected Williamson Act contract may be cancelled immediately by the city upon annexation, without waiting for the ten-year wind down period to occur or requiring the payment of penalties. Agricultural land preservation groups and the Department of Conservation typically raise objections when cities exercise their "protest" cancellation authority. The League is concerned with this legislation because it terminates the protest authority after January 1, 2006.

As far as the League is concerned, the Legislature should not terminate the legislative options that were in place for cities that filed valid protests prior to 1991. Those cities took advantage of the laws that were in effect at the time, and the state should keep its side of the bargain. Furthermore, the protest process was

good policy and should not have been terminated in 1991. It makes little sense for the county to be entering into contracts to tie up agricultural lands on a city's border, when that action impedes the timely development of that land for housing and other needs of the state's growing population. This is especially true for cities, because they only annex land with the approval of LAFCO in areas that are designated for future city development.

SB 1820 was approved by the Senate Local Government Committee and the measure is now pending in the Senate Appropriations Committee. Interested cities should go on record in opposition to the bill by contacting their legislators and the Chair of the Senate Appropriations Committee. Visit www.cacities.org/advocacycenter to find your legislator.

LOCAL LEGISLATIVE ACTION DAYS ARE JUST TWO WEEKS AWAY!

This year, more than ever, you can have a real influence in shaping the ongoing budget negotiations with the Administration and Legislature.

LOCAL Legislative Action Days gives city officials an opportunity to:

- Learn about the ongoing and active discussions with the Administration and the Legislature to prevent the proposed \$1.3 billion raid of additional local government property taxes.
- Carry our message and call-to-action to legislative offices to help shape an equitable budget package that ensures long-term protection of local revenues.
- Participate in media events and other activities to show local leaders are united in our efforts to protect local services.
- Hear from key statewide elected officials

LOCAL Legislative Action Days will take place **Wednesday & Thursday, May 12-13, 2004 at the Sheraton Grand Hotel in Sacramento. Register online today at www.calocal.org** or if you have any questions, please contact Meghan Meisel at 916-443-0872 or at mmeisel@bickerassociates.com

MCA ACADEMY from page 1

The opening session of the program featured Novato Mayor and League First Vice President Pat Eklund, as well as League Executive Director, Chris McKenzie. The crowd of predominantly newly elected city officials listened as McKenzie outlined the various advocacy activities of the League, summarized the state-local fiscal relationship, and discussed recent developments surrounding the LOCAL initiative.



League Executive Director Chris McKenzie responds to questions at the Mayors and Council Members Academy

Academy sessions covered legal, ethical, and organizational topics valuable to both veteran and newly elected Mayors and Council Members. Terry Dugan, Director of Education Services for the League, observed a "focused and positive group" in attendance. "The Mayors and Council Members Academy provides fundamental knowledge and skills," said Dugan, who encouraged interested city officials to register for the Mayors and Council Members Executive Forum, July 28-31 in Monterey. Visit www.cacities.org/ed for information on this and other exciting League programs.

COMING IN THE MAY ISSUE OF WESTERN CITYMAGAZINE: ECONOMIC DEVELOPMENT AND MORE!

"Polling: A Strategic Tool For Winning Voter Support of City Finance Initiatives," by John Fairbank and Richard Maullin. How can cities increase their chances of winning voter approval for fee increases or new assessments? To succeed in today's electoral environment, local governments need to employ accurate and strategically focused voter opinion research.

"Partners in Democracy: An Interview with PORAC President Ron Cottingham." Ron Cottingham, president of the Police Officers Research Association of California (PORAC) talks about PORAC, the LOCAL initiative and the effort to secure its passage.

"Seven Rules for Achieving Economic Development Success During Difficult Financial Times," by Brad L. Kilger. The challenges of growth and a downturn in the economy make it increasingly difficult for cities to implement successful economic development programs, which sustain local economies and quality of life. This article presents ways to ensure that cities' economic development programs achieve the desired results.

"Economies, Efficiencies and Darned Good Ideas" presents a statewide showcase of city efforts in economic development.

Helen Putnam Award Winner in Economic Development: "Corona Plays Up the Arts and Business With New Office Building and Museum"

"Legal Notes: How Many Lawyers Does It Take To ...? An Analysis of *Nightlife* and *Quintero*" by Michael Jenkins. This article examines two recent cases in which California courts have taken local agencies to task for administrative procedures.

Call to place your recruitment ad today! Call (800) 262-1801 or visit our website www.westerncity.com. We're Here to Help.

UPCOMING LATINO CAUCUS WORKSHOPS AT LOCAL LEGISLATIVE ACTION DAYS

The League's Latino Caucus is offering two special workshop sessions beginning at 8:30 on the morning of Wednesday May 12, preceding the start of the Legislative Action Days in Sacramento. The sequential sessions will cover "Making Workers' Compensation Work for You," and "PERS: A Costly Investment." All are welcome, though seating is limited. For more information, call the Caucus at 916-669-1340, or email to CallatinoCaucus@aol.com.

WORK CONTINUES ON LEAGUE-SPONSORED PRODUCTION-BASED CERTIFICATION LEGISLATION, AB 2980

AB 2980 (Salinas), the League-sponsored bill that would grant regulatory relief from state Department of Housing reviews of local housing elements for those communities which commit to hit a targeted production level of affordable housing, has slowly picked up some momentum after being approved by both the Assembly Local Government and Assembly Housing and Community Development Committees. The measure is now pending in the Assembly Appropriations Committee and is set for hearing on May 5th.

As the League prepares for its next committee hearing on AB 2980 in Assembly Appropriations, negotiations on specific provisions are underway. For instance, the threshold at which cities qualify for production-based certification has been controversial. In its prior form, AB 2980 required local communities to produce 15% of their low and very-low income housing allocation over the course of a planning cycle in order to qualify. Building industry organizations consider even a 15% standard to be too high, while the Sacramento region is advancing a similar proposal that sets the threshold at 10%. Meanwhile, housing advocates insist that all the aforementioned standards fall far short of what they expect in order to justify release from HCD oversight.

Given the response to our initial proposal, the League is exploring alternatives to this threshold. However, it is important to note that the core concept of production-based housing element self-certification is non-negotiable. Cities are strongly urged to send letters that support this concept to Salinas Assemblyman and their Legislators in the Assembly and Senate. Please copy Dan Carrigg, Legislative Representative at the League on this correspondence as well. Since most land use legislation generated in Sacramento is designed to remove local authority, it is important that cities support AB 2980 because it actually seeks to take positive steps towards improving housing element law. A sample letter is available at the League's housing and land use issue page, www.cacities.org/hced.

CALIFORNIA PUBLIC UTILITIES COMMISSION (CPUC) PUBLISHES LOCAL GOVERNMENT NEWSLETTER

The CPUC just started producing a local government newsletter. The newsletter is published through the CPUC's Local Government Liaison Program, and can be distributed to your e-mail inbox. Email the CPUC at: newsletter_in@cpuc.ca.gov if you would like to be added, or newsletter_out@cpuc.ca.gov to be removed from the newsletter distribution list. The CPUC does not share this distribution list with any company or agency. The League has distributed an electronic version of the newsletter to City Managers and City Attorneys this week. In addition, a link to the first edition of the newsletter can be found on the League's website at www.cacities.org/eq.

NOW AVAILABLE! The 2004 City Hall Directory

Don't miss this opportunity to get the League's most useful reference tool. This comprehensive California directory provides important contact information for mayors, council members and city department heads. The directory also features the League's staff directory, League partners, affiliate organizations and a wide variety of advertisers.

Purchase this publication on-line at www.cacities.org/store or call 916-658-8257 for an order form. City officials price: \$30 Non-city official price: \$65.

LOCAL INITIATIVE from page 1

The campaign has continued its aggressive fundraising efforts this week, with local officials sponsoring two major fundraising events this week in San Diego and Orange County. City and county officials have had early success in reaching out to potential contributors and effectively making the case for protection of local revenues and mandate reform. The League, CSAC and CSDA executive committee members also met by phone Thursday to review the status of fundraising and to pool ideas and approaches for future efforts.

Discussions With Administration Continue

Concurrent with these aggressive campaign efforts the League and its LOCAL allies have continued discussions with the Schwarzenegger administration about a proposal that emerged two weeks ago to link a proposed \$1.3 billion "contribution" each year for two years by local governments to the state budget deficit with a proposed alternative constitutional amendment which would be strongly supported by Governor Schwarzenegger. The constitutional amendment would be built on the foundation of the LOCAL initiative, with the same or improved revenue and unfunded mandate protections. It also may clarify a few issues of interpretation that have been raised since the LOCAL initiative was filed. It would be placed on the November 2004 ballot if passed by a 2/3 vote of the legislature. If it failed to receive legislative approval, the LOCAL initiative would still be on the November 2004 ballot and the focus of our complete efforts.

League General Assembly – May 13, Sacramento

Recognizing the importance of involving the League membership in any decisions concerning the League's number one goal of achieving constitutional protection of local revenues from state raids, the League Board of Directors has convened a special meeting of the General Assembly of the League to brief the membership on the status of the LOCAL initiative and to be involved in

decisions about any proposed alternative. The meeting will be held on **Thursday, May 13, 2004** at the **Grand Ballroom at 1215 J Street, Sacramento** (across the street from the Sheraton) **beginning at 8:30 a.m.** in connection with LOCAL Legislative Action Days. Breakfast will be available beginning at 8:00 a.m. As soon as the full details of the proposed alternative are finalized, the League will distribute a draft General Assembly resolution prior to the May 13 meeting.

Each city has one vote at any League membership meeting (per the League's voting procedures).

It is not necessary for a city delegate to register for or attend LOCAL Legislative Action Days in order to attend and participate in the special meeting. However, in addition to the special meeting, city officials should also register for (no cost) and participate in LOCAL Legislative Action Days, May 12 -13. If you have not already registered, you may do so online at <http://www.calocal.com/legdays.htm>.

If you have any questions about the General Assembly, please call Lorraine Okabe on the League staff at 916/658-8236, email lokabe@cacities.org.

Begin With the End in Mind

It is clear that the League and our LOCAL allies have reached a significant milestone in achieving constitutional protection, but there will be many twists and turns in the weeks and months ahead. It is clearly not sufficient just to get the LOCAL initiative on the ballot in November. Much more remains to be done. League President Ron Loveridge, Mayor of Riverside, has continued to remind the Board of Directors that we need to keep "focused on our goal of constitutional protection" as we move forward. We sincerely appreciate the Governor's willingness to join us in achieving that goal, and in return he has asked that we assist the state one last time. The League General Assembly will join the Board of Directors in evaluating this opportunity when it meets on May 13. In the meantime, we will keep you informed as the details become clear to us.

Legislative Bill Action

The following are summaries of just a few of the legislative bills that are currently being acted upon by the League of California Cities. For more information about these and other bills, please visit the League website's new "Issues and Advocacy" page (www.cacities.org/issuesandadvocacy) – a one-stop location to access information about legislation, policy issues and related developments. You can track information on bills (www.cacities.org/legtracking), locate legislators and legislative committees, send letters to legislators or the media through the online Advocacy Center, research League policy positions, access useful related links, and much more.

PUBLIC SAFETY

AB 2406 (Bermudez). Fire Safety. AB 2406 Attempts to Impose NFPA 1710 Requirements on Local Jurisdictions. **AB 2406** would require that every fire department within a city with a population greater than 10,000 establish specified firefighter and emergency medical response time objectives. **AB 2406** would also require these departments to prepare and provide a report every two years to the local governing body in which the fire department is located, as well as to the State Fire Marshall, which details whether or not the department is meeting these standards.

While the League agrees that it is important for local governments to develop performance objectives and evaluations, League has recently seen new amendments to **AB 2046** that now "specifically" reference response time and staffing objectives that are drawn from a highly controversial standard adopted in 2001 by the National Fire Protection Association, known as NFPA 1710, that was opposed by many local officials across the country. The latest amendments – amend the Health and Safety Code, Section 13110.5 and provide that: "The report shall include, but not be limited to, a comparison of response time and staffing performance objectives specified in Chapter 4 and Chapter 5 of Standard 1710 of the National Fire Protection Association (2001 Edition) to all of the following: (1) Each reporting fire department; (2) Average of all fire departments in each county; and, (3) Average of all fire departments reporting."

It appears that the latest amendments to **AB 2406** has the potential to have *tremendous* fiscal impacts on the state and local governments due to mandated reporting requirements, and also creates a perception that would increase liability for cities and counties.

Please fax a letters of opposition to Assembly Appropriations, ATTN: Mary Ader, Fax: 319-2181, to express your opposition to this bill ASAP! Staff: Natasha Fooman, Status: Asm. Approps, Position: Oppose.

AB 1924 (Bogh). Fire Prevention. Penalties. **AB 1924** increases the fines for Public Resources Code violations relating to fire and the danger associated with the spread of fire. **AB 1924** will increase the fines for illegal burning, making state law tougher to deter the illegal burning that occurs across California. Though trash burning is currently illegal, the fines are low and do not serve as a deterrent. **AB 1924** gives cities and counties more authority to enforce laws prohibiting illegal burning. **Staff: Natasha Fooman, Status: AsmFir, Position: Support.**

Housing, Community and Economic Development

AB 2702 (Steinberg) Second Units. Moves to Assembly Appropriations: Opposition Needed: After numerous revisions, **AB 2702**, legislation sponsored by the California Association of Realtors and housing advocacy groups, continues to move through the Assembly. The legislation remains severely flawed. **AB 2702** mandates numerous standards for local second unit ordinances that have proven unacceptable to the residents of single-family housing. Policies in this bill such as those limiting local ability to prohibit absentee-landlord duplexes to be created in single-family neighborhoods, reducing parking standards, dictating irrational minimum lot and unit sizes regardless of lot dimensions have already provoked a reaction from residents. Furthermore, the mandated densities for housing on school sites provision in this

Legislative Bill Action

bill not only usurps local zoning authority, it represents irresponsible planning, with no appreciation or understanding of location, traffic, site conditions, or other local issues.

Over 53 cities have sent letters of opposition to this legislation, and more are needed. City officials can help on this bill in the following ways:

- Writing and calling their legislators.
- Informing local resident organizations about the bill.
- Writing a letter to the editor of the local newspaper to increase awareness.
- Having a conversation with their local Realtor's representative about some of the impacts of this legislation.

Copies of the League's opposition letter, specific comments on the amended language, sample letters, and a list of cities opposed to the bill are available on the League's website. **Staff:** Dan Carrigg, **Status:** Assembly Apps. **Position:** Oppose.

AB 2175 (Canciamilla) Condo Conversions:

Local Ordinances: Defeated in Committee.

Through the combined opposition of housing advocates and the League,

AB 2175, which would have pre-empted local ordinances regulating condominium conversions, was defeated in the Assembly Housing Committee on April 28th. This measure, sponsored by the California Association of Realtors, was aimed at streamlining the ability of apartment owners to convert their units to condominiums. The bill would have pre-empted over 232 local governments which have existing condominium conversion ordinances. Local governments regulate condominium conversions to protect existing tenants and their community's supply of rental housing. Make sure to thank your legislator if they voted "No" or "Not Voting." (Committee Votes: No: Lowenthal, Mullin, Salinas, and Steinberg; Ayes: Dutra, Mountjoy, Runner, and Cogdill; Not Voting: Kehoe.) **Staff:** Dan Carrigg, **Status:** Defeated in ASM Housing and Community Development Committee 4/28, **Position:** OPPOSE.

AB 2306 (Richman) Local Agency Formation. AB 2306 prohibits a Local Agency Formation Commission (LAFCO) from imposing conditions on an annexing local agency that would require the submission of any annex-

ation of additional territory that was not contained in the local agency's annexation proposal to the commission. Although this measure addresses a concern arising from a proposed annexation affecting the City of Simi Valley, it also represents good statewide policy. The annexation process can be complicated and costly, and city annexation proposals are often the subject of much public discussion and debate. The Commission's appropriate role is to consider the merits of a particular proposal and make a decision based upon its existing policies and state laws. It is not appropriate, however, for a commission to attempt to condition an annexation upon the annexation of additional territory that may not be politically or economically possible for the city to accomplish. AB 2306 passed the Assembly Local Government Committee on April 28th with a 9-0 vote, and moves to the Assembly Floor. **Staff:** Dan Carrigg, **Status:** Assembly Floor, **Position:** Support.

AB 2726 (Laird). Mobile Home Parks: Rent Control. **AB 2726** authorizes the courts to award costs to local governments if mobilehome park owners or an association representing them bring an action challenging a local ordinance in bad faith and without reasonable cause. Under current law, mobilehome park owners and their associations stand to lose very little by challenging local ordinances, even when that challenge is made in bad faith. The threat of litigation often forces local governments to evaluate whether enacting a controversial ordinance like rent control is worth expending the significant amounts of money it takes to defend frivolous lawsuits. If a community is forced to repeal a perfectly valid ordinance because it does not have the financial resources to defend it, residents seeking affordable housing are ultimately the ones who suffer. The League supports **AB 2726** because it will alleviate some concern at the local level about litigation cost, because it will force mobilehome park owners and their associations to face up to financial consequences when they file lawsuits in bad faith and without reasonable cause. **Staff:** Dan Carrigg, **Status:** ASM Judiciary Committee Hearing, May 5th, **Position:** Support.