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

December 10, 2004
Issue #47-2004

Hot Bills

Act Now

- The 2005-06
- Regular Legislative
- Session will
- reconvene on
- January 3, 2005.

LEGISLATURE KICKS OFF 2005-06 SESSION

The 2005-06 legislative session officially convened this week, with the December 6 swearing in ceremonies for both Assembly Members and Senators. With many legislators joined by their spouses and children, the proceedings were festive and largely cordial. *For more see page 4.*



**LEAGUE JOINS EFFORT TO RETAIN VITAL
MILITARY BASES IN CALIFORNIA**

The League this week joined with five other local government and business organizations concerned about the state's economy and the state's role in national defense to pledge support for the state's military base retention efforts. *For more see page 2.*



**COMMISSION ON STATE MANDATES RECONSIDERS THE
REGIONAL HOUSING NEEDS ASSESSMENT MANDATE**

The League last week filed a letter brief with the Commission on State Mandates in an effort to ensure that Councils of Governments (COGs) will continue to be reimbursed for their costs of producing state mandated regional housing needs assessments. *For more see page 5.*

*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).*

Page 2 LOOKING FOR STATE AGENCY OR PERSONNEL CONTACT INFORMATION?
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**LOOKING FOR STATE AGENCY OR
PERSONNEL CONTACT INFORMATION?
CHECK OUT THE CALIFORNIA ONLINE DIRECTORY**

The California On-Line Directory is a service provided by the Telecommunications Division of the Department of General Services. The new On-Line Directory is available at www.cold.ca.gov. You can also access the Directory through the League's Information Resources section of the website at www.cacities.org.

The On-Line Directory is designed to improve access to government information and services for state employees, local government and the general public. The directory services include 'White Pages,' 'Yellow Pages,' and State Government Organization Charts, as well as a keyword search.

The 'White Pages' provide a search function for telephone numbers and Internet addresses of state agency employees (as determined for inclusion by each agency). The California On-Line Directory provides the following services:

- The 'Yellow Pages,' a locator function for each state agency, displaying its organizational structure and pertinent contact information.
- State of California Organizational Charts, depicting the structure of California State Government, its agencies, boards and commissions.
- Keyword Search, a tool to use familiar words to locate related state agencies, e.g., Driver License = Department of Motor Vehicles etc.

Information agents are available to assist you at (916) 657-9900. TTY (916) 657-9901.

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The five other organizations are the California Aerospace and Technology Association, the California Business Roundtable, the California Chamber of Commerce, the California Manufacturers and Technology Association and the California State Association of Counties. The support of the six organizations underscores the strong, unified effort in the state for the 2005 round of base closures.

On Wednesday, December 8, the organizations released the following statement declaring their support:

"Defense spending makes up a considerable portion of the state's economy. Total defense expenditures in California for fiscal year 2003 are estimated at approximately \$42 billion, and the Department of Defense employs more than 270,000 in the state.

"California has a unique combination of irreplaceable geographic assets and a temperate climate which permits training virtually year-round in almost all kinds of climatic zones. In addition to these superb geographical assets, California boasts generations of aerospace engineers and technicians, many of whom were educated and trained in the state's universities. This combination of assets makes California's military installations highly valued now and for the next 25 years.

"It is for all these reasons, as well as the economic value of our military bases, that we recognize California as a strategic partner of the Department of Defense, and pledge to support efforts to retain our vital bases."

Our Mission

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

LEGAL ADVOCACY FRIEND-OF-THE-COURT FILINGS

Learn more about League friend-of-the-court action in appellate cases affecting California cities. A brief summary of the case and thanks to volunteer writers appear below.

Use of Subpoena to Enforce Transient Tax Ordinance

The League requested that the court of appeal publish a case that provides helpful authority to cities regarding the broad scope of the subpoena power cities have available to them to carry out their functions. The case was published on December 3, and the League thanks **Jolie Houston, City Attorney, Los Altos**, for writing the letter brief on behalf of the League.

The case involves a challenge to the legislative subpoena power relating to a transient occupancy tax (TOT) ordinance. The trial court upheld both the ordinance and the subpoena, and the court of appeal agreed concluding that a city council's subpoena power is broad to include the investigation and enforcement of tax measures, such as the TOT ordinance.

The name of the case is **City of Vacaville v. Pitamber**, No. A104634, (1st Dist. Nov. 8, 2004).

Neighbors and Lay Opinions on Aesthetic Environmental Impact and CEQA

The League filed a letter opposing depublication of a favorable and published opinion to cities that involves how significant effects on the environment are ascertained under the California Environmental Quality Act (CEQA), and what constitutes a significant aesthetic effect on the environment in an urban infill context. The League thanks **Kate Stacey, Deputy City Attorney, City and County of San Francisco**, for writing the letter on behalf of the League.

The court of appeal concluded that neighbors' testimony and lay opinions about aesthetics and hazardous materials did not constitute substantial evidence under CEQA sufficient to trigger the need

for an environmental impact report. As a result the city prepared a mitigated negative declaration rather than an environmental impact report.

The name of the case is **Case Name: Bowman v. City of Berkeley**, 122 Cal.App.4th 572, 18 Cal.Rptr.3d 814, (1st Dist. Sep. 20, 2004).

Copies of recent filings are available at: www.cacities.org/recentfilings.

Following guideline changes relating to the League's friend-of-the-court participation that were adopted in 2002, typically briefs are filed on behalf of the League rather than on behalf of joining cities.

To request League amicus assistance visit: www.cacities.org/requestamicus.

For more information about the League's Legal Advocacy Program visit: www.cacities.org/legaladvocacy

LET THE LEAGUE'S CALENDAR RESOURCE HELP YOU PLAN YOUR BUDGET FOR MEETINGS AND TRAINING IN 2005

Visit the League's website www.cacities.org/ed for a complete schedule of upcoming meetings. View dates, locations and pricing information up to a year in advance. Not only can you register online or view the current program or outline for these meetings, you can use this information to help plan your meeting schedule and budget expenses for the upcoming year. New 2005 meeting information is currently available and continuously updated.

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Signs of the familiar partisanship were evident, however, in opposing comments from legislators about the state's continuing budget deficit. Senate President Pro Tempore Don Perata and Assembly Speaker Fabian Nunez held a joint press conference during which both emphasized the need to keep open the possibility of new taxes to help solve the ongoing budget problems, while Republican leaders talked more about the need to restructure the state's tax system.

The governor will release his initial proposal on the state budget on or about January 10. The Legislative Analyst's review of the budget will likely be available in February, and legislative budget hearings are likely to start in late February or early March.

While the enactment of Proposition 1A is expected to protect most local government revenues from state funding takeaways, the League and its LOCAL partners will be closely monitoring the budget proposals for possible impacts on local services. One continuing area of concern is funding for transportation and local road repairs. Gasoline sales tax funds dedicated by Proposition 42 for road repairs and other transportation purposes have for the past 3 years instead been diverted by the state to help solve the budget shortfalls. The League and many other organizations concerned about transportation and infrastructure needs will argue that these funds are urgently needed to pay for these activities at the local and statewide levels.

In addition to their swearing-in ceremonies, legislators this week introduced dozens of bills, including those dealing with the hot button issues of gay marriage, drivers licenses for illegal immigrants, and reforms of the state and local pension systems. Hundreds of additional bills are expected to be introduced after the Legislature reconvenes on January 3.

Over the next weeks and months, the League staff will review all bills that might have impacts on cities and, in some cases, seek guidance

from League policy committees about appropriate League positions on the bills. Information about League positions newly introduced legislation will be posted over the next few months on the various policy issue pages League's website (see the "Issues and Legislation" on the website). To search for the text or scheduling information for any newly introduced bill, please visit the Bill Search section of the League's website (www.cacities.org/legislativesearch).

Revised Edition

***Navigating The
Legislative Process***
***Deadlines, Procedures and
Common Terms***

NEW: An overview of the budget process and special sessions

Plus:

- A description of the legislative process
- Tips on writing an effective letter and testifying before a legislative committee
- Suggestions on how to participate in the League legislative program
- A glossary of commonly used legislative and budget terms
- A legislative calendar listing key state budget dates for city officials

This publication is available from the League for \$5. There is a ten percent discount on orders of five or more.

Questions? Contact League Publications at 916/658-8257 or order online at: www.cacities.org/store

HOUSING from page 1

Councils of Governments (COGs) have been reimbursed by the State for the costs of the assessment since 1980, when the State Board of Control determined that the regional housing needs assessment was a reimbursable state mandate. However, earlier this year the Legislature requested that the Commission on State Mandates take another look at whether or not the regional housing needs assessment (RHNA) is reimbursable. The notice of reconsideration issued by the Commission implied that COGs are exempt from state reimbursement because they are not local agencies, and because recent legislation has granted COGs the authority to levy fees upon member agencies.

The League's brief highlighted three primary reasons why the RHNA process remains a reimbursable state mandate.

I. COGs are local agencies. Government Code Section 17518 clearly defines a local agency as "any city, county, special district, authority, or other political subdivision of the state." A Council of Government is a joint powers authority created by a joint powers agreement entered into by more than one government agency. As such, it is an authority separate and distinct from the parties that created it, and is a local agency under the definition provided in Government Code Section 17518.

II. Existing COGs cannot levy fees on members unless their joint powers agreement grants that authority. A COG is formed through a joint powers agreement contract that explicitly states what power the authority (COG) will have, how it will be exercised, and for what purpose. While some agreements may have granted a COG the authority to levy fees, others have not. A new state law authorizing all COGs to impose fees on their members, places the Legislature in the position of interfering with the terms of a contract between cities and counties by granting an authority that contradicts the terms of the joint powers agreement. This is a direct violation of the contract clause of the California State Constitution (Cal. Const. Art. I, Section 9).

III. Assuming a COG does charge its members, the members could not pass along the fee to developers. Fees are distinguished from taxes in two principal ways: (1) the amount of the fee may not exceed the estimated reasonable cost of providing the service or facility for which the fee is being charged; and (2) the service or facility for which the fee is charged must bear a relationship to the person or entity paying the fee. The reconsideration of the state mandate assumes that COG members can pass the fee along to developers. However, a city or county is not the entity providing the service to the developer, and did not incur the costs to distribute the regional housing needs. Therefore a pass-through fee charged by a city or county to pay for the work of a COG is a tax, and would require voter approval.

The Commission on State Mandates will be posting a draft staff analysis and supporting documentation on the Commission's website by January 20, 2005. The Commission will then hold a hearing on reconsideration, and may adopt a revised statement of decision on March 31, 2005. To view the League's brief, or for more information on the Commission on State Mandate's notice of reconsideration or hearing process, please visit the League's website.

LEAVING CITY OFFICE? RETIRING?

The League wants to stay in touch! Just because you are leaving your position with the city doesn't mean you stop caring about or wanting to be involved in city issues. Keep abreast of developments affecting cities and the League by becoming part of the League's alumni group. Members will receive periodic updates on city issues and League activities. This is the League's way of saying "thank you" for your public service—there is no fee for this service.

To join, go to www.cacities.org/alumni or send us your contact information by filling out the attached form.

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December 31, 2004
Issue #48-2004

CITIES RESPONDING TO "VLF GAP LOAN" FINANCING PROGRAM

City officials facing tight city budgets may want to move quickly to participate in the first round of financing available in February through the new California Communities' VLF Gap Loan Financing Program.

Background

City officials will recall that in FY 2003-2004 the state failed to make 3 months of VLF backfill payments to cities and counties, resulting in a VLF funding gap ("VLF Gap Loan"). At that time, the state agreed to make these VLF gap loan payments by August 15, 2006, but many local officials expressed doubts that repayment would occur as promised due to the state's continuing deficit. *For more see page 2.*



LEAGUE ANNUAL AWARDS: NOMINATIONS REQUESTED!!!

Each year, the League's departments recognize some city officials for their contributions to their profession. The awards process serves as an opportunity to display a nominee's service, leadership, expertise and innovation in the department's profession. The League is now requesting nominations for each of the following departmental awards: *For more see page 3.*



OES WORKSHOPS ON MAXIMIZING ASSISTANCE FOLLOWING DISASTERS

The recent earthquake in Indonesia and the resulting tsunamis are a vivid reminder of just how quickly communities can be impacted by devastating events.

In times of disaster, communities look to their leaders and government agencies to guide them in the disaster recovery process. It is essential that governmental agencies be familiar with state and federal requirements for obtaining disaster assistance. Following a disaster, communities that are aware of recovery program requirements are able to maximize and retain federal and state funding. *For more see page 3.*

This Week :

- ■ ■
- The 2005-06 Regular Legislative Session will reconvene on January 3, 2005.
- Governor's "State of The State" address: 5 p.m., Wednesday, January 5.

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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VLF WORKSHOPS from page 1

These concerns led the League to focus on getting the strongest possible guarantee of repayment of the "VLF Gap Loan" during the budget negotiations last summer that led to the approval of SCA 4 (Prop. 1A).

In addition to the requirement of SCA 4 (Prop. 1A) that the state repay the VLF Gap Loan before the state can ever "borrow" local property taxes, we asked for authority for cities and counties to sell this VLF "receivable" to a joint powers authority in which most cities and counties already participate (California Communities).

Gap Loan Program Now Available

The League recently notified cities that this program is now available, and the response from local agencies has been strong. To date, we have received indications of interest from over 100 local agencies with receivables totaling over \$360 million.

The program provides a city or county the opportunity to sell their VLF Gap Loan debt for an upfront fixed price of about 92 to 95% (estimated) of the amount receivable from the state rather than wait for payment in 2006. California Communities is planning to issue bonds and use the proceeds to purchase the VLF receivables and pay financing costs ("VLF Bonds"). California Communities will pledge the VLF receivables to secure payment on the VLF Bonds. ***A city's sale of its VLF receivable is irrevocable and investors will have no recourse to the city if the state does not repay the VLF gap loan.***

Many cities find the program attractive because it:

- Provides immediate cash relief.
- Transfers the risk of non-payment by the State to bondholders.
- Levels out cash flow from the State over the next few years.

One city manager summed it up this way:

"This program is great! I wish every city would participate. Besides the immediate benefits to the city, it effectively ensures full repayment because receivables sold to bondholders are protected by contract. And even if the state did fail to pay, it would not be the cities' fight."

How to Participate

For cities that have not yet signed up but would like to do so, there is still time to participate in the first financing, scheduled for sale in late February. Application materials are available at www.cacommunities.com. To participate in the February financing, all required documents must be approved by your city council by February 18, 2005. Interested cities should initiate the application process no later than January 7.

You can easily find your city's VLF gap loan amount and more information about the program on the California Communities website at www.cacommunities.com. More questions? Please contact California Communities Program Manager James Hamill at (925) 933-9229 x216 or jhamill@cacommunities.com.

Leaving City Office? Retiring?

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LEAGUE AWARDS from page 1

- **Professional Excellence Award:** The League's Personnel and Employee Relations Department recognizes one member for his/her achievements in the human resources and/or labor relations professions. The Executive Board is now accepting nominations for the Professional Excellence Award, which will be presented to the recipient during one of the Employee Relations Seminars (ERS). Achievements can be a specific individual's project or effort, a long-time career highlighted by commendable service, or both.

All nomination forms must be received by **Friday, January 14, 2005**. Nominations may be made with or without the nominee's knowledge, and a surprise award is often most appreciated. If you have any questions, please contact Tony Cárdenas at (916) 658-8243.

- **John H. Nail Award:** The John H. Nail award is presented annually to an outstanding municipal assistant who has contributed significantly to his or her city government and to the advancement of the community as a whole. Please mail nomination forms to Liisa Lawson at 1400 K Street, 4th Floor, Sacramento, CA 92814, or fax it to (916) 658-8240. For more information, please visit the city managers section of the League's website at www.cacities.org.

- **Award for the Advancement of Diverse Communities:** The Award for the Advancement of Diverse Communities honors a city manager or assistant who has been most successful in promoting the advancement of diversity within the community and the workplace through the development and implementation of effective programs, policies and/or practices encouraging diversity. Candidates must be a city manager, city administrator, chief administrative officer, or assistant city manager of a California city, and must be nominated by an elected or appointed city official. Please mail nomination forms to Liisa Lawson at 1400 K Street, 4th Floor, Sacramento, CA 92814, or fax it to (916) 658-8240. For more information, please visit the city managers section of the League's website at www.cacities.org.

OES WORKSHOPS from page 1

For a second year, the Governor's Office of Emergency Services (OES) is conducting a series of **tuition free** disaster assistance courses beginning mid-January through September 2005. The courses are designed to help maximize disaster assistance funding and services. The following courses are available:

- The Local Assistance Center and Individual Assistance Programs
- Introduction to Public Assistance
- Public Assistance and the Project Worksheet
- Disaster-Recovery Environmental & Historical Laws
- Debris Management
- Safety Assessment Program (SAP) Coordinator Training
- Safety Assessment Program (SAP) Evaluator Training

For information on dates and locations, register on-line at www.oes.ca.gov. Select "training" and then "Disaster Assistance Training."