

FOCUS

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

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COMING UP:

PUBLIC WORKS OFFICERS INSTITUTE & MINI-EXPO, MARCH 30-APRIL 1, MONTEREY

LEAGUE ISSUES CALL FOR PARTICIPANTS IN NEW LEADERSHIP PROGRAM

The League of California Cities this week issued an invitation to all city officials to participate in an exciting new League program: The California Civic Leadership Institute (CCLI). *For more see page 2.*



OPEN GOVERNMENT RESOURCE ON ITS WAY TO CITY OFFICIALS

This week, the Institute for Local Government mailed copies of its new pamphlet, "*The ABCs of Open Government Laws*", to city clerks for distribution to elected officials in their cities. The packets should be arriving in a week or so, care of each city's clerk. The Institute is the nonprofit research arm of the League of California Cities; this publication is a product of the Institute's Public Confidence Project. *For more see page 2.*



U.S. SUPREME COURT SIDES WITH CITIES

The United States Supreme Court issued its opinion in *Rancho Palos Verdes v. Abrams* on March 22, 2005. The case involved Mark Abrams, a licensed amateur radio operator, who, with a permit, constructed a 52.5-foot antenna on his property. *For more see page 3.*

**WANT MORE DETAILS
ON BILLS?**

Visit the League of California Cities Website at www.cacities.org/billsearch.

IN THIS ISSUE:

- Page 3 HELEN PUTNAM AWARDS CALL FOR ENTRIES**
- Page 4 LEGISLATIVE BILL SUMMARIES**

LEADERSHIP INSTITUTE from page 1 • • • • • ILG from page 1 • • • • •

The program is designed to educate small groups of city officials interested in seeking higher office in the State Legislature. The goal is to cultivate a better understanding among future legislators of the pressing infrastructure issues facing cities across the state, as well the history of local government in California and the importance of preserving local control.

Any mayor, council member or professional city staff may nominate a current city official to participate in the CCLI. Nominations may also come from any of the League's constituency groups, or from the League Partners Program.

Nominations must successfully convey the governance skills and accomplishments of the candidate, and should highlight any and all contributions toward League goals and/or the League's mission of protecting local control. Prospective participants may nominate themselves, but deference will be paid to candidates with broad support within the League and its governing bodies.

Nomination forms are available on the League Website (About the League). Nominations should be submitted **no later than 5:00 p.m. Monday, April 4th** to the League's Public Affairs Department Director, Mike Madrid, at mmadrid@cacities.org or fax: 916.658.8240. Please contact Mike Madrid with any questions: 916.658.8272.

The pamphlet summarizes key areas of the Brown Act and the Public Records Act of interest to elected officials. An annotated version of the pamphlet is also available online. Additional copies are also available for purchase through the League's CityBooks program by calling 916.658.8257. Proceeds from hardcopy sales support the Institute's work in the ethics area.

Those local officials interested in learning more about these laws are encouraged to visit the "public processes" section of the ethics portion of the Institute's Website: www.ilsq.org/trust, which includes links to electronic versions of the League's *Open and Public* publication and the new Attorney General publications on open government laws (click on "resources for further information" at the bottom of the page).

The Institute is grateful to the Kronick, Moskovitz, Tiedemann and Girard law firm, whose financial support of the Institute made this publication and its distribution possible. The Institute's work is supported by grants, private sector contributions, the League, publications sales and individual contributions.

Celebrating its 50th year of service to local officials, the Institute's mission is to develop forward-thinking resources to assist local officials in their service to their communities. For more information about the Institute and its work, please visit www.ilsq.org.

Our Mission

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

HELEN PUTNAM AWARDS CALL FOR ENTRIES

Does your city have a program that resulted in a more effective delivery of services to the community?

Now is the time to get your deserved recognition by applying for the 2005 California Cities Helen Putnam Award for Excellence. It's an opportunity to thank your employees and collaborators, gain the appreciation of your residents and feel proud of outstanding contributions made to better your city.

The Helen Putnam Award recognizes the excellence of California cities as demonstrated by beneficial innovations, resourceful efficiencies, improved public service and overall enhanced public trust and support.

Categories for the 2005 Helen Putnam Awards

1. Effective Advocacy, Intergovernmental Relations and Regional Cooperation
2. Housing Programs and Innovations
3. Enhancing Public Trust, Ethics and Community Involvement
4. Community Services and Economic Development
5. Planning and Environmental Quality
6. Internal Administration
7. Public Safety
8. Public Works, Infrastructure and Transportation
9. Ruth Vreeland Award for Engaging Youth in City Government
10. League Partners Award for Excellence

To qualify, entries must demonstrate that your city offered a program or service that has proven measurable success within a minimum of one year of actual implementation.

The submission deadline is May 14, 2005. Applications were recently mailed to all cities. The application is also available to download on the League's Website at www.cacities.org/helenputnam.

Winners will be announced in October at the Annual Conference in San Francisco. Award winners will be recognized with a press release sent to your hometown media and featured on the League's Website and Western City magazine. Arrangements can be made to have a League representative present the award during a city council meeting.

LEGAL from page 1

He eventually placed several smaller antennas on the property without the city's permission. When he sought permission to construct a second antenna tower, the city learned that he had been using the antennas to provide commercial service, in violation of the city's ordinance requiring a conditional use permit from the Planning Commission for such purposes. He subsequently applied for a permit, which was met with strong opposition from several neighbors. The Commission denied his permit application, basing its decision on adverse visual impacts from the existing antennas and establishing precedent for similar projects in the future.

Abrams sued the city, asserting that the city had violated his rights under section 322 of the Telecommunications Act of 1996. He also sought damages, attorneys fees, and other relief pursuant to section 1983 of the Civil Rights Act. The district court ordered the city to grant Abrams a permit, finding that the Commission's denial of the application was "an act of spite by the community." But the court denied his request for section 1983 damages.

On appeal, the Ninth Circuit Court of Appeals reversed the lower court on the issue of damages, ruling that section 1983 remedies were available to Abrams.

The United States Supreme Court disagreed and reversed the Ninth Circuit. The Court ruled that section 332 of the Telecommunications Act was the sole source of remedies for violations of the Act. As Justice Stevens wrote in his concurring opinion, "[T]here is not a shred of evidence in the legislative history [of the Telecommunications Act] that . . . Congress intended plaintiffs to be able to recover damages and attorney's fees."

The League joined in a friend-of-the-court brief filed with the Supreme Court along with CSAC, the League of Oregon Cities, the Nevada Association of Counties, and others. The League thanks James N. Horwood and Peter J. Hopkins of Spiegel & McDiarmid and Roy T. Englert, Jr. and Max Huffman of Robbins, Russell, Englert, Orseck & Untereiner LLP for their fine work in writing the brief.

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 to access information about legislation, policy issues and related developments. You can track information on bills (www.cacities.org/billsearch), locate legislators and legislative committees, send letters to legislators or the media through the online Advocacy Center (www.cacities.org/advocacycenter), research League policy positions, access useful related links, and much more.

PUBLIC SAFETY

AB 305 (Mountjoy). Vehicles. Police Vehicle Pursuits. Punishment. AB 305 would make the act of willfully driving a motor vehicle in an attempt to flee a peace officer's pursuing vehicle, a misdemeanor or a felony. By creating an opportunity for prosecutors to seek a felony conviction and providing for prison sentence enhancements and increased minimum fines, AB 305 sends a strong, clear message to deter offenders from attempting to flee law enforcement officers. **Staff:** Liisa Lawson Stark; **Status:** AsPubSfty, Hrg. 3-29; **Position:** Support.

SB 317 (Margett) Peace Officer. Vehicle Pursuit. SB 317 increases the penalties for the crime of evading a peace officer. Specifically, SB 317 provides that:

- Willfully evading a peace officer is punishable by up to a year in county jail;
- Evading a peace officer where the vehicle is driven in a willful or wanton disregard for the safety of others is punishable by imprisonment in the state prison for two, three or four years or imprisonment in a county jail for not less than six months or more than one year;
- Willfully evading a peace officer and causing serious bodily injury to another is punishable by imprisonment in the state prison for three, five or seven years or in county jail for not more than one year; and,
- Willfully evading a peace officer resulting in death to another is punishable by imprisonment in the state prison for four, six or 10 years.

The act of driving a motor vehicle in an attempt to evade a peace officer is dangerous and unnecessarily places the lives of peace officers and other citizens at risk for injury or even death. Providing for prison sentence enhancements sends a strong, clear message to deter offenders from attempting to flee law enforcement officers and endanger lives. **Staff:** Liisa Lawson Stark; **Status:** SenPubSfty, Hrg.3-29; **Position:** Support.

ENVIRONMENTAL

SB 1059 (Escutia). Transmission Corridors. Land Use Preemption. Watch out! If enacted, SB 1059 would authorize the California Energy Commission to designate a future, potential high voltage electric transmission corridor through your city, and to add insult to injury, require your city to amend its general plan and land use and zoning ordinances to be consistent with the Energy Commission's plan. Although the bill addresses a reasonable and important problem – the potential need for additional future transmission corridor capacity in California – the sweeping preemption provisions of SB 1059 are very troubling, to say the least.

The bill would provide that: "Each city and county in which the designated corridor is located shall take all actions necessary to integrate the designated corridor in their respective land use plans and ordinances, so that local and regional land use plans will also designate transmission corridors that the commission has designated as being consistent with the strategic plan for the

Legislative Bill Action

state's electric transmission grid." It would also provide that the EIR prepared by the state would serve as the CEQA document for local agencies that amend their general plans to identify the designated corridors. The procedures in existing law under which the PUC reviews and approves the actual transmission route and issues the final certificate of convenience and necessity would still apply.

The League has discussed our concerns with the author's office and the Resources Agency, the bill's sponsor. Although the discussions were productive, no commitments were made to delete the objectionable language. It is vital that cities, especially those in the districts of senators who sit on both the Senate Energy, Utilities and Communications Committee and the Local Government Committee, contact their Senators and indicate their opposition unless the bill is amended to delete the offending land use authority preemption language.

Bill Status: Referred to both Senate Energy, Utilities and Communications Committee (Hearing: April 5) and Senate Local Government (Hearing likely April 13 or 20); **Position: Oppose unless amended;** Staff: Yvonne Hunter.

Stay Up-To-Date on Bills That May Impact Your City

www.cacities.org/billsearch

Become a regular user of the League's online Legislative Tracking System. The League's website is your gateway to all the information you need: bills sorted by subject areas, showing the bill history, current status, committee analyses, votes, and much more. You can even view League letters of support or opposition, and access the League lobbyist working on the bill.

WANT TO SEND A LETTER IN SUPPORT OF A LEAGUE POSITION? HERE'S WHO TO CALL:

ASSEMBLY PUBLIC SAFETY (7)—
Leno (Chair), La Suer (Vice Chair), Cohn, Dymally, Goldberg, Ruskin, and Spitzer.
1020 N Street, Room 111. Phone: 319-3744.

SENATE ENERGY, UTILITIES AND COMMUNICATIONS—(11)—Escutia (Chair), Morrow (Vice-Chair), Alarcon, Battin, Bowen, Campbell, Cox, Dunn, Kehoe, Murray, and Simitian. Chief Consultant: Randy Chinn. Principal Consultant: Lawrence Lingbloom. Assistant: Melanie Gutierrez. Phone: (916)445-9764. Room 5046.

SENATE LOCAL GOVERNMENT—(7)—Kehoe (Chair), Cox (Vice-Chair), Ackerman, Machado, McClintock, Soto, and Torlakson. Consultants: Peter Detwiler and Jennifer Swenson. Assistant: Elvia Diaz. Phone: (916)445-9748. Room: 410.

SENATE PUBLIC SAFETY—(7)—Alquist (Chair), Poochigian (Vice-Chair), Cedillo, Margett, Migden, Perata, and Romero. Chief Counsel: Simon Haines. Counsels: Alison Anderson, Mary Kennedy and Jerome McGuire. Associate Consultant: Tammy Lin. Assistants: Mona Cano and Barbara Reynolds. Phone: (916)322-1305. Room 2031.