

8A-1

PRIORITY

FOCUS

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

May 6, 2005
Issue #18-2005

**LEGISLATIVE ACTION
DAYS, MAY 11-12,
2005. SHERATON
GRAND HOTEL, SACRA-
MENTO.**

DON'T MISS LEGISLATIVE ACTION DAYS, MAY 11 AND 12

Key legislators and top administration officials are scheduled to address more than 450 city officials at the League's Legislative Action Days sessions in Sacramento next Wednesday and Thursday, May 11 and 12 (see agenda). *For more, see Page 5.*

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LEAGUE URGES RESTORATION OF PROP 42 FUNDING

The League is asking cities to send a letter **immediately** to their legislators and Gov. Schwarzenegger, strongly urging that Proposition 42 funding be restored in the 2005-06 state budget. *For more, see Page 5.*

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PERATA OUTLINES SENATE PENSION LEGISLATION PACKAGE

Last week Senate Pro Tem Don Perata (D-Oakland) unveiled a package of pension reform proposals that will be introduced in special session. The Senate Democrats' proposal is intended to stabilize state and local pension obligations, prevent abuses in the pension system and protect workers and taxpayers.

Assembly Speaker Fabian Nunez and the Assembly Democrats are expected to introduce a similar package. *For more, see Page 7.*

**WANT MORE DETAILS
ON BILLS?**

Visit the League of
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website at
[www.cacities.org/
billsearch](http://www.cacities.org/billsearch).

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LEAGUE, ILG ANNOUNCE NEW ONLINE HOUSING RESOURCE CENTER

Partnering with the League of California Cities, the Institute for Local Government (ILG) is pleased to announce the debut of the Housing Resource Center (HRC) – a website dedicated to providing up-to-date information about housing issues and solutions.

Months in the making, the site is designed to be a source of solid information on housing for both city officials and others who work on housing issues regularly. It also features an extensive collection of links for those wanting to delve further into a given issue.

The site is organized into two primary sections. "Housing Basics" provides overview information on a variety of housing topics, including funding, case studies, housing laws, and links to websites of housing organizations and government bureaus. The second section, "Housing Tool Box," offers information on infill, density, redevelopment, mixed use, housing trust funds, and much more!

"The goal of the site is to provide a place where local officials and others can access information on housing policy issues and options," explained JoAnne Speers, executive director of the Institute of Local Government. "Of course, like any website, this site will grow and we welcome suggestions and submittals from cities with projects and other information to share."

The League and ILG hope the site will become a "one-stop shop" for local officials and others interested in housing issues throughout California.

The Institute for Local Government is the research affiliate of the League of California Cities, an organization providing education and advocacy services for its 478 member cities and other local agencies. To access the Housing Resource Center, visit the [Institute of Local Government's website](#).

CALL FOR ENTRIES: HELEN PUTNAM AWARD DEADLINE, MAY 14

The May 14 submission deadline for this year's Helen Putnam Award for Excellence nominees is fast approaching. This program recognizes outstanding cities that deliver the highest quality and level of service in the most effective manner possible. Helen Putnam (1909-1984), defined excellence in the most positive way. Complimentary booths are offered to winning cities during the 2005 League of California Cities Annual Conference and Exposition held at the Moscone Center in San Francisco, on October 6-8. Show off your cities' great efforts!

For more information, or to download the brochure/requirements go to www.cacities.org. You may also contact Rebecca Caporaso at rebeccac@cacities.org with specific questions.

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LEAGUE OF CALIFORNIA CITIES-LATINO CAUCUS 14TH ANNUAL MAY LEGISLATIVE CONFERENCE

WEDNESDAY, MAY 11, 2005, 9 A.M.-NOON
CARR ROOM, SHERATON HOTEL, SACRAMENTO

Supporting the Foundation: Land Use, Smart Development & Transportation

Exciting trends in land use and affordable infill and mixed-use housing and public transportation are offering realistic alternatives to communities throughout California. Join us on May 11 to learn how these new initiatives can effect change in your region. Hear perspectives on current issues impacting the development of rural and urban areas from such speakers as:

- Assemblymember Alberto Torrico, chair, Assembly Public Employees Retirement & Social Security Committee
- Lucy Dunn, director, Department of Housing & Community Development
- Daniel Carrigg, legislative director, League of California Cities
- Dolores Gallegos, Latino Caucus board member, League of California Cities

ICMA TO HOST MILITARY BASE REALIGNMENT/CLOSURE WEBCASTS

The International City/County Management Association (ICMA) is hosting a series of three webcasts focused on base realignment and closure (BRAC) topics for local government officials and others that may be impacted by forthcoming base closures set to be announced on or before May 16.

Sponsored by AIG Environmental, the webcasts are designed to assist local governments and communities understand the BRAC process by sharing the successes achieved and obstacles faced by city managers, federal environmental and defense officials, and private sector experts in the cleanup and redevelopment of closed military bases. If you are a city/county manager, economic development director, public works director, general counsel, local government official, or a private consultant working on behalf of a local government facing the possibility of base realignment, these programs are designed specifically for you.

The first webcast, "BRAC 05: Expecting the Unexpected – Planning for Closure, Cleanup, and Reuse," will be held on June 14 from 11 a.m. to 12:30 p.m. PST, and will include an overview of the BRAC process, realignment versus closure, identifying resources and assistance, and planning for reuses that are consistent with the needs and objectives of the community. Speakers for this webcast will consist of David Limardi, city manager, City of Highland Park, Ill., Patrick O'Brien, director, Office of Economic Adjustment, U.S. Department of Defense (invited, not confirmed), and Harry Kelso, chief executive officer, Base Closure Partners. Ann Davlin of AIG Environmental will be moderating.

Following that program, on July 26, the second installment will take place – "BRAC 05: What You Don't Know CAN Hurt You – The Basics of Cleanup and Reuse." Again scheduled for 11 a.m. PST, this seminar will provide a thorough understanding of the interactions between stakeholders, property transfer mechanisms, and managing contamination issues. Topics to be discussed include due diligence on property, infrastructure, and contamination, public sales, environmental

insurance, and other noteworthy issues.

On September 13, the third and final webcast will take place. Entitled "BRAC 05: The Good, the Bad, and the Expedited – Trends, Tools, and Challenges," this webcast will be sponsored by Lennar-LNR and will discuss early transfers, conservation conveyances, public sales, land use controls and management tools, and related topics. This seminar will also be conducted from 11 a.m. to 12:30 p.m. PST.

In order to take part in a webcast, participants must have a computer with Internet access (56k modem or higher) and a separate telephone line for the audio portion of the program. The cost of each webcast is \$95, however, the first 25 sites to register for each program will receive it for free. For more information and to register, please visit <http://www.lgean.org/html/training>. Information can also be given over the phone by calling (877) 865-4326.

LOOKING FOR CALIFORNIA'S BEST TO FILL A POSITION IN YOUR CITY?

Western City magazine's job opportunity section is *the* source for job seekers looking for positions in local government. According to our reader survey, the job opportunity section is the best read section of our magazine!

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MAY ISSUE OF 'FOCUS ON HOUSING' AVAILABLE

Three affordable housing projects built with the help of redevelopment funds are highlighted in the May issue of the League's monthly *Focus on Housing* newsletter, now online at www.imakenews.com/focusonhousing/.



BEFORE: Grisham Community Housing In Long Beach



AFTER: Grisham Community Housing In Long Beach

Also featured this month are two interviews: one with Citrus Heights Community Development Director Janet M. Ruggiero; and one with Jim Ghielmetti, chief executive officer of Signature Properties, a housing development firm. Both are members of the League's Housing/General Plan Task Force.

Ruggiero discusses strategies pursued in Citrus Heights to address the community's hous-

ing concerns. Ghielmetti describes housing issues and concerns facing builders and city officials, and the building community's goals for housing reforms.

The May issue also spotlights efforts by several city officials in Clovis to work for passage of Assembly Bill 1192 (Villines) – a bill that would eliminate the need for prevailing wage to be paid for affordable housing projects conducted by nonprofits – and the difficulties the city now faces after it was voted down.

An additional story highlights the launching of the Institute of Local Government's new online "Housing Resource Center."

Focus on Housing appears monthly, available via the League website or by e-mail. If you'd like to sign-up to receive this newsletter, please visit www.cacities.org/housingnewsletter.

2005 ANNUAL CONFERENCE: OCTOBER 6-8, MOSCONE CONVENTION CENTER, SAN FRANCISCO

Plan now to attend the 2005 Annual Conference this fall - the first time it has been in San Francisco since 1997. Suggestions for topics to include on the agenda are welcome by February 28; send them to education@cacities.org.

The conference announcement will be out by early June, and the League's reduced rate housing block at six nearby hotels will open June 1 on the League website (Reservations made before then will not be in the block or get the discounted room rate).

LEG ACTION DAYS from page 1

Assemblymember John Laird, chairman of the Assembly Budget Committee, will talk what about the state budget means for cities in light of the latest revenue projections. The May revision to the budget is expected to be released on Friday, May 13.

Also addressing city officials on Wednesday will be Senate Minority Leader Dick Ackerman, chairman of the Senate Transportation and Housing Committee Tom Torlakson, and Pat Dando, director of Local Government Outreach for the governor and a former San Jose city councilwoman and League board member.

On Thursday, city officials will hear from Lucy Dunn, director of the Department of Housing and Community Development and Will Kempton, director of the Department of Transportation.

A reception for city officials and their legislators will be held at the Sheraton Grand Hotel Wednesday evening, from 5:30 p.m. – 7:30 p.m.

'Telling the City Story' With One Voice

The two-day Legislative Action Days event provides city officials with a powerful opportunity to "tell the city story" to their elected state representatives. The coordinated lobbying by large numbers of city officials is timed to coincide with the release of the new budget estimates and the governor's May revision to his January budget proposal. With additional revenues possibly available, the League will be urging city officials to press their representatives for restoration of Prop 42 funding for local street and road maintenance (see "League Urges Restoration of Prop 42 Funding").

City officials will also be urged to talk to their legislators about housing issues and the need to protect redevelopment. League President Pat Eklund and League Executive Director Chris McKenzie will provide briefings on each of these issues.

Regional Reps Coordinating Meetings

The League's regional representatives have scheduled meetings with legislators for each

division. City officials planning on attending the event should contact their regional representative. **Background materials and talking points will also be available to assist in the legislative meetings.**

This all-important city lobbying event is free to all city officials. Registration and housing information is available on the League website.

PROP 42 from page 1

The governor and his staff are currently working with the Department of Finance on the May revision to his January budget proposal. There are growing indications that the state's income tax receipts may be hundreds of millions of dollars more than anticipated — perhaps as much as a billion or more. While there will likely be many demands on these dollars, both the governor and State Finance Department Director Tom Campbell have recently stated their interest in devoting some of the increased revenues to both education and transportation. For transportation this can be accomplished by restoring funding of Prop 42 with the sales tax on gasoline.

Specifically, we urge that the governor and legislators to:

- Support the full application of revenue from sales tax on gasoline for transportation purposes as provided in Prop 42, including for local street and road maintenance and public transit, consistent with the current Prop 42 allocation formula.
- Support a permanent and protected shift of the sales tax on gasoline for transportation purposes.
- Support an obligated repayment of previously suspended Prop 42 funds with interest.

Why Make This Request At This Time

We believe that there is a strong case to be made in support of increased funding for transportation, and particularly for local street and road maintenance. For example:

Local streets and roads urgently need

Continued on Page 6

PROP 42 from page 5

repairs. The most recent statewide survey of city and county needs for the local system was from the SR 8 (Burton) report done in 1999. This report found an existing backlog of \$11 billion in needed repairs, which was estimated to increase by \$400 million a year — **a \$13 billion deficit today.**

It's Time to Implement Proposition 42. In 2002, 69 percent of voters approved Proposition 42, expressing their support for dedicating the sales tax on gasoline to state and local transportation programs. However, Prop 42 also allowed diversion of the sales tax on gasoline to the state general fund and appropriation for non-transportation purposes during times when the state was in fiscal difficulty.

The funds have been diverted to the state general fund in each of last two fiscal years since Prop 42 passed. The governor's January budget proposed to continue the diversion in FY 2005-06. Further, the governor has indicated his interest in a further diversion in FY 2006-07, followed by his support for a constitutional amendment to make additional diversions more difficult, and repayment of the last two years diversion (without interest) over a 15-year period. **We believe that if the state's fiscal condition is improving, restoring at least some portion of the Prop 42 funding is appropriate** (see the Fact Sheet for more information on Prop 42).

Local Governments Have Contributed Billions to Help the State and Should Benefit from the State's Improved Fiscal Condition. In the current and 2005-06 budget years, local governments are obligated to give a total of \$2.6 billion to the state to help resolve its budget crisis. This is in addition to the \$1.3 billion VLF gap loan given by cities and counties to the state in the FY 2003-04 budget year, and the transferred Prop 42 funds.

Conclusion

Local services have been repeatedly sacrificed to help the state through its budget crisis. The League believes that now, as the state has new money available for allocation, the state should keep faith with the Prop 42 voters by restoring badly needed transportation funds for local streets and roads, and ensuring the existing allocation formulas

are used.

We urge you to write or call Gov. Schwarzenegger and your legislators, to ask them to spend some of the additional revenues on badly needed transportation projects; and to allocate these funds on a basis that is consistent with the Prop 42 allocation formula.

To access a sample letter, please visit the League's Advocacy Center at www.cacities.org/advocacycenter.

PROPOSITION 42 FACT SHEET

In 2002, 69 percent of voters approved Prop 42. This measure dedicated the sales tax on gasoline to transportation programs. Funds were to be allocated on a 40/40/20 split, with 40 percent available to cities and counties for street and road maintenance (split 50-50); 40 percent to the State Transportation Improvement Projects (STIP); and 20 percent to transit systems.

The amounts at stake are substantial: sales taxes on gasoline produce \$1 billion or more annually – an estimated \$1.3 billion in FY 2005-06.

Prop 42 allows these funds to be transferred to the state general fund and appropriated for non-transportation purposes during times when the state was in fiscal difficulty. The funds have been transferred to the state general fund in each of last two fiscal years since Prop 42 passed:

- Since Prop 42 went into effect, transportation funding has received only 12 percent of the \$2.4 billion anticipated; the bulk of Prop 42 dollars have been diverted to the state general fund to cover other, non-transportation programs.
- Cities and counties have lost \$382 million over two years for local street and road maintenance programs and even more

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The package will address the issues of "smoothing, spiking and chiefs' disease." Some of the goals that will be sought on these top three issues are as follows:

◆ **Smoothing (Rate Stabilization)**

Goal: minimize the impact on the funded status of the plans; minimize the volatility in the employer's contributions and minimize the average future employer contribution.

◆ **Spiking (Benefit Manipulation)**

Goal: Limit pension "spiking" (the practice of inflating the salary upon which the lifetime pension is based). The new policy will provide a standardized understanding throughout California of what should be included in retirement calculations.

◆ **Chief's Disease (Industrial Disability Retirement)**

Goal: Stop the abuse of disability retirement by those who apply for disability when they are ready to retire in order to gain a tax advantage, as well as those who receive a disability benefit and then find a similar physically demanding or high stress position with a different employer.

League representatives have been meeting with administration officials over the past weeks to provide input on various issues on pension reform. The administration will continue to meet with stakeholders, gather input and roll out their version of pension reform sometime this spring or summer. It is the goal of the League to support a reform package that has input from all stakeholders and one that presents a united effort.

PROP 42 from page 6

in critically needed funding for public transit, the Traffic Congestion Relief Plan (TCRP) and the State Transportation Improvement Program (STIP).

For FY 2005-06, sales tax on gasoline is projected to be \$1.3 billion or higher due to recent price increases in gasoline. The governor's January budget proposed to continue the transfer in FY 2005-06. Further, the governor has indicated his interest in a further transfer in FY 2006-07, followed by his support for a constitutional amendment to make additional transfers more difficult, and repayment of the last two years' transfer (without interest) over a 15-year period.

If the proposed FY 2005-06 transfer were enacted in the final budget, cities and counties would lose an estimated \$253 million (or more) in needed transportation maintenance money.

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.

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 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.

TRANSPORTATION AND PUBLIC WORKS

AB 20 (Leslie) Disabled persons: Access: Technical Violations. AB 20 would preclude commencement of an action of damages against a public facility for a de minimus deviation from a code or regulation that has no significant impact on a disabled person's right to the goods and services provided by the facility. This bill would instead provide that the remedy for a technical violation is injunctive relief and the recovery of attorney's fees.

Although many cities have sent letters of support for this bill, the author has decided to make this a two-year bill in order to work on concerns from various parties to this bill. The League will continue to work with the author when this issue returns next session.

In the Senate, similar legislation, SB 855 (Poochigian) Special Access: Liability, which would establish notice requirements for an alleged aggrieved party to follow before bringing an action against a business for an alleged violations, failed to pass out of Senate Judiciary this week. Reconsideration was granted to SB 855, so the League will continue to monitor it. **Staff: P. Anthony Thomas; Status: Two-year bill; Position: Support.**

SB 372 (Margett) Vehicles: Size, Weight, and Load: Local Authorities: Issuance of Variance Permits. SB 372 restates existing law regarding what a local authority can charge for an oversized load permit. The League has not taken a position but reminds cities to check on the fees they charge for oversized load variance permits.

SB 372 would prohibit a local government from imposing additional charges for an oversized load variance permit if those charges are for services within the scope of the local authority's ordinary duties.

Existing law authorizes a local authority to charge a fee of up to \$16 for a daily use permit and \$90 for an annual permit if the fee is established by ordinance or resolution after notice and hearing. However, local authorities may not charge more for their permits than Caltrans charges for its permits. In addition to the permit fee, a local authority may charge for special services needed for especially large or heavy loads, including engineering investigations, escorts, and tree trimming.

According to the sponsor of the bill, some cities and counties in Southern California are charging additional fees beyond the permit fee for such things as accepting permit applications by fax or by paying the permit fee by credit card. If you have any concerns about SB 372, please contact Genevieve Morelos at gmorelos@cacities.org. **Staff: Liisa Lawson Stark; Status: SenFlr; Position: Review and Comment.**

ENVIROMENTAL

SB 1059 (Escutia) Transmission Lines. Local Land Use Preemption. SB 1059 is scheduled for hearing in the Senate Appropriations Committee on May 16. All cities are requested to send letters of opposition (unless amended) to members of the Committee.

As currently drafted, SB 1059 would authorize the state to impose upon local governments trans-

Legislative Bill Action

mission corridor zones (TCZs) in a way that would tie up the future uses of the land without adequate property owner compensation and require local governments to amend their general plans to be consistent with the Commission's designation of TCZs. While the recent amendments are a step in the right direction, the League, along with CSAC and RCRC will continue to oppose SB 1059 unless it is amended.

The League appreciates the need to have statewide assessment and planning for potential future transmission requirements, especially in areas of the state where population and load growth may occur. However, the bill falls short in providing adequate up-front collaborative planning for the amount, location and timing of growth.

Compounding this deficiency, SB 1059 fails to actually provide for comprehensive statewide transmission corridor planning. Instead, it authorizes the CEC to designate corridors "on its own motion" or "upon application of a person who plans to construct"... a corridor. The practical effect is a piecemeal, not comprehensive, approach to corridor planning, and would result in requiring cities and counties to amend the general plans whenever a corridor is designated or de-designated.

In an attempt to promote statewide transmission line planning, SB 1059 would result in local land use preemption, costly and mandatory general plan revisions for local governments, uncertainty and confusion regarding what is a compatible use or permitted project within a TCZ (thus impacting both local governments and the development community), and potential regulatory takings lawsuits filed against local governments. **Staff: Yvonne Hunter; Status: SenApps, Hrg. May 16; Position: Oppose Unless Amended.**

EMPLOYEE RELATIONS

AB 1331 (Umberg) Workers' Compensation: Apportionment: Presumptions. AB 1331 would exempt public safety employees from the application of permanent disability "apportionment and causation" provisions for presumptive injuries, which were implemented through SB 899

(Poochigian), last year's workers' compensation reform package. Under current law, permanent disability determinations are made on the basis of American Medical Association (AMA) guidelines for impairment ratings, and physicians are required to utilize apportionment and causation, which means allocating what proportion of an injury is industrial or non-industrial and what caused the disability. AB 1331 would completely reverse this provision.

SB 899 also established a cap on multiple awards so that an individual cannot receive more than 100 percent disability for any single region of the body over his or her lifetime. AB 1331 would exempt public safety employees from the 100 percent cap limit on permanent disability awards. **Staff: P. Anthony Thomas; Status: AsmApps; Position: Oppose.**

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

ASSEMBLY APPROPRIATIONS (18)—Chu (Chair), Runner (Vice Chair), Bass, Berg, Calderon, Emmerson, Gordon, Haynes, Karnette, Klehs, Leno, Nakanishi, Nation, Oropeza, Ridley-Thomas, Saldaña, Walters, and Yee. Room 2114. Phone: (916) 319-2081.

SENATE APPROPRIATIONS—(13)—Migden (Chair), Aanestad (Vice-Chair), Alquist, Ashburn, Battin, Bowen, Dutton, Escutia, Murray, Ortiz, Poochigian, Speier, and Vacancy. Staff Director: Anne Maitland. Deputy Director: Bob Franzoia. Consultants: George Cate, Miriam Barcellona Ingenito, Nora Lynn, Lisa Matocq and Maureen Ortiz. Assistant: Sally Ann Romo. Phone: (916) 445-3284. Room: 2206.

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PRIORITY

FOCUS

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

May 13, 2005
Issue #19-2005

**COUNCIL-MAN-
AGER LEADERSHIP
TEAM WORKSHOP,
MAY 18-20,
NORTH LAKE
TAHOE**

GOVERNOR'S MAY REVISE INCLUDES PARTIAL VLF GAP LOAN REPAYMENT

Gov. Schwarzenegger today released a "May Revision" budget plan that restores much-needed funding to California cities. *For more, see Page 6.*

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LEGISLATIVE ACTION DAYS WRAP-UP GOVERNOR ANNOUNCES FULL PROP 42 FUNDING

Speaking at the League of California Cities' Legislative Action Days event on May 11, Gov. Arnold Schwarzenegger announced his intention to restore full funding to Proposition 42 (Prop 42) in the May budget revise, kicking off the League's annual two-day event in grand fashion (see Governor's Statement and League Media Statement on the League's website). *For more, see Page 2.*

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DEFENSE DEPARTMENT RELEASES BRAC RECOMMENDATIONS

Secretary of Defense Donald H. Rumsfeld today announced his department's recommendations to close or realign military facilities in the United States. The department's Base Realignment and Closure (BRAC) recommendations, if adopted, would close 33 major bases and realign 29 more nationwide. *For more, see Page 5.*

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Emphasizing that a long-term commitment to infrastructure was needed, he said that the state must stop raiding money designated for transportation, and that the \$1.3 billion in Prop 42 funds he plans to return will help rebuild California's failing infrastructure.

"For years our infrastructure served us well - so well, that the state took much of the funding," Gov. Schwarzenegger explained. "I'm about to change that. We need to create infrastructure to reduce gridlock and create more jobs, and we can rebuild and reform California and bring the state back to prosperity by working together."

The governor warmly thanked the League and its members for their friendship and hard work. He was greeted with a standing ovation from League officials, who had been pushing hard for the restoration of Prop 42 money.

Focus on League Priorities: Housing, Infrastructure, Redevelopment. Held at the Sheraton Hotel in Sacramento, the League's two-day Legislative Action Days (LAD) began as League President Pat Eklund and Executive Director Chris McKenzie welcomed members to the event and spoke about the League's three priorities in 2005: housing, infrastructure, and protecting redevelopment dollars. In particular, the League's executive director focused on the importance of "funding and fixing" Prop 42, and how important it was to work in a partnership to develop more housing in California.

Also speaking was John Shirey, the executive director of the California Redevelopment Association.

"It's time to let people know what is happening in redevelopment," Shirey said. "Redevelopment provides more than 310,000 jobs annually, giving real jobs for real people, and paying real wages."

Key Legislators Address League Members. Assemblymember John Laird and Sens. Dick Ackerman and Tom Torlakson also delivered remarks. Following the governor's landmark announcement, Laird, chairman of the Assembly Budget Committee, expressed approval, but equally focused on the importance of balancing the state budget.



Governor addresses city officials at League Legislative Action Days Day on May 11.

"To the extent the governor moves towards our goals, that's pleasing," Laird said. "But we should use the surplus money to balance the entire budget. We can't go on borrowing from the future."

Senate Minority Leader Ackerman was also concerned about the state's debt.

"The budget went from \$45 billion to over \$100 billion in five years," he reminded the audience of city officials. "We need to use the excess money for debt reduction."

Sen. Torlakson, chairman of the Senate Committee on Housing and Transportation, addressed League members on the need to improve affordable housing in the state. He spoke highly of the work done by the League's housing task force and policy committee, and applauded the League's efforts in passing Proposition 1A. Housing, however, remained foremost on his mind.

"Housing is a critical challenge," Torlakson said. "How do we provide that infrastructure? It's vital for the economy, as everything is interconnected. We look forward to working with you as partners on this issue."

Continued on Page 4

STATE CAN REGULATE VEHICLE TOWS FROM PRIVATE PROPERTY

On May 9, the United States Circuit Court of Appeals for the Ninth Circuit issued its opinion in *Tillison v. City of San Diego*. The court concluded that a state statute regulating the towing of vehicles from private property was valid and could be enforced by local public entities.

The case arose when a towing business owner filed a lawsuit seeking to prevent the San Diego Police Department from enforcing Vehicle Code section 22658(l)(1). The statute provides, in part, that a towing company cannot remove a vehicle from private property without first obtaining written authorization from the property owner or lessee, or their employee or agent. Further, the owner or agent had to be present at the time the vehicle was removed. The business owner argued that the Federal Aviation Administration Authorization Act (FAAAA), which broadly preempts state and local regulation of transportation, preempted the statute.

The court disagreed, ruling that the statute was not preempted because the FAAAA specifically exempted from preemption state and local regulations concerned with safety. In addition, the court found that the statute in question was enacted to "further the safety of the general public." The court based its opinion in large part on Assembly Bill 792, which was passed in August 2003. The bill added subsection (m)(2) to section 22658 and states, in part, that subdivision (l) "promot[es] the safety of those persons involved in ordering the removal of the vehicle as well as those persons removing, towing, and storing the vehicle."

The court's decision is in line with other circuit court opinions that have addressed similar statutes and found that they are "sufficiently safety-related to come within the exception to federal preemption."

The League would like to thank Assistant San Jose City Attorney George Rios for writing a friend-of-the-court brief on behalf of the League.

BROWN ACT DOES NOT REQUIRE PUBLIC COMMENT PRIOR TO DETERMINATION TO ADD AGENDA ITEM

In *Coalition of Labor, Agriculture & Business v. County of Santa Barbara Board of Supervisors*, the Court of Appeal for the Second District held that the Brown Act does not require a local agency to allow public comment prior to or during its consideration on whether to place an item on the agenda. While the Brown Act serves to encourage public participation in government decision-making, "the Legislature has left to the public agency the task of setting its agenda without public comment."

The case arose when three county supervisors were accused of violating the Brown Act in relation to the timing of a recall election against one of them. Another supervisor made a request to place an item discussing the certification and timing of the recall election on the agenda for the board's regular meeting. However, the three supervisors blocked the item from being placed on the agenda.

At the subsequent meeting, it was proposed that the item be discussed as an ex-agenda item. While several members of the public filled out "speaker cards" to address the issue, they were not permitted to speak. The board publicly discussed whether to allow the proposed ex-agenda item, but the three supervisors voted not to allow the item to be placed on the agenda. The Coalition challenged the board's action in not allowing members of the public to address it on whether an item should be placed on the agenda.

In its decision, the court noted that there was no language in the Brown Act to support the Coalition's position. In refusing the Coalition's suggestion to consider the purpose of the Act and infer such a requirement, the court refused, stating "rewriting the Brown Act to add provisions the Legislature omitted would not advance the Legislature's purpose and would be an unwarranted intrusion of the judiciary on the legislative branch."

Legislative Bill Action LEG ACTION DAYS from page 2

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 "**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/billsearch), 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.

Legislative Action Days continued on May 12 with presentations by Lucy Dunn, director of the state's Department of Housing and Community Development, and Cindy McKim, speaking on behalf of Will Kempton from the California Department of Transportation (Caltrans).

Dunn delivered a rousing speech about three key issues affecting housing in California – increasing the state's housing supply, Proposition 46 (a \$2.1 billion dollar housing bond measure passed by the voters in November, 2002), and public awareness of the housing shortage. Dunn said that the state's population has grown by 500,000 people each year since 1950, and that housing is woefully inadequate to keep up with demand.

"We need 225,000 housing units per year to meet current growth levels," the housing and community development director explained. "We have not met that growth since 1989, and that is a significant reason why housing prices have risen."

Dunn said that her department has awarded \$1 billion of the \$2.1 billion approved by Prop 46 for housing over the past two years, emphasizing how important the bond award has been in providing housing in California. But given the state's ongoing budget crisis, Dunn doubted that the Schwarzenegger administration would approve a second housing bond once the Prop 46 funds are fully dispersed. She also expressed concern over how to finance housing construction in the future.

"The bad news is that in two years, we are out of money," Dunn explained. "What we need to do is come up with ways to have consistent financing, and we're looking at such alternatives as sales of surplus state property and casino revenues."

McKim spoke next, praising Gov. Schwarzenegger's proposal to fully fund Prop 42 transportation projects. However, she believed that those funds were only one small piece of a much larger puzzle.

"This is only the first step, as we need a reliable source of transportation funding in California,"

Continued on Page 6

HOUSING AND LAND USE

SB 968 (Torlakson) Planning. The previous version of this legislation contained intent language relative to housing issues, and served as the legislative vehicle for the League/Housing General Plan Task Force — an outgrowth of discussions initiated in the fall of 2003, between the League's leadership and the state's major homebuilders.

However, the most recent amendments to this legislation delete the previous language from the bill, and replace it with a change in reference in statute affecting local general plans from the "circulation" element to the "transportation" element. As such, the bill remains an available "spot" vehicle for potential changes to laws affecting housing planning which may emerge from the work of the task force and be approved by the appropriate League policy committees and board of directors. **Staff: Daniel Carrigg; Status: SenFlr; Position: Support.**

BRAC from page 1

No major California bases were included in the 5th Round list of bases closures. For a list of the bases that would be closed and realigned in California visit www.defenselink.mil

The BRAC Process

BRAC recommendations were developed by the military services and seven joint cross-service groups in consultation with the combatant commanders. Each recommendation was created under the procedures established in the Base Closure and Realignment Act of 1990, as amended. The BRAC analysis started with the 20-Year Force Structure Plan and the department's inventory of facilities, and then applied BRAC selection criteria that had been published early in 2004.

The department's BRAC recommendations are intended to:

- Enhance the military's ability to meet contingency surge or mobilization requirements;
- Retain those installations that have unique capabilities that would be difficult to reconstitute at other locations;
- Consolidate similar or duplicative training and support functions to improve joint war fighting;
- Transform important support functions – including logistics, medicine and research and development – by capitalizing on advances in technology and business practice.

The Next Steps

The recommendations will now be reviewed by the BRAC Commission, which will seek comments from the potentially affected communities. The Department of Defense will assist affected communities in a variety of ways, including personnel transition and job training assistance, local reuse planning grants, and streamlined property disposal.

Once the commission has completed its review, it will present its recommendations to the President. The President must then approve and submit the commission's recommendations to Congress for review and appropriate action. Those steps are expected to be completed by the end of 2005.

State to Host Seminars for Affected Communities

The Office of Military Support (OMS) and the California Council on Base Support and Retention host a California BRAC Seminar Series on May 20 to help communities develop effective responses to the Department of Defense (DOD) recommendations. The seminar will be held in the Department of General Services main floor auditorium, 707 Third Street, West Sacramento, from 8:30 a.m. – 5 p.m. Those interested in attending are requested to RSVP by close of business on Tuesday, May 17, by sending an e-mail to nmckinley@bth.ca.gov, or calling (916) 324-7522 or (916) 327-2892.

DoD has also sent out a list of questions and answers for communities where there have been bases that will be closed or realigned. For a copy of these question, please visit the Federal Priorities page on the League's website.

INTERESTED IN SERVING ON THE LEAGUE BOARD OF DIRECTORS?

The League of California Cities welcomes nominations from elected officials interested in serving on its board of directors. Five at-large positions (two-year term) are available, as is the seat for second vice president (one-year term). All nominees for second vice president must have previously served on the board of directors.

If you are interested in submitting your name (or another elected official's name) for nomination to the League board of directors, please provide the information requested on the Nomination Form, along with a bio and letter requesting consideration, to the League's Sacramento headquarters on or before end of business on Friday, July 8, 2005. Nomination materials can be found on the League's website at www.cacities.org or can be obtained by contacting League Staff Mimi Sharpe at (916) 658-8232 or by e-mail at sharpem@cacities.org.

MAY REVISE from page 1

In addition to fully funding Proposition 42 transportation funds for the FY 2005-06 budget year (\$1.3 billion), the governor proposed early repayment of \$593.4 million to cities and counties — close to half of the 2003 vehicle license fee (VLF) gap loan. (See League Statement in the press room on the League's website.)

As expected, the budget proposal includes as a state revenue source \$1.3 billion in additional ERAF shift from local governments — the second of a two year shift that was agreed to as part of last year's budget package (\$2.6 billion total).

While the additional revenue is good news for local services, the funds are by no means certain: it is now up to the Legislature to review these proposals and approve these appropriations. **City officials are urged to contact their legislators to urge them to support restoration of these funds. Additionally, city officials should contact their local media or send letters to the editor to explain why it is appropriate to restore these funds and the local services that will benefit.**

Timing on the passage of the budget is uncertain: the Legislature has repeatedly missed the required June 15 deadline for passage of the budget, causing budget debates to continue through the summer.

Summary of Key Budget Items. The governor's January budget proposed the full suspension of the FY 2005-06 Prop 42 sales tax transfer with repayment over 15 years, and was silent on the future of Prop 42 funding for FY 2007-08.

As outlined in the May Revision, revenues produced by the improving California economy, and the availability of additional one-time revenues, now permits the Administration to propose \$1.313 billion, the full amount of the Proposition 42 transfer to the Transportation Investment Fund with the following allocation, pursuant to existing law:

- **\$678 million to the Traffic Congestion Relief Fund. [For Transportation Congestion Relief Programs (TCRP)]**
- **\$254 for State Transportation Investment**

Continued on Page 7

LAD from page 4

McKim said. "It's not efficient to go from '0' to \$1.3 billion. Having reliable funding is important in order to improve Caltrans' mobility and effectiveness."

Acknowledging the many criticisms of Caltrans over the years, Kim asserted that the department's recently appointed director, Will Kempton, was determined to increase the department's effectiveness. She noted that Kempton has shaved more than \$50 million in operational costs since taking office six months ago, and will continue to look for ways to devote more of Caltrans' budget to capital projects. She also said that the new director is determined to improve Caltrans' customer service performance; she invited city officials who complained that their cities have had difficulties obtaining cooperation from Caltrans on local projects to give her their business cards for personal follow-up.

**2005 ANNUAL CONFERENCE:
OCTOBER 6-8, MOSCONE
CONVENTION CENTER,
SAN FRANCISCO**

Plan now to attend the 2005 Annual Conference this fall - the first time it has been in San Francisco since 1997. Suggestions for topics to include on the agenda are welcome by February 28; send them to education@cacities.org.

The conference announcement will be out by early June, and the League's reduced rate housing block at six nearby hotels will open June 1 on the League website (Reservations made before then will not be in the block or get the discounted room rate).

MAY REVISE from page 6

Program (STIP) projects.

- \$254 million to cities and counties for local streets and roads. (\$127 million to cities, \$127 million to counties)
- \$127 million to the Public Transportation Account (PTA).

While this is significant for transportation, continued efforts to secure this funding in the final adopted budget are important. Although the May Revision proposes one-time revenues to fully fund Prop 42, a permanent fix to protect these funds is critical. Cities are encouraged to remain vigilant in their advocacy efforts to secure money for transportation.

To find out how much your city would receive under the local streets and road allocation, go to www.californiacityfinance.com.

VLF Gap Loan. In the FY 2003-04 budget year, cities and counties did not receive VLF backfill payments for a period of time early in the year while the VLF "trigger" was pulled, and before the new Schwarzenegger administration reversed that decision. This became what is now referred to as the VLF gap loan that is required, by statute, to be repaid on August 15, 2006. The governor's decision to propose paying half of this obligation early gives locals a strong influx of immediate funds to allocate on a discretionary basis, according to local priorities that have been stalled or deferred by lack of revenue during recent years.

To find out how much your city would get back under the VLF gap loan repayment, go to www.californiacityfinance.com. Look at the far right-hand column (reflecting the total amount owed overall), **and divide that figure by two.**

POBAR. The May revise also reversed the earlier deferral of payments for the Police Officers Procedural Bill of Rights (POBAR) mandate and funds it at \$18.1 million. It proposes to increase federal authority by \$5 million to provide grants to metropolitan planning organizations to produce regional "blueprint" planning documents.

The new state revenues have also allowed the administration to eliminate the borrowing that was

part of the January budget proposal. They eliminated the need to borrow \$1.3 billion in Prop 42 funds, and also helped the state roll back their January proposal to sell an additional \$1.7 billion in economic recovery bonds, thereby reserving that capacity for future years.

Conclusion: The governor's May Revise proposal contains important funding for cities, but we need to work to see that the Legislature also supports the proposal. *It's critical that you contact your legislators and the media to urge support for these appropriations.*

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 plus shipping and handling. 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.