

FOCUS

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

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BUDGET UPDATE: JUNE 15 DEADLINE PASSES, BUT AGREEMENT MAY BE NEAR

The June 15 constitutional deadline to pass a state budget has passed. However, both houses of the Legislature remain "on call" in case a negotiated package is ready to be voted on. It appears that there is agreement on most parts of the budget, with the exception of debt repayments, booking fees and health insurance for children. *For more, see Page 4.*



AB 2987 HEARING RESCHEDULED

The hearing of the Senate Committee on Energy, Utilities and Commerce on the cable video franchise bill (AB 2987 - Núñez/Levine) has been rescheduled, from Tuesday, June 20 to Tuesday, June 27. *For more, see Page 6.*



LEAGUE ANNOUNCES SUPPORT FOR AB 802 (WOLK) – FLOOD PLANNING BILL

After months of intensive collaboration between representatives from local government organizations and Assemblymember Lois Wolk's office, the League of California Cities officially took a support position on AB 802. *For more, see Page 5.*

WANT MORE DETAILS ON BILLS?

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

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FLEX YOUR POWER: GOVERNOR TO PRESENT CALIFORNIA'S SUMMER ENERGY OUTLOOK ON JUNE 30

On Friday, June 30, Gov. Arnold Schwarzenegger and other California leaders in energy efficiency, will hold a presentation on the state's energy outlook for this summer.

To be held from 8:30 a.m. to 12:30 p.m. at the Los Angeles Airport (LAX) Marriot, the event will also showcase Flex Your Power award winners' successful energy-saving strategies and describe the programs, rebates and services that Californians can take advantage of this year. For a full agenda, registration and travel information, please visit www.fypower.org/register/june30/.

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MAYORS AND COUNCIL MEMBERS ACADEMY – REGISTER NOW!

Less than three weeks remain to register online for the Mayors and Council Members Academy Executive Forum and Advanced Leadership Workshops. Registrants will receive a \$20 coupon for CityBooks by registering online by July 3.

Join your colleagues at the Monterey Conference Center on July 26-29, and explore the latest issues of interest in cities throughout California. The Executive Forum features keynote speaker Joseph Grenny, president of "VitalSmarts" and co-author of "Crucial Confrontations" and "Crucial Conversations" – both *New York Times* bestsellers. Enjoy beautiful Monterey in the summer and the excellent cuisine as you get reacquainted with old friends and make some new ones.

The full conference registration fee is \$445. Please visit www.cacities.org/events to register and view the programs.

FLOOD LIABILITY ISSUE RESURFACES IN AB 1528

Confirming the old legislative mantra that "a bill is never really dead," AB 3050 (Jones) has morphed into AB 1528 (Jones) and miraculously jumped over to the Senate.

AB 3050 failed passage in the Assembly several weeks ago. The League opposed the measure, which would have required that cities and counties that approve development in greenfields share the state's liability for flood damage lawsuits. AB 1528, a bill in the Senate, is a "gut and amend" measure which is now virtually identical to AB 3050.

The League continues to oppose measures that shift liability to cities for flood damages, simply because the city approves development. The League believes that if the city approves the development in a manner consistent with state and federal law, then it should not be required to share the state's liability.

In addition, AB 1528 represents a breach of the legislative process. While "gut and amend" bills are commonplace, this particular gut and amend is more glaring since the measure it now reflects failed passage (a polite phrase for "was defeated") in the Assembly.

Recalling what we said a few weeks ago, when reporting on the failure of AB 3050, the bill may be dead, but the issue remains alive. AB 1528 had been referred to the Senate Judiciary Committee to be heard on June 27. After complaints by local government representatives, however, it was pulled back into the Senate Rules Committee. The process of the House, at least in this instance, remains intact.

Cities are encouraged to write the author and members of the committee and express their opposition, both on policy and process grounds.

FEDERAL TELECOM UPDATE

As reported last week in *Priority Focus*, the U.S. House of Representatives passed its own version of telecom reform (H.R. 5252), rejecting critical amendments on build-out and local control of rights-of-way that were sought by local agencies. The debate has now moved to the Senate, which will conduct a mark up of Sen. Ted Stevens' (R-Alaska) draft legislation—the Communications, Consumer's Choice, and Broadband Deployment Act of 2006 (S. 2686), next week. Sen. Stevens chairs the Senate Commerce, Science and Transportation Committee, which will undertake the mark up.

This measure is much-improved over H.R. 5252. The League is working with the National League of Cities (NLC), California State Association of Counties (CSAC) and other national organizations on this measure. NLC reported the following on their website:

During the prior Senate Committee hearing local governments responded to the first draft of S.2686 and raised several major areas of concern, along with numerous other matters of general concern. Subsequently, the staff from both the majority and minority offices have been generous with their time in allowing local governments to express their concerns and offer suggestions to the earlier draft. This new draft reflects a good faith effort by staff to respond to many of local governments' concerns, and we appreciate the work Committee Staff has put into making improvements to the draft. There are a number of areas that are still in flux, and we will continue to work towards an outcome that addresses our concerns – to speed deployment of competitive video and broadband services to all of our communities while continuing to protect consumers and to keep local government whole and able to continue the level of services provided today.

Thank Senators Boxer and Feinstein

Both California Senators Barbara Boxer and Dianne Feinstein have been strong voices for local government concerns with federal franchising of video and telecommunications services. Sen.

Boxer is on the Senate Commerce, Science and Transportation Committee. She has consistently argued for amendments sought by the local government associations.

Sen. Feinstein, though not a member of the committee, has also expressed her strong support for local government concerns.

Thank both these senators for their support!

THE 2006 CITY HALL DIRECTORY IS NOW AVAILABLE!

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.

INFORMATION YOU NEED, RIGHT AT YOUR FINGERTIPS!

Purchase this publication online at www.cacities.org/store or call (916) 658-8257 for an order form. City officials price \$30, non-city officials price \$65, plus shipping & handling.

BUDGET UPDATE from page 1

Budget Discussions Continue

It is uncertain when a budget package will be ready for a vote, but discussions have elevated to the Big 5 (the Governor, Senate President Pro Tem Don Perata, Senate Minority Leader Dick Ackerman, Assembly Speaker Fabian Nunez, and Assembly Minority Leader George Plescia), indicating that final details are being negotiated.

Issues at Odds

Debt Repayment. Democrats want to put \$1 billion of the state's windfall into a reserve fund to decide how to spend it at a later time. Republicans would like to see the \$1 billion used to pay down debt as Gov. Arnold Schwarzenegger has proposed.

Booking Fees. Discussions regarding the Governor's proposal on booking fees are underway with legislative leadership to include the proposed solution as part of the budget package. The Governor's proposal continuously appropriates \$40 million from the state budget to offset fees most counties currently charge cities for booking suspects in to county jails.

The proposal represents a historic collaboration between city police chiefs and county sheriffs to address the booking fee issue and offer a solution to this ongoing debate. Visit www.cacities.org/revandtax for additional details on the booking fee proposal.

At the time of this writing, the League was aware of a proposal to possibly include \$40 million for this budget year only to reimburse cities that pay booking fees. This would enable negotiations to continue on the Governor's proposal for a long-term solution without holding up the budget.

Health Insurance for Children. Republicans are objecting to efforts to expand health insurance coverage to all California children, including undocumented immigrants. (Note: Gov. Schwarzenegger has weighed in support of funding health insurance for all California children,

including undocumented immigrants, although he believes that the state cannot afford to do this today.)

Proposition 42 Repayment and Spillover Revenues

On Saturday, June 10, the Budget Conference Committee met to act on open budget items, including Prop. 42 repayment and allocation of "spillover" revenues.

In a compromise between Senate and Assembly proposals, the conference committee voted 4-2 (Republicans voting no) to fund Prop. 42 repayment at \$660 million, with full funding for repayment to local streets and roads. The compromise represents a halfway point between the Senate's proposal of \$460 million and the Assembly's proposal of \$920 million. The \$660 million is allocated as follows:

- \$245 million for the State Transportation Improvement Plan
- \$245 for local streets and roads \$122 million to the Public Transit Account
- \$48 million to the Traffic Congestion Relief Program (this is a reduction over the governor's proposal, but these projects will receive a large portion [\$678 million] from the regular Prop. 42 FY 2006-07 allocation—enough the Legislature believes, to keep these projects moving without delay.)

The conference committee also acted on the spillover revenues (see www.cacities.org/revandtax for information on spillover funds) rejecting the Governor's proposal to direct spillover to the debt service on the transportation bond and allocated the \$343 million as follows:

- \$20 million for farmworker transportation
- \$13 million for high speed rail
- \$248 million for the State Transit Account (for transit operating expenses)
- \$62 million for the Public Transit Account (for transit capital projects)

AB 802 from page 1

AB 802 would require cities and counties to amend their general plans to better address flood planning and prevention policies. Among the provisions, it would:

- Require the land use element of the general plan to identify areas that are subject to flooding as identified by floodplain mapping prepared by the Federal Emergency Management Agency (FEMA) or the Department of Water Resources (DWR).
- Upon the next revision of the housing element on or after January 1, 2008, include several options from the General Plan Guidelines that address flood issues in the safety element which are currently optional and makes them mandatory. These items were selected because they are considered to be the type of basic topics that safety elements should address. They include the following:
 - Identify flood hazard zones and establish policies to avoid or minimize flood risk for new developments using information existing from state, federal or other sources.
 - Identify essential infrastructure that may be impacted by flooding and develop policies for infrastructure integrity during flood emergencies to ensure rapid restoration, if necessary.
 - Establish policies that locate new essential disaster response facilities such as hospitals, shelters and emergency response entities out of flood hazard zones.
- Require that when a city or county receives its Regional Housing Needs Assessment (RHNA) number from the Council of Governments or the California Department of Housing and Community Development (HCD), that the factors used to determine the RHNA number include consideration of flood risk on land available

for housing and/or the cost of housing.

- Provide fee authority for cities and counties to recover the cost of amending their general plans to comply with the bill's requirements.
- Cities and counties that have (FEMA)-approved Floodplain Management Ordinances that substantially comply with the requirements of AB 802, or have substantially equivalent provisions to their general plans may use that information to comply with AB 802.

The League believes that AB 802 reflects good planning and represents the basic elements that all general plans should include to plan properly if the city is in a flood hazard zone. It is our understanding that many cities already address all or part of the requirements in AB 802.

The League thanks Assemblymember Wolk and her staff for their willingness to work closely with us so that the League could support the bill. AB 802 will be heard in the Senate Local Government Committee on June 21.

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.

AB 2987 HEARING from page 1

The rescheduling provides more time for the legislative staff and members to work on sorting through the various issues and concerns that have been raised with the telephone-company backed measure, including those put forward by the League and local agencies and other groups.

The League is continuing to build the **Telecommunications Equality Coalition (TEC)** - an organization calling for amendments to the bill that would address issues such as red-lining of services, lack of consumer protections, funding for public, education and government ("PEG") stations, local control of public rights-of-way, funding of franchise fees and other concerns. Plans for joint lobbying efforts and media outreach are underway.

Additional issues with the bill are coming to light, as its provisions are more carefully examined. This week, the League's legal counsel issued an analysis that concluded that the provisions calling for a state-issued franchise, with fees remitted to local agencies, presents two significant problems for local governments: the state franchise fee is actually a local tax which will require voter approval; and the definitions in the bill mean that local governments will not be made whole by the bill.

Let's Not Repeat Mistakes of Energy Deregulation!

The analysis provides yet one more reason for the Senate to do what the Assembly did not do: take the time to understand this proposal, and amend it to address the many issues that the League and others are raising.

Like the electric energy deregulation fiasco of ten years ago, AB 2987 has enormous consequences for the state. That poorly designed legislation led to rate increases, electric energy shortages and rotating black-outs that hurt consumers and the California economy. Telecommunications services – video and broadband – are hugely important to Californians. Competition

among providers would benefit consumers – but only if the competition is fair to all Californians – not just advantaging the well-to-do. Legislators must take the time to do this right.

City Officials: Get Involved!

Cities should do the following to help deliver these messages:

- Write or call your legislators to tell them of your concerns with AB 2987. (Visit the League's Advocacy Center at www.cacities.org/advocacycenter for a sample letter or talking points.)
- Write a letter to your local paper about your concerns. (Again, check the Advocacy Center for a sample.)
- **Join the Telecommunications Equality Coalition (TEC)!** (Get a copy of the sign-up form from the League's website: www.cacities.org/ab2987. Fax it back to Robb Korinke at the League: (916) 658-8240.
- Contact your League regional representative to find out about more advocacy activities.

FIND A BILL, LEGISLATORS, LEG COMMITTEE - OR ASK LEG STAFF

Visit (and bookmark!) the League's Legislative Resources page (www.cacities.org/legresources). You'll find a roster and contact information for the League's legislative staff; the online Bill Search program, background materials on lobbying your legislators, and more.

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.

PUBLIC SAFETY

AB 1873 (Torrico). Child Protection. Safe Surrender. AB 1873 will allow a local fire agency, upon approval of the appropriate governing board, to designate safe-surrender sites for accepting physical custody of a minor child 30 days old or younger. City fire departments have an established history of operating safe-surrender sites in coordination with the county.

Allowing local fire agencies to designate safe-surrender sites will likely expand the program based on circumstances and conditions specific to the community. Fire agencies provide integral public safety services, even to the youngest members of our communities. It is imperative they, too, have the authority to designate safe surrender locations to protect the most innocent members of our society. **Staff:** Liisa Lawson Stark; **Status:** SenJud, 6/20; **Position:** Support.

AB 2174 (Villines) Criminal Procedure. Defendant's Appearance. AB 2174 will require a defendant to be present in court at the time of sentencing in misdemeanor cases involving driving under the influence (DUI). Drunk driving is a major public safety issue, and it accounts for nearly 20 percent of all traffic fatalities. While the League generally does not take positions on legislation relating to court proceedings, we believe AB 2174 is an overall good public safety measure that will better protect the health and safety of our citizens. **Staff:** Liisa Lawson Stark; **Status:** SenPubSafe, 6/20; **Position:** None (Support in Concept).

AB 2672 (Oropeza). Alcoholic Beverages. Licenses. Local Government Review. AB 2672 will increase the extension period for local government review of liquor license transfers from 20 to 30 days. Further, this bill will extend the list of local government departments that may request a liquor license review extension.

The League supports methods to allow additional involvement by local government agencies in the application process of liquor licenses. AB 2672 will allow individual communities to effectively review and manage any pertinent public safety and economic issues related to the retail sale of alcoholic beverages. **Staff:** Liisa Lawson Stark; **Status:** SenGO, 6/27; **Position:** Support.

SB 148 (Scott). Alcoholic Beverages. Licensing Restrictions. SB 148 authorizes a city or county to amortize, terminate or impose conditions on liquor stores not currently subject to local regulation. Under current law, cities or counties can only enforce zoning ordinances that were present when a licensee obtained a license for alcohol sales and does not give cities the ability to change the law and enforce it. SB 148 requires retail liquor sales licensees issued a Type 20 or Type 21 off-sale retail license, to comply with zoning regulations which a city or county adopts after a licensee obtains a liquor license.

SB 148 would assist cities and counties throughout California in addressing repeated public safety problems often associated with nuisance liquor stores such as vandalism, litter-

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Legislative Bill Action

ing, loitering, graffiti, excessive loud noises, public drunkenness and lewd conduct.

If SB 148 would help your city address issues associated with problem liquor establishments, please send a letter to Sen. Jack Scott supporting this legislation. Sen. Scott's fax number is: (916) 324-7543. **Staff:** Liisa Lawson Stark, **Status:** AsmGO, 6/21; **Position:** Support.

TRANSPORTATION

AB 2295 (Arambula). Transportation Capital Improvement Projects. AB 2295 clarifies existing law regarding the eligibility of local road projects for funding through the State Transportation Improvement Program (STIP). Specifically, the bill amends the Streets and Highways Code Section 164 to include "local road rehabilitation" among the list of eligible types of projects that may receive STIP funding subject to regional discretion pursuant to current law. **Staff:** Liisa Lawson Stark; **Status:** SenT&H, 6/20; **Position:** Support.

AB 2210 (Goldberg). Tow Trucks. Regulating. AB 2210 strengthens regulations on vehicle towing and protects consumers. In addition, this bill affirms the authority that local policy leaders have regarding the licensing and regulation of tow truck companies.

The League supports the best possible use of local resources in an efficient and effective manner. A safe and speedy towing and vehicle recovery process that is regulated at the local level can reduce the wasteful use of local law enforcement's limited resources while ensuring the safety of citizens. **Staff:** Liisa Lawson Stark; **Status:** SenT&H, 6/20; **Position:** Support.

For legislators' phone numbers, addresses and e-mail please see the League's website (www.cacities.org/legtracking).

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

SENATE GOVERNMENTAL ORGANIZATION—(9)—Florez (Chair), Denham (Vice-Chair), Battin, Chesbro, Margett, McClintock, Romero, Soto and Vincent. Consultants: Steve Hardy and Arthur Terzakis. Assistant: Brenda K. Heiser. Phone: (916) 651-1530. 1020 N Street, Suite 584.

SENATE JUDICIARY—(5)—Dunn (Chair), Morrow (Vice-Chair), Ackerman, Escutia and Kuehl. Chief Counsel: Gene Wong. Deputy Chief Counsel: Gloria Megino Ochoa. Counsels: Alexandra Montgomery, Amanda Taylor and Benjamin Palmer. Assistants: Carol Thomas and Roseanne Moreno. Phone (916) 651-4113. Room 2187.

SENATE PUBLIC SAFETY—(6)—Migden (Chair), Poochigian (Vice-Chair), Cedillo, Margett, Perata, and Romero. Chief Counsel: Alison Anderson. Counsels: Mary Kennedy, Jerome McGuire and Steven Meinrath. Assistants: Barbara Reynolds and Mona Cano. Phone: (916) 651-4118. Room 2031.

SENATE TRANSPORTATION AND HOUSING—(13)—Lowenthal (Chair), McClintock (Vice-Chair), Ashburn, Cedillo, Ducheny, Dutton, Kehoe, Machado, Margett, Runner, Simitian, Soto and Torlakson. Chief Consultant: Carrie Cornwell. Consultants: Art Bauer, Mark Stivers and Jennifer Gress. Assistants: Tracey Hurd-Parker and Mark Teemer. Phone: (916) 651-4121. Room 2209.

ASSEMBLY GOVERNMENTAL ORGANIZATION—(15)—J. Horton (Chair), Plescia (Vice Chair), Aghazarian, Bermúdez, Calderon, Chavez, Coto, Garcia, La Suer, Levine, Liu, Mountjoy, Negrete McLeod, Torrico, and Yee. Chief Consultant: Chris Lindstrom. Consultant: Eric Johnson. Secretary: Lorreen Pryor. Phone: (916) 319-2531. 1020 N Street, Room 156.