

**News & Advocacy****Calm Before the Storm****Calendar of Events****Ask CSAC's Legislative Advocates****Legislative Tracking****PDF Version****Administration of Justice****Agriculture and Natural Resources****Employee Relations****Government Finance and Operations****Housing, Land Use and Transportation****Washington, D.C., Report**

June 06, 2008

**Calm Before the Storm**

By Paul McIntosh, Executive Director

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Sacramento was eerily quiet this week as the election held on June 3 diverted the Capitol's attention. Last week, the Assembly Budget Subcommittees completed their review of budget issues. The full Senate Budget Committee adjourned yesterday by closing out corrections-related items. With both the Senate and Assembly concluding their respective budget processes, the two-house Conference Committee will begin its deliberations to reconcile the differences between their respective versions of the budget next week. To date, the conferees have not been announced.

The Conference Committee will have an extremely long list of items to discuss. The scorecard for determining what issues are in conference is quite complicated. For example, if the Senate and Assembly took similar actions — such as rejecting the 10% cut to Adult Protective Services — then the item does not go on the Conference Agenda. However, there are instances that are not as cut and dry.

The Governor had proposed three different reductions to county payments for administering the Medi-Cal program. The Senate approved one of them, while the Assembly approved two reductions in funding. The Senate also adopted language to suspend county performance penalties for Medi-Cal administration, but the Assembly did not, so both funding differences and language issues will be in conference. The houses took different actions on the bulk of CalWORKs budget items, which will mean the Conference Committee will be deliberating on CalWORKs budget and policy issues.

On the public safety side, there are stark differences between the houses' approaches to funding for local public safety programs. Further, the Senate adopted a comprehensive package of corrections reforms yesterday tied chiefly to state prison and parole population management. Given that the Assembly has not considered those options, a broad range of public safety issues will be before the conferees for further deliberation.

CSAC will inform counties once the Conference Committee agenda becomes available and, as discussions move forward, will report on actions taken by the conferees.

In other budget news, Assembly Speaker Karen Bass yesterday outlined the Assembly Democrats' budget plan to the Sacramento Press Club. The plan includes adopting a modified version of the Governor's lottery proposal. Funds from the lottery securitization will be placed in a new "Debt Retirement Fund," much of which will be used to pay down the debt. These debt payments include economic recovery bonds, transportation loans, education loans, local government mandates, and general obligation debt.

The Assembly Democrats' plan rejects the Governor's call for a budget stabilization constitutional amendment. In addition, the Speaker called for closing tax loopholes, particularly for corporations and wealthy Californians. Speaker Bass concluded, "That's where the discussion will start, and I look forward to more of the productive discussions I've had during the past few weeks."

In addition to budget work, both houses will reconvene on Monday as policy committees will meet to review bills from the second house. The Legislature has until June 27 to hear all bills in policy committee.

So much for a lull in the action.

June06,2008

## CalendarofEvents

Don't miss these [upcoming events](#).

June06,2008

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## AdministrationofJustice

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### 2008-09 Budget Update

The Senate Budget and Fiscal Review Subcommittee No. 4 met on June 4 to wrap up its May Revision hearings. The subcommittee took up a number of issues related to the staffing and infrastructure of the 33-prison system; those issues and outcomes are summarized [here](#).

On June 5, the full Senate budget committee met to consider a newly unveiled package of corrections proposals, which are described more fully below. In addition, the committee formally rejected the Governor's summary parole program. It should be noted that the Legislative Analyst's Office (LAO) parole realignment proposal was not discussed and appears not to be moving forward as a viable option. Also recall, that the Governor withdrew his early release proposal in the May Revision.

On a split 8 to 4 vote, the committee adopted a four key correction reform measures, aimed at reducing both the prison and parole population. The proposals, taken together, would generate an estimated state savings of \$514 million.

Parole reform (\$248.7 million in estimated savings)	<ul style="list-style-type: none"> <li>• Authorize direct discharge — the functional equivalent of summary parole, in that the offender receives no supervision — for non-serious, non-violent offenders. (Sex offenders would be ineligible.);</li> <li>• Authorize earned discharge from parole; non-serious, non-violent offenders would be discharged after 5 months of clean time. Serious, violent offenders would be discharged after 16 months of clean time. (Sex offenders and inmates serving indeterminate life in prison sentences would be ineligible.);</li> <li>• Increase funding to parole to reduce caseloads from 70:1 to 50:1.</li> <li>• Assume savings (\$38.3 million) given the</li> </ul>
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	<p>reduced need for contract jail beds;</p> <ul style="list-style-type: none"> <li>Assume savings associated with various parole administrative functions – e.g., Board of Parole hearings, case records, and parole academy;</li> <li>Establish a 10-court pilot program to divert parolees to alternative community sanctions, modeled on the Parole Violation Intermediate Sanctions Program (SB 391, Ducheny, 2007).</li> </ul>
<p>Discharge of infirmed inmates</p> <p>(\$15 million in estimated savings)</p>	<ul style="list-style-type: none"> <li>Implement current law permitting early release of infirmed inmates; discharge could be accompanied by parole conditions or GPS monitoring. (Sex offenders would be excluded.)</li> </ul>
<p>Credit Reform</p> <p>(\$150 million in estimated savings)</p>	<ul style="list-style-type: none"> <li>Implement a comprehensive day-for-day credit earning status for offenders currently eligible for credit earning;</li> <li>Authorize enhanced credits (up to 4 months total) to offenders who complete rehabilitation, educational, or vocational programs in prison;</li> <li>Authorize the award of one month credit for every four months of good behavior in state prison.</li> </ul>
<p>Thresholds for property crimes</p> <p>(\$100 million in estimate savings)</p>	<ul style="list-style-type: none"> <li>Adjust the value thresholds for certain property crimes — grand theft, forgery/fraud; receiving stolen property; other property crimes — by inflation; these levels have not been adjusted in 26 years.</li> </ul>

The Senate action sets the stage for ongoing corrections budget discussions; because the items above have not been considered or acted on by the Assembly, they will go before the Budget Conference Committee for review, deliberation and, ultimately, resolution. At this time, the proposals are conceptually described (see pages 6-8 in [Attachment A](#) to the Senate budget committee’s June 5 agenda), but no specific language has yet been developed. Although certainly these proposals will have a local impact, it is unclear what assumptions were used to develop costs and/or savings estimates. CSAC staff will be working to gather additional information on the specifics of these proposals.

For the status of local public safety subvention budget items, please refer to last week’s Bulletin. Those issues are in conference as well.

**Three-Judge Panel Proceedings: *Coleman* and *Plata* Matters  
Federal Court Releases Draft Settlement Agreement**

As counties are aware, two federal class action suits — in *Coleman* regarding mental health issues and *Plata* regarding medical treatment issues — are before a three-judge panel for purposes of determining whether prison overcrowding is the primary cause for the unconstitutional level of care in state detention facilities. Under the provisions of the Prison Litigation Reform Act, the panel has within its powers to order an early prison release or impose a state prison population cap.

Earlier this week, the court made public two documents relating to efforts underway to arrive at a negotiated settlement to prevent the matter from going to trial. These discussions have included the plaintiffs, defendants, and five intervening parties — a group of counties, a coalition of local law enforcement officials, a group of district attorneys, a group of Republican legislators, and the correctional officers’ statewide association. Over the last several months, these groups have been working to develop a proposal that would offer the state meaningful population-reducing strategies.

Key elements of the negotiated settlement discussions include the following:

- Alternative sanctions for parolees who, through the use of a validated risk tool, have been identified as low-risk and who have committed a lower-level offense;
- Diversion of lower-level, low-risk offenders to local level programming in lieu of a short stay in prison;
- Use of a risk assessment tool currently being validated for California;
- Development of incentive-based credit earning program for prison inmates based on good behavior or completion of certain rehabilitation or educational programs.

As noted in the court’s documents, the proposal seeks to meet four principal objectives:

- Ensure that constitutional violations resulting from the overcrowded conditions are cured;
- Ensure that the most dangerous criminals remain detained and that public safety is not at risk;
- Support rehabilitative programs proved to reduce recidivism and address the churning of prisoners in and out of incarceration; and
- Arrive at a long-term solution that “draws upon the economies of scale and special aptitudes of each of the pertinent constituencies.”

A core component of the agreement relates to a mechanism to identify an optimum population level within the state prison system, monitor compliance with targeted population reductions over a three-year period, and appropriate tools to ensure compliance. The court referee initially identified 132,500 as the population target, which is equal to 156% of the system’s design capacity. However, the appropriate population level continues to be discussed, and a more detailed analysis of the capacity of each of the 33 state prisons will be performed. The agreement would also establish a 15-member Prison Population Advisory — with county, sheriff, probation chief, district attorney, public defender, city, court, representatives, among others — to ensure compliance with population levels.

At a May 30 conference before the three-judge panel, the parties indicated that progress was being made on settlement talks, but that no agreement had been reached. The court granted the parties 30 additional days — until June 27 — to continue deliberations. On Monday, June 2, the court released both the [draft settlement agreement](#) and a [status report](#) from the court’s referee to allow other parties to evaluate and offer input in to the proposed framework. CSAC’s analysis of the settlement agreement is underway, and we will be determining next steps and an appropriate response with the court’s timeframes in mind.

We understand that the settlement agreement is very much a work in progress; several of the elements — such as specified timeframes for concluding certain activities — do not stand, given the extension to settlement negotiations granted last week. Further, if a settlement is arrived at, the imposition of the agreement and entry of a consent order is conditioned upon enactment of a statutory framework reflecting the terms of the agreement. Notably, the agreement in its present form calls for determination of an appropriate amount of funding “necessary to implement the local government programs” outlined in the agreement and an appropriation therefor. CSAC’s analysis of the settlement agreement is underway, and we will be determining next steps and an appropriate response with the court’s timeframes in mind.

**Authority to Regulate Businesses and Professions  
 AB 2427 (Eng) – Oppose  
 As Introduced on February 21, 2008**

AB 2427, by Assembly Member Mike Eng, would amend Section 460 of the Business Professions Code that, under current law, imposes certain restrictions on local agencies’ authority to limit businesses and occupations that are licensed through the Department of Consumer Affairs (DCA). This measure would further ban cities and counties from prohibiting a person or “group of persons” who are licensed through the DCA “from engaging in any act or series of acts that fall within the statutory or regulatory definition of that business, occupation, or profession.”

As detailed in previous Bulletins, CSAC is concerned that this measure, as drafted, would inappropriately and very broadly preempt the enforcement of local police powers. While we respect the authority of the Department of Consumer Affairs to confer licenses on individuals deemed fit and qualified to engage in certain professions and occupations, we do not believe the authority to determine fitness and qualifications through a licensing process should be unassailable. Counties regard the authority and responsibility to regulate the operation of business and professions, where appropriate to address local concerns, as necessary functions of local government.

AB 2427 passed the Senate Local Government Committee this week, despite a favorable committee analysis that indicated that the measure is overly broad and despite ongoing opposition by CSAC, the League of Cities, and other interest groups. AB 2427 is scheduled for hearing in the Senate Business, Professions and Economic Development Committee on June 23. Counties with a concern about the precedent that would be set by this measure are encouraged to weigh in with opposition.

June06,2008

**AgricultureandNaturalResources**

For more information, contact Karen Keene at 916/327-7500, ext. 511, or e-mail [kkeene@counties.org](mailto:kkeene@counties.org) or Cara Martinson at 915/327-7500, ext. 504, or email [cmartinson@counties.org](mailto:cmartinson@counties.org).

**Solid Waste**  
**AB 2640 (Huffman) – Oppose**  
**As on Amended May 23, 2008**

AB 2640, by Assembly Member Jared Huffman, would require the California Integrated Waste Management Board (CIWMB) to develop a compostable organics management program and a grant and loan program for organics management projects. This bill also establishes a per ton fee in the same amount as the total amount of the state's solid waste tipping fee (currently \$1.40 per ton) on organics used for alternative daily cover (ADC) in the operations of a solid waste facility. Additionally, AB 2640 requires the CIWMB to consider organics diversion efforts when determining whether or not a jurisdiction has made a "good faith effort" for purposes of enforcement. AB 2640 passed out of the Assembly and will go to the Senate.

CSAC, along with RCRC, is opposed to AB 2640 primarily because of the component that applies the \$1.40 per ton state disposal fee on green waste used as ADC. CSAC strongly believes that levying a fee on material that is being beneficially reused sets a bad precedent. Green waste is not the only material that is reused as daily cover or used for other engineered applications and we question why green waste would be subject to the disposal fee when other materials used for the same purpose are not. This has not yet been set for hearing in the Senate. CSAC requests that counties contact their respective legislative delegation to express opposition to this bill.

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**Fire Safety**  
**SB 1617 (Kehoe) – Oppose**  
**As Amended on May 27, 2008**

SB 1617, by Senator Christine Kehoe, would establish a plan to impose a \$50 fee on properties located within State Responsibility Areas (SRA), in order to fund fire protection and fire prevention activities. CSAC, along with RCRC, is opposed to the bill because the SRA fees are inequitable upon rural residents, create a new administrative burden, and would create the effect of double taxation without additional benefit for some land owners that already reside in a fire protection district. This bill has been referred to the Assembly Natural Resources Committee and the Assembly Local Government Committee.

**AB 1883 (Keene) – Support**  
**As Amended on April 10, 2008**

AB 1883, by Assembly Member Rick Keene, would expand the Department of Forestry and Protection's (CAL Fire) ability to enter into contracts with nonprofit organizations for the purpose of performing local fire prevention and control work. Specifically, this bill would allow Cal Fire to contract with qualified nonprofit organizations, primarily Fire Safe Councils, for the use of conservation camp inmates and wards to perform local fire prevention and control work. AB 1883 will be heard in the Senate Natural Resources Committee on June 10.

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**Energy**  
**SB 1645 (Wiggins) – Support**  
**As Amended on April 23, 2008**

SB 1645, by Senator Patricia Wiggins, would require the State Energy Resources Conservation and Development Commission, in partnership with the Office of Planning and Research (OPR), to update the Energy Aware Planning Guide to include model general plan elements to help local governments address climate change and energy issues. The bill states that this shall be done in a manner that enables OPR to further address energy and climate change issues in the general plan guidelines pursuant to SB 97 (Chapter 185, 2007). SB 1645 will be heard in the Assembly Natural Resources Committee on June 9.

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**Planning**  
**AB 704 (Eng) – Opposed**  
**As Amended on April 19, 2008**

AB 704, by Assembly Member Mike Eng, would authorize cities and counties to establish a Resident Advisory Commission on the Environment that would be charged with advising the legislative body on various matters related to the environment. CSAC is opposed to this measure for several reasons. First, we see no need for such a commission given the existing local government decision-making process, which provides ample opportunity for citizens to engage in local land use decisions and policies that affect the environment. Second, we share the concerns expressed in the Assembly Floor Analysis dated

April 19, 2007, regarding the provision in AB 704 that would require a local agency to "consider" the recommendations of a commission when it prepares, amends, or updates the conservation element of a General Plan. We believe that the vagueness of this requirement, "... has the potential of creating additional legal vulnerability for any city or county that either already has a Commission or that wishes to create one." This bill will be heard in the Senate Local Government Committee on June 18.

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## **Meeting Announcements**

### **Department of Water Resources—Flood Safe Meeting**

The Department of Water Resources (DWR) is pleased to announce a series of Flood SAFE Program stakeholder briefings beginning in June 2008.

During these briefings, DWR will:

introduce the draft Flood SAFE Strategic Plan and invite public comment;  
describe recent Flood SAFE Program accomplishments and upcoming activities; and  
provide information about the Federal Flood Control Subventions Program, including current status of regulations development process.

FloodSAFE Stakeholder Briefing Series:

- Sacramento, Monday, June 9, 2008
- Clovis, Thursday, June 19, 2008
- Chico, Wednesday, June 25, 2008
- Stockton, Thursday, June 26, 2008
- San Jose, Friday, June 27, 2008
- San Diego, Thursday, July 10, 2008
- Rancho Cucamonga, Friday, July 11, 2008
- Ventura, Monday, July 21, 2008

For additional information, including agenda and meeting location addresses, please visit the Flood SAFE Web site at [www.water.ca.gov/floodsafe](http://www.water.ca.gov/floodsafe).

June06,2008

## **Employee Relations**

For more information, contact Eraina Ortega at 916/327-7500, ext. 521 or [eortega@counties.org](mailto:eortega@counties.org), or Faith L. Conley at 916/327-7500, ext. 522, or [fconley@counties.org](mailto:fconley@counties.org).

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## **Appellate Court Rejects Appeal of Treatment Limits Under Workers' Compensation**

The First District Court of Appeal rejected an appeal for compensation for 76 visits to a chiropractor for treatment by a worker who injured his back. Under a 2003 state workers' compensation law, chiropractic and physical therapy treatments are limited to 24 visits for any injury occurring after January 1, 2004. Workers' compensation reforms passed in 2004 left the cap in place and added occupational therapy visits.

Lawyers for the worker argued that the California Constitution requires the Legislature to establish a "complete system of workers' compensation," with "full provision for such medical, surgical, hospital and other remedial treatment" that an injured worker needs. They argued that the limit on chiropractic treatments is arbitrary and does not provide for "full remedy".

The court rejected these claims and upheld the findings of the Workers' Compensation Appeals Board. The court stated, "We will not second-guess the wisdom of the Legislature in meeting the workers' compensation crisis in this state by, among other things, specifying the maximum amount of chiropractic care an injured worker may receive for a single industrial accident. The Legislature clearly has the constitutional authority to make that determination."

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## **San Francisco Voters Approve Proposition to Reform Retirement Benefits**

Voters in San Francisco overwhelmingly approved Proposition B on Tuesday, a measure which will begin to confront the issue of providing future retirement benefits to city employees.

San Francisco presently has a \$4 billion unfunded liability for future employee benefits. Currently, employees with 20 years of service receive 40 percent of their highest annual income if they retire after 60 years old. Employees who have worked only five years for the city receive covered healthcare benefits for life. Cost-of-living adjustments are calculated annually, based on the original retirement benefit amount up to two percent.

Proposition B would make the following changes: employees hired after 2009 must work 20 years to qualify for lifetime healthcare benefits upon retirement; new hires would be required to contribute 2 percent of their gross salaries to help prefund their retiree benefits costs and city workers would be subject to an 18-month hiring freeze between July 2009 and January 2011 to offset pension increases.

Proposition B was passed by 72 percent of the voters.

June06,2008

## **Government Finance and Operations**

For more information, contact Jim Wiltshire, ext. 545, [jwiltshire@counties.org](mailto:jwiltshire@counties.org) or Faith L. Conley at 916/327-7500, ext. 522, [fconley@counties.org](mailto:fconley@counties.org).

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### **Local Finance**

#### ***SB 1064 (Hollingsworth) – Support As Amended on May 22, 2008***

SB 1064, by Senator Dennis Hollingsworth, adds the wildfires that occurred in Southern California in 2007, and the winds in Riverside County in October 2007, to the list of disasters eligible for full state reimbursement of local agency costs, and amends existing law that provides reimbursement to El Dorado County for the June 2007 wildfires that occurred there.

SB 1064 will be heard next in the Assembly Revenue and Taxation Committee.

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### **Local Government**

#### ***SB 1458 (Committee on Local Government) – Support As Amended on June 2, 2008***

SB 1458, by the Senate Committee on Local Government, repeals the existing County Service Area Law and enacts a new County Service Area Law with eight detailed articles: (1) general provisions, including legislative declarations and definitions; (2) formation procedures, with local agency formation commission approval, (3) general powers, covering basic governance topics, (4) services and facilities, (5) finance, covering budgets, audits, and borrowing, (6) revenues, including special taxes, benefit assessments, and fees, (7) capital financing, covering three types of bonds, and (8) zones, allowing for localized financing and special services.

SB 1458 will be heard on the Assembly Floor next week.

June06,2008

## **Housing, Land Use and Transportation**

For more information, contact DeAnn Baker at 916/327-7500, ext. 509, [dbaker@counties.org](mailto:dbaker@counties.org) or Kiana Buss at 916/327-7500, ext. 566, [kbuss@counties.org](mailto:kbuss@counties.org).

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### **Housing**

#### ***AB 2335 (Nakanishi) – Support***

***As Amended on April 14, 2008***

AB 2335, by Assembly Member Alan Nakanishi, would combine three separate statutory provisions concerning forms, declarations, and notice to the property owner relating to the issuance of building permits into a single provision that combines and modifies the existing forms, declarations, and notice to the property owner. It also expands the acknowledgments property owners are required to make by requiring them to explicitly acknowledge that they understand or verify specified information.

Current law with respect to the issuance of building permits is duplicative and often times confusing due to overlapping requirements in different code sections. AB 2335 would greatly improve the current process and offer a model application form that cities and counties can use to be consistent and uniform in the application for and issuance of building permits.

AB 2335 is set for hearing June 10 before the Senate Transportation and Housing Committee.

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**Land Use**

***SB 1165 (Kuehl) – Oppose  
As Amended on May 15, 2008***

SB 1165, by Senator Sheila Kuehl, would require, except for under specified circumstances, a lead agency or a responsible agency under the California Environmental Quality Act (CEQA) to prepare a subsequent or a supplemental Environmental Impact Report (EIR) for a project if the certification of the prior EIR for the project is more than five years old. The bill was recently amended to apply to projects that involve the issuance to a person of a lease, permit, license, certificate, or other entitlement for use. Further, the bill would prohibit a lead agency from relying on an EIR that was certified more than five years ago and would require the document to be treated as an uncertified, draft environmental document that must be recirculated for public review and comment and recertified by the lead agency before the agency may take an action in reliance on the analysis and conclusion of the prior environmental document.

CSAC is opposed to this measure. While it is designed to increase public participation, SB 1165 would make it unnecessarily difficult for cities and counties to implement, and will impose arbitrary requirements that will eliminate many existing tools designed to speed up the CEQA process.

SB 1165 failed passage on the Senate Floor on May 29.

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**Transportation**

***AB 660 (Galgiani) – Pending  
As Amended on June 4, 2008***

AB 660, by Assembly Member Galgiani, would make numerous changes to California's railroad-highway at-grade separation Section 190 program.

AB 660 is set for hearing June 10 before the Senate Transportation and Housing Committee.

***AB 2650 (Carter) – Support  
As Amended on April 23, 2008***

AB 2650, by Assembly Member Wilmer Amina Carter, would extend both reporting deadlines and the sunset for the Caltrans pilot program by which the department streamlines the environmental review process for transportation projects by assuming the federal government's review responsibilities under the National Environmental Policy Act (NEPA).

The Pilot Program requires Caltrans to comply with all Federal Highway Administration (FHWA) NEPA regulations, environmental policies, and formal guidance. Under the program, one layer of bureaucracy, related to FHWA's review of environmental documents, is removed, decreasing the time required for environmental approvals. Based on the first six months of the pilot program, draft environmental documents have been approved in 72% less time (from a median approval time of 6.1 months prior to the Pilot Program to 1.7 months since the Pilot Program began), and final environmental documents in 67% less time (from a median time of 2.4 months to 0.8 months). These time savings are based on a limited number of projects for which Caltrans independently made environmental approvals under the Pilot Program. Therefore, this legislation is a key element in helping Caltrans streamline the environmental review process for critical transportation projects.

AB 2650 is set for hearing June 10 before the Senate Transportation and Housing Committee.

**AJR 52 (Karnette) – Support  
As Introduced on March 25, 2008**

AJR 52, by Assembly Member Betty Karnette, would affirm California's opposition to increases in the size or weight of motor commercial vehicles.

AJR 52 sends an important message to Congress as they begin to consider Safe, Accountable, Flexible, and Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) Reauthorization that not only do longer and heavier commercial vehicle loads cause California's transportation infrastructure to deteriorate faster, they pose serious safety issues as well. Furthermore, during times of extreme fiscal hardship and limited funding for transportation infrastructure, this measure becomes even more important to assist in stretching our scarce infrastructure resources for an already deteriorating system.

AJR 52 is set for hearing June 10 before the Senate Transportation and Housing Committee.

**SB 445 (Torlakson) – Request for Comment  
As Amended on May 12, 2008**

SB 445, by Senator Tom Torlakson, would authorize specified regional transportation agencies to impose a greenhouse gas mitigation fee. The fee would either be a registration fee on vehicles subject to registration within the jurisdiction of the agency implementing the fee, or a fee on motor vehicle fuel, not to exceed \$0.10 per gallon, that is sold within the agency's jurisdiction. The bill would require the fee to be implemented pursuant to a plan, which would be required to contain an expenditure plan describing specified greenhouse gas mitigation projects and programs to be funded from fee revenues. The fee would be subject to majority approval of the governing board of the implementing agency and voter approval of a ballot measure containing the expenditure plan and the proposed fee in the jurisdiction where the fee is to be imposed.

SB 445 is set for hearing June 9 before the Assembly Transportation Committee.

June06,2008

## **Washington, D.C., Report**

For more information, contact Joe Krahn, Waterman and Associates, 202/898-1444, or e-mail [jk@wafed.com](mailto:jk@wafed.com).

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Lawmakers returned to Washington, DC from their Memorial Day recess the week of June 2 to face a packed agenda. At the top of congressional leaders' to-do-list was finalizing this year's war supplemental spending bill, completing the budget resolution for the fiscal year that begins October 1, and working on a Farm Bill veto override.

With regard to the war supplemental, House leaders were busy considering options for responding to the Senate's pre-Memorial Day recess approval of the multi-billion bill (HR 2642). Under the Senate legislation, \$165 billion in war spending would be made available to the Pentagon for the remainder of the current fiscal year, with \$70 billion set aside to cover portions of expenses in fiscal year 2009.

The Senate measure also would provide roughly \$10 billion in domestic spending, including \$400 million in funding for a one-year extension of the Secure Rural Schools/County Payments program and \$490 million in funding for the Byrne Justice Assistance Grant program. The Senate legislation also includes funding for a new veterans' education program, as well as an extension of unemployment insurance benefits.

At press time, it was unclear whether the House – which had previously approved its own competing version of the supplemental – would accept the upper chamber's changes or further modify the bill and send it back to the Senate. According to House Majority Leader Steny Hoyer (D-MD), it is likely that the unemployment insurance language, which would provide 13 additional weeks of benefits to all 50 states, would be taken out of the legislation.

Additionally, the House is reportedly considering scaling back provisions – currently included in both versions of the bill – that would delay the implementation of seven new Medicaid regulations. Instead of delaying all seven administrative rules, several of which would shift billions of dollars in costs to states and localities, the House is considering retaining four of the regulations that were included in earlier versions of the legislation.

It should be noted that the upper chamber approved its version of the supplemental on a vote of 75-22, significantly more than the two-thirds majority needed to override a potential veto. The House, however, had a much more difficult time

reaching consensus on its bill, with competing factions of lawmakers squabbling over war spending and war policy-related provisions. Accordingly, House Democrats are far short of the votes needed to override a presidential veto.

In other developments, the Senate narrowly approved this past week the final version of the fiscal year 2009 budget resolution. The House followed suit by clearing the measure on a near party-line vote. The \$3 trillion budget blueprint, though non-binding, provides spending allocations for the individual appropriations bills for fiscal year 2009.

Given the progress on the budget resolution, the House Appropriations Committee announced this past week a tentative markup schedule for all 12 of its subcommittees. Consideration of individual spending measures is slated to begin the week of June 9.

In other news, the \$289 billion Farm Bill (HR 2419) hit a road block on its way to becoming law prior to the recent Memorial Day recess. Due to a clerical error, the legislation that was sent to President Bush did not include all 15 titles. The missing title – dealing with trade – was not discovered until after the bill had been vetoed by the president and sent back to Capitol Hill for override procedures.

Unsure of exactly how to proceed, lawmakers in both chambers of Congress voted last month to override the president's veto, thus enacting the 14 titles into law (Public Law 110-234). Concerned about legal challenges, however, lawmakers decided to bring a complete version of the Farm Bill (HR 6124) to a new vote in the House and Senate. Both chambers subsequently cleared the bill – containing all 15 titles – the week of June 2. The new Farm Bill will be sent to the president's desk where he can let it become law without signing it or he can veto the legislation once again for another round of override votes.

In other developments, on June 5 the House rejected legislation (HR 3058) that would reauthorize the Secure Rural Schools program after Republican lawmakers objected to the bill's financing provisions. California lawmakers voted along party lines, with the exception of Congressman Dan Lungren (R-CA), who broke ranks and voted for the legislation.

House Republicans – along with the White House – opposed the fact that the cost of HR 3058 would be paid for by imposing a fee on oil and gas producers in the Gulf of Mexico that erroneously received permanent royalty-free leases in the late 1990's. According to the Congressional Budget Office, the bill's offset would raise roughly \$3.4 billion in revenue.

The measure, sponsored by Congressman Peter DeFazio (D-OR), would provide four years of transition payments to forest counties, through 2011, using a new funding formula. The formula would be based on the following three factors: the historical allocation; the concentration of public land within each county; and, the current economic condition of each county. Under the bill, payments to counties would be ramped down by 10 percent, fulfilling the principles of the National Forest Counties Schools Coalition that the safety-net payments would be a temporary program.

It should be noted that the bill would provide transition funding to counties in eight states to assist in their adjustment to the new distribution formula (the eight states are: CA, OR, WA, LA, PA, SC, SD, and TX).

In a departure from the version of the bill that was approved by the Natural Resources Committee, the floor version of HR 3058 did not include mandatory funding for the Payment-in-lieu-of-Taxes (PILT) program. The PILT funding was removed in order to reduce the cost of the legislation.

Finally, the Senate voted June 6 to shelve major global warming legislation (S 3036) after a clash over judicial nominations bogged down debate on the measure. Although senators began the week of June 2 poised to engage in what was expected to be a lengthy discussion on the bill, the upper chamber only spent about two days debating the measure. In the end, supporters of the legislation were unable to garner the 60 votes necessary to invoke cloture.

The bill, championed by Environment and Public Works Committee Chair Barbara Boxer (D-CA), would cap emissions of carbon dioxide and other greenhouse gases at 19 percent below current levels by 2020 and 71 percent by 2050. Under the legislation, utilities and other facilities could reduce their own carbon emissions or buy allowances on a so-called carbon market; the government would then auction the allowances and spend the revenues on compliance costs and investments in clean technologies.

In addition to providing significant funding to various private sector industries, S 3036 would allocate funds to states and localities, including \$171 billion for mass transit activities through 2050. Additionally, the measure would fund the Energy Efficiency and Conservation Block Grant (EECBG) program at \$136 billion. The EECBG was created in the recently enacted Energy Independence and Security Act of 2007, and is designed to assist eligible entities – including counties – implement energy efficiency and conservation strategies. The bill also would reward states that take actions to reduce greenhouse gas emissions with \$566 billion through 20250.

With a wide disparity of views among senators as to the climate change legislation's potential impact on the economy, many observers were skeptical that bill supporters would be able to generate sufficient support for S 3036, even if the

judicial nominee spat hadn't bogged down this week's debate. According to Boxer, Friday's cloture vote, though disappointing, would provide a roadmap for the next president in assessing levels of support for major climate change legislation in the future.

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