



September 8, 2009

END OF SESSION NEARS

As we begin the annual end-of-session blitz here in Sacramento, I wanted to alert you to a few issues that will require our focus over the next four days.

Local Bankruptcy Bill Resurrected

In typical last minute shenanigans, SB 88 was “gutted and amended” on Friday to incorporate provisions very similar to AB 155 (Mendoza), a measure that sought to require state permission prior to a local agency seeking Chapter 9 bankruptcy protection. Now authored by Senator Mark DeSaulnier, SB 88 still requires approval from the California Debt and Investment Advisory Commission (CDIAC) prior to filing an application in federal bankruptcy court. While SB 88 includes new provisions to allow a local agency to override a Commission decision to reject the request for permission, the bill still allows CDIAC to place conditions on the approval of a local agency request. The specific conditions that were included in AB 155 are no longer included in this bill. As a result, CDIAC seems to have unfettered authority to provide any number of conditions on a local agency, conditions which cannot be overridden by a local agency. This new provision is a cynical approach: why would CDIAC ever outright reject a local agency application that could be overridden when it could place a list of conditions under which a local agency may proceed to bankruptcy? Those conditions may very well make protections provided by the federal courts simply unavailable.

The gut-and-amend nature of the bill, on a topic of such significance and sensitivity, particularly following the bruising battles of the state budget, makes SB 88 especially outrageous. Its disingenuous approach during the greatest economic downturn since the Great Depression, after a state budget solution that relies considerably on local revenues, delays, cost shifts, and cuts, and a time when the Legislature’s leaders have convened a special committee on reform to make changes to state government intended to make the Legislature more transparent and effective... well, it is fair to say that we are rankled.

We urge you to contact your delegation and ask for a “no” vote on SB 88 (DeSaulnier). (View the joint opposition letter from CSAC, the Urban Counties Caucus, and the Regional Council of Rural Counties [here](#).) The bill is currently awaiting action on the Assembly Floor and could move quickly given the nature of the end of the legislative session. We will keep you posted on additional measures and other end-of-session action.

Corrections Reform

At this point, it is unclear how and when the Legislature plans to act on reducing the California Department of Corrections and Rehabilitation (CDCR) budget by at least half of the \$1.2 billion in unallocated reductions already imposed for 2009-10. (The remaining savings are intended to be achieved through the Governor's constitutional powers (i.e., commutation of undocumented inmates) and CDCR's own administrative authorities.)

The Senate and Assembly each passed their own version of a corrections cost-cutting measure and lobbed it over to the other house. Neither side appears overly enamored with the approach offered by its counterpart. The Senate plan (ABX3 14 (Arambula)) passed on August 20, offers a more comprehensive cost-cutting measure, but several of the elements in that bill namely the alternative custody proposal, conversion of specified crimes from wobblers to misdemeanors, and a sentencing commission – were met with serious consternation in the Assembly, which ultimately doomed the bill.

For its part, the Assembly – when it became clear it could not muster sufficient support to approve the entire Senate package – came up with its own scaled-back plan, contained in SBX3 18 (Ducheny). The Assembly version falls short of the needed reductions to the state corrections agency by about \$230 million. Whether the Assembly is able to formulate one or more stand-alone measures that can garner sufficient votes for passage to the Senate to help achieve greater corrections savings remains unknown at this time. In the meantime, the Senate has indicated that it views the bill passed by the Assembly on August 31 as “incomplete” and vowed not to act on SBX3 18 without the additional pieces needed to reach the cost savings goal.

And we are all too aware that the state is facing a federal court order directing a reduction to the prison population by upwards of 40,000 inmates over the next two years. The state petitioned the U.S. Supreme Court on Friday asking the high court to block the three-judge panel's order, including a requirement that the state produce a population reduction plan by September 18.

Proposition 1A Suspension/Securitization Clean-up Bills

CSAC is supporting two identical measures to ensure timely and efficient securitization of Proposition 1A receivables. SB 67 (Senate Committee on Budget and Fiscal Review) and AB 185 (Assembly Committee on Budget) contain consensus amendments, many of which were requested by local agencies and by bond counsel working on the securitization project. Some specific items of note: county auditors will prepare estimates of local agencies' Proposition 1A loan amounts on or before September 15, 2009; on or before October 30, 2009, the county auditors will certify those amounts and make them available upon request. Local agencies may also purchase or sell receivables under specific criteria; cities and counties may also pay loan amounts by entering into agreements with their redevelopment agencies. New hardship provisions require a local agency to request a hardship determination from the Department of Finance after the issuance of securitization bonds (or December 1, 2009, whichever is earlier). The Department of Finance will make decisions on these requests by December 10, 2009. Finally, the eventual repayment of

the Proposition 1A loan has been changed to no earlier than June 6, 2013 and no later than June 13, 2013, as provided in the terms and conditions of the sale of the bonds.

For more information on Proposition 1A securitization, please visit the California Communities [website](#). I am pleased that all but a handful of counties have already signed up through this website as Interest Parties and will be included in any updates on this issue.

Finally, CA Communities will be hosting two information webinars regarding the securitization of Proposition 1A on Thursday, September 10 and Friday, September 11, both beginning at 10:00am. To sign up for either webinar, go to:

[Thursday's Webinar](#)

[Friday's Webinar](#)

HUTA Clean-Up Bills

CSAC is supporting two identical measures to specify a pay-back date for the Highway User Tax Account (HUTA) deferral. Language requested by CSAC has been incorporated into both [AB 183](#) (Assembly Committee on Budget) and [SB 65](#) (Senate Committee on Budget and Fiscal Review). Both would provide a date certain for payback to allow counties to plan appropriately for and withstand the deferrals. More specifically, the bills would require payment of June, July and August revenues in September 2009; October 2009 through March 2010 revenues would be paid in April 2010. The clean-up language also provides a small county exemption (those with a population of less than 40,000) and the ability to use Proposition 1B (2006 Transportation Bond) Local Streets and Roads Account monies and special funds to backfill the deferrals.

Water Discussions Continue

As for water, the Delta/Water Conference Committee convened on Labor Day in an attempt to wrap up some of the outstanding issues by today's deadline for finalization of the conference committee report. Monday's committee hearing focused on water conservation and water diversion reporting. In addition, Senator Steinberg announced that the conference committee package would not include a water bond, but was optimistic that agreement regarding a financing component could be reached by Friday. Given the lack of a bond in the package, it is very likely that the Republican members of the committee will not vote for the package. We very likely will not know the outcome of this controversial debate until the stroke of midnight on Friday.

Look for more from CSAC throughout the week.

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