

# THE CAPITOL REPORT

AGC's summary of current legislation

October 29, 2007



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## SUMMARY

The 2006-2007 Legislative Session ended recently, and saw the enactment of a number of bills which may have a significant impact on local government administration, public safety, and housing. While many of these bills address important *procedural* changes for public administration, a variety of new trends have surfaced which affect local government *policy*. Notable trends include: the enactment of statutes intended to assist law enforcement's ability to combat gangs; popular support for laws which expand restrictions on the incarceration of sex offenders and limit their locations of residence when paroled; and efforts to expand housing opportunities. The Legislature's activity in these areas is not surprising, and reflects the broader consensus among many California residents over escalating gang violence, increased attention on sex crimes, and concern over dropping home prices and general awareness of an unstable housing market.

Surprisingly, however, a number of bills reflecting such concerns were vetoed by the Governor, including bills which would have expanded environmental requirements for new construction projects, broadened the scope of public agency meetings under the Brown Act, and increased restrictions on greenhouse gas emissions.

As such, the recent Legislative Session can be viewed as a "mixed bag," with a number of important measures being enacted to law, while seemingly related bills failed to gain ultimate approval. **AGC's list of notable bills which were enacted, along with a summary of key vetoes, is provided in this edition of The Capitol Report.**



## LOCAL GOVERNMENT

- > **OPEN MEETINGS: S.B. 343** (Negrete McLeod) requires government agencies to make available to the public all writings that are public record and related to an agenda item for a regular open session of an agency's legislative meeting. Such writings must be made available at a public office or on the agency's website if it is distributed less than 72 hours prior to the meeting.
- > **LOCAL GOVERNMENT REORGANIZATION: A.B. 1744** (Caballero) mandates that notice required under the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 be provided by publishing a newspaper of general circulation advertisement at least 21 days prior to the hearing. The bill also revises the criteria required in the written statement by the local agency formation commission. In addition, the bill requires the local agency formation commission to transmit its proposed and final budget to the county board of supervisors, each city, and each independent special district. **S.B. 162** (Negrete McLeod) calls upon



a local agency formation commission to consider comments from residents of the affected area and the extent that the proposal will promote environmental justice. The bill will not require reimbursement from the state.

- > **LOCAL AGENCY FORMATION: A.B. 745** (Silva) directs expenditures for political purposes made in connection with a change of organization or reorganization pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act – and contributions in support of or in opposition to those proceedings – to be disclosed and reported under and subject to the requirements of the Political Reform Act.
- > **STATE MANDATE FUNDING: A.B. 1222** (Laird) modifies the procedure for local government entities to file claims for reimbursement of state mandates. The bill demands that a test claim identify the effective date and register number of regulations alleged to contain a mandate. The bill also allows the Department of Finance, along with a local government entity, to request that the Legislature determine whether a specific statute imposes a mandate for which reimbursement is necessary. **S.B. 819** (Hollingsworth) deletes the sunset provision for statutory provisions, allowing LAFCOs to consolidate and reorganize special districts that were not formed under the same principal act. The bill also allows LAFCOs to initiate the formation of new districts; it only affects applications submitted after January 1, 2008.
- > **ASSESSMENTS: A.B. 1260** (Caballero) calls upon an agency providing property-related services to give required notice of a new or increased property assessment on a regular billing statement. The bill allows one written protest per parcel to be counted in calculating a majority protest. **S.B. 444** (Negrete McLeod) amends various provisions authorizing counties, cities, and special districts to impose standby or availability charges on assessments.
- > **COMMUNITY FACILITIES IMPROVEMENT: A.B. 373** (Wolk) changes the laws regarding the creation, financing, and operation of “community facilities improvement districts” – districts which are utilized to finance the construction of public improvements such as roads and highways, schools, bridges, public buildings, and similar improvements. Among the changes enacted by A.B. 373 are: amendments to bond procedures for school facility districts, changes to procedures for the establishment of community facilities improvement districts, financing of districts, forms of property ownership, taxation, and election procedures.
- > **UNFAIR COMPETITION – CITY ATTORNEYS: S.B. 376** (Migden) permits a city attorney to bring and recover damages in an unfair competition action.





## PUBLIC SAFETY

- > **CRIMINAL RECORDS – CITY ATTORNEYS: A.B. 104** (Solorio) requires the California Attorney General and local criminal justice agencies to provide criminal information to city attorneys pursuing civil gang injunctions or drug abatement actions.
- > **NUISANCE – UNLAWFUL DETAINER ACTIONS: A.B. 1013** (Krekorian) creates a pilot program to allow specified cities to file unlawful detainer actions against residents who commit certain weapons related offenses. The first weapons related offense is unlawful weapons or ammunition purpose which is defined as illegal use, manufacture, causing to be manufactured, importation, possession, possession for sale, sale, furnishing, or giving away specified firearms and ammunition. Committing the crime creates a nuisance which allows the city to file the unlawful detainer action. **S.B. 706** (Runner) adds the City of Palmdale to a pilot program that allows city prosecutors and city attorneys to file unlawful detainer actions against drug dealers and users living in rental property.
- > **GANG PREVENTION: A.B. 1291** (Mendoza) compels a parent to attend anti-gang violence parenting classes when (1) a minor is found to be a ward of the court because of a gang related offense, (2) the minor is a first time offender, and (3) the court orders the parent to retain custody of the minor.
- > **SEX OFFENDERS: A.B. 1172** (Runner) mandates the California Department of Corrections and Rehabilitation and the Department of Mental Health Services to provide further notification to local officials and other prescribed persons when either department releases a convicted sexual offender. **S.B. 449** (Aanestad) expands the category of crime victims whose names and addresses are not subject to disclosure under the California Public Records Act to other sex crimes.
- > **CHILD ABUSE: A.B. 1509** (Spitzer) makes the crime of continuous child abuse a violent felony and prevents the return of a parolee convicted of that crime to a location within 35 miles of the victim or witness.

## PLANNING AND LAND USE

- > **FLOOD PLANNING: A.B. 70** (Jones) demands a city or county contribute its fair and reasonable share of property damage caused by a flood when the entity has increased liability by unreasonably approving a new development in a previously undeveloped area in a state flood control project. **A.B. 162** (Wolk) requires cities and counties to identify and annually review areas covered by their general plan that are subject to flooding. In addition, upon the agency's next revision of the housing element, the conservation element of the plan must identify areas that could accommodate floodwater. According to the bill, cities and counties must also identify a safety element regarding flood hazards.



- > **REGIONAL PLANNING: A.B. 1053** (Nunez) allows a city, county, public housing authority, or redevelopment agency with jurisdiction over a qualifying infill area to jointly apply with a Business Improvement District for funds under the Regional Planning, Housing, and Infill Incentive Account. The Legislature intends the bill to create mixed income infill housing.
- > **DEVELOPER FEES: A.B. 641** (Torrico) prohibits local governments from requiring the payment of local developer fees before the developer has received a certificate of occupancy for a housing development where at least 49 percent of the units are affordable to low or very low income households.
- > **REDEVELOPMENT AGENCIES: S.B. 437** (Negrete McLeod) calls upon a redevelopment agency to list in its annual report and implementation plan the fiscal years in which the agency expects specified time limits will expire.
- > **EMERGENCY SHELTERS: S.B. 2** (Cedillo) requires that the housing element of a general plan include identifying locations for emergency shelters. Additionally, the bill adds supportive housing, transitional housing, and emergency shelters to the list of development projects that a city must make written findings of when it renders a project infeasible.

## REAL PROPERTY

- > **HOUSING: A.B. 987** (Jones) ensures that affordable housing covenants be enforceable by any person of low or moderate income against any owner who violates the covenants. The bill further requires the recordation of a “Notice of Affordability Restrictions on Transfer of Property” for all new or substantially rehabilitated units using the Low and Moderate Income Housing Fund after January 1, 2008. In addition, under the bill, a redevelopment agency must maintain and make public a list of affordable housing which used the Low and Moderate Income Housing Fund. **A.B. 927** (Saldana) provides that after January 1, 2008, a percentage of total assistance provided under the Multifamily Housing Program that is given to units for senior citizens equal the percentage of lower income rental households that are elderly.
- > **HOUSING FINANCE: S.B. 707** (Ducheny) authorizes the extension of existing multifamily housing loans made under specified programs upon the borrower’s request. **S.B. 586** (Dutton) establishes the Affordable Housing Revolving Development and Acquisition Program and the Affordable Housing Innovation Fund to provide loans to develop or preserve housing for low income households.





## PUBLIC CONTRACTS

- > **PUBLIC WORKS CONTRACTS: S.B. 161** (Margett) allows public entities to receive supporting documents submitted pursuant to a public works contract over the Internet, if the public entity sends the contractor an electronic receipt or creates an accessible web site containing the receipt.
- > **DESIGN-BUILD CONTRACTS: S.B. 233** (Cox) changes the definition of “project” to include the construction of a building and improvements directly related to the a building or a wastewater treatment facility. **S.B. 416** (Ashburn) authorizes counties to enter into design-build contracts with the approval of the board of supervisors.



## VETOED BILLS

*The following bills were vetoed by the Governor:*

- > **Local Planning – Residential Development: A.B. 414** (Jones) would have allowed a local government entity to include land for nonresidential use in the entity’s assessment of land for residential use in its general plan when all of the site would be allowed for residential use.
- > **Real Property: A.B. 864** (Davis) would have mandated certain reporting procedures be submitted to an enforcement agency when a building with substandard building violations changed ownership.
- > **Economic Development Subsidies: S.B. 103** (Cedillo) would have directed a public agency to provide specified information to the public before approving an economic development subsidy.
- > **Mentally Ill Offenders: S.B. 851** (Steinberg) would have allowed superior courts to develop and implement mental health courts for pre-guilty pleas and deferred entry of judgments programs. The bill would also have created comprehensive mental health and supportive services for mentally ill parolees.
- > **Brown Act: S.B. 964** (Romero) would have prohibited a majority of members of a legislative body of a local agency from using a series of communications of any kind to discuss, deliberate, or take action upon any business within the subject matter of the agency. Further, the bill would have allowed a member of a legislative body to receive records under the Public Records Act without charge.



> **Environment: A.B. 888** (Lieu) would have required all commercial buildings greater than 50,000 square feet to meet the U.S. Green Building Council's Leadership in Energy and Environmental Design gold rating by 2013, unless the State adopted its own green building standards. **A.B. 1058** (Laird) would have called upon the Building Standards Commission to include green building standards into the California Building Standards Code by 2010. **S.B. 210** (Kehoe) would have demanded a 10 percent reduction in carbon emissions from transportation by 2020.



> **Transit Oriented Developments: S.B. 1091** (Bass) would have expanded developments that could acquire funds under Transit-Oriented Development Implementation Program to those within one-half mile of a transit station.