



September 12, 2009

SAD DAY FOR LOCAL GOVERNMENT -

Just When you Thought It Couldn't Get Any worse ...

CSAC staff left the State Capitol near 6:00 this morning, unfortunately, with no good news to share. The Senate adjourned without approving SB 65, the cash management bill that includes the clean-up to payments and deferral of HUTA (Highway Users Tax Account) or gas tax funds, or SB 67, the much-needed clean-up measure for Proposition 1A securitization. These measures had passed the Assembly early Friday afternoon, securing the requisite 2/3 votes needed for passage, only to get held up in the Senate when Senate Republicans, with the exception of Senator Abel Maldonado, withheld their votes on all bills that required a 2/3 vote.

Senate Republicans were angry over what they believe were a series of broken promises by the Senate President pro Tem and procedural machinations that sent bills to the Senate Floor without complying with Senate rules and procedures. Specifically, Senate Republicans were focused on three issues:

Authorship of a bill related to the state tax credit for new home buyers.

Senate Republicans believed that Senator Roy Ashburn was promised the authorship of a bill that was instead authored by Assembly Member Anna Caballero. Assembly Member Caballero, a Democrat, is running for a Senate seat that will be vacated by Republican Senator Jeff Denham.

Clean-up of the "single sales factor" issue. This issue, previously approved in the 2009-10 budget, involves allocating sales, and resultant state corporation taxes, for companies that do business in multiple states.

Elimination of "Ready Return." Ready Return is a free tax preparation service offered to the public by the Franchise Tax Board (FTB). Intuit, the company that produces TurboTax, would like the FTB to get out of the business of electronic tax preparation.

County and city lobbyists were assured during the night that such end-of-session arguments generally have a way of working themselves out so that important bills can be approved. The CSAC team spent many, many hours talking to Senate Republicans and their staffs about the importance of these measures to all local agencies and, while all were sympathetic and appreciated the urgency on SB 65 and SB 67, they were, in the end, unwilling to put up the single vote that was necessary to send these measures to the Governor unless the Pro Tem resolved the above issues.

Perhaps the most frustrating component of these discussions is that it was abundantly clear that, even if the Pro Tem did concede on these three issues (we understand that Republicans were offered at least two of them), the Assembly was not willing to go along.

As a result, a number of measures were quickly amended to remove the urgency clauses, requiring only a simple majority vote for approval. ABX3 37 was one of these measures, and accomplishes the cash deferrals, including the HUTA clean-up, on a majority vote basis. (ABX3 37 was approved by both houses and sent to the Governor for his signature.) The problem there is that, since the bill is a majority vote bill, the soonest it can take effect is 90 days post-closing of the Third Extraordinary Session, which remains open (thus, not much improvement over current law). Also, the Proposition 1A securitization clean-up measure would not have been a candidate for a non-urgency vote, as the timelines are short and tight for the bond issuance to occur prior to December 2009. To be clear: every Senate Republican understood the need for the urgency on SB 67.

The roll call vote on SB 67 was as follows: 26 ayes, 1 no, and 13 not voting.

Noes: Denham

Not Voting: Aanestad, Ashburn, Benoit, Cogdill, Cox, Dutton, Harman, Hollingsworth, Huff, Runner, Strickland, Walters, and Wyland

Local officials should contact their senators to discuss this vote and the consequences of the lack of action on SB 67 in their local communities.

At the close of the session, Senator Steinberg indicated a likely need to return to Sacramento to complete work on water and other items. It is unclear at this point when the Legislature will reconvene and what willingness there is among Senate leadership to resolve their differences.

CSAC is already in conversations with our colleagues at the League of California Cities, the California Statewide Communities Development Authority, the Proposition 1A Securitization Program finance team, and others about next steps. We are committed to find a means to eventually get to an effective remedy for Proposition 1A securitization. Expect more information from CSAC during the next week.

In closing, please know how disappointed we are in this outcome; however, we also know that there is nothing more that could have been done to have affected it. While it is clear that there are deeply-held feelings of mistrust among certain members of the Senate, it is also clear that commitments made to local agencies during the budget process for the Proposition 1A securitization fell by the wayside. After this experience, it is no wonder the public holds the Legislature in such low esteem.

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