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RDA Trailer Bill Finally in Print as AB 113

League Continues to Maintain Oppose, Unless Amended Position on Divisive Measure Containing Provisions that Break Promises to Cities

Since January when the Administration's Redevelopment Dissolution "simplification" proposal first emerged the League has been trying to advocate for and protect the interests of cities across a broad swath of issues. Regrettably legislators are now being presented with a divisive proposal that is less about "simplification" and more about reversing existing laws and court decisions, while offering offsetting special beneficial provisions and carve outs. *For more, see Page 2.*



Cities Fare Well as Legislature Approves Final FY 2015-16 Budget

The Legislature held a rare Friday session today to debate and ultimately adopt the final bills of the FY 2015-16 state budget package. *For more, see Page 3.*



Bills in Committee: June 22-26

The Legislature is still working on the FY 2015-16 budget. It also has four weeks before adjourning for the month-long summer recess on July 17. Between now and then, policy committees will be busy hearing bills and moving them through the process. *For more, see Page 7.*

[AB 113](#), the redevelopment budget trailer bill came into print Thursday and the [League's position remains oppose unless amended](#).

The backdrop is the significant harm caused to cities by the elimination of redevelopment agencies effective in February 2012. The policy harm to California's urban renewal efforts, including infrastructure upgrades, brownfield remediation, transit oriented development, affordable housing and local economic development will linger for decades.

The dissolution process has been fraught with controversy. Applicable laws were drafted in a manner that, while there was a veneer of local input via oversight boards, all power was concentrated at the state Department of Finance (DOF) with no oversight of their decisions other than the courts.

AB 1484 (2012) gave additional enforcement powers and "sticks" to DOF, but legislators also requested and obtained several incentives or "carrots" that would be offered to local agencies that worked collaboratively with DOF to expedite the dissolution process. Those agencies that cooperated would be issued a DOF "finding of completion" and then be eligible to have loans previously issued by cities to their redevelopment agencies repaid at a reasonable interest rate reflective of what cities would have otherwise earned in the conservative Local Agency Investment Fund (LAIF) managed by the state Treasurer.

The provisions of AB 113 can be divided into three areas:

- **Harmful:** Reversing and constricting previous incentives and due process offered to cities. These include efforts to narrow the definition of "loans" to be repaid and reduce interest rates. Other provisions further insulate DOF decisions from review via an exemption from the Administrative Procedures Act and limiting local agencies' ability to pay for attorneys in Court. Besides moving the goal posts and changing the rules, these provisions cause the greatest harm to the interests of affected agencies, and are of most concern to the League.
- **Helpful/Leverage:** Offering changes to the dissolution laws to address unresolved issues such as allowing communities to access some proceeds of redevelopment bonds issued in 2011, and clarifying issues with special property tax rates approved by voters for pensions. The Administration at the May Revise added other special provisions that are not connected at all to redevelopment. These proposals are clearly helpful to the affected agencies, but are being leveraged against the harmful changes.
- **Mild Simplification:** Making mild changes to statute that in isolation would be noncontroversial and match up with the term "simplification."

The underlying frustration for many cities with these provisions is the effort to reduce existing incentives to cities in AB 1484 as a reward for expeditiously resolving issues and obtain a DOF "finding of completion." Now that many agencies have made the concessions necessary to obtain these findings, it is simply wrong to move the goalposts and change the rules. It is regrettable that this proposal is being presented to legislators in such a divisive format.

As of today, it appears that concerns raised by cities have caused many legislators to pause and question the proposal that has been put before them. Some have expressed concern about being asked to vote on provisions that would reverse existing laws and court decisions and cause further harm to their cities. The League continues to urge the Legislature to reject the harmful aspects of this proposal on cities, so that a more balanced and equitable proposal can be crafted.

Next Steps

This measure was not taken up on Friday, and it remains unclear what the next steps may be. The Administration is working hard to round up votes for the measure as is, but some Assembly members have been discussing the possibility of a working group to review the measure and propose revisions. The League will keep its members informed on any future developments.

The adoption of the FY 2015-16 state budget got off to a slow start on Monday when the Legislature adopted just five of the 19 budget bills. Then on Tuesday came the announcement that Gov. Jerry Brown and the Democratic leadership of the Legislature had come to an [agreement for the final package](#). While some issues of importance to cities — including redevelopment dissolution, Cap-and-Trade, and transportation funding — remain unresolved, cities fare well in the package adopted today.

Of note, the package passed today adopts a compromise on the local law enforcement grants. Monday's budget bill contained a legislative alternative that reduced the level of funding available for these grants and funding only special programs. But the final agreement will fund \$20 million for local law enforcement grants, provided the cities report data regarding use of force resulting in hospitalization or death. In addition, \$6 million will be awarded to local law enforcement agencies in community grants to improve community relations.

The budget package also includes appropriations from Proposition 1 in response to the drought. The budget begins the first of a three-year funding plan to appropriate \$1.8 billion Prop. 1 funds. Major funding is allocated to stormwater management, contaminated groundwater cleanup, groundwater management plans, water recycling, public water system infrastructure, and desalination.

The FY 2014-15 budget agreement provides continuous funding for 60 percent of Cap-and-Trade auction revenues, with the remaining 40 percent to be used for annual appropriations reflecting the priorities of the Legislature. There continues to be significant disagreement between the Governor, Assembly, and Senate on the use of that 40 percent, and negotiations continue. Favorably, the budget does not make any changes to the agreement from FY 2014-15 that provides for continuous appropriations of 60 percent of Cap-and-Trade auction revenues for affordable housing, transportation, transit, and high speed rail. As a result, these programs will continue to be funded.

While not directly a result of this budget package, cities will soon receive reimbursement for costs incurred in complying with state unfunded mandates prior to 2004. The FY 2014-15 budget agreement provides that, should the May Revision determine that state general fund revenues exceed estimates, additional reimbursement for pre-2004 mandate costs owed to cities counties and special districts are to be made. The May Revision determined that sufficient additional revenues have been received that the entire remaining balance of reimbursements owed may be paid, about \$765 million including interest.

The Department of Finance (DOF) has issued an [executive order](#) to the State Controller's Office (SCO) for these payments. DOF and SCO expect that payment for principle owed will be made by June 22. DOF has estimated the amount of interest owed for each agency as well but the SCO must verify these amounts prior to payment, expected by September 2015.

Unfortunately, not all the news is entirely positive. Several weeks ago the Governor's office began circulating budget trailer language that would allow the State Water Resources Control Board (SWRCB) to order the consolidation of public water systems or a state small water systems within a disadvantaged community that consistently fail to provide an adequate supply of safe drinking water. While the League strongly supports ensuring that all Californians have access to safe drinking water, the budget trailer bill does not provide the resources needed to support the consolidated water system, thus opening the door to Prop. 218 challenges.

Details on these and other issues are included in the list of budget and trailer bills below. The bills will now go to the Governor for action by July 1.

Budget and Trailer Bills

Summaries below include points that may be the most interesting to cities from the bills adopted today. For more details, bill language can be found at www.cacities.org/billsearch.

AB 93 (Weber) – Main Budget Bill and SB 97 (Committee on Budget and Fiscal Review)

Together, these two bills represent the main FY 2015-16 budget. AB 93, the budget bill was passed Monday, and AB 123 makes changes to AB 93 to conform with the agreement between the Governor and Legislature. The bills include appropriations for the items discussed in the budget bills below as well as the following items:

- \$20 million for local law enforcement grants to city police departments. This is down from \$40 million last year and comes with new transparency requirements regarding use of force resulting in hospitalization or death;
- \$6 million will be awarded to local law enforcement agencies in competitive grants for community relations;
- \$8 million in competitive grants to local governments to reduce community recidivism rates;
- \$1.5 million for the California Library Services Act, which creates networks that act together on lending policies, bulk purchases and joint training programs;
- \$5.8 million for California Library Literacy Services, \$1 million of which is for the Career Online High School Program;
- \$4 million for Library Broadband Services;
- Requires Caltrans to streamline the cooperative work agreement process related to project initiations document development and oversight to reduce costs to local agencies;
- Provides additional funding to reduce the timeframe for the Road Usage Charge Pilot Program.
- \$125 million for the Active Transportation Program; and
- \$2.5 million for grants to local governments for boating safety and law enforcement through the Department of Parks and Recreation.

SB 75 (Committee on Budget and Fiscal Review) – Health

Makes various changes related to health including:

- Provides Medi-Cal coverage to eligible children regardless of immigration status; and
- Allows the Department of Public Health to purchase syringes and related supplies for syringe exchange programs.

AB 104 (Committee on Budget) – Education Omnibus Trailer Bill

Makes various changes and appropriations to child care, early childhood education, and K-14 education.

SB 78 (Committee on Budget and Fiscal Review) – Education Finance: Local Control Funding Formula

Repeals and revises sections of law made obsolete by the Local Control Funding Formula (LCFF), which replaces the prior revenue limit and categorical funding structure for K-12 education finance. Also includes appropriations necessary for purposes of the LCFF.

SB 79 (Committee on Budget and Fiscal Review) – Human Services

Makes various changes to programs and operations within the Department of Social Services including:

- Increasing the frequency of inspections to community care facilities, residential care facilities for the elderly, child day care centers, and family day care homes; and
- Allows counties to continue to provide housing supports to a person who has been discontinued from CalWORKS due to income eligibility requirements.

SB 80 (Committee on Budget and Fiscal Review) – Earned Income Tax Credit

Creates a state Earned Income Tax Credit (EITC), similar to the federal program. The state EITC will focus on households with incomes less than \$6,580 if there are no dependents and up to \$13,870 if there are three or more dependents.

SB 81 (Committee on Budget and Fiscal Review) – Postsecondary Education: Budget

Makes various changes to higher education including changes to CalGrants, the Middle Class Scholarship Program, community colleges, University of California and the California State University budgets.

SB 82 (Committee on Budget and Fiscal Review) – Developmental Services

Makes various changes to developmental services, including regional centers, secured facilities, out-of-state placements, and performance objectives.

SB 83 (Committee on Budget and Fiscal Review) – Public Resources

- Establishes the Assistant Director for Environmental Justice in the California Environmental Protection Agency;
- Authorizes money in the Enhanced Fleet Modernization Subaccount to be available to the State Air Resources Board to implement and administer the enhanced fleet modernization program;
- Requires, on or after July 1, 2016, the SWRCB to adopt a fee schedule to be paid annually by each public water system to cover the board's drinking water program and enforcement costs;
- Requires the Division of Oil, Gas, and Geothermal Resources consult with the SWRCB and appropriate regional water quality boards regarding underground injection control;
- Establishes the Border Region Solid Waste Working Group to develop and coordinate long-term solutions to address the waste tire, solid waste, and excessive sedimentation along the California Mexico border;
- Allocates \$10 million from the funds reverted to the California Clean Water, Clean Air, Safe Neighborhood Parks, and Coastal Protection Act of 2002 for local assistance programs, specifically outdoor education programs;
- Allows the State Fire Marshall to contract with a federally permitted hauler for disposal or storage of illegal and dangerous fireworks; and
- Allows the Department of Toxic Substances Control to regulate and enforce actions related to metal recycling facilities.

SB 84 (Committee on Budget and Fiscal Review) – State Government

- Changes reporting requirements for local agencies regarding the certified access specialist program (CASp). Local agencies will now report only to the Division of the State Architect rather than to the Legislature. In addition, local agencies will now have to report on activities undertaken to increase CASp services and to facilitate compliance.
- Requires the Office of Emergency Services (OES) coordinate with response and recovery operations in each mutual aid region, and to develop and adopt a state fire service and rescue emergency mutual aid plan that would be an annex to the State Emergency Plan.
- Creates the Regional Railroad Accident Preparedness and Immediate Response Force within the OES to provide regional and onsite response capabilities for hazardous materials spills from railcars or accidents that involve railcars. Requires the Director of Emergency Services to set a fee schedule for the shipment of extremely hazardous materials by rail.
- Creates the Human Trafficking Victims Assistance Fund within the OES. The fund would provide grants to nonprofit organizations to provide services to victims of human trafficking.
- Requires the DOF, Secretary of State, and Legislative Analyst's Office to convene a workgroup to evaluate alternatives for funding elections-related state mandates.
- Establishes a position within the Governor's Office of Planning and Research to develop a report on programs and services that serve immigrants. The report is due no later than Jan.1, 2016, and then would be used to create an online clearinghouse of available services. The position would also monitor the implementation of statewide laws and regulations that serve immigrants.

- Authorizes the Department of Housing and Community Development to provide temporary assistance to people moving out of a housing unit due to a lack of potable water in connection with the drought.
- Allows the rental of the Office of Migrant Services centers to people who are homeless in connection with the drought.
- Recognizes that existence of the California Residential Mitigation Program (CRPM), an existing JPA, and allows the CRPM to provide grants and loans to residential property owners for seismic retrofit work. Excludes amounts received from an individual's gross income for tax purposes.
- Requires Cal-OSHA to prioritize accidents involving death or serious injury over non-serious violations.
- Suspends the fee for the annual and biennial inspections of conveyances by the Division of Occupational Safety and Health for the FY 2015-16. Allows the suspension to continue to reduce the balance of the Elevator Safety Account.
- Requires the Franchise Tax Board to collect unpaid tolls, toll evasion penalties, and related fees as if they were taxes.
- Makes various technical changes to the Prepaid Mobile Telephony Service Surcharge Collection Act, which was implemented this year. Among other things, the bill exempts sellers with less than \$15,000 in related sales from the requirements to collect the taxes and fees.
- Makes various other changes to state programs.
- Includes cleanup language for SB 556 (2014) regarding contractors vehicle and uniform logo requirements.
- Allows for a retired person to serve as an elected official without reinstatement or interruption of their pension benefits.

SB 85 (Committee on Budget and Fiscal Review) – Public Safety

Amnesty Program: Fines and Bail: Requires counties to establish an amnesty program for fines and bail due and payable on or before Jan. 1, 2013, similar to the program required under existing law for fines and bail for infractions or misdemeanor violations of the Penal Code and Vehicle Code due and payable on or before Jan. 1, 2009.

- The program would accept payments of 50 percent the total amount due between Oct. 1, 2015 and March 31, 2017.
- Participants can receive an additional reduction if they certify under penalty of perjury that they receive public assistance, or that their monthly income is 125 percent or less of current poverty guidelines.

California Highway Patrol (CHP) Body Camera Program: Requires the CHP to develop a plan for implementing a body-worn camera pilot program by Jan. 1, 2016.

- Specifies components of the plan, including but not limited to:
 - Types of officers assigned to wear a body camera;
 - Minimum specifications for the cameras;
 - Best practices for notifying members of the public of active recording;
 - Best practices for data storage; and
 - A schedule for reviewing body-worn camera policies and protocols.

Supplemental Law Enforcement Services Account (SLESA) Funding: Continues payments of \$100,000 to each local law enforcement jurisdiction under SLESA.

California Community Incentive Grant Program: Specifies schedule of incentive payments to counties for not returning offenders to prison under the California Community Incentive Grant Program.

Recidivism Reduction Fund: Removes the sunset from the Recidivism Reduction Fund, and deletes language providing for reversion to the state General Fund one year after allocation of unencumbered monies not dedicated to a community recidivism and crime reduction service provider.

SB 88 (Committee on Budget and Fiscal Review) – Water

- Authorizes the SWRCB to order consolidation with a receiving water system where a public water system, or a state small water system within a disadvantaged community, consistently fails to provide an adequate supply of safe drinking water. Requires, the SWRCB, prior to ordering consolidation or extension of service, to conduct an initial public meeting and a public hearing. Limits the liability of a consolidated water system, wholesaler, or any other agency in the chain of distribution that delivers water to a consolidated water system.
- Exempts from the California Environmental Quality Act (CEQA) certain groundwater replenishment projects until Jan. 1, 2017.
- Exempt from CEQA the development and approval of building standards by state agencies for recycled water systems until July 1, 2017.
- Exempt from CEQA the adoption of an ordinance to impose stricter conditions on the issuance of well permits or changes in the intensity of land use that would increase demand on groundwater until July 1, 2017.
- Requires, commencing Jan. 1, 2016, a person who diverts 10 acre-feet of water per year or more under a permit or license to install and maintain a device or employ a method capable of measuring the rate of direct diversion, rate of collection to storage, and rate of withdrawal or release from storage.
- Expand this civil liability to any violation of any regulation adopted by the SWRCB.
- Provide that a court or public entity may hold a person civilly liable in an amount not to exceed \$10,000 for a violation of a water conservation program ordinance or resolution, or certain emergency regulations adopted by the SWRCB. Prohibit the civil liability assessed by a court or public entity for the first violation by a residential water user from exceeding \$1,000.
- Require the secretary to post information on the Natural Resources Agency's website on changes to project timelines and project spending, in order to facilitate oversight of Prop. 1 funding and projects.
- Appropriates \$10 million to the CalConserve Water Use Efficiency Revolving Fund for loans for water use efficiency projects. Local agencies may receive at or below market interest rate loans.

AB 117 (Committee on Budget) – Public Resources

Extends the CEQA streamlining process in the Jobs and Economic Improvement through Environmental Leadership Act of 2011 from Jan. 1, 2016 to Jan. 1, 2017.

SB 98 (Committee on Budget and Fiscal Review) – State Government: Employee Retirement

Implements the Governor's proposal to start having the retiree health care system prefunded, similar to that of pensions. Applies only to state employees.

'Bills in Cmte' Continued from Page 1...

To access a bill, the League's position letter and sample letters, please go to www.cacities.org/billsearch and plug in the bill number into the search box.

The League's full [2015 Hot and Priority Bill list](#) is available online.

[A full listing](#) of Senate and Assembly hearings is available online. Hearing times are subject to change. Bill language and any available position letters on legislation can be found through the bill search function on the [League's website](#).

Tuesday, June 23

Assembly Judiciary, 9 a.m., State Capitol, Room 4202

- **SB 658 (Hill) Automated external defibrillators.** *League position: Support.*

Senate Human Services, 1:30 p.m., State Capitol, Room 3191

- **AB 74 (Calderon) Care facilities: regulatory visits.** *League position: Support.*
- **AB 702 (Maienschein) CalWORKs: temporary shelter assistance.** *League position: Support.*

Senate Judiciary, 1:30 p.m., State Capitol, Room 112

- **AB 552 (O'Donnell) Public works contracts: damages.** *League position: Oppose.*

Wednesday, June 24

Senate Education, 9 a.m., State Capitol, Room 4203

- **AB 1228 (Gipson) Public postsecondary education: campus housing: priority for homeless youth.** *League position: Support.*

Senate Governance and Finance, Anticipated Hearing

- **HOT AB 718 (Chu) Local government: powers.** *League position: Oppose.*

California City Solutions: Santa Maria's Code Compliance Officers Walk and Talk with Residents

This story is part of an ongoing series featuring Helen Putnam Award entries. The 2014 entries are available on the League's website as a resource for cities in a searchable database called [California City Solutions](#). Santa Maria's Walk and Talk program was submitted in 2014 for the Enhancing Public Trust, Ethics, and Community Involvement award category.

In an effort to educate Santa Maria residents about the city's municipal codes, the city in 2013 launched its Walk and Talk program to send code compliance officers door-to-door to meet residents and share code compliance resources.

There is no shortage of work for the city of Santa Maria's four code compliance officers and their supervisor, who serve more than 100,000 residents in dozens of neighborhoods across the city's 23 square miles. Many new and younger residents were unaware of the local rules designed to improve the quality of life in their community. With the city's resources and budget stretched thin there was an unlikely chance of hiring any new officer positions. The city created the Walk and Talk program after the town hall meetings as a proactive approach to this challenge.

Like their colleagues in many communities, Santa Maria's small code compliance team has limited resources and no budget for outreach or marketing, yet the number of complaints is consistently high. Common code violations include vehicles parked on lawns, illegal garage conversions, unpermitted yard and garage sales, and livestock residing in an urban setting.

Previous strategies to inform residents about code violations included inserts in city utility bills, information on the city's website, and to working with the local media to spread the word. Additionally, the city also hosted an information booth at city events to speak with residents about quality of life issues in neighborhoods.

In January 2013, the Code Compliance team, within the City Attorney's Office, developed the Walk and Talk program. Through its monthly Walk and Talk program, the Code Compliance Division staff directly meets with and educates residents in neighborhoods about quality of life issues and applicable municipal code that apply to their properties. Citations are only issued if officials discover a dangerous or very serious violation while visiting.

Code compliance officers are dedicated to providing superior service to the community. They must be customer service oriented. The nature of their work requires them to be firm, fair, and consistent in carrying out their enforcement duties. Among their goals is to develop a collaborative effort with residents.

By meeting residents on their doorsteps in a friendly, educational manner, the code compliance officers and police officers foster trust and openness, encouraging open discussion regarding neighborhood quality of life issues. The officers distribute flyers in English and Spanish that

explain the most common municipal code violations in a nonthreatening manner. Residents have the opportunity to share what is going on in their neighborhood so the city can follow up and address their concerns.

The program is designed to encourage development of management skills among code compliance officers as a means of team building and for succession planning. Each month's Walk and Talk is organized by a different officer who is responsible for researching the targeted neighborhood, preparing pamphlets, scheduling the event, hosting a pre-walk meeting to address known risks, assigning officers to specific addresses and blocks and more.

The Walk and Talks geographically cover the entire city during a three to four year period, with properties mapped after each visit. Upon returning from the Walk and Talk, the officers are required to write a summary report for the supervisor and city attorney.

The officers also keep an eye out for special property nuisance projects, which are referred to "Serve Santa Maria," a group of volunteers who perform community service projects twice a year. Serve Santa Maria projects range from painting houses, repairing fences, trimming trees, and hauling debris to assist residents who have difficulty complying with the codes because of the lack of funds to perform this maintenance themselves.

In the first approximately 15 months of the program, the team visited more than 2,000 residences and spoke with about 5,000 occupants. The city is not only observing a significant reduction in the number of visible code compliance violations, but is finding that residents have been sharing information with family and friends in areas that have not already been covered. Additionally, after being provided information on common code violations, many residents are taking it upon themselves or informing their neighbors to correct their own violations.

The city reports that Walk and Talk is making a difference and staff has noticed that residents are more receptive to visits and are willing to engage in face-to-face discussions with officers. The program is adaptable to cover hot topics and trends. For example, complaints about illegal yard sale signs increase during spring months. The team distributes flyers highlighting resources for these trends and displaying city hotlines to report broken streetlights, dumped trash, abandoned shopping carts, graffiti, animal services, city utilities and other information.

The City Attorney's Office has received dozens of telephone calls from residents who wanted to express their appreciation for the code compliance officers who were out in their neighborhood.

At the mayor's direction, the program soon will add an outreach component to address commercial signage and aesthetics for merchants along the city's main downtown corridors. The Community Development Department ensured that three planners were available for this Walk and Talk, with the goal of assisting businesses to be successful.

There is ongoing collaboration with local media to build awareness of key quality of life issues. The Walk and Talk program has received coverage from the local daily and weekly newspapers, all three local TV stations, radio stations, and the local Spanish language TV station, Univision.

League Board Will Consider Endorsements for NLC Board and NLC Second Vice President Positions

Each year the League of California Cities[®] board of directors invites membership interested in running for National League of Cities' (NLC) board of directors or for second vice president of the NLC board of directors, to apply for endorsement from our League board of directors. Only city officials in direct member cities of NLC may apply for its board or board officer position (second vice president). The League board will endorse all membership interested in applying for NLC board, but only one member interested in applying for NLC second vice president.

Please note that this is not an application to NLC's board of directors, nor is it an application for NLC second vice president. This is only an *endorsement* from our League board.

Endorsement Application Process

Submitted endorsement applications will be distributed to members of the League's 2015 Board Nominating Committee. If more than one person is interested in seeking endorsement for NLC second vice president, the committee will interview both candidates to select one prior to the League's Annual Conference scheduled for Sept. 30 - Oct. 2.

The recommendations will then be submitted to the League board for approval when it meets on Thursday, Oct. 1, during annual conference. Candidates receiving the board's endorsement will be announced on Oct. 2 during the closing session of the annual conference.

Endorsement applications are due to the League of California Cities® by 5 p.m. on Friday, Aug. 28.

Application forms are below:

- [Board of Directors Endorsement Application for NLC Board](#)
- [Second Vice President Endorsement Application for NLC Board](#)

Please submit endorsement applications via [email](#), fax (916) 658-8240 or mail to:

Attn: Mimi Sharpe
1400 K Street, 4th Floor
Sacramento, CA 95814

Individuals who are elected to the NLC board of directors automatically obtain a seat on the League board of directors for the period of the NLC board term.

NLC Board Application Deadlines

Applications for the NLC board and second vice president will be available in late August or early September and will be due sometime in October. Please contact [Carla Smith](#), NLC senior coordinator at smith@nlc.org to obtain an application for NLC board of directors or NLC second vice president and obtain pertinent deadlines.

U.S. Supreme Court's Sign Case May Require Altering Sign Codes Nationwide

Webinar Will be Held in the Future to Provide More Details

In [Reed v. Town of Gilbert](#) the U.S. Supreme Court held unanimously that Gilbert's Sign Code, which treats various categories of signs differently based on the information they convey, violates the First Amendment. The State and Local Legal Center (SLLC) filed an [amicus brief](#) in this case arguing that Reed's argument, if adopted by the Court, will render sign codes unconstitutional nationwide.

Gilbert's Sign Code treats temporary directional signs less favorably (in terms of size, location, duration, etc.) than political signs and ideological signs. Content-based laws are only constitutional if they pass strict scrutiny — that is, if they are narrowly tailored to serve a compelling government interest.

While the SLLC argued in its amicus brief that the sign categories in this case are based on function, the Court concluded they are based on content. The various categories draw distinctions based on the message a speaker conveys. So under Gilbert's sign code: "[i]f a sign informs its reader of the time and place a book club will discuss John Locke's Two Treatises of Government, that sign will be treated differently from a sign expressing the view that one should vote for one of Locke's followers in an upcoming election, and both signs will be treated differently from a sign expressing an ideological view rooted in Locke's theory of government."

Gilbert's Sign Code failed strict scrutiny because its two asserted compelling interests — preserving aesthetic and traffic safety — were "hopelessly underinclusive." Temporary directional signs are "no greater an eyesore" and pose no greater threat to public safety than ideological or political signs.

Many, if not most communities, like Gilbert, regulate some categories of signs in a way the Supreme Court has defined as content-based in this opinion. Communities will need to change these ordinances.

Justice Alito, in a concurring opinion, offers a list of rules that he and two other Justices believes would not be content-based.

Justice Kagan, in a separate concurring opinion joined by two other Justices, is less optimistic about the impact of this ruling on local government: “As the years go by, courts will discover that thousands of towns have ordinances [that contain subject matter exemptions like historical markers] many of them ‘entirely reasonable.’ And as the challenges to them mount, courts will have to invalidate one after the other. (This Court may soon find itself a veritable Supreme Board of Sign Review.) And courts will strike down those democratically enacted local laws even though no one — certainly not the majority — has ever explained why the vindication of First Amendment values requires that result.”

A webinar will be offered in the future by SLLC and NLC to provide more information on the case. Details will be shared as soon as available.

SLLC’s brief was joined by the [National League of Cities](#), the [National Association of Counties](#), the [International City/County Management Association](#), the [United States Conference of Mayors](#), the [International Municipal Lawyers Association](#), the [American Planning Association](#), and [Scenic America](#).