



Capitol Weekly Report

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Gov chats up Steinberg, Pérez but still no budget

Governor Arnold Schwarzenegger made a rare trip upstairs in the Capitol on Monday afternoon, meeting with Senate President Pro Tem Darrell Steinberg (D-Sacramento) three days before the new fiscal year begins.

“Every day from July 1 on we lose \$52.5 million,” Schwarzenegger said of the looming late budget after leaving the meeting. “I’m a big believer in just reps. When it comes to bodybuilding, it’s all about reps, just get together, hour after hour, day after day,” he said.

Still, with the deadline nearly upon them, the governor and top lawmakers have yet to engage in much of the heavy lifting in the upcoming budget negotiations.

“I will be there motivating and inspiring and participating in every way possible,” Schwarzenegger said Monday.

The governor met earlier in the day with the Legislature's two GOP leaders. Last Monday, he had private sessions with Steinberg, Speaker

John A. Pérez (D-Los Angeles) and the Republican leaders.

With the new fiscal year set to begin on Thursday, leadership had to decide what to do about the annual legislative summer recess. Should the legislators be required to stay in Sacramento, with its triple-digit temperatures, collecting per diem, while someone figured out what to do about the budget? Or should they be allowed to go back to their districts until there was something to actually vote on?

The Speaker and Pro Tem decided to send their members home with the expectation that they would be working, trying to tell their constituents about what’s at stake in the budget this year.

So, off they went on Thursday after a grueling week of policy committee hearings, trying to get their bills out before the July 2 deadline. About the only budget game in town seems to be the behind-the-scenes work of budget staff and the advocates and organizations representing counties and local governments as they slog through different ideas and proposals for realigning services from the state to the locals.

The challenge there will be the need to avoid the classic “shift and shaft,” being expected to absorb existing, expanded or new programs without some stable and realistic funding source. The discussions will continue well into the budget season and JEA & Associates will keep our readers informed. ■

TOT issue heats up; League sends alert

Throughout this year JEA & Associates has been dogging the transient occupancy tax issue for our clients. Mostly there have been rumors and discussions but a bill has yet to materialize. The concern is that the online travel companies are gathering momentum and taking the issue to the federal level (again) with hopes of also driving their solutions at the state level.

The League of California Cities recently issued an alert to its members and asked that we send it on to our clients to make sure as many as possible who will be impacted by this have the latest information. Here is the League's Alert:

Online Travel Companies Launch Misleading Customer Outreach Campaign to Persuade Congress to Undercut Local Hotel Tax Collection

OTC Lobbyists Continue Efforts to Slip Amendments into Legislation, Cities Urged to Contact Congressional Representatives

Take Action and Tell Your Member of Congress the Truth

The effort by online travel companies (OTC's) to avoid remitting the full amount of local hotel tax due to local agencies hit a new low on June 30, with the launch of a new Website designed to spur their customers to contact members of Congress.

Customers who have booked travel through an OTC are now receiving misleading e-mail alerts soliciting assistance against what are claimed to be efforts by local officials to impose new taxes on customers who book rooms online. This is a completely inaccurate representation of the issue, and part of a recent effort by OTCs through their corporate association, the Interactive Travel Services Association, to confuse travelers about current law. OTC lobbyists have been swarming the halls of Congress for months seeking to carve out a loophole in law that will favor their industry's

financial bottom line. Their questionable business practices are being challenged by local agencies in courts throughout the nation and the OTC's are seeking pre-emptive legislation to protect themselves.

Over the last several days, online travel companies have renewed their efforts to get an amendment into pending small business legislation (HR 5297). As yet, they have not been successful, but the launching of this recent website demonstrates their aspirations.

The League's federal lobbyists in Washington, DC, have been engaged in an effort to stop the latest efforts by the OTC's to amend pending federal legislation. Previous efforts to insert amendments into legislation on behalf of the industry in the last year have been stopped thanks to the opposition of the National League of Cities, the National Association of Counties, the American Hotel and Lodging Association and others.

Yet, considering the immense importance of TOT revenues to cities, and the tactics being employed, the entire California Congressional Delegation needs to hear from city officials on this matter.

The League encourages city officials to do the following:

1. Contact you Congressional representative and urge them to reject any effort by online travel companies to jam amendments into pending legislation. Now is not the time to be giving away local tax dollars to wealthy corporations. *Sample letter attached.*
2. Alert them to the latest tactic by the OTC's to confuse the issue and the public through their new deceptive website.
3. Explain the importance of hotel tax to your general fund revenues, and the services it supports.

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4. Explain why the OTC's must be held accountable to provide full and complete disclosure of the amounts of all fees collected by the OTC's and ensure local governments receive the full amount of hotel tax due based upon the retail rate for the room.

Help City Residents Understand

Many city residents receiving e-mail blasts from the OTC's are likely confused. To help you communicate with them via your own local e-mail lists and newsletters, the League has also prepared talking points to assist you (*attached*).

What's at Stake

On average, TOT accounts for nearly 8 percent of a city's general fund revenues, for a total value for cities and counties of \$1.4 billion. More than 400 California cities and 55 counties levy a local TOT, with 10 percent being the most common rate. A spreadsheet with city-by-city list of TOT revenues as a percentage of general fund revenues is posted on the League's Web site.

http://www.cacities.org/resource_files/28992.TOTreGRVreOTC100527.pdf

Background on TOT Issue

Local hotel taxes – also known as “transient occupancy tax” (TOT) – are levied on the consumer (not a hotel) as a percentage of the full room rate charged. Anyone who pays for a hotel room pays this tax, which goes to support community services including police, fire, parks, roads and other amenities that help provide a safe and enjoyable experience for visitors.

The controversy stems from a complicated and profitable scheme employed by the OTC's based on a blurred transaction for both the consumer and local taxing entity. This “blurring” occurs when the OTC's do not fully disclose separately the exact amount of collected taxes and the fees they charge for their services.

The OTC's bottom line is hidden from consumers and the markup on these rooms can be dramatic. In a traditional retail purchase such as the bill at a restaurant, buying clothes or even a large purchase like a car, all the elements of a transaction are disclosed. The customer knows what they paid for the item and the specific amount of taxes paid. Not so when a consumer books a hotel room through an OTC.

When a consumer visits an OTC Website, rooms are offered for a displayed price. After agreeing to pay that price, the customer is directed to a screen displaying the additional “taxes and fees” that will be charged. However, the details on how these amounts will be allocated are not disclosed. The customer pays what they believe to be the full amount of tax due, and the amount collected in “fees and taxes” is roughly equivalent to the local hotel tax. The customer believes they have done their part and paid their money – and they have – the problem occurs with what the OTC's do afterward.

Not disclosed to the customer is that OTC's have an agreement to reserve the right to purchase the hotel room at a lower “wholesale” rate, which can be up to 40 percent less than the amount listed online to the consumer.

Because the OTC's have not separately stated the specific amounts of “taxes” and the specific amounts of “fees” collected, they capitalize on this confusion by only remitting to the hotel (and local agency) the hotel tax amount based upon the wholesale rate they paid, not what the customer pays them. The OTC pockets – as their “fee” – the balance of what was collected from the customer as “taxes and fees,” and the difference between the retail rate paid for the room by the customer and the wholesale amount allocated to the hotel. Both the unwitting customer and local government are shortchanged because the full amount of tax due to the local agency is not received.

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The new Website launched by the Interactive Travel Services Association (www.TravelersFirst.org), encourages travelers to send a form letter to members of congress asking them to oppose new higher taxes and fees on travel. In reality it's a cynical attempt to manipulate the public into helping lobby Congress to pass legislation that would protect industry profits and the practices described above.

Update on California Legislation

In addition to the federal lobbying effort, OTC lobbyists have also been employed to pass legislation protecting these practices at the state level. While one measure, SB 625 (Wright), had been targeted as a vehicle for possible amendments on this issue, it has not been amended or moved. Cities should remain vigilant because there are hundreds of bills that could be used in an end of session "gut and amend" vehicle. Any new developments in the California Legislature on will be reported to city officials immediately. ■

Redevelopment bill gets green light in SLG

An important bill to cities and redevelopment agencies squeaked out of the Senate Local Government Committee (3-2) on Wednesday. AB 2531 (Fuentes) contains provisions that give redevelopment agencies specific and unambiguous authority to use tax increment for economic development purposes in order to enhance job opportunities. The bill would enable agencies to assist industrial and manufacturing uses that will aid the green economy through various kinds of financial assistance and through the provision of machinery and equipment.

AB 2531 would expand the statutory definition of redevelopment to put greater emphasis on attracting and retaining businesses in order to enhance employment opportunities. In some instances, the bill merely clarifies existing authority, while in others additional authority is granted to agencies.

Redevelopment activities would be expanded to include the provision of direct assistance to businesses in connection with new or existing facilities within redevelopment project areas for industrial or manufacturing uses, including loans, loan guarantees and other financial assistance intended to retain or expand jobs and achieve objectives such as reduction of greenhouse gasses, increasing the use of clean, renewable or alternative energy, increasing energy efficiency, increasing the efficiency of construction methods, reducing building operation costs through increased efficiency, and providing job training, job placement and apprenticeship programs.

The author and sponsor agreed to accept amendments recommended by the Committee staff. The amendments are not in draft form yet. They will include provisions limiting the bill's new authority to redevelopment agencies that have met minimal requirements such as a valid housing element, absence of audit violations, and no "excess surplus" in the Low- and Moderate-Income Housing Fund.

They will also draft language for inclusion to ensure that machinery and equipment purchased through the redevelopment agency investments enabled by AB 2531 will remain in the Project Area for a specified period. The last set of amendments will concern oversight and accountability such as requiring agencies to report on their AB 2531 activities to the Legislature.

This bill now goes to the Senate Appropriations Committee where it will be heard when the Legislature returns from its Summer Recess August 2. ■

If you have any questions or would like more information please contact JEA & Associates at jeaandassoc@aol.com or call us in Sacramento at (916) 669-1340.