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[FCC to Consider Wireless Industry Petition](#)

On August 14, the FCC placed a Petition filed by CTIA, The Wireless Association, on public notice. *The Petition poses a significant threat to local zoning and land use authority.* In it, CTIA asks the FCC to clarify and make a uniform interpretation of the supposedly "ambiguous" provisions of 47 USC Sec. 332(c)(7), the local wireless facility siting/zoning provision of the Communications Act. To view the Petition, [click here](#).

NLC, along with USCM, NATOA, and NACo, will file comments opposing the Petition. On September 10, in response to the national organizations' request, the FCC granted a two week extension to submit comments. Comments are now due on September 29. Specifically, CTIA's Petition asks the FCC to rule as follows:

1. To set a 45 or 75-day "shot clock" on local action on certain wireless facility applications. If the deadline isn't met, the local authority will have violated Sec. 332(c)(7)'s requirement that a locality act on the application within a reasonable period of time.
2. If a locality fails to act within the shot clock deadline, the wireless carrier's application will be deemed granted. Alternatively, failure to meet the shot-clock deadline would establish a presumption in any Sec. 332(c)(7) litigation that the wireless carrier is entitled to an injunction ordering the locality to grant the application unless the locality can justify the delay.
3. To clarify that Sec. 332(c)(7) bars any local zoning decision that prevents a wireless carrier from offering service in an area where another wireless carrier is already providing service.
4. To rule that Sec. 253 preempts any local zoning or state laws that impose unique requirements on wireless applicants vis-à-vis other kinds of land use

applicants, such as local or state laws that require all wireless siting applicants to seek a variance.

To assist local governments interested in filing Comments, NATOA has developed a template that can be used as a basis to draft comments. To access the template, [click here](#). (Carolyn Coleman, coleman@nlc.org, 202.626.3023)

House to Hold Hearing on Cell Phone Tax Moratorium Bill

On September 17, the House Judiciary Committee is scheduled to hold a hearing on H.R. 5793, the Cell Tax Fairness Act of 2008, a bill that would provide a five-year moratorium on state and local government authority to levy new taxes on wireless services and providers. NLC, along with the U.S. Conference of Mayors and the National Association of Counties are jointly opposing the legislation and will have witnesses testifying on behalf of cities and counties at next week's hearing. Rep. Zoe Lofgren (D-CA) is the sponsor of the House legislation. A companion bill in the Senate, S. 3249, the Mobile Wireless Tax Fairness Act of 2008, is being sponsored by Sen. Ron Wyden (D-OR); no hearing has been set for that bill. (Lars Etzkorn, etzkorn@nlc.org, 202.622.3173)

\$8 Billion for Highway Trust Fund Awaiting President's Approval

Earlier this week, the House and Senate voted to transfer \$8 billion into the federal Highway Trust Fund, financed by federal fuel tax receipts and distributed to states, after U.S. Department of Transportation (DOT) Secretary Mary Peters warned the trust fund will run out of money by the end of September. The House adopted a fix for the trust fund shortfall before leaving for the August recess, but a Presidential veto threat had prevented adoption of the legislation. The legislation adopted this week now awaits the President's signature.

State transportation officials and DOT warned of dire consequences for highway projects if Congress did not enact this fix. Since a 1998 budget agreement shifted \$8 billion from the trust fund to the Treasury general fund, proponents said this transfer simply returned those funds to an account to be used for their intended purpose. (Leslie Wollack, wollack@nlc.org, 202.626.3029)

Plans for a New Federal Transportation Program Underway

On September 4, Sen. Barbara Boxer (D-CA), chair of the Senate Committee on Environment and Public Works, held a field hearing to outline the next steps in developing a new federal transportation program, which she called MAP-21, "Moving Ahead for Progress in the 21st Century." The current transportation law, SAFETEA-LU, expires on September 30, 2009.

At the hearing, Sen. Boxer identified goals for MAP-21, which include ensuring a federal role in maintaining and enhancing the current system; consolidating the current myriad programs to help refocus and set a national vision; reducing congestion and its impacts; efficient movement of people and goods; safety; sustainable funding; and performance criteria.

Both House and Senate committees responsible for developing a new federal transportation program have held preliminary hearings to listen to views on a new bill.

The NLC Board of Directors recently adopted a new transportation authorization policy that calls for a strong federal role and intergovernmental partnership and includes sustainability and regional decision-making, integrates all transportation modes, recognizes the connection between transportation and land use planning, housing, energy, the economy and the environment. To view NLC's new policy, [click here](#). (Leslie Wollack, wollack@nlc.org, 202.626.3029)

House Preparing to Consider Second Economic Stimulus Package

Next week, in response to the sluggish economy and continuing job losses, the House is expected to take up consideration of a second economic stimulus package that would include funding for infrastructure projects, low-income heating assistance, Medicaid, unemployment insurance extension, and food stamps. The total value of the package is expected to be at least \$50 billion. President Bush has not indicated whether he would support a second measure. (Lars Etzkorn, etzkorn@nlc.org, 202.626.3173)

NLC Responds to Proposed ADA Rule

In August, NLC submitted comments to the U.S. Department of Justice in response to the Notice of Proposed Rulemaking on Nondiscrimination on the Basis of Disability in State and Local Government Services. The proposed rule updates the Americans with Disabilities Act (ADA) regulations dealing with state and local government services, and reflects changes in technology and construction in the 18 years since the law was enacted.

In its comments, NLC expressed support for the federal government's efforts to ensure that individuals with disabilities can fully integrate into society and welcomed the Justice Department's effort to provide certainty and clarity to the compliance and enforcement process. Among other things, NLC also urged the Department to extend from six to twelve months the effective date of the accessibility standards for new construction and alterations and recommended that the Department maintain its current case-by-case system for determining accessibility requirements for existing play areas and recreation facilities.

The Department of Justice will compile and review all comments received and issue final regulations within the next 45 days. To view NLC's comments, [click here](#). (Neil Bomberg, bomberg@nlc.org, 202.626.3042)