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REPORT

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1988: Crucial Year For Growth Debate

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In the late '70s, when Florida was having difficulty handling rapid growth, many of the state's conservative judges confounded local governments by striking down fees imposed on developers to help pay for new roads. Mayors and other local leaders were frustrated, but Julian Jurgensmeyer, an esteemed professor of land-use law at the University of Florida, told them to be patient, because sooner or later the judges would come around.

"After all," Jurgensmeyer said, "judges have to drive on those roads too." And he was right — soon enough the judges, tired of being stuck in rush-hour traffic, decided that the development fees were legal after all.

This old story came to mind not long ago when Marian Bergeson, chairman of the California Senate's Local Government Committee, was an hour late for a hearing in Van Nuys which she herself had scheduled. The topic of the hearing was how well new cities were handling the pressures of rapid growth. Bergeson was late because it had taken her three hours to drive from her home in Newport Beach.

Nineteen eight-seven will probably go down as the year California's politicians began to realize that they too drive on California's congested roads — and pay the price personally for many other unfortunate side-effects of the state's rapid growth. Up until a year or so ago, growth control movements were widely considered — by many local officials and legislators in Sacramento — as just a by-product of the California *Continued on page 4*

L.A. Anti-Smog Efforts Stepped Up by New Law

Although Congress has given Los Angeles a brief reprieve by extending the current Clean Air Act until next August, the South Coast Air Quality Management District — encouraged by a law passed by the state legislature last year — has already expanded smog clean-up efforts to include mobile sources and large new development projects.

When the air cleanup deadline under the federal Clean Air Act passed on Dec. 31, L.A. was still hopelessly short of meeting federal air standards. Furthermore, the region's requirements under federal law are increasingly tangled in litigaton and bickering among the Environmental Protection Agency, Congress, and environmental groups.

In mid-December, however, AQMD passed a regulation requiring all companies with more than 100 employees to prepare ridesharing plans intended to reduce commuting. It was the first time AQMD had taken any steps to curtail use of the "mobile sources" — cars and trucks — as opposed to "stationary sources" such as factories and oil refineries.

Because the Clean Air Act was due to expire on Dec. 31, smog — and particularly smog in Los Angeles — was a high-profile issue in Congress for much of last year. Both Sen. George Mitchell, D-Maine, and Rep. Henry Waxman, D-Los Angeles, introduced bills that would extend the Clean Air Act but impose tough deadlines on cities, such as Los Angeles, that have not met federal air standards. The Mitchell and Waxman bills would give Los Angeles about 10 years to clean up air pollution problems, *Continued on page 6*

Agreement Reached On Irvine Coast Plan

After more than six months of negotiation with local environmentalists, the Irvine Co. has won permission to develop the prized "Irvine Coast" area while maintaining some 75% of the 9,400-acre tract as open space.

Final approval from the Orange County Board of Supervisors came in December, ending some five years of litigation and bickering over what is widely regarded as the jewel in the Irvine Co.'s crown. The property, located along the coast between Corona del Mar and Laguna Beach, is the last large undeveloped stretch of coastal land in Southern California.

Under the agreement, the company will construct 2,600 residential units, four hotels, and two golf courses, while deeding some 6,500 acres of land over to public agencies and spending $40 million up-front to build a large road connecting Pacific Coast Highway with inland areas.

That the Irvine Co. and Friends of the Irvine Coast were able to negotiate an agreement successfully was something of a surprise. But both sides had powerful reasons for coming to the table, and the Irvine Co. in particular was under the gun. The company may have been more open to negotiation after its stunning loss at the polls in a Newport Beach development referendum in November 1986, and anxious to obtain permission to develop Irvine Coast before a countywide growth-control initiative *Continued on page 6*

Sacramento Pension Investments Raise Questions of Conflict

The City of Sacramento's pension fund has come under intense fire for its financial involvement in two development deals that required city approval.

In early December, members of the city council questioned the pension fund's plan to loan $2.45 million to Price Club, which used the money to buy a 14-acre parcel of vacant land it must ask the city to rezone in order to build a store. Then, on New Year's Eve, the *Sacramento Bee* reported that an $8-million pension fund investment had been used, without the council's knowledge, to secure a loan to developer Gregg Lukenbill for construction of the Kings basketball arena. In the case of the Kings arena, City Manager Walter Slipe — a member of the city pension board — knew of the deal but did not inform the council.

Actually, the Price Club deal received more criticism from members of the council, who felt the city may have a conflict of interest because it would have to rezone the land in order to protect the interests of the pension fund. The pension fund is receiving 10.5% interest on the loan and the deal does not specifically state that the company will use the funds to buy the Sacramento property in need of rezoning. However, several members of the council told the *Bee* the arrangement made them feel uncomfortable.

"In the back of my mind, am I supposed to think about, is there city money in this?" said Council member David Shore in considering the possibility that the council itself, which appoints all pension fund board members, may someday face the rezoning issue.

The connection between the basketball arena and the pension fund began when private financing for the project ran into difficulty. A Texas bank balked at loaning the developer $28.5 million to construct the arena because Lukenbill was involved in several lawsuits with environmentalists who hoped to stop or scale down the project.

But Lukenbill was under considerable time pressure to build the arena. Because the current arena does not meet National Basketball Association standards, the NBA has an option to buy the Kings if a permanent arena is not built by the end of this season.

So to help save the arena deal and perhaps the Sacramento basketball franchise itself, City Treasurer Tom Friery invested $8 million of the pension fund's money in a certificate of deposit tied to a letter of credit issued to Lukenbill by Allied Bank of Texas. The deal was completed in June.

In seeking to build the Kings arena, Lukenbill and other developers also sought permission to develop some 10,000 acres of farmland in the North Natomas area. The linkage of sports to development engendered a huge political debate in Sacramento, though the council eventually approved a development plan for North Natomas.

The city council has no direct control over the pension fund. But council members appoint two members directly to the board, while the three members who sit ex officio — the city manager, the city treasurer, and the finance director — all are appointed to their jobs by the council.

New York 'Sold' Zoning on Coliseum Site, Judge Rules

New York City's $455 million sale of the New York Coliseum site to private developers has been struck down by a trial judge as a sale of zoning authority, and the deal has been renegotiated to bring the city $100 million less in revenue.

Declaring that "zoning benefits are not cash items," New York State Supreme Court Justice Edward H. Lehner declared the land sale null and void on Dec. 7. The ruling could create a big hole in New York City's fiscal year 1988 budget, which includes $266 million in proceeds from the land sale on its revenue ledgers.

The ruling came only a few days after Salomon Brothers, the principal tenant in the private office building to be built on the site, pulled out of the project because of cutbacks related to the recent downturn in the financial markets. As a result of Salomon's withdrawal from the project, on New Year's Eve, the city and developer Mortimer Zuckerman signed a new deal that will bring the city only $357 million. Though the height of the project is a major point of criticism by nearby residents — two office towers of 58 and 68 stories in the original project would have cast long shadows over Central Park — there is no reference to building height in the new deal.

The crux of the lawsuit, filed by the Municipal Art Society, involved the fact that contract between Zuckerman and the city placed an actual cash value to the city as landowner (some $57 million) on Zuckerman's ability to win a 20% density bonus for making subway improvements. The society and other critics of the project have argued all along that the city should not have proclaimed in its request for proposals that the raising of revenue would be its primary consideration. The city plans to appeal the decision.

In California, several cities and counties have tried to use their real estate assets more productively to raise revenue. In most cases here, however, that has involved leasing public land rather than selling it. If the New York ruling is upheld on appeal, it effect here would be uncertain. To clear the way for public real estate deals, the California Legislature passed a law in 1983, at the request of Los Angeles County, permitting such deals for the purpose of raising revenue.

The 4.5-acre Coliseum site, located on Columbus Circle at the southwest corner of Central Park, was the largest piece of property to come onto the real estate market in midtown Manhattan in 50 years. Last February, the city Board of Estimate approved the sale of the land to Zuckerman. Under city zoning laws, midtown developers may obtain a 20% bonus in the size of their buildings if they commit to making improvements in subway stations. Seeking to obtain the highest possible sales price for the Coliseum site, however, the city, in its request for proposals, required developers to apply for the bonus, thus increasing the value of the land. Zuckerman agreed to make $38 million in subway station improvements; in return, he received a 20% bonus that added some 500,000 square feet of space to his 2.7-million-square-foot project.

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SPECIAL REPORT

Top Issues of 1988: Here's What They'll Be

If, when we started *California Planning & Development Report* in late 1986, we had known that 1987 would produce so much news about local growth and development issues, we're not sure we would have undertaken the task of reporting it to you. That task turned out to be a lot more daunting that we thought it was going to be. But, having stuck with it, we thought we'd give you a preview of new issues that are shaping up as the most important of the coming year. Here's our Top Five:

1. Health and Resources

As we indicated in this month's lead story, over the past several months health and resource issues have moved to the fore of the debate over development in California. In 1988 this trend will continue — so much so that we believe health and resources could become the No. 1 issue of the year in development in California.

The health/resource issue garnering the most publicity in Los Angeles lately has been sewage. In December, Mayor Tom Bradley proposed a 10-point program — which includes a monthly cap on connections in L.A. — to prevent overflows in the L.A. sewer system. Perhaps most controversial, however, is his proposal to restrict development in some 30 smaller cities that use the L.A. system — and to prohibit any new development in Santa Monica, Burbank, and San Fernando, which are over their contracted limit. Bradley also called for a series of required water conservation methods similar to those imposed during the drought 10 years ago.

In the long run, however, the air quality issue could become just as important. U.S. Rep. Henry Waxman, D-Los Angeles, and others in Congress continue to press for a strict timetable for Los Angeles to meet federal clean air standards, and the Coalition for Clean Air in L.A. continues to press the Environmental Protection Agency for stricter enforcement of the Clean Air Act. However, just as important is the state legislation broadening powers of the South Coast Air Quality Management District and giving greater influence to the inland counties. (See story, page 1.)

2. Growth Control Goes to Court

As regular readers of *CP&DR* know, California saw a tremendous surge in the number of growth control measures on local ballots throughout the state in 1986 and 1987. In part that's because, in the early '80s, the state's courts gave initiative-drafters tremendous leeway in placing land-use planning issues on the ballot.

Now the building industry is beginning to fight back in court. So long as land-use planning is considered a legislative act, "ballot-box zoning" isn't going to go away. But in several cases moving into the appellate courts this year, the development community is trying to nick away at growth initiatives as much as possible. Here are the important cases coming up:

- Perhaps the most important case, though it's not a direct attack on "ballot-box zoning" is *COST v. Superior Court* , 185 Cal.App.3d 253, in which the development industry is seeking to stop the City of Irvine from holding an election on a citizen initiative seeking to stop the financing plan of a new freeway in Orange County. The initiative sought to require voter approval for any city tax or free to finance freeways in the county. But the Court of Appeal ruled that the freeway projects were of statewide concern and therefore not subject to local initiative or referendum. The case was scheduled for argument before the state Supreme Court in mid-January.
- In a case from Lodi, developers are challenging an initiative requiring subsequent voter approval to include any property outside the city limits in the city's general plan. At the trial level, the judge ruled that the initiative, which has precipitated some 50 ballot measures in Lodi over the last six years, was an infringement on the state's annexation laws. After a long delay, *LIFE v. Lodi* will be heard by the Court of Appeal in March.
- Also working its way up to the appellate level is *Lesher Communications v. City of Walnut Creek*, which seeks to invalidate Measure H in Walnut Creek as inconsistent with the general plan. Measure H, passed in 1985, was the first initiative to tie permission for new development to specific levels-of-service at local intersections. The city lost the case at the trial level. (*CP&DR*, February 1987.)

In addition, the building industry continues to search for a test case which will prove that a moratorium or growth cap constitutes a "taking" of property under last June's *First English* ruling by the U.S. Supreme Court. So far no such case has surfaced. An attempt to introduce the issue into a legal challenge against Tiburon's moratorium failed when the case was decided on other grounds. More recently, in *Guinnane v. City and County of San Francisco*, 241 Cal.Rptr. 787, the First District Court of Appeal concluded that the city's delay in processing a developer's application was not a temporary taking under *First English*. Guinanne's development proposal was held up for a year while the city considered whether to acquire the property for a public park.

3. Development Fees Go Back to Sacramento

Development fees are still a point of tremendous contentiousness, and not yet resolved. Atop the state legislature's agenda is the question of what to do about development fees collected by school districts. These fees have been levied with great zeal ever since a hastily drafted bill at the end of the 1986 legislative session gave the schools the authority to do so.

A conference committee in the state legislature is supposed to work on cleaning up the school fee rules this month. But a number of little wrinkles make this legislative fight a little more interesting than you might think — and they all involve what the arms negotiators would call "linkage" of issues.

There's a strong link between political support for school fees and political debate over other types of school financing. An $800 million school bond issue is likely to hit the ballot in June — but under a little-known provision of the fee legislation, if that bond issue fails, school districts may raise their fees as high as they want.

Another link exists between school fees and year-round schools. If more schools went on year-round schedules, of course, fewer schools would have to be built and fewer fees would have to be imposed. Local resistance to year-round schools is tremendous, of course. But if a hearing in Long Beach last fall is any indication, many legislators are impatient with school districts that demand the right to impose fees in order to build schools, then leave them vacant all summer.

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lunatic fringe. But successful ballot initiatives in Los Angeles and San Francisco gave the movement legitimacy in 1986, and the momentum carried into '87, an off-year for elections but an on-year for local growth referenda. When growth-control fever showed no signs of letting up, leading political figures around the state began paying attention to it.

Respected pollster Mervin Field gave a speech in which he blamed California's growth crisis on a lack of strong political leadership in Sacramento. When she wasn't stuck in traffic, Bergeson, who also chairs the Senate Select Committee on California's Growth, conducted a series of hearings — more like symposia — on growth issues. Gov. George Deukmejian agreed to give a little more money to the counties, which are so starved for funds that they often encourage sprawling exurban development in order to get the tax revenue. Even Assembly Speaker Willie Brown jumped into the act, calling for a streamlining of the state's thousands of local governmental entities into a few dozen efficient regional agencies.

But all that was only the beginning. The tools of a much more powerful and sophisticated attack on growth are now in the hands of the state's growth-control advocates, and political leaders in Sacramento had better be ready to deal with it.

Up to now, the slow-growth movement has suffered from an elitist image — it's viewed as a political force driven by affluent people who want to keep poor folks out of their neighborhoods and, at the same time, hate getting their BMWs stuck in traffic. It's also suffered from the rap that it's "just local" — that while growth control advocates may be able to keep rapid development from invading their little town, nobody can really turn off (or even turn down) the California growth juggernaut.

But in just the last few months, the slow-growthers have been handed two issues that can be used as effective political weapons: threats to public health and threats to the limits of our natural resources. Properly used, these issues might help the slow-growth movement shed its elitist image by granting it mainstream political legitimacy. Just as important, these issues could give the slow-growthers the power to move beyond the local arena and begin working to control growth on a regional level — where business and construction lobbies have always stoked the California growth machine with great skill.

Consider this remarkable series of pivotal events of the past several months:

- As anybody who has been following the headlines knows, pro-growth Mayor Tom Bradley may be forced to turn off Los Angeles's growth faucet because things are getting clogged at the other end, in the city's long-neglected and frequently overloaded sewer system. This has important regional ramifications because many other cities — cities whose growth policies are *not* accountable to Mayor Bradley and the L.A. City Council — piggyback on L.A.'s sewer system and, in all likelihood, will get shut off first.
- The war on smog in Los Angeles is escalating. Long confined to regulating "stationary sources" of air pollution such as factories and oil refineries, the South Coast Air Quality Management District is now, for the first time, going after commuters — and the new office buildings that attract them. What's more, the same state law that gave AQMD these broader powers also shifted the balance of power on the agency's board to favor smoggy San Bernardino and Riverside counties, and the expiration of the federal Clean Air Act is bringing more pressure on Southern California to get serious about cleaning up smog.
- Before this winter's rains came — when a big drought seemed like a real possibility — several parts of the state, particularly Sacramento, were threatened with painful reminders of how dependent California's growth is on water supply. No matter what local officials might want to think, a jurisdiction's ability to grow depends mostly on whether state and federal reservoirs can allocate more water to them.

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4. Regional Government

When, late in '87, Willie Brown proposed radical revisions in the state's local government structure, few people took him seriously. Sure it was a good idea, many said, but it'll never pass — too many sacred cows chewing their cuds in local political fields.

But cities, counties, school districts, and special districts all over the state are under seige. They're accused of being at once oppressive and unresponsive, greedy and exclusionary. It's entirely possible that good-government reformers could latch onto the regional government idea for idealistic reasons, while the powerful building industry lobby — tired of being kicked around by no-growth cities — embraces it for much more practical reasons.

Home-rule sentiment is so strong that a sweeping revision is unlikely, at least for now. But pressure from Sacramento to take steps toward regional government could force localities into more cooperative, ground-up efforts to deal with traffic and air pollution on a regional basis.

5. Bond Financing

California used to finance its growth with state and federal grants, which is to say to say taxes; now California, like the takeover artists and Latin America, is financing its growth with debt.

According to Dean Misczynski, principal consultant to the Senate Local Government Committee, bonds floated from assessment districts rose from $20 million or so in 1977 to $1 billion or more last year. At the same time, Mello-Roos districts (a trickier form of assessment district invented in 1982) now account for several hundred million dollars in bonds per year.

Of course, these bonds are paid back by property owners, not by the general public. This works out fine when times are good, as they have been in the past few years. But when times are bad, bond deals can get nasty. If a recession hits and the value of raw land drops, local governments could wind up holding the bag for many of these bonds. A glimpse of the future can already been seen in Oceanside, where the city and Cadillac-Fairview are suing each other because a proposed development deal involving a Mello-Roos district went bad.

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- In the San Diego County community of San Marcos, voters agreed to host a trash-burning plant — but similar efforts to locate such plants in Los Angeles and San Diego failed, meaning landfills continue to overflow, and new trash will have no place to go. Furthermore, under another state law, counties have the unenviable task of trying to solve all hazardous waste disposal problems by 1990.
- And, of course, citizen groups in Orange County have banded together to sponsor a traffic control measure, likely to appear on the June ballot, that would virtually shut off all development for the next several years. What's significant about this initiative is not its location (traditionally pro-property Orange County) but its scope. If it passes — and it seems almost certain to — it would become the first significant *countywide* growth control initiative ever to succeed in California.

Up to now the growth-control movement has been almost completely local in nature because City Hall was the only place where citizens opposed to new development could fight the real-estate industry successfully. But every one of the developments described above suggests an opportunity for the slow-growthers to move into the larger, regional arena where the real growth decisions are made.

If they are successful, you can bet that constructing new buildings all over California will be much harder than it is now, because many of the techniques now used in cities around the state will introduced regionwide. Want to build an office building? You may have to produce a smog-reduction plan approved by regional air quality officials — and even though you may be from Newport Beach, where the air is clean, the AQMD board whose approval you need will be heavily loaded with representatives from Riverside and San Bernardino who eat your ozone every day. Want to build a new hotel in West Hollywood or Santa Monica? It may not matter what local officials there think, but whether the Los Angeles City Council and Mayor Tom Bradley (or Mayor Zev Yaroslavsky!) feel like hooking you up, perhaps at the expense of their own city's economic growth. Want approval for a suburban subdivision? Your city may first have to commit to a water conservation plan to assure that all residents will have ample water in dry years. And what will you do with your trash? No dump, no development.

Up to now, growth-control advocates have been counter-attacked by many responsible politicians — some in Sacramento, some, like Mayor Bradley, locally — who argue that California, to remain vital, must continue to grow. When aimed against people who are perceived to be a bunch elitist snobs stuck in traffic, such arguments still have potency. But when aimed against the much more powerful and legitimate argument that we are sacrificing our health and our rich base of natural resources in order to grow, these manifest-destiny-style declarations sometimes sound pretty hollow.

That's why this could be the important year for politicians in Sacramento to work toward some sort of consensus on the growth issue now. Over the past year, some perceptive legislators have recognized that growth control isn't a local issue, but a statewide one. But in the coming year, the rest of the script about whether California can handle growth in the future will be written.

BRIEFS

Voters in San Gabriel imposed a one-year moratorium on commercial and multi-family residential projects by an overwhelming 83%-17% in a special election Dec. 15. The initiative, sponsored by Citizens for Responsible Development, will block a controversial hotel/restaurant proposal, at least for a while.

Meanwhile, on Dec. 8, the same day they elected Art Agnos as mayor, **San Francisco's voters** approved Proposition X, a referendum seeking approval to lease air space above the Broadway Tunnel in Chinatown for 70 units of housing for the elderly. The measure passed 65%-35%.

Davis plans to loan $2.7 million to the Davis Rural Land Trust to purchase 374 acres of farmland from the city, but a citizens group has gone to court in hopes of halting the sale.

According to the Land Trust's plan, the organization would use the city's loan to purchase a 466-acre farm, sell 92 acres for development, and retain the rest as open space. But Citizens for Financial Responsibility sued, claiming an environmental impact report should have been prepared. The group is also collecting signatures to put the matter to a vote.

Chula Vista Mayor Greg Cox has been cleared of conflict-of-interest charges by the state Fair Political Practices Commission over his involvement in a real estate deal.

Cox co-signed for a $2.2 million real estate loan from Home Federal Savings & Loan, but did not report the transaction on his 1985 and 1986 economic interest statements. Subsequently, he voted on major developments in Chula Vista proposed by a Home Fed subsidiary.

However, the FPPC concluded that the loan was made "without regard for office or status" and cleared Cox. Cox told the *San Diego Union* that the Federal Bureau of Investigation also made inquiries about the loan, but the FBI would not comment.

Irwindale City Manager Charles Martin has agreed to pay $400,000 in civil penalties to avoid criminal prosecution on his involvement as a consultant in several city bond deals.

Martin came to the attention of L.A. County District Attorney Ira Reiner because of Irwindale's proposal to float a $90-million bond issue to finance a new stadium for the Raiders football team. Though the Raiders bond issue has not been completed, Reiner said that since 1984, Martin has recommended that the council float six bond issues and then taken some $500,000 in payments as a consultant on the bond issues.

In addition to his role as city manager, Martin also serves as city attorney and head of the redevelopment agency in the tax-rich city of 1,000 residents. The day before he agreed to pay the $400,000 he was re-hired on a one-year contract by the city council.

The second edition of *Longtin's California Land Use*, a two-volume set by Santa Monica land-use lawyer James Longtin, has been published by Local Government Publications, P.O. Box 306, Malibu, CA 90265. Cost is $160.

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but would impose a hard-to-meet annual reduction in emissions.

As the deadline approached, the EPA itself proposed a new policy that would extend clean-air programs and require dirty-air cities to cut emissions by 3 percent per year until they met federal guidelines. Several senators and representatives lambasted the plan — which would give L.A. 25 years to comply — and called it illegal. At the last moment, Congress agreed to extend the current Clean Air Act for eight months, while EPA moved to enact its proposed policy.

Though Congress did not act on smog in 1987, state legislators took advantage of its status as a high-profile issue by pushing through SB 1251, an important bill reorganizing the four-county South Coast AQMD and expanding its powers. Under the legislation, coastal Los Angeles and Orange counties lost almost half their representatives on the board, meaning the smoggy inland counties of San Bernardino and Riverside are likely to exercise greater control over clean-air efforts in the Los Angeles basin.

The law, which went into effect Jan. 1, also requires that board members — usually local politicians — must attend meetings in person, and grants the board specific authority over such air clean-up efforts as ridesharing, alternative fuels for vehicle fleets, and restricting truck travel at rush hour. The AQMD had already been regarded as more aggressive since the appointment of James Lents, former air pollution chief in Colorado, as executive officer in 1986.

"Serving on the board has become a more seriously pursued activity," said Jeffrey D. Arthur, an aide to state Sen. Robert Presley, D-Riverside, who sponsored the bill. As evidence, Arthur pointed to the fact that many local politicians had actually begun to campaign among their colleagues for slots on the board — particularly for the four seats set aside to represent all the cities in each of the four counties. Under the reorganization, the City of Los Angeles lost its separate seat on the board, and cities in L.A. and Orange counties lost one of their two seats.

Just as important as the reorganization, however, was the fact that the new law gave the local air board specific authority over such "indirect" sources of air pollution as employment and entertainment centers, which attract cars. Traditionally, the South Coast district has concentrated on reducing pollution from factories, oil refineries, and other "stationary sources."

Lents called the ridesharing plan "the single most important rule the district has ever proposed." Though it will not prohibit individual workers from driving alone, it will require all large employers to provide incentives for the employees to use buses, carpools, or vanpools. It is expected to affect about 8,000 companies employing 1.5 million people, about 40 percent of the L.A. area workforce. It has the support of the business community.

Meanwhile, a legal wrangle over the region's plan to clean up the air continues to rage. On Nov. 3, the Ninth U.S. Circuit Court of Appeals in San Francisco ordered the EPA to reject California's implementation plan for cleaning up the air in the Los Angeles area. In 1982, California had received a five-year extension on the plans for several so-called "non-attainment" areas, including Los Angeles. Subsequently, when EPA postponed approval of the L.A. air plan, the agency was sued by Santa Monica environmentalist Mark Abramowitz.

Under the Ninth Circuit ruling, the EPA should assume responsibility for drawing up an acceptable implementation plan. EPA spokesman Chris Rice acknowledged that the agency would rather not take away local control for the plan. But Abramowitz said he is preparing another lawsuit that will ask the courts to order the EPA to do so.

The full text of Abramowitz v. EPA, No. 84-7642, appeared in the Los Angeles Daily Journal Daily Appellate report on Nov. 5, 1987, at page 8264.

Company, Citizens Reach Agreement on Irvine Coast Plan

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appears on the ballot in Orange County next June.

In 1982, the Irvine Co. obtained approval from the Coastal Commission to develop the property. The 1982 plan included some 6,000 acres of open space, but it also called for low-density estate homes, as well as an office building along Pacific Coast Highway. Friends of the Irvine Coast, an unusually well-financed local environmental group, sued to stop the plan. Although the Friends lost at the trial court, they appealed the case, and after Donald Bren bought controlling interest in the Irvine Co. in 1983, the company began to reconsider the plan.

Last April, Irvine Co. revealed a new plan, one which emphasized clustered residential development and the creation of a resort by constructing hotels — emphases less likely to add to the county's already troublesome rush-hour traffic problems.

Friends of the Irvine Coast then began negotiating with the company over refinements to the plan. Ironically, many of these negotiations took place in San Francisco, where most of the lawyers were based: former Coastal Commission lawyer Bill Boyd, of counsel to the Irvine Co., Irvine outside counsel Timothy Tosta, and Mark Weinberger of Shute, Mihaly, & Weinberger, who represented the Friends.

After several months of negotiations, the Friends bought off on the plan, noting that several points in particular were crucial to their support. Among then:

- A simplified land dedication program which will transfer open space to public agencies in four steps.
- The realignment of one proposed road away from environmentally sensitive areas and the commitment to build a significant four-lane road up front, even before all capacity is needed.
- Dedication of some open space area in a wilderness state.
- Certain habitat protections.
- Reduction of maximum building heights from 150 to 105 feet.

The negotiating strategy paid off for the Irvine Co. not just in the Irvine Coast project, but also back in Newport Beach, where the company suffered such an embarrassing loss at the polls in 1986. One of the groups joining in negotiations as part of a coalition with the Friends of the Irvine Coast was Stop Polluting Our Newport (SPON), which sponsored the 1986 initiative.

As a result of the Irvine Coast negotiations, the Irvine Co. and SPON began a separate set of negotiations over the future of crucial pieces of property in Newport Beach. The result was an agreement, announced in late November, that will allow limited expansion of the Fashion Island shopping center and a joint planning process for many other Irvine-owned lands in Newport Beach. In particular, protection of the west side of the Upper Newport Bay will be under discussion.