



1400 K Street, Suite 400 • Sacramento, California 95814  
Phone: 916.658.8200 Fax: 916.658.8240  
[www.cacities.org](http://www.cacities.org)

June 6, 2011

TO: Members: Administrative Services Policy Committee

FROM: Amy Worth, (Chair), Council Member, Orinda  
Natasha Karl, League Staff (916) 658-8254

RE: **POLICY COMMITTEE MEETING**  
DATE: **Friday, June 17, 2011**  
TIME: **10:00 a.m. – 3:00 p.m.**  
PLACE: **Sacramento Convention Center**  
**1400 J Street, Room 203, Sacramento**

### **SPECIAL ORDER**

**Joint Policy Committee State Budget and Redevelopment Update**  
**League Sponsored Services Update (Attachment A)**  
**10:00 a.m., Room 204, Sacramento Convention Center**

Attached are the agenda and background materials for the upcoming policy committee meeting. If you plan to attend and have not yet returned the attendance form, please email Meg Desmond by **June 13, 2011**. Her email address is: [mdesmond@cacities.org](mailto:mdesmond@cacities.org). Registration for this meeting is not required; however, your response will help us determine the meal count.

**TRANSPORTATION, PARKING and DRIVING DIRECTIONS** are provided on the back of this letter.

**OVERNIGHT ACCOMODATIONS:** If you require an overnight stay in Sacramento, the League can recommend three local properties. Please consider booking online for best available rates or checking [www.hotels.com](http://www.hotels.com) for the Sacramento area.

**Hotel Recommendations:** Hyatt Regency, 1209 L Street, Sacramento (916) 443-1234  
Sheraton Grand, 1230 J Street, Sacramento (916) 447-1700  
Residence Inn, 1121 15<sup>th</sup> Street, Sacramento (916) 443-0500

### **Deadline for Submitting Annual Conference Resolutions**

Saturday, July 23, 2011 – Email, regular mail, fax

For more information, visit: [www.cacities.org/resolutions](http://www.cacities.org/resolutions) or contact: [mdesmond@cacities.org](mailto:mdesmond@cacities.org)

## **League of California Cities Policy Committee Meetings – June 16 & 17, 2011**

**Meeting Locations:** Sacramento Convention Center: 1400 J Street, Sacramento 95814 **OR**  
League of California Cities: 1400 K Street, Sacramento 95814 (*EQ & ER committees*)  
(*The League office is located directly behind the Convention Center*)

### **AIR TRANSPORTATION:**

Low, refundable airfares are available through the Enhanced Local Government Airfare Program. The program requires that a city be pre-registered; check with your city's travel coordinator. This program is ticketless and includes Southwest, United and United Express. For city pairs, rates, or if your city has not yet registered, please check the League Web site at <http://www.cacities.org/travel> for details.

### **TRANSPORTATION FROM AIRPORT:**

**YOLOBUS information** - <http://www.yolobus.com/m3.html> - (530) 666-BUSS (2877)

**Cost:** \$2.00 each way; seniors (62+) /Disabled, \$1.00

**Travel time:** The bus ride is approximately 20-30 minutes.

#### **From the Airport. (Bus 42A)**

Buses run every hour (at approximately 19 minutes past the hour). After departing plane, go to the island outside and locate Public Transit. This is where you will catch YOLOBUS

**SUPERSHUTTLE** (1-800-BLUE VAN): Upon arrival at the airport, claim your luggage then proceed to the **SuperShuttle** ground transportation booth. A representative will arrange SuperShuttle transportation to your destination. Reservations are not required. **One-way ticket per person: \$14.00 (\$11 each additional). Round trip ticket per person: \$26.00.**

**Please note:** Downtown hotels do **NOT** provide shuttle service from the airport.

**CABS** are quoted between **\$30.00 to \$40.00** from airport to downtown.

### **RETURN TO AIRPORT:**

**SuperShuttle** (1-800-BLUE VAN) makes regular stops every 1/2 hour in front of these hotels, both within easy walking distance of the Convention Center:

Hyatt Sacramento, 1209 L Street, Sacramento - (916) 443-1234

Sheraton Grand, 1230 J Street, Sacramento - (916) 447-1700

#### **YOLOBUS: Back to Airport (Bus 42B) Pickup location: L & 13<sup>th</sup> Streets**

Buses run every hour (at 5 minutes past the hour). The bus ride is approximately 20-30 minutes.

### **DRIVING DIRECTIONS:**

Below are suggested driving directions to the Convention Center and may not be the most efficient route from your starting point. There are many websites which offer assistance with driving directions. Here are two that may be helpful:

[www.mapquest.com](http://www.mapquest.com), and <http://maps.yahoo.com/>

**From I-5:** Exit "J" Street. The Convention Center is located on "J" Street (one-way) between 13th & 15th St.

**From I-80 (West traveling East):** Take I-5 North, then follow the above directions.

**From I-80 (East traveling West):** Take I-80 to Capitol City Freeway (right lanes); Exit 160 Downtown (right lanes). When freeway ends, merge to near left lane. Turn left on "J" Street, go 1 block.

**From the South on Highway 99:** Take 99 North to Business 80 West (Capitol City Freeway). Exit at 16th Street. Continue on 16th Street, and turn left on "I", then left on 13th Street.

### **PARKING:** (*Allow time for parking; the downtown area is congested*)

There are numerous public parking garages in the vicinity. Those **closest to the Convention Center** are located at 13th and "J" Streets - directly across from the Sheraton Grand Hotel and the Convention Center. From "J" Street (one way), turn left on 13th Street; entrances to the parking lots are on both the left and the right. The Hyatt Hotel has its own parking garage and valet parking. From "J" Street, turn right on 13th Street, then right on "L" Street. The parking garages **closest to the League offices** are on "K" Street next to the Capitol Garage, corner of 15<sup>th</sup> & "K" Streets (enter from K Street).

**Hotel Recommendations:** Hyatt Regency, 1209 L Street, Sacramento (916) 443-1234  
Sheraton Grand, 1230 J Street, Sacramento (916) 447-1700  
Residence Inn, 1121 15<sup>th</sup> Street, Sacramento (916) 443-0500

**ADMINISTRATIVE SERVICES POLICY COMMITTEE**  
**Friday, June 17, 2011**  
**10:00 a.m. – 3:00 p.m.**  
**Sacramento Convention Center, 1400 J Street, Room 203, Sacramento**

**Special Order**  
**Joint Policy Committee State Budget and Redevelopment Update**  
**League Sponsored Services Update (Attachment A)**  
**10:00 a.m., Room 204, Sacramento Convention Center**

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League's Web site at [www.cacities.org/billsearch](http://www.cacities.org/billsearch). Be sure to review the most recent version of the bill.

**A G E N D A**

- |              |   |                      |
|--------------|---|----------------------|
| <b>I.</b>    | <b>Welcome and Introductions</b>  |                      |
| <b>II.</b>   | <b>Public Comment</b>   |                      |
| <b>III.</b>  | <b>State Legislative/Board Action Update (Attachment B)</b>   | <i>Informational</i> |
| <b>IV.</b>   | <b>Legislative Action Items</b>   | <i>Action</i>        |
|              | A) AB 46 (Pérez): Local government: cities (Attachment C)   |                      |
|              | B) Other legislation (as necessary)   |                      |
| <b>IV.</b>   | <b>Federal Legislative Update (Handout)</b>   | <i>Informational</i> |
| <b>V.</b>    | <b>Marijuana Regulation Working Group Report (Handout)</b>  | <i>Informational</i> |
| <b>VI.</b>   | <b>California Fair Political Practices Commission (FPPC)</b>  | <i>Informational</i> |
|              | <i>Speaker: Ann Ravel, Chairwoman, FPPC</i>   |                      |
| <b>VII.</b>  | <b>“Instant Runoff Voting” Court Case Update (Attachment D)</b>   | <i>Informational</i> |
|              | <i>Speaker: Patrick Whitnell, League of California Cities, General Counsel</i>  |                      |
| <b>VIII.</b> | <b>Citizens Redistricting Commission Update (Invited)</b>   | <i>Informational</i> |
| <b>IX.</b>   | <b>Next Meeting: (<u>TENTATIVE</u> at Annual Conference - Wednesday, September 21, 2011, San Francisco, time TBD)</b> |                      |

***Policy Committee Compliance with State Laws***

*Brown Act Reminder: The League of California Cities' Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:*

- 1) Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared (Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote); or*
- 2) A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.*

*A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.*

*NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state's Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials' statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC's mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action.*

*If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League. The lunches tend to run in the \$30 to \$45 range. To review a copy of the FPPC's most recent letter on this issue, please go to [www.cacities.org/FPPCletter](http://www.cacities.org/FPPCletter) on the League's Website.*



## LEAGUE-SPONSORED SERVICES-- VALUE TO CITIES AND TO THE LEAGUE

During its most recent meeting, the League board of directors found information about three League-sponsored services to be very interesting. They encouraged similar briefings for other groups of city officials. The services are provided through three separate organizations that the League helped to form for the value they would bring to cities. The following pages provide introductory information to the three organizations:

**California Communities**—a joint powers authority that provides local governments and private entities access to low-cost, tax-exempt financing for projects that provide public benefit to their communities.

**CalTRUST**—a joint powers authority that provides a convenient way for local agencies to pool their assets for investment.

**U.S. Communities**—a non-profit corporation that allows local agencies to piggyback on competitively bid contracts and take advantage of the enormous collective purchasing power of public agencies nationwide.

The League sponsors these services for the value they provide to cities. As shown in the table following the three flyers, League members derive a second round of benefit from these programs. Fees received by the League allow cities to accomplish through the League what might otherwise be unaffordable, while at the same time reducing League dues. It would require a 55% League dues increase to replace revenue received from California Communities and U.S. Communities.

[www.cacommunities.org](http://www.cacommunities.org)

[www.caltrust.org](http://www.caltrust.org)

[www.uscommunities.org](http://www.uscommunities.org)

# California Communities

## A Unique Asset for Local Government



The California Statewide Communities Development Authority (CSCDA or California Communities) is a joint powers authority sponsored by the League of California Cities and the California State Association of Counties.

California Communities' mission is to provide local governments and private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

Through the variety of innovative public agency and private activity bond programs offered, California Communities has a track record of ensuring that the diverse interests and broad needs of more than 500 local government members, and their communities, are met. With more than \$47.2 billion in tax-exempt debt issued since inception in 1988, California Communities® has both earned a trusted name and developed the breadth of experience necessary to operate in the California marketplace.

### **SOME REMARKABLE ACCOMPLISHMENTS**

#### **Local Government Projects**

California Communities has funded more than \$11.7 billion for 1,456 local agency participants, including:

- Tax and revenue anticipation notes—\$9 billion
- Water/wastewater systems—\$481 million
- CaLease lease obligations—\$123 million
- Pension obligation bonds—\$414 million
- Statewide Community Infrastructure Program—\$149 million
- Vehicle license fee and property tax securitization—\$1.5 billion

#### **Public Benefit Projects**

California Communities is known for financing high quality public benefit projects, issuing more than \$36.6 billion for 1,775 local community-approved projects for:

- Affordable housing—over 54,000 very-low and low-income affordable housing units for 464 multifamily and 118 senior housing projects.
- Hospitals/medical facilities—645 projects
- Solid waste disposal and alternative energy—19 projects
- Manufacturing—125 projects creating an estimated 10,000 new manufacturing jobs in California.

**View the annual Community Benefit Report at [www.cacommunities.org](http://www.cacommunities.org)**

# Investment Trust of California



## **CalTRUST is an innovative partnership...**

The CSAC Finance Corporation and the League of California Cities created CalTRUST to provide a convenient method for local agencies to pool their assets for investment. Recently enacted legislation authorizes local agencies to directly invest in joint investment pools, such as CalTRUST.

## **CalTRUST makes participation easy...**

Local agencies can invest with CalTRUST directly, without the need for a city council action to join the JPA. Any California local agency may participate in CalTRUST.

## **CalTRUST is governed by local treasurers and investment officers...**

As a joint powers authority, CalTRUST is governed by a Board of Trustees made up of local treasurers, finance directors and investment officers.

The Board of Trustees sets overall policy for CalTRUST, and selects and supervises the activities of the Investment Manager and other agents. The CSAC Finance Corporation serves as the Administrator for CalTRUST and Wells Capital Management serves as the Investment Advisor for the Program.

## **CalTRUST offers account options...**

Local agencies have three account options:

- Money Market,
- Short-Term, or
- Medium-Term accounts.

Local agencies may select account options that match their investment time horizon and cash flow needs. Then they can easily reallocate among accounts as those needs change.

Each of the accounts seeks to attain as high a level of current income as is consistent with the preservation of principal by investing only in high-quality, fixed-income securities. All CalTRUST accounts comply with the limits and restrictions placed on local investments by California statutes; no leverage is permitted in any of the CalTRUST accounts.

*For more information visit [www.caltrust.org](http://www.caltrust.org)*

# U.S.COMMUNITIES

## League-Sponsored Joint Purchasing Program



U.S. Communities is the leading national government purchasing cooperative, providing world class government procurement resources and solutions to local and state government agencies, school districts (K-12), higher education institutes, and nonprofits looking for the best overall supplier government pricing.

U.S. Communities allows local agencies to piggyback on competitively bid contracts and take advantage of the enormous collective purchasing power of public agencies nationwide.

### The program offers:

- **No User Fees**—no costs or fees to participate.
- **Best Overall Supplier Government Pricing**—by combining the potential cooperative purchasing power of up to 90,000 public agencies, California cities are able to access the best overall supplier government pricing.
- **Quality Brands**—thousands of the best brands in a wide variety of categories, services and solutions.
- **Integrity and Experience**—unlike other government cooperative purchasing organizations, U.S. Communities national government purchasing cooperative is founded by 5 national sponsors and over 70 state, city and regional organizations.
- **Oversight by Public Purchasing Professionals**—third-party audits on contracts ensure that program pricing commitments are met, with benchmark analyses against other suppliers and retailers to guarantee participants the best overall value.

A majority of California cities already use one or more of the U.S. Communities contracts. However, there is more money to be saved on the products and services cities use every day!

Registering to participate with U.S. Communities government purchasing cooperative is quick, easy and completely free.

*Learn more about this one-of-a-kind joint purchasing program  
at [www.uscommunities.org](http://www.uscommunities.org)*

## Added Benefits to League Members from California Communities and U.S. Communities

Year	Total League Revenue	Dues Revenue	Revenue from CSCDA*	CSCDA % of Total	Dues Increase to Offset CSCDA	Revenue from U.S. Comm	U.S. Comm % of Total	Dues Increase to Offset U.S. Comm
2010	17,109,963	6,217,140	2,077,701	12%	33%	1,491,842	9%	24%
2009	17,040,581	6,403,654	1,658,023	10%	26%	1,378,219	8%	22%
2008	19,183,570	6,485,064	2,318,355	12%	36%	1,455,705	8%	22%
2007	19,515,990	6,034,872	2,355,151	12%	39%	1,367,515	7%	23%
2006	18,520,339	5,962,030	1,849,401	10%	31%	1,173,109	6%	20%
Average	18,274,089	6,220,552	2,051,726	11%	33%	1,373,278	8%	22%

Cities benefit twice from the programs provided by California Communities and U.S. Communities:

First, when they take advantage of the convenient and efficient financing programs or discounted purchasing opportunities.

Second, by avoiding League dues increases.

CalTRUST has the potential to produce revenue for the League in the future. It is still a young and small program.

\* The full name of California Communities is California Statewide Communities Development Authority.

**State Legislative/Board Action UPDATE  
June 2011**

*This document is intended to provide policy committee members with an update on board action pertaining to policy committee recommendations on Bell related legislation. This document also provides an update on the status of these bills. This is information only and does not require policy committee action.*

**Staff:** Natasha Karl, (916) 658-8254

**Summary:**

Responding to misconduct in the City of Bell, California legislators have introduced over 30 bills regulating contracts and open meetings, requiring compensation disclosure, creating new audit programs, and making many other changes to the ways local governments conduct their business.

To respond to this flood of ever-changing reform bills, the League convened several technical review groups: Audits, Compensation and Retirement, and Governance and Transparency. (Members are listed at the end of this report.) The technical review groups met by conference call throughout March to provide initial feedback to help staff set priorities for, and intervene early in, bills that could have a significant impact on cities.

In April 2011, Administrative Services, Employee Relations and Revenue and Taxation policy committees discussed, made revisions to and voted to recommend that the Board adopt new Policy Principles to ensure that staff has sufficient guidance for the many negotiations inherent in the legislative process. Any significant policy issues not covered by these principles will be brought back to the policy committees, otherwise staff will continue to work with Task Force members to resolve technical issues.

**Board Action:**

The League's Board of Directors voted to adopt the three sets of principles to guide future policy so that the League can remain an active participant in legislative discussion on audits, compensation, governance, transparency, and ethics-related legislation.

**Adopted League Governance, Transparency, and Ethics Principles**

1. Public trust and confidence in government is essential to the vitality of a democratic system and is the reason ethics laws hold public officials to high standards.
2. Laws alone cannot foresee or prevent all actions that might diminish the public's trust in governmental institutions. Transparency laws impose the minimum standards of conduct; to preserve public trust, public officials should aspire to conduct that exceeds minimum standards.

3. State revisions to laws governing local agency transparency and ethics should address material and documented inadequacies in those laws and have a reasonable relationship to resolving those problems.
4. In order to encourage and facilitate compliance with new transparency and ethics requirements, State laws should be internally consistent, avoid redundancy and be mindful of the practical challenges associated with implementation.
5. State officials and agencies should aspire to conform to the same level of transparency and ethical behavior as is imposed on local officials and agencies.

### **Update of Governance, Transparency, and Ethics legislation**

**AB 23 (Smyth). Local agency meetings: simultaneous meetings: compensation disclosure.** *(as introduced on April 14, 2011)*

**Bill Summary:**

This bill would authorize a legislative body convening simultaneous or serial order meetings of any other legislative body, only if a clerk or member of the convened legislative body verbally announces the amount of compensation or stipend that each member will be entitled to receive as a result of convening the simultaneous or serial meeting of the second legislative body.

**Bill Status:** The bill was significantly amended on April 14. The bill passed off the Assembly Floor early in May and will be heard on June 8, 2011 in the Senate Committee on Governance & Finance.

**AB 148 (Smyth) Local government: ethics training: disclosure** *(as amended April 14, 2011)*

**Bill Summary:**

This bill adds agencies compensation setting guidelines to the required ethics training curriculum. Requires local agencies to post records of ethics training on websites and submit copies of training records to the Controller. Requires local agencies with written attendance compensation or reimbursement policies to post them on its website and submit copies to the Controller. Bill keyed as State mandated local program.

**Bill Status:** Held in Assembly Appropriations Committee.

**AB 392 (Alejo-D) Ralph M. Brown Act: posting agendas.** *(as amended on April 14, 2011)*

**Bill Summary:**

This bill would require agencies to post, along with the agenda, 72 hours in advance of a public meeting any specified staff generated reports that relates to an item on the agenda and also requires the writing to be posted on the agency's website if one exists.

**Bill Status:** The League wrote a letter of concerns about AB 932. This bill died in the Assembly Appropriations Committee on 5/27/2011.

**AB 527 (Hernandez–D) Public officials: financial interests.** *(as amended on May 23, 2011)*

**Bill Summary:**

This bill amends the conflict of interest statutes to prohibit any state, county, district, judicial district, and city officers or employees from authorizing the expenditure of public funds, regardless of whether a contract is made in furtherance of the expenditure, if any member of the body or board is financially interested in the person or entity that receives the expenditure. This bill also, requires a legislative body at a public meeting to note in its official record an officer's remote interest in a contract that the legislative body enters into and requires the counsel or other legal advisor of the body or board to identify at a public meeting the statutory basis for classifying the interest as remote.

**Bill Status:** This bill is currently pending action on the Senate.

**AB 582 (Pan). Open meetings: local agencies.** *(as amended on April 14, 2011)*

**Bill Summary:**

This bill would amend the Ralph M. Brown Act to require that proposed compensation increases above 5% for specified employees are publically noticed twice. The first notice will be for general notice and nonvoting discussion. The compensation increase, if deemed necessary by the legislative body must be noticed a second time, no less than 12 days after the first notice, announcing a vote on the matter.

**Bill Status:** This bill was held in Assembly Appropriations Committee.

**AB 785 (Mendoza). Public officers: financial interest.** *(as amended on April 25, 2011)*

**Bill Summary:**

This bill provides that a member of a legislative body has a financial interest in a decision if his or her immediate family member has a financial interest in the decision. A person lobbying on behalf of a third party with business before a legislative body is deemed an agent of that party and has a financial interest in the business before that legislative body. The bill defines "immediate family member" to include spouse or domestic partner, child, parent, sibling, or spouse or domestic partner of a child, sibling, or parent. "Lobbying" is not further defined in this measure.

**Bill Status:** This is a 2-year bill, which means that the bill will not move until Jan. 2012, if at all.

**AB 834 (Hernandez) Local Government. Contracts.** *(as amended on April 14, 2011)*

**Bill Summary:**

This bill would require a legislative body to review any private party contract with a total value of \$250,000 or more that contains an automatic renewal clause on before the annual date the contract may be rescinded. The legislative body must make findings on the record whether the contract contains updated information and whether the contract fits the needs of the legislative body.

**Bill Status:** This bill did not have the requisite votes to get off the Assembly Floor on May 16. The bill is on the Assembly Floor pending reconsideration.

**AB 1344 (Feuer) Local Governance.** *(as amended on May 27, 2011)*

**Bill Summary:**

This bill would require a charter proposed by a charter commission, whether elected or appointed by a governing body, for a city or city and county to be submitted to the voters at and established statewide or municipal general election. This bill includes several provisions related to employment contracts and compensation increases and makes several changes to the Ralph M. Brown Act.

**Bill Status:** This bill was significantly amended on May 27, 2011. This bill is pending action on the Assembly Floor.

**AB 1345 (Lara) Local government. Boards and Council.** *(as amended on March 31, 2011)*

**Bill Summary:**

This bill would create a process to appoint members to serve on the governing board or council of a local government in the absence of a quorum.

**Bill Status:** The author has indicated that he will make this a 2-year bill, which means that the bill will not move until Jan. 2012, if at all.

**AB 1355 (Lara) City officials: standards** *(as amended on March 24, 2011)*

**Bill Summary:**

This bill would require the Secretary of State (SOS) in consultation with the Controller, the Treasurer and the League of California Cities to develop recommendations for minimum educational and certification standards for the following appointed and/or elected city officials: city clerk, city manager, and city treasurer.

**Bill Status:** This is a 2-year bill, which means that the bill will not move until Jan. 2012, if at all.

**COMMITTEE ON ADMINISTRATIVE SERVICES**  
**Legislative Agenda**  
**June 2011**

**AB 46 (Perez). Local government: city disincorporation** *(As amended April 4, 2011)*

*\*The League's Board discussed this measure and requests that the Administrative Services and Housing, Community and Economic Development policy committees review AB 46, taking into account League principles (articulated in an expanded manner in the board's motion on page 2 )which support both local control and open government.*

League Staff: Dan Carrigg, Meghan McKelvey

**Bill Summary:**

This bill would disincorporate cities with a population less than 150, as of January 2010, into the respective county within 91 days of becoming law, subject to the following additional conditions:

1. The affected city will be disincorporated unless the county board of supervisors determines, with a majority vote within the 90 day period that there is substantial evidence on record that the city *is in an isolated, rural location* and it is impractical for the residents to organize another form of local government.
2. The population will be determined by the official records of the Department of Finance.
3. The local agency formation commission in the affected county is required to oversee the terms and conditions of the disincorporation of the city pursuant to the provisions in the Cortese-Knox-Hertzberg Act. The commission's authority shall include, but not be limited to, the power to enforce a writ of mandate.

**Background:**

AB 46 would amend the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (the Act), which enacts procedures for incorporations and changes of organization of cities including procedures for disincorporation and reorganization. The Act also established a local agency formation commission (LAFCO) in each county to oversee proposed changes of organization. LAFCOs provide a guiding hand to the development of local agencies, including special districts.

Under the Act, to incorporate a new city with corporate powers, the area needs to have at least 500 registered voters residing within the defined city limits. Since 2000, only nine cities have been incorporated. Cities implement and oversee services that are decided and voted upon by the residents of that city.

After the creation of LAFCOs in 1963 only two California cities have disincorporated – Cabazon in 1972 and Hornitos in 1973. Cabazon's disincorporation went through the process prescribed in the Act and Hornitos was disincorporated by statute.

Vernon is located in Los Angeles County, which includes 88 cities and has the largest population of any county in the nation. Currently, the City of Vernon (population 95)

will be the only California city affected by this measure. Vernon was founded in 1905 as an industrial city several miles southeast of Downtown Los Angeles. According to the City of Vernon, it has more than 1,800 businesses that employ approximately 50,000 people in industries including food and agriculture, apparel, steel, plastics, logistics and home furnishings. Vernon became a charter city in 1988.

Under the provisions of AB 46, Vernon would automatically be disincorporated because it is not in *an isolated, rural area*. Thus, there would be no option for the county board of supervisors to vote to maintain cityhood.

**League’s Board Referral at May 19-20 Board Meeting:**

“Move that the board request that the Administrative Services Policy Committee and the Housing, Community and Economic Development Policy Committee review and advise the board on a possible League position on AB 46 (Perez) in light of the following factors:

- The League’s mission to “expand and protect local control for cities...”
  
- The following League core values that we believe:
  - “in conducting the business of government with openness, transparency, respect, and civility.”
  - “the spirit of honest public service is what builds communities.”
  - “open decision-making that is of the highest ethical standards honors the public trust.”
  - “ethical and well-informed city officials are essential for the responsive, visionary leadership and effective and efficient city operations.”
  
- The League’s overall strategic interests and the status of other League priorities, as described by League staff.

**Comments:**

- 1) Supporter’s arguments: The author and supporters of AB 46 argue that the City of Vernon has a long history of corruption allegations, indictments and convictions for offenses including voter fraud. The burden of monitoring the government activities of a small populated city falls on a few individuals and therefore there are very few checks and balances in place to protect the residents. One example often cited is that many residents of the city may also work for the city and/or live in city-owned housing, which may make them less-inclined to be critical of city government. According to Speaker Perez, “AB 46 not only remedies the corruption that currently exists (in Vernon), but permanently eliminates the structural mechanisms that have allowed this corruption to flourish unchecked for more than half a century.”

In December 2009, Vernon Mayor Leonis Malburg, who had served as an elected official for 50 years and his wife were found guilty of fraudulent voting in Vernon

while residing in another city. Former Vernon City Administrator Bruce Malkenhorst, Sr., recently pleaded guilty to misappropriation of public funds and was ordered to repay \$60,000 to the city and was fined \$10,000.

- 2) Opponents contend: According to the opponents of AB 46, the City of Vernon was exclusively founded as an industrial city. Vernon's low taxes, inexpensive utility rates, appropriate zoning and efficient municipal services are the major reason for the large amounts of jobs and industry in the city. The city is able to deliver high-quality services to the affected businesses. For instance, the city has four fire stations trained to handle hazardous material and respond to calls within minutes.

Affected businesses operating within the city limits are concerned that being governed by Los Angeles County would increase the cost of utilities, increase response times from the fire department, and drive businesses out of California.

The City also contends that the involuntary disincorporation of Vernon would violate the state constitution in a number of respects.

In the wake of AB 46, the City of Vernon has created a campaign, SaveVernonJobs.com, to highlight and save industrial jobs in this area.

3) Issues and Comments:

- *Establishing a dangerous precedent?* According to the Los Angeles County Division of the League of California Cities, AB 46 sets a dangerous precedent by expanding the Legislature's authority to pick and choose which municipalities can legally exist. This legislation will seriously contravene basic principles of local control and decision making authority.
- *Is it legal to disincorporate a charter city?* Vernon is one of the 120 charter cities in California. The California Constitution affords special home-rule powers to charter cities and allows for greater control over their affairs than general law cities. According to the California Contract Cities Association, AB 46 is not only unconstitutional, but also attempts to take the authority of a city to exercise local control over planning and land use decisions.
- *Is there another motivation?* In a Sacramento Bee editorial, columnist Dan Walters questioned Speaker Perez's motivation. Each year, Vernon generates a quarter billion-dollar stream of revenue from city-owned electric, gas, and water utilities. These revenues would initially flow to county coffers. According to Walters, Los Angeles city officials have already acknowledged they would take action and attempt to annex Vernon if it was disincorporated. [Note: L.A. Council Member Tony Cardenas, a

member of the League board, informed the board that the city council would oppose annexation of Vernon.]

- *Can small cities work?* There are many other states that have cities with a population under 150. According to the 2009 population estimates, the US Census Bureau identified several states with cities that contain less than 150 residents. For example: Iowa has 176 cities out of 947 (19%); Minnesota has 146 out of 854 (17%); and Arkansas has 69 out of 502 (14%).
- *Is disincorporation too aggressive of a solution?* If the concern is a lack of transparency and a history of corruption, are there other ways to address it without attempting to disincorporate a city over 100 years old? As evidenced by the recent example in the City of Bell, criminal acts can be addressed by the courts. Could additional transparency mechanisms and oversight offset the concerns about residents with city jobs or housing not serving as effective civic watchdogs? Furthermore, some solutions may arise from the more than 30 bills which have been introduced in response to the misconduct in the City of Bell. Another potential solution to address the concerns of the City of Vernon would be to reclassifying the city as a special industrial district.
- *City retains former Attorney General to assess Vernon's governance, conflicts and open government policies and practices.* On February 9, 2011 the City of Vernon announced it had retained former Attorney General John Van de Kamp as an independent ethics advisor who, along with other experts, would "...independently review and assess Vernon's governance policies and practices as they relate to local government ethics, conflicts of interest, open government and transparency." Van de Kamp enlisted Robert Tern, co-founder and president of the L.A.-based Center for Governmental Studies and Cynthia Kurtz, former Pasadena City Manager, to assist in the review. Their final recommendations will be delivered to the city council and CAP this month.
- *City recently adopted some reforms:* A May 26, LA Daily News article reported that the City of Vernon has adopted numerous reforms which include: reducing council salaries from \$70,000 to \$25,000, capping the salaries of department heads at \$267,000, establishing a commission to oversee city-owned housing, and placing an amendment on the city ballot to establish council term limits at two five-year terms.  
[http://www.dailynews.com/ci\\_18144018?IADID=Search-www.dailynews.com-www.dailynews.com](http://www.dailynews.com/ci_18144018?IADID=Search-www.dailynews.com-www.dailynews.com)
- *City could request intensive review and best practice recommendations from a League City Manager Department Assistance Team.* Under this program, a team of experience city managers and assistant city managers could evaluate the situation in Vernon and make objective recommendations on

how to improve the city's governance and transparency. This process would take three-four months and the legislation could be held as a two-year bill pending the outcome of that process and the city's subsequent actions.

- *Let's not forget the politics.* The author, the Assembly Speaker, is extremely motivated on this issue. He has worked to gather 94 co-authors for this bill out of a total of 119 current legislators. He recently thanked the League's officers for not taking a position on the bill to date, and said that he'd appreciate the League's support, but encouraged, at a minimum, the League's continued neutrality. The legislation recently passed the Assembly floor with a vote of 62-7, with 11 abstentions.

**Staff Recommendation:**

Discussion, with consideration of factors raised by League Board.

**Fiscal Impact:**

Immense importance to the affected city.

**Existing League Policy:**

The League's mission is to restore and protect local control. We strive to protect the local authority and autonomy of city government and help California's cities effectively serve their residents. The vitality of cities is dependent up their stability and local autonomy. We believe that "local self-governance is the cornerstone of democracy."

The League has numerous policies speaking to ethics and transparency. The League believes that open decision-making of the highest ethical standards honors the public trust. Last year, the League formally condemned the identified misconduct in both the City of Bell and the City of Vernon.

In April, the League's policy committees reviewed and adopted additional principles to guide the League's positions on approximately 30 bills introduced this year responding to various issues raised in the City of Bell, covering transparency, governance, meeting and compensation issues. These principles were adopted by the board at its May meeting.

**Support-Opposition:** *(as of June 3, 2011)*

Support - There are 94 Assembly and Senate Co-Authors

Adult Day Health Care Association

Andy Molina, Council Member, City of Huntington Park

Antonio R. Villaraigosa, Mayor, City of Los Angeles

Ashley Swearengin, Mayor, City of Fresno

Central City Association

City of Huntington Park

City of Los Angeles

City of Maywood

Coalition for Clean Air

Communities for a Better Environment

Dennis P. Zine, Council Member, City of Los Angeles  
Ed P. Reyes, Council Member, City of Los Angeles  
Elba Guerrero, Council Member, City of Huntington Park  
Kern County Board of Supervisors (if amended)  
Latino Business Chamber of Greater Los Angeles  
Los Angeles County Board of Supervisors  
Los Angeles County Sheriff's Department  
Miguel Pulido, Mayor, City of Santa Ana  
Monica Garcia, Board President, Los Angeles Unified School District  
Mujeres de la Tierra  
Paul Koretz, Council Member, City of Los Angeles  
T. Santora, President, Communication Workers of America- Local 9000  
Tony Cardenas, Council Member, City of Los Angeles  
William C. Velasquez Institute  
Individual letters (3)

Opposition

Los Angeles Division, League of California Cities  
California Contract Cities Association  
California Labor Federation (Oppose Unless Amended)  
California Teamsters Public Affairs Council  
City of Vernon  
Goldberg and Solovy Foods  
Los Angeles County Business Federation  
Los Angeles Area Chamber of Commerce  
Teamsters Joint Council 42  
United Transportation Union  
Vernon Chamber of Commerce  
Vernon Police Officers' Benefit Association

# Scandal-plagued Vernon to hire prominent lawyers for ethics review

**Hoping to avoid disincorporation, officials in the industrial city of Vernon are expected to hire John Van de Kamp, a former state attorney general, and Robert Stern, former general counsel for the California Fair Political Practices Commission.**

February 09, 2011 | By Sam Allen, Los Angeles Times

The embattled city of Vernon said it will announce today that it is hiring two prominent outside attorneys to conduct an ethics review of its municipal government, which has come under fire from lawmakers who are pushing to have the town disincorporated.

The hiring of former state Atty. Gen. John Van de Kamp and Robert M. Stern, former general counsel of the California Fair Political Practices Commission, is the latest move by Vernon in its battle against legislation that would break up the industrial city south of downtown L.A. Vernon has been mired in several public corruption scandals in recent years, including the indictments of two city administrators and the conviction of the city's longtime mayor.

Vernon officials said Van de Kamp and Stern will be paid \$550 and \$450 an hour, respectively. The city is already spending significant sums on a team of lawyers and lobbyists working to defeat AB 46, a bill that would dissolve Vernon and make it a part of Los Angeles County. The Times reported last month that Vernon had spent over \$42 million on outside attorneys in the last five years, far more than many much larger cities in Southern California.

In an interview, Van de Kamp said he was aware of concerns about Vernon's government dating back to the 1970s, when he served as Los Angeles County district attorney. He said he took the job of independent ethics advisor based on the promise of officials that he would be allowed to produce a thorough and unbiased review.

"If they are interested in keeping their status as a chartered city, they need to run a city that's in the mainstream," he said. "As I look at it, my role is to call it as I see it. ... If we come up with negative things, we could feed the speaker's bill."

Van de Kamp also acknowledged the city has a reputation for a lack of openness. "There's no harm in trying to help them on a project like this and helping them get their act cleaned up if that's necessary," he said. "I think the idea here is to bring the city of Vernon into conformity with good government practices in California."

Vernon is also the subject of an ongoing investigation by the state attorney general into compensation paid to top officials, including onetime city administrator Eric T. Fresch, who made as much as \$1.65 million in 2008. The city has about 1,800 businesses but less than 100 residents — many of them family or friends of top city officials — and it has long been accused of being a fiefdom run by a small group of powerful individuals.

City Administrator Mark Whitworth said the agreement calls for the attorneys to complete a findings report in six months and a final report next year. He said the results will be made available to the public and any lawmakers who wish to see them.

Whitworth said that the review is not a response to any specific allegation and that it will be broad in scope. He said that some areas of focus are "ethics, conflict of interest, and open government issues" and that how the city retains consultants and authorizes expenses will be examined.

"This will put issues of transparency and accountability to rest," he said.

But critics of the city see it differently and expressed skepticism Tuesday about Vernon's motives in launching the review. The author of the disincorporation bill, Assembly Speaker John Pérez, questioned how sincere Vernon officials are about being open to change, pointing out that the city is announcing the hiring of Van de Kamp and Stern two months after he introduced his bill.

"While I appreciate the engagement of the former attorney general, AB 46 is the only vehicle that will end the corruption and abuse of power in Vernon, and I will continue to move the bill forward through the legislative process," said Pérez, a Democrat who represents Vernon's district.

In August of last year, Vernon announced an internal review after The Times inquired about city administrator Donal O'Callaghan's wife's work as a Vernon contractor. Whitworth tapped then-City Atty. Laurence Wiener to lead the review and touted him as a key part of the city's effort to "move forward and eliminate some practices of the past." But Wiener abruptly resigned weeks later, before the results of the review were made public. Neither he nor Whitworth has commented on the reasons for the departure.

Shortly after that, O'Callaghan resigned under pressure and was indicted on conflict of interest charges. The indictment marked the third corruption scandal in Vernon since 2006, when the city's mayor was charged with voter fraud and its city administrator was charged with misappropriation of public funds.

Van de Kamp, a well-known state official who ran for governor in 1990, is the former president of the California Bar Assn. and currently practices law at Dewey & Leboeuf.

He has previously monitored several organizations, including the Getty Trust and the Los Angeles Police Department's Rampart Division, under the cloud of controversy. He said his discussions with Vernon began in December, when he was approached by the law firm Latham & Watkins, which is helping to coordinate Vernon's effort against AB 46.

He said he would meet with Vernon officials next week after his contract is officially approved by the City Council. He plans to extensively review the city's policies and procedures and to "see if they are real and how they're being managed."

Vernon officials have strongly opposed disincorporation, arguing that it is unconstitutional and that it would threaten the city's businesses and lead to job losses.

"If you close the doors on the opportunities here, businesses are going to move out of the state or shut down altogether," Whitworth said. "We need to resolve this, and we need to move forward. If there are real issues, let's address them. That's why we're bringing in Mr. Van de Kamp."

At a separate hearing Tuesday, a Los Angeles city planning committee voted to ask the City Council to consider supporting AB 46 and to discuss the possibility of attempting to annex Vernon if the bill passes.

*sam.allen@latimes.com*

*Times staff writer Hector Becerra contributed to this report.*

**Los Angeles Times**

Copyright 2011 Los Angeles Times

Metropolitan News-Enterprise

Monday, May 23, 2011

Page 1

**Ninth Circuit Upholds Instant Runoff Voting Method**

By KENNETH OFGANG, Staff Writer

San Francisco's "instant runoff voting" system, in which voters rank candidates in order of preference and candidates are eliminated sequentially until a winner is determined, is constitutional, the Ninth U.S. Circuit Court of Appeals ruled Friday.

The panel affirmed a ruling by U.S. District Judge Richard Seeborg of the Northern District of California, who granted the city's motion for summary judgment and rejected a suit by former supervisor candidate Ron Dudum and others.

More than 100 years ago, Judge Marsha Berzon noted, the mathematician Charles L. Dodgson—better known by his pen name, Lewis Carroll—searched for a perfect alternative to the plurality or "first past the post" system, under which a candidate rejected by a majority of the voters can win an election.

"There is no perfect election system, and our search for one would prove no more successful than a hunt for the mythical snark," the judge wrote. "Happily, we are not required to engage in any such endeavor. We hold only that Dudum has not established that the City's chosen system is unconstitutional."

The Constitution does not require a city to adopt any particular system, she wrote, concluding that what the plaintiffs argued were defects in San Francisco's method were policy choices that place "an at most minimal—and perhaps nonexistent—burden on voters' constitutional rights."

Prior to 2002, candidates for San Francisco mayor and other citywide offices, and for the Board of Supervisors, ran in a "double ballot" system. If no candidate received more than 50 percent, a runoff election was held at a later date, between the top two candidates.

Under IRV, as it is called, only one election is held.

Voters may mark their ballots for a first choice, then a second, etc. If no candidate gets a majority of the first choice votes, the candidate with the fewest votes is eliminated, and his or her votes are added to the totals for the next choice.

The process continues until one candidate gets a majority of the "unexhausted"

votes. A ballot is “exhausted”—meaning it no longer figures in the count—once all of the voter’s choices are eliminated.

In order to adapt the system to its electronic voting equipment, San Francisco—unlike some IRV jurisdictions in other states and countries—limits voters to three choices, so the system is sometimes called “restricted IRV.” Three other California cities, Berkeley, San Leandro, and Oakland, have adopted restricted IRV.

“Instant runoff voting” is somewhat of a misnomer, Berzon acknowledged in a footnote, because unlike a traditional runoff system, a candidate need not have the most or second-most votes in order to ultimately prevail. In one San Francisco supervisor race last year, the top five vote-getters all received between 11 and 13 percent, and the candidate who started out third—she was five votes behind the No. 2 candidate—wound up winning.

In attacking San Francisco’s law, the plaintiffs complained that restricted IRV disenfranchises voters whose ballots have been exhausted.

They cited a ruling by a U.S. district judge prior to California’s 2003 governor recall, striking down a state law barring voters from choosing a candidate for governor if they did not also vote “yes” or “no” on the recall. They also pointed to a ruling in the federal First Circuit, that where an earlier election was held invalid and ordered re-run, all voters—not just those who voted in the invalidated election—had a constitutional right to participate in the new election.

Restricted IRV, they argued, is similarly unconstitutional because once a voter’s three choices are eliminated, that person cannot choose among the remaining candidates.

Berzon, however, said the argument rested on the flawed premise that each stage of an IRV election—the adding of the unexhausted votes cast for the most recently eliminated candidate to the totals of the remaining candidates—is a new election. Exhaustion under IRV, she said, is not equivalent to denying someone the right to vote or discarding their vote.

“[I]n San Francisco’s system, no voter is denied an opportunity to cast a ballot at the same time and with the same degree of choice among candidates available to other voters,” the judge said.

“In short, Dudum’s contention that the City’s system discards votes is incorrect,” she continued “Instead, the system ‘counts’ all the ballots, but the final tabulation recognizes that some of the ballots ranked only losing candidates.”

Whatever minimal impact IRV may have on the right to vote, the judge concluded, is outweighed by the benefits cited by the city—a substantial cost savings from elimination of the second election and “the city’s legitimate interests in providing voters an opportunity to express nuanced voting preferences and electing candidates with strong plurality support.”

Judges Richard A. Paez and Carlos T. Bea concurred in the opinion.

The case is *Dudum v. Arntz*, 10-17198.

*Copyright 2011, Metropolitan News Company*