

PUBLIC SAFETY POLICY COMMITTEE
Friday, June 15, 2012
10:00 a.m. – 3:00 p.m.
Sacramento Convention Center, 1400 J Street, Rm. 203, Sacramento

SPECIAL ORDER OF BUSINESS
POST REDEVELOPMENT & STATE BUDGET UPDATE
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. Be sure to review the most recent version of the bill.

R E V I S E D A G E N D A

- I. Welcome and Introductions**
- II. Public Comment**
- III. Report on Board Action Items from April** *Informational*
- IV. State Legislative Update (Attachment A)**
1. SB 1468 (Calderon). Fireworks. *Action*
 2. AB 1993 (Ma). Unlicensed Drivers. *Informational*
 3. Public Safety Legislation with Registered Positions
- V. Federal Update**
1. H.R. TBD (Schiff). Disaster Declaration Improvement Act. (Attachment B) *Action*
 2. NLC Public Safety and Crime Prevention Committee Report *Informational*
- VI. November 2012 Ballot Measures (Attachment C)** *Informational*
1. Death Penalty Sentence Repeal
 2. Human Trafficking Penalties
 3. Three-Strikes Felony Requirements
- VII. Subcommittee Reports** *Informational*
- Emergency Response/Disaster Preparedness
 - Realignment
 - Technology
- VIII. Next Meeting: Annual Conference, San Diego, September 5, 10:30 – Noon**
Staff will notify committee members after July 7th if the policy committee will be meeting in September.

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 on the League's Website.

PUBLIC SAFETY POLICY COMMITTEE
Federal Legislative Agenda (*Updated*)
June 2012

1. H.R. TBD (Schiff). Disaster Declaration Improvement Act.

Summary:

This federal legislation would add to the existing factors used by the Federal Emergency Management Agency (FEMA) to determine eligibility for allocating disaster assistance grants to states and local jurisdictions. Specifically, this measure would give additional consideration for the following local jurisdictions in counties with populations over one million, in states with populations over five million:

- 1) Cities or census defined places (unincorporated communities) with populations of less than 25,000 and damages that exceed more than \$100 per capita; and
- 2) Cities with populations of less than 250,000 and damages that exceed more than \$100 per capita or 10% of the current year General Fund.

Background:

The formula for federal assistance to states following a disaster declaration has been debated for decades. Congressman Adam Schiff (29th Congressional District) introduced this legislation to improve equity in how different states receive funding from the Federal Emergency Management Agency (FEMA) through the Stafford Act, which came to light following the 2011 windstorms in southern California.

There are many factors that FEMA considers following a Governor's disaster or state of emergency declaration before providing assistance.

- Estimated cost of the assistance for damage recovery;
- Localized impacts;
- Insurance coverage in force;
- Hazard mitigation efforts by the state or local community pre-disaster;
- Recent multiple disasters;
- Programs of other Federal assistance;
- Factors for the Individual Assistance Program, including concentration of damages and trauma such as number of injuries and deaths, disruption of normal services or access to power or water;
- Special populations impact (such as low-income or elderly);
- Voluntary agency assistance levels; and
- Average amount of individual assistance by State.

While there are many factors, the first and most heavily weighted is the estimated cost of losses or damages and ability to meet the minimum threshold to trigger FEMA assistance. If a disaster results in damages at a lower level than the calculated threshold, the effected public agencies in that state will not be eligible for assistance. FEMA calculates the statewide threshold by providing roughly \$1 per person, based on statewide population. Current rates provide \$1.30 per person and in California the FEMA threshold is currently \$50.3 million dollars.

In the winter of 2011, the Los Angeles region experienced severe windstorms that resulted in approximately \$34 million dollars in damages and other losses. While Governor Brown declared a state of emergency due to the extensive and far-reaching impact, California did not qualify for FEMA assistance because the total damages fell short of the threshold by more than \$15 million dollars. Further, because FEMA did not offer assistance, Governor Brown did not extend assistance through the California Disaster Assistance Act.

Congressman Schiff contends that the Southern California Windstorms disaster, affecting the same area and population, in a smaller state would have received assistance. By allowing California to set assistance thresholds by county population, federal assistance would be more easily and equitably accessible.

This issue is highlighted in a report titled, “FEMA’s Disaster Declaration Process: A Primer” (*Francis X. McCarthy, Analyst in Emergency Management Policy, March 2011*): “Depending on the state’s population, the per capita threshold may be difficult to reach. For example, the 2000 Census estimated California’s population at just under 34 million people. Applying the \$1.30 per capita figure, it would require eligible public assistance damage in California to be close to \$41.5 million....Compare that level of eligible damage for California (\$41.5 million) with Nevada, a small population state according to FEMA regulations. For Nevada, with a population of just under 2 million people according to the 2000 Census, eligible public assistance damage of about \$2.4 million would make the state potentially eligible for supplemental federal assistance.”

Staff Recommendation:

Staff recommends a “support” position. The new criteria could potentially bring additional resources for disaster recovery efforts to California’s communities and also trigger state-based assistance furthering recovery funding. While only the most populous counties are eligible, this makes California as a state more competitive with other, less populous states for assistance. In turn, this may alleviate state-wide burdens and make state funding more available for smaller disasters.

Committee Recommendation:

Fiscal Impact:

Unknown. There is no mandated appropriation or minimum required funding levels by the federal government or a specific agency.

Existing League Policy:

The League supports disaster recovery legislation that includes mitigation for losses experienced by local governments.

Comments:

Apples and Oranges: The current FEMA threshold formula is the same for all states, regardless of disaster-risk or prior history of need. Those factors are considered secondary. Because of this, states with smaller populations may have a greater advantage to receive assistance because they have a lower threshold. However, smaller states may also be less capable of providing necessary support services on their own because of their smaller economic base. Also, smaller disasters could have a proportionately larger impact on smaller states in relative terms.

State Trends in Assistance: Governor Brown’s Administration has not offered the same state assistance to disasters with local impacts as his predecessor through the California Disaster Assistance Act (CDAA). While there are no requirements or limitations related to FEMA declarations, the Governor has cited the lack of federal response as reason for not offering state assistance in several recent incidents impacting the North and Central Coasts and Southern California regions.

Show Me the Money: At the most basic level, the proposal would make it easier for California to qualify for FEMA public assistance following a disaster declaration. There are 21 other states with populations over 5 million that would also be able to seek additional consideration for disaster relief based on the same grounds.

County and Community Population Minimums: When the Public Safety Committee reviewed this measure in concept in the January meeting, the Committee generally supported the proposal but recommended minimum thresholds similar to the smallest states' thresholds to prevent numerous minor disaster claims from draining the overall FEMA allocation for public assistance to states. Congressman Schiff's office offers this has been addressed by maintaining the federal minimum of \$1 million dollars regardless of state population. This is also the rationale limiting the additional eligibility to counties with populations of 1 million or greater, based on the \$1 per person assessed damages threshold.

Some Jurisdictions Still Favored over Others: Only nine counties in California would be eligible for additional consideration under this measure. While this may give them a more favorable position for receiving assistance, these new factors are not part of an objective formula but are subjectively reviewed. This may also give California a more competitive edge when seeking limited resources on a national scale.

Legitimizing Per Capita Threshold: The per capita threshold holds the most weight "de facto" in FEMA disaster determination but has no legal standing to be the sole determining factor, pursuant to the Stafford Act. The Disaster Declaration Improvement Act may reinforce the legitimacy of using a minimum per capita threshold, even though it does not make it "de jure" to be the sole means to qualify a jurisdiction for financial assistance.

Support/Opposition:

None on file at this time.

**PUBLIC SAFETY POLICY COMMITTEE
NOVEMBER 2012 BALLOT MEASURES**

**Pending Signature Verification*

1) Death Penalty Repeal.

Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole. Applies retroactively to persons already sentenced to death. Requires persons found guilty of murder to work while in prison, with their wages to be applied to any victim restitution fines or orders against them. Creates \$100 million fund, from the state General Fund, to be distributed to law enforcement agencies to help solve more homicide and rape cases, through a formula determined by the state Attorney General.

Fiscal Impact:

Net savings to the state and counties that could amount to the high tens of millions of dollars annually on a statewide basis due to the elimination of the death penalty. One-time state costs totaling \$100 million from 2012-13 through 2015-16 to provide funding to local law enforcement agencies.

Existing League Policy:

- The League supports the promotion of public safety through stiffer penalties for violent offenders.
- The League supports policies that promote a victim's right to seek restitution.
- The Public Safety Committee also voted to "disapprove" a 2011 Annual Conference Resolution that would urge the legislature and Governor to abolish the death penalty and replace the sentence with life imprisonment without parole.

2) Human Trafficking. Penalties. Sex Offender Registration.

Increases criminal penalties for human trafficking, including prison sentences, up to 15-years-to-life and fines up to \$1,500,000. Fines collected to be used for victim services and law enforcement (for prevention, witness protection and rescue operations). Requires person convicted of trafficking to register as sex offender. Requires sex offenders to provide information regarding Internet access and identities they use in online activities. Prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings. Requires two-hour human trafficking training for all field or investigating police officers by June 2014 or within six months of assignment to this type of position.

Fiscal Impact:

Potential one-time local government costs of up to a few million dollars on a statewide basis, and lesser additional costs incurred each year, due to the new mandatory training requirements for certain law enforcement officers. Minor increase to state and local governments on the costs of incarcerating and supervising human trafficking offenders. Unknown amount of additional revenue from new criminal fees, likely not to exceed the low millions of dollars annually, which would fund services for human trafficking victims.

Existing League Policy:

- The League supports the promotion of public safety through stiffer penalties for violent offenders.
- The League supports policies that will assist local law enforcement with sex offender management, so long as state-mandated programs provide for full reimbursement to all local agencies.
- The League supports policies that promote a victim's right to seek restitution.

3) Three Strikes Law. Sentencing for Repeat Felony Offenders.*

Revises three strikes law to impose life sentence only when new felony conviction is serious or violent. Authorizes re-sentencing for offenders currently serving life sentences if third strike conviction was not

serious or violent and judge determines sentence does not pose unreasonable risk to public safety. Continues to impose life sentence penalty if third strike conviction was for certain non-serious, non-violent sex or drug offenses or involved firearm possession. Maintains life sentence penalty for felons with non-serious, non-violent third strike if prior convictions were for rape, murder, or child molestation.

Fiscal Impact:

State savings related to prison and parole operations that potentially range in the high tens of millions of dollars annually in the short run, possibly exceeding \$100 million annually in the long run. Increased state and county costs in the millions to low tens of millions of dollars annually in the first few years, likely declining substantially in future years, for state court activities and county jail, community supervision, and court-related activities.

Existing League Policy:

The League supports the promotion of public safety through stiffer penalties for violent offenders.