



1400 K Street, Suite 400 • Sacramento, California 95814
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June 8, 2011

TO: Members: Revenue and Taxation Policy Committee

FROM: Robert Ming, (Chair), Mayor, Launa Niguel
Dan Carrigg, League Staff (916) 658-8222

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 204, 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. 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 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 15th 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 or contact: 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 & 13th 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, 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 15th & "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 15th Street, Sacramento (916) 443-0500

REVENUE AND TAXATION POLICY COMMITTEE
Friday, June 17, 2011
10:00 a.m. – 3:00 p.m.
Sacramento Convention Center, 1400 J Street, Room 204, 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. Be sure to review the most recent version of the bill.

A G E N D A

- I. Welcome and Introductions**
- II. Public Comment**
- III. Legislative Action Items** *Action*
Legislative Agenda (Attachment B)
Use Tax Bills Summary (Attachment C)
- IV. Pensions** *Action*
City Managers Draft Pension Reform Action Plan (Attachment D) *Action*
Speakers: Rod Gould, City Manager, Santa Monica
Ron Bates, City Manager, Pico Rivera
Bruce Channing, City Manager, Laguna Hills
Pension Background Document (Attachment E) *Informational*
- V. Marijuana Regulation Working Group Report (Handout)** *Informational*
- VI. Federal Update** *Informational*
- VII. Next Meeting: (Tentative):**
Annual Conference - Wednesday, September 21, 2011, San Francisco, time TBD)

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 FPCC'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.



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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

www.caltrust.org

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

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

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*

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.

COMMITTEE ON REVENUE AND TAXATION
Legislative Agenda
June 2011

Staff: Lobbyist: Dan Carrigg (916) 658-8222

SB 530 (Wright) Direct Broadcast Satellite Television Service Tax
(As amended May 17, 2011)

Summary: SB 530 would enact a tax on direct broadcast satellite television service providers, the Satellite Video Fund for Public Safety Tax, at the rate of 6% of gross revenues, as defined, until January 1, 2020. Revenues would be deposited in General Fund and transferred to the Local Safety and Protection Account which would be reestablished as of July 1, 2011 to receive and continuously appropriate these funds.

The bill contains extensive definitions, including what is included and excluded from “gross revenues”; generally these definitions are consistent with definitions used with cable taxes. The measure also requires the Legislative Analyst’s Office (LAO) to establish an advisory committee and report on the impact of the tax on direct broadcast satellite television service providers.

Background: Several years ago, the League was approached by the California Cable and Telecommunications Association (CCTA) requesting our support for a legislative proposal to levy a tax on direct broadcast satellite providers and distribute the proceeds to local governments. The potential revenue from such a tax would yield an estimated \$200 million per year.

The cable industry supported such a tax because it argues that it faces a competitive disadvantage versus satellite because cable companies must pay franchise fees and satellite does not. They also argued that local agencies should also care about this because as satellite gains a larger share of the market, local governments are losing corresponding revenues from both franchise fees and, where applicable, local utility user’s taxes (UUTs). While the legislation proposed by CCTA did not go anywhere at the time, the reemergence this year of the issue in SB 530 (Wright) merits a policy discussion.

Cable: In California, two principal fees and charges are levied on cable providers and their subscribers:

1. **Franchise fees** are paid to local governments by privately-owned cable companies for the privilege of using local government property and rights-of-way. Federal law prohibits franchise fees from exceeding 5 percent of gross revenues, while state law also limits franchise fees to a percentage of gross revenues. State and federal laws also prevent companies from providing cable services without acquiring a franchise. In California, cities and counties are the franchising authority over cable companies and their fee payments are a source of general fund revenue.

Franchises issued after January 1, 2008, are granted by the state Public Utilities Commission. Cable service is also regulated by the federal government and is subject to a regulatory fee levied by the FCC.

2. Utility-user taxes (UUTs) have been enacted as a general fund revenue source by 146 cities and 4 counties on gross proceeds of cable television services and other utilities, such as gas, telephone, and electric services. UUT rates range from 1 to 11 percent, but most fall between 3 to 7 percent.

Satellite: The Federal Telecommunications Act of 1996 (Section 602) pre-empts locally imposed and administered taxes and fees on direct-to-home satellite services. However the Act authorized states to impose taxes and fees on the DBS industry and nine states have done so.

In California, there is currently no state-imposed tax or fee on the satellite service subscriptions or the monthly charges billed in connection with the provision of direct broadcast satellite television service to subscribers or customers. In general, direct broadcast satellite television service providers (DBS service providers) either pay a sales tax or collect the use tax associated with the monthly rental or lease of the satellite receiver box by the subscriber for use in the subscriber's home or business location.

Fiscal Impact: The tax would be collected and administered by the Board of Equalization (BOE) in accordance with the Fee Collections Procedure Law. BOE estimates the following revenue impact for imposing a 6% tax on DBS service providers:

2011-12 (1/2 year implementation): \$96 million
2012-13: \$196.2 million
2013-14: \$200 million

These funds would be allocated to the Transportation Tax Fund, which is the same account where the temporary 0.15 percent increase in the Vehicle License Fee is allocated to fund approximate \$500 million in local law enforcement programs including Citizen's Options for Public Safety (COPS) and booking fee reimbursements. This temporary VLF rate is scheduled to sunset on July 1, 2011, but could be extended as part of a budget agreement to extend temporary taxes.

Existing League Policy:

Telecommunications: The League has a comprehensive telecommunication policy which was adopted a number of years ago. A full copy of that policy is attached to this analysis. Some of these policies may not be applicable in that federal law prohibits local taxation or fees from being imposed upon satellite. Yet, below are several that could be partially applicable to the discussion.

- Any new state or federal standards must conform to the following principles:

Revenue Protection (telecom)

- Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
- Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
- A guarantee that all existing and any new fees/taxes remain with local governments to

support local public services and mitigate impacts on local rights-of-way.

- Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

Public Safety Services (telecom)

- The authority for E-911 and 911 services should remain with local government, including any compensation for the use of the right-of-way. All E-911 and 911 calls made by voice over internet protocol shall be routed to local public safety answering points (PSAPs); i.e., local dispatch centers.
- All video providers must provide local emergency notification service.

Public Safety Policy: Below are several provisions from the League's public safety policies which also can apply:

The League supports the promotion of public safety through:

- o Stiffer penalties for violent offenders, and
- o Protecting Community Oriented Policy Services (COPS) funding and advocating for additional funding for local agencies to recoup the costs of crime and increase community safety.

Revenue and Taxation Policy:

Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system to meet the requirements of a growing population and deteriorating services and facilities.

Comments:

1. **Is It About Equity?** When the federal government in the Telecommunications Act of 1996 allowed the collection of local franchise fees from cable, but prohibited local governments from levying fees or taxes on satellite, it can be argued that they were protecting the fledgling satellite industry until it became more established. If so, given the growth of the direct broadcast satellite industry, that can hardly be argued today. Also, the federal government permits states to levy taxes on satellite, and several have. Satellite providers use the same type of video programming as cable and other providers such as phone companies but do not pay any of the \$530 million in annual franchise fees. If federal law had permitted local governments to also tax satellite services, it is likely that many local governments would have done so. Therefore, if the state of California decides to tax satellite services, would that help to provide equity with cable and increase funding for important priorities?
2. **This "Tax" is Different than a Franchise "Fee."** While the cable industry advocates for a level playing field with satellite, what cannot be ignored is that the two industries operate with entirely different business models. Cable requires a massive infrastructure network that relies on the public right-of-way and thus must obtain a franchise and compensate the local agency with a franchise "fee" or "rent." Satellite, however, beams a signal directly to a receiving dish attached to the customer's property, making a "fee" nexus connected to right-of-way untenable. Satellite advocates will also argue that they

have made massive investments in launching and maintain their “infrastructure” of satellites in space.

3. **Should Locals Benefit From This State Tax?** SB 530 allocates the proceeds of a satellite tax for local public safety purposes. The intent language in the bill advances several arguments to build a “nexus” for doing so. Satellite companies benefit from the network provided by state and local governments such as infrastructure, offices and other property, employees and contractors which install and maintain equipment, and the provision of adequate local services, including public safety. Yet the satellite companies contribute little. It is also argued that significant portions of cable fees and UUT taxes support public safety via expenditures from local general funds.
4. **Do Cities Agree With Revenue Leakage Concern?** At a recent League meeting in Sacramento, Senator Rod Wright told city officials that they should support his bill because local governments are losing revenue (both franchise fees and UUT) as cable’s share of the market erodes to satellite, and new entrants such as Netflix cause cable customers to drop service. Do cities share these revenue leakage concerns? If so, does this argument support a decision that satellite services should also be taxed? What other factors should be weighed?
5. **Could Local Governments Rely On Such Revenues?** Federal law only permits states to levy taxes on satellite. Nothing requires that these taxes benefit local government. Given the experience of local governments with the state legislature constantly attempting to take local funds, it is unlikely that such funds would last long before being swept for state budget purposes. SB 530 attempts to protect these funds from such actions by enacting a “kill switch” which would eliminate authority to collect the tax if the state used the money for another purpose. This “switch” could - along with a motivated law enforcement lobby - protect such funds, but absent state constitutional protection it would be unwise for local agencies to rely on the Legislature to maintain this funding.
6. **Poor Timing; Public Safety Distribution Needs More Thought:** With the Legislature mired in yet another budget crisis and the Governor intent on eliminating redevelopment agencies, this is not the time—no matter how well developed—for a tax measure seeking to give more funds to local government. Furthermore, the local public safety account targeted for these revenues is scheduled for sunset on July 1, 2011, and all the major law enforcement agencies are supporting a continuation of the VLF tax as part of the Governor’s Realignment proposal. The temporary VLF supports approximately \$500 million in local law enforcement programs, while a satellite tax would yield less at \$200 million. Thus, the politics of state budget debate first need to be resolved before identifying the best allocation for public safety funds derived from a satellite tax.
7. **Ohio Courts Reject Commerce Clause Argument:** In *DIRECTV, Inc. v. Levin*, 2009-Ohio-636, the court disagreed with the satellite industry contention that satellite taxes discriminate against their industry and violates the Commerce Clause of the U.S. Constitution. The Court stated that “The sales tax imposed by Ohio on satellite television providers and not upon cable television providers does not violate the dormant Commerce Clause. The clause protects interstate commerce and the interstate market for products, but does not protect “the particular structure or methods of operation in the retail market,” *Exxon Corp.*, 437 U.S. at 127.” The court stated “the Commerce Clause is not violated when the differential tax treatment of two categories of companies ‘results solely from differences between the natures of their businesses, not from the location of

their activities.' " Kraft Gen. Foods v. Iowa Dept. of Revenue & Finance (1992), 505 U.S. 71, 78, 112 S.Ct. 2365, 2369, quoting Amerada Hess, 490 U.S. at 66. As the North Carolina court noted, "neither satellite companies nor cable companies are properly characterized as an in-state or out-of-state economic interest," based upon their physical presence and corporate organization in Ohio and other states."

8. **UUT's Taxation of Satellite Services:** One city attorney reviewing this measure believes that since the state has the ability under federal law to levy a tax on satellite, it could-- pursuant to this authority --adopt enabling language that would assist local efforts to apply local UUTs to satellite. Given the legal complexity of this area of law, further research and review by city attorneys knowledgeable on the topic may be needed.
9. **Issue Not Going Away:** SB 530 was recently held on the Senate Appropriations Suspense File, which means the issue is likely stalled for the year. But given the competitive battles raging between cable and satellite and constantly changing technology questions of taxation are certain to continue. It is therefore important for the League to develop its policy on this topic.

Staff Recommendation: Conditional Support, If Amended

If the State Legislature wishes to levy a tax on satellite television service providers, as it is allowed to do under federal law, and distribute the proceeds to local public safety programs, then it appears consistent with some League policies listed above. Supporting such a measure could also have collateral benefits of creating more equity among competitors in the rapidly changing video telecommunications marketplace. League support, however should be conditioned upon:

1. The completion of this year's budget process including any special election. Public safety organizations will be unable to fully engage in this measure until the state budget, including the outcome of a possible special election, is resolved. These groups are currently supporting the Governor's tax extensions, including the VLF dedicated to \$500 million in local public safety programs.
2. If the extension of VLF funding for local public safety programs is achieved in the budget process, then a new allocation process will need to be developed for these additional funds that would be dedicated to public safety. If the VLF extension is not successful, then this measure would only support a portion of the existing VLF funding. In either case, the full engagement of public safety organizations in the support of such a bill and agreement in the allocation methodology will be critical to the passage of legislation.
3. The retention of the "kill switch" mechanism and other protections against a future effort by the state to divert these revenues for another purpose.
4. The development of an allocation methodology should also reflect the geographic distribution of households using satellite television service and provide maximum flexibility for local agencies to use these funds to support and augment local public safety needs.

City attorneys should review the concept of developing language which would assist local agencies to apply local UUTs to satellite. If developed, this language could be inserted in this measure or another legislative vehicle.

Support and Opposition (5/5/11)

Support: Peace Officers Research Association of California; California Taxpayer Reform Association. **Opposition:** Direct TV; DISH Network; Satellite Broadcasting and Communications Association.

Attachment C

PENDING LEGISLATIVE MEASURES IMPROVE USE TAX COLLECTION

Local Agency Revenues to Benefit

While budget battles rage, three League-supported bills, **AB 153** (Skinner), **AB 155** (Calderon), **SB 234** (Hancock), aimed at improving the collection of use taxes, are moving through the legislative process. These measures only require majority votes so some or all of these bills may reach Gov. Jerry Brown's desk. If the Governor signs these bills, several hundred million per year in additional revenues may be realized for state and local agencies. These bills are also supported by major in-state retailers, small businesses, and labor and other groups

Since 1935, use tax has served as a companion tax to the sales tax, applying to the use, storage, transportation or gift of any item that would be subject to sales tax if it were sold in California. The use tax is an obligation of the consumer, but has proven difficult to collect.

The lost revenue for state and local agencies has soared with the expansion of sales over the internet. Internet sales have more than tripled since 2000, with further increases projected. The Board of Equalization (BOE) estimates that more than \$1 billion of use tax goes uncollected annually. As online commerce continues to grow, a solution to the "use tax gap" becomes increasingly urgent.

Out-of-state online retailers have a significant price advantage over in-state "brick and mortar" businesses when they avoid collecting use tax from their customers. In-state stores on the other hand must collect and remit sales taxes. This dynamic hurts our in-state businesses, jobs and government services.

State law requires retailers to be "engaged in business in this state" to collect and remit sales tax. The use tax, the same rate as the sales tax, is imposed on purchases not subject to sales tax (for example when items are purchased from out-of-state online vendors). While retailers are responsible for collecting sales taxes, the purchaser is responsible for paying use taxes. In an era of exploding internet sales, collection of the use tax has become problematic; although a voluntary "use tax" line has been on state income tax returns since 2000, BOE estimates that only one percent of consumers comply.

Three Pending Bills: AB 153, AB 155, SB 234

Each of these bills uses a different legal approach to try to improve use tax collection. Together these measures could increase use tax collection within California by several hundred million per year.

- **AB 153 (Skinner)**, modeled on a similar statute in New York, attempts to create a local "click through nexus" by requiring that out-of-state retailers collect use tax if they have agreements with California-based retailers who refer potential customers to the retailer by website or internet-based links.

- **AB 155 (Calderon)**, modeled on Colorado’s approach, focuses on the corporate relationship of a parent and subsidiary working together—a “commonly controlled group.” Use tax collection would be required on out-of-state retailers whose in-state sister companies perform design, development or solicitation of sales of personal property for the retailer.
- **SB 234 (Hancock)** attempts to avoid potential legal conflicts with the U.S. Constitution’s “Commerce Clause” by authorizing BOE, to the extent permitted by federal law and the U.S. Constitution, to require vendors to collect and remit use taxes. This “long arm nexus” approach asserts the state’s jurisdiction to determine who must collect use taxes and tests the maximum reach of the U.S. Constitution in this area.

Measures Build Upon Recent California Legislation

In the last several years, the California Legislature has enacted several measures to increase use tax compliance including:

- **ABx4 18 (2009)**, which requires firms with more than \$100,000 in gross receipts to file use tax returns with BOE.
- **SB 858 (2010)**, which makes permanent a use tax line on the state’s income tax returns which allows filers to self-report use taxes due.
- **SB 86 (2011)**, which provides a use tax “Look Up” table — an estimated amount due based on income level.

While helpful, these bills make only a small dent in the use tax problem. BOE estimated their impact at approximately \$123, \$9.2 and \$10 million respectively.

A Big Money Battle: California is Not Alone

Uncollected use tax is a national problem. Amazon.com currently comprises half of the Internet sales of large firms without nexus in California and tax avoidance seems to be part of their business strategy. With big money at stake, out-of-state online retailers are actively opposing all use tax collection bills, and history shows they can be expected to file legal challenges should any be enacted.

According to *Forbes* magazine, 87 percent of Americans live in a state where Amazon.com does not collect tax on residents’ purchases. Many states have tried to compel collection. “Click through nexus” legislation is pending in Illinois and being considered by Arizona, Hawaii, Minnesota, Mississippi, New Mexico, Connecticut, Texas and Vermont. Although legally barred this year from enforcing its recent law, Colorado requires non-collecting retailers to notify customers that taxes are due on purchases, and to collect taxes if it is part of a controlled group of corporations with a component member that is a retailer with physical presence within the state. In February, the Texas comptroller publicized the problem by delivering a \$269 million bill to Amazon.com for back taxes.

As states have tackled the problem, out-of-state retailers have retaliated with lawsuits and economic sanctions. North Dakota’s use tax collection obligation was challenged and invalidated by the U.S. Supreme Court in 1992. Online giants Amazon.com and

Overstock.com have cancelled their affiliate programs in many states that have adopted use tax collection statutes; both retailers have stated they will end relationships with California affiliates should these measures become law.

Roots of the Problem: Federal Court Decisions

The roots of the use tax collection problem traces back to interpretations of the “Commerce Clause” by the U.S. Supreme Court, including the Court’s 1992 ruling in *Quill Corp. v. North Dakota*, [504 U.S. 298](#). This case focused on whether a state could require Quill, a catalogue sales company, to collect use tax on its sales to residents within North Dakota. The company argued that it should not be required to collect and remit the use tax because it had no *physical presence* or employees within the state. The Court agreed with Quill and ruled, consistent with earlier cases, that remote sellers/businesses that sell products to customers within a state or to other states, using the Internet, mail order, or telephone, without having a physical presence in the state where the product is shipped to cannot be required to collect and remit a use tax.

A portion of the Court’s reasoning in *Quill* stemmed from the existence of more than 6,000 jurisdictions throughout the United States (states, localities, and special tax districts) that levied a sales and use tax. The Court concluded that requiring remote sellers (without a physical presence in the state) to collect and remit use taxes would impose an undue burden on those companies and severely restrict interstate commerce. Yet the Court did clarify that Congress, through its authority to regulate interstate commerce, “is free to decide, whether, when and to what extent states may burden interstate mail order concerns with a duty to collect use taxes.”

Well-Intended but Problematic Approach: Streamlined Sales and Use Tax Agreement

Since *Quill*, states have struggled with how to collect use taxes and have explored various methods with which to establish nexus and physical presence. One significant effort has been Streamlined Sales and Use Tax Agreement (SSUTA) — a voluntary effort by approximately 20 states to simplify their sales and use tax systems.

In the short term, SSUTA is a *voluntary* arrangement in which member states agree to streamline statutes, processes and definitions, and businesses may seek to take advantage of these streamlined provisions by registering under the agreement, *voluntarily* agreeing to collect and remit use tax to the affected states and jurisdictions. Those active within the SSUTA believe that once simplification of various state’s sales and use tax systems has been demonstrated and achieved, that the states are better positioned to lobby Congress to reverse the *Quill* decision and *require* all remote sellers (that lack physical presence within those member states) to collect and remit use tax to the various states and jurisdictions.

The League reviewed the SSUTA in depth in 2009 and concluded that there are more questions than answers for California cities about potential participation. The specifics of the agreement were reviewed in detail, including recent amendments. The League concluded there are too many unknowns. While the agreement holds out the lure of capturing additional use taxes from remote sales, financial loss for cities may also occur

due to the adoption of alternative definitions of what can be taxed, potential restrictions imposed on local tax rates, and other restrictions potentially applied to local utility user's taxes. Furthermore, both the state and local government are at significant risk of losing authority to both the SSUTA board where it will have only one vote, and Congressional intrusion through initial legislation and future amendments.

Use Tax Collection Bills Worthy of Support

As detailed above, use tax collection is a complex issue with no simple solution on the horizon. Thus, states are left to do what they can to improve collection as permitted under the Constitution. The internet has dramatically changed the manner in which business is conducted, so it is expected that our laws –and perhaps future Court interpretations — will evolve with our changing economy. What was considered “a burden” on interstate commerce at one point may not be later.

Should AB 153, AB 155 and SB 234 be enacted into law and withstand potential judicial challenge they are likely to result in the collection of additional revenue for state and local agencies and level the playing field for California-based businesses. While awaiting broader solutions, these measures can be helpful.

To access League support letters, please visit the League's website at www.cacities.org/billsearch and type the bill number into the search box.

For more information on this issue, contact Dan Carrigg at (916) 658-8222 or dcarrigg@cacities.org

TO: League Employee Relations Policy Committee
League Revenue and Taxation Policy Committee

FROM: League Board Executive Committee
Jim Ridenour, President and Mayor, Modesto
Mike Kasperzak, First Vice President and Vice Mayor, Mountain View
Bill Bogaard, Second Vice President and Mayor, Pasadena
Judy Mitchell, Past President and Council Member, Rolling Hills Estates
Chris McKenzie, Executive Director

DATE: June 1, 2011

SUBJECT: Review of Draft Pension Reform Action Plan

We are pleased to forward for review and recommendation the attached Draft Pension Reform Action Plan that was prepared by the League's City Managers Department, and initially reviewed by the League board at the May 19-20 board meeting. The board has requested feedback from the committees on certain issues as discussed below:

1. Do Cities Need More or Less PERS Benefit Plan Choices? (pp. 2 and 3)

Background: The yellow highlighted proposals in the Draft Action Plan would support reducing the benefits plan choices of city councils and employee groups. The first proposal would support the repeal the 1999 PERS benefit enhancements, and would return to the PERS benefit formulas of 2% @ 60 for miscellaneous employees and 2% @ 55 for safety employees. The second proposal would support a standard public employee pension system where one benefit level is offered to every employee, as is the case for the current teachers' retirement system. The board had an extensive discussion about whether we should be moving toward fewer options or, instead, additional flexibility. Speaking for more options, one board member mentioned that she would like to negotiate a 2.5% @ 55 formula with her public safety employees (reduced from 3% @ 50) but the PERS law currently only allows a change to a 2% @ 50 benefit level (a level which has proven to be unattainable in the negotiations). Other board members expressed interest in a roll back to the 1999 benefit packages. and some members preferred a one-size-fits-all plan (with possibly a higher benefits level for public safety).

Executive Committee Action: In addition to a recommendation to the board on these issues, the Executive Committee would appreciate the policy committees also discussing, and then outlining for the board, what you see to be the pros and cons of constraining local control and choices when it comes to PERS retirement plan benefits. Since the League normally advocates for maximum local flexibility and control, the extent to which we support limiting local options needs to be reviewed carefully.

2. Revisions to Benefits for Existing Employees (p. 3)

Background: Like the California Little Hoover Commission, the City Managers' Department Draft Action Plan recommends considering a change to benefit formulas for the future benefits of existing employees. Unlike the Little Hoover Commission, the Managers' Draft Action Plan

acknowledges the need for a detailed legal analysis of this recommendation's legality since it is widely believed that it raises substantial legal questions about the "vested rights" of existing employees. As a result, the League has retained the law firm of Liebert Cassidy Whitmore, a well-known advisor to local public agencies on labor and employment issues, to prepare a legal opinion on this issue, which we expect to have by late June. As a result, the Executive Committee, acting on the recommendation of the officers of the City Attorneys' Department, is not requesting review and consideration of this recommendation by the committees until the legal opinion is completed, and can be shared with both the committees at your next meetings (at the Annual Conference in all likelihood) and the board of directors.

Executive Committee Action: At this time, the Executive Committee is not asking for a recommendation on this matter until the legal opinion on vested rights issue is complete and shared with the committees.

Thank you very much for your consideration of these requests and for your service to the League.

PENSION REFORM ACTION PLAN
City Manager's Department¹
May 2, 2011

This report to the League of California Cities Employee Relations and Revenue and Taxation Policy Committees and the Board of Directors is designed to address the League's 2011 Strategic Goal related to Pension Sustainability by providing information and recommendations that may be of assistance toward meeting the competing challenge of maintaining high-quality public services while providing fair and reasonable pensions for employees.

THE PROBLEM

Pension costs for many California municipalities continue to increase, threatening the delivery of basic public services, compromising general fund budgets, pushing some cities to the brink of fiscal collapse and indeed, posing a long-term fiscal challenge to the State itself. A former CalPERS actuary warned that by 2014 it will be common for local governments to budget 50% of police officer, 40% of fire fighter and 25% of miscellaneous employees' salaries for pensions; contributions that are fiscally unsustainable.

Causes of the problem include:

1. Enhanced benefit formulas granted after 1999 (SB400/AB616).
2. Reduced return on pension investments with the Great Recession.
3. Increased life span of retired employees.

A PRINCIPLED APPROACH

Public retirement systems should provide fair benefits for employees, and:

1. Recognize the value of attracting and retaining high performing public employees to design and deliver vital public services to local communities.
2. Recognize and support the value of a dependable, sustainable, employer provided Defined Benefits Plans (DBP) for long term employees; supplemented with other retirement options including personal savings (e.g. 457 Plan).
3. Be portable across all public agencies in California.

STAGES OF A SOLUTION

Many steps below can, are, and should be taken locally and immediately, as part of the collective bargaining process to move local pension costs in a more sustainable direction. Further, as additional steps are taken to level the playing field for municipal agencies, State action is necessary to return the PERS (or other state-authorized pension systems) to a more sustainable framework. Many of the actions below are and will be presented to the State legislature for enactment and we believe the League of California Cities should engage the unions, Legislature, and Governor in the initiative process to formally change the structure of PERS thus protecting the fiscal integrity of cities and PERS retirement for public employees.

ACTIONS CITIES CAN AND ARE TAKING NOW AT THE COLLECTIVE BARGAINING TABLE TO REDUCE COSTS

1. Have employees pay the employee's share of PERS costs: 8% for miscellaneous employees and 9% for safety employees.
2. Provide a two-tier retirement system with new hires being placed in a reduced benefit tier.
3. Have employees pick-up a portion of the employer's PERS costs.

¹ With notes and one modification by the Executive Committee of the League board of directors as instructed by the League board on May 20, 2011. See cover memo for more information.

4. Base final retirement salary on the three highest years worked.
5. Eliminate the PERS contract option of including Employer Paid Member Contribution (EPMC) in the calculation of an employee's base pay for retirement purposes.
6. Restrict the calculation of an employee's retirement benefit to base pay only and do not allow base pay to include discretionary add-ons such as "specialty pays" or "longevity bonus pay" or the addition of accrued and unused sick leave or vacation time.

A City Manager Department survey in February 2011 indicates one in five cities responding to the survey have implemented a second tier for new hires.

ACTIONS NEEDED FROM THE STATE TO RESTORE THE SUSTAINABILITY OF PENSION PROGRAMS

Current constitutional law holds that current and former local government employees have rights to the pensions promised them at hiring. A Defined Benefit Plan is the most effective vehicle to accumulate and distribute pension benefits and is the preferred retirement system for municipal employees. The subsequent action items can be considered individually or in combination to improve the sustainability of PERS, thus, re-designing a system that will contribute to safeguarding public pensions. The following recommendations, with support from labor, would level the field on a statewide basis and lead to a maintainable PERS for public employees.

1. Repeal SB400/AB616 returning to more sustainable PERS benefit formulas of 2% at 60 for miscellaneous employees and 2% at 55 for safety employees. **[See the attached memorandum for a special request on this and a related item from the Executive Committee].**
2. Base final retirement salary on three highest paid years worked.
3. Calculate benefits only on base salary eliminating all "spiking."
4. Eliminate the purchase of "air time."
5. Eliminate the availability of Employer Paid Member Contribution (EPMC).
6. Require employees to pay the employees share of PERS (e.g. 8% for miscellaneous employees and 9% for safety employees.)
7. Remove caps on the percentage employees can pay for the total cost of PERS programs.
8. Give government agencies through the collective bargaining process the option to extend retirement ages for miscellaneous employees up to social security retirement ages.
9. Prohibit retroactive pension increases.
10. Meet any retirement needs for part-time employees with alternatives to a Defined Benefit Plan.
11. Prohibit employees and employers from taking contribution "holidays."
12. Change PERS vesting period to seven years.
13. Provide employers with a hybrid pension system option that caps the Defined Benefit PERS pension at an annual maximum retiree benefit equal to 65% of the retiring employees' eligible base pay (determined by averaging the 3 highest year's pay) and supplement the DBP with a risk managed PERS defined contribution plan. According to staff of the National Institute of Retirement Security, dollar for dollar, a DBP yields considerably more retirement savings than a DCP. Therefore, a DCP should integrate with a DBP not, as some pension revision plans suggest, substitute for it.
14. Have PERS provide more formula choices with lower benefit local options.

ADDITIONAL STEPS THAT APPEAR NECESSARY TO RESTORE PERS TO SUSTAINABILITY AND PROVIDE TRANSPARENCY

1. Pension sustainability cannot be fully achieved without addressing the benefits of both current and future employees. After a detailed legal review and to the extent permitted by federal and state law, a well-designed State Constitutional Amendment is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee

their already accrued earned benefits, while making the plan sustainable, affordable and market competitive on a going-forward basis. The amendment should also include a risk-managed PERS Defined Contribution Plan for public agencies.

2. The PERS Board needs to be restructured with a substantial increase in independent public members to insure greater representation of tax payer interests with regard to public pension decisions.
3. Set uniform standards and definitions for disability benefits and evaluate the level of benefit that is considered as tax exempt. The tax exempt portion should either be eliminated or allowed on a proportional basis to the severity of the disability.
4. Consider a standard public employee pension system where one benefit level is offered to every employee as a further option to restore sustainability to PERS. **[See the attached memorandum for a special request on this and a related item from the Executive Committee].**
5. While not addressed in this paper, Other Post-Employment Benefits (OPEB), such as retiree health care, represents another unfunded liability for many local agencies and must be addressed through comprehensive reform measures.
6. Develop a program with the State to ensure that pension programs offered by localities are fully transparent, and that the actuarial evaluation of unfunded components of OPEB's and Pension Plans are using standard investment return criteria.
7. To the extent permitted by federal and state law prohibit payment of pension benefits to a public employees convicted of a felony related to fraudulently enhancing those benefits.

ISSUE REQUIRING FURTHER LEGAL ANALYSIS

At its May 20 meeting, the League Board of Directors instructed the Executive Committee of the board to consult with the officers of the City Attorneys' Department about the issue of benefits modification for existing employees. The Department officers advised the Executive Committee that it should delay discussion and consideration of the reform option discussed below until the League receives a legal opinion from its legal counsel (Liebert Cassidy Whitmore) on the constitutionality of this recommendation. That legal opinion is currently under preparation, and will discuss the highly complex issues involving the extent of the "vested rights" a public employee may have in pension benefits. Once the opinion is received, the Executive Committee will determine whether this policy option should be forwarded to the policy committees and board of directors for formal consideration through the League's normal policy process. The City Attorneys' Department officers strongly counseled against formal discussion and consideration of this option until its legal feasibility has been determined. As a result, the Executive Committee is not requesting committee consideration of the following issue at this time:

1. Pension sustainability cannot be fully achieved without addressing the benefits of both current and future employees. After a detailed legal review and to the extent permitted by federal and state law, a well-designed State Constitutional Amendment is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee their already accrued earned benefits, while making the plan sustainable, affordable and market competitive on a going-forward basis. The amendment should also include a risk-managed PERS Defined Contribution Plan for public agencies.

While pension reform is a primary fiscal challenge facing local agencies, it represents but one of several financial challenges that, when combined, represent a "Perfect Storm" that is leading to the insidious erosion of fiscal solvency of local governments. While some changes may take years, delay in dealing with the problem, only makes the situation worse!



Background on Pension Reform

This background document is aimed at keeping city officials informed about the current state of pension reform in California.¹

Public pension reform has emerged as a major issue in recent years as state and local agencies have struggled to adjust to declining revenues and volatile financial markets. Questions have emerged over whether public agencies can continue to offer the level of pension benefits that they have in the past.

Local governments, reeling from budget pressures, have been at the forefront of this discussion. In many cases, agreements have been secured at the local collective bargaining table resulting in second tiers for new employees, greater cost sharing among existing employees as well as other concessions. While reform efforts continue at the local level, some argue that larger statewide reforms must happen in order for pension systems to remain sustainable in the long term.

At the state level, the pension discussion is taking shape in different forms. In February, a report by the Little Hoover Commission (LHC) sparked a heated debate about how far some are willing to go to make what is believed to be necessary changes.

In late March, after budget negotiations broke down, Gov. Jerry Brown released his 12-Point Pension Reform Plan. As part of these same negotiations, Senate Republicans released proposed pension reform ideas, many of which are contained in a package of bills authored by Sen. Mimi Walters (R-Laguna Niguel). Additionally, there have been efforts to place an initiative on the ballot for the next statewide general election.

Some contend that for reforms to take place they have to happen now, otherwise the momentum for change

on this issue will be lost. It will be interesting to see whether the Legislature will seriously address this issue or whether the voters will be deciding the fate of public pensions. In any event, public employee unions are gearing up for a fight to protect the pensions they've been promised, and recently launched a new website www.dontscapegoatus.com, which is dedicated to debunking various assertions about the need for reforms.

The following is a snapshot of the discussions on pension reform in California.

Little Hoover Commission recommends changes

In February, LHC issued its report *Public Pensions for Retirement Security* with comprehensive recommendations to reform California's public pension systems including altering unearned future benefits for current employees, putting into place a "hybrid" model containing both a defined benefit and defined contribution, and placing caps on the amount of salary that can be used to calculate retirement benefits. LHC made several other recommendations.

Governor proposes 12-Point Pension Reform Plan in March

The Governor released his pension reform proposal shortly after budget negotiations broke down in March which:

- Eliminates "airtime" purchase;
- Revokes pensions if convicted of felony arriving out of official duties;
- Prohibits retroactive increases in benefits;
- Requires full funding of pension obligations;
- Prohibits employer paying member share of contributions;
- Prohibits pension spiking; and
- Applies reforms to UC and local system

Senate Republicans release demands

Several of LHC recommendations were put forward by the Senate Republicans in March as part of the budget negotiations including altering unearned future benefits for current employees, putting into place a "hybrid" model containing both a defined benefit and defined contribution, and placing caps on the amount of salary that can be used to calculate retirement benefits.

¹ The information contained in this document was used in a handout at the League's Legislative Action Days for a panel discussion on pension reform. The information may have changed since its production on May 19, 2011.

Senator Walters introduces pension reform package (Senate Bills 520 - 528)

These bills propose to impose a hybrid retirement plan; require full funding of post-employment health care benefits with employees and employers each pay half; eliminate “airtime” purchasing option; prohibit PERS pensions for publicly-elected officials; eliminate retroactive benefit increases; raise minimum retirement age for state employees to 55; eliminate pension spiking; limit collective bargaining of pensions except for amount of employee contributions; and replace elected with appointed PERS board members.

League Board identifies pension sustainability as a strategic goal

The League is committing to work with stakeholders to promote sustainable and secure public pensions.

Actions taken to date include the following:

- Roughly 300 cities responded to a survey to determine what changes are taking place locally.
- League website added the Pension Information Center, a clearinghouse for pension-focused research, studies, surveys and other relevant information, including the City Managers’ Department white papers and local area group principles.
- Pension reform panel discussions held at League conferences.
- Employee Relations and Revenue and Taxation Policy Committees reviewing reform proposals.
- City Managers’ Department developed a Pension Reform Action Plan that will be reviewed by the League policy committees and the board.

Statewide ballot measures

No statewide ballot measures have qualified for the February or November 2012 ballot or have been cleared for circulation. However, former Assembly Member Roger Niello’s proposed initiative, the “Public Employee Pension Reform Act,” has been submitted to the Attorney General for review. Signature gathering may begin once the review is completed. This proposed initiative would prohibit retroactive benefit increases, provide minimum retirement age of 62, require five consecutive years of service, limit benefits to 60% of highest base wage over three years and require equal employee and employer contributions.

Additionally, California Foundation for Fiscal Responsibility advocates its proposal “The Fair and Sensible Public Employee Retirement Plan Reform Act,” which, among other things, seeks to align state and local government retirement benefits with those offered by the federal government and large private employers.

- Commissioned a legal opinion on the question of “vested rights” to pensions
- Continue outreach to employee unions and other stakeholders

Voters on pension reform

In January, the [Public Policy Institute of California released its “Californians and their Government” poll, which found:](#)

- Three of four Californians view the money spent on public employee pensions as a problem;
- The percentage calling it a big problem has grown ten percent since January 2005;
- Republicans (54%) more likely than independents (42%), Democrats (35%) to consider big problem;
- Four in ten across income groups hold this view, while this perception increases with older age; and
- 67% would favor changing the pension system for new public employees from defined benefits to a defined contribution system. Support increases with rising income.

A Los Angeles Times - USC poll conducted in April found that:

- 70% support cap on pensions for current and future public employees;
- 66% of Democrats support pension caps for current and future workers;
- 68% support raising employee contributions to their retirement plans;
- 66% support a blend of traditional pensions and a 401(k); and
- 52% support increasing the retirement age.