



1400 K Street, Suite 400 • Sacramento, California 95814
Phone: 916.658.8200 Fax: 916.658.8240
www.cacities.org

NOTE: For city officials arriving early, please join us from 9 – 9:45 a.m for a **continental breakfast** at the League offices at 1400 K Street, 3rd floor, behind the Sacramento Convention Center

January 9, 2012

TO: Members: Revenue and Taxation Policy Committee

FROM: Jose Cisneros, (Chair), Treasurer, San Francisco
Dan Carrigg, League Staff (916) 658-8222

RE: **POLICY COMMITTEE MEETING**
DATE: **Thursday, January 19, 2012**
TIME: **10:00 a.m. – 3:00 p.m.**
PLACE: **Sacramento Convention Center**
1400 J Street, Room 204
Sacramento, CA

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 contact Meg Desmond at mdesmond@cacities.org. Registration for this meeting is not required; however, your response will help us determine the meal count.

In addition, if you will be in town on Wednesday night, **please join us for a reception on January 18, 2012**, 6:00 – 7:15 p.m., at the Mayahuel Restaurant located at 1200 K Street (corner of 12th & K), Sacramento. Come network and mingle with new mayors and council members, state legislators, League Partner company representatives, League leadership and staff. Please RSVP to Emily Cole at 916.658.8283 or ecole@cacities.org with your name, title and city/organization.

Travel Informaton: Air transportation, shuttle service, driving directions, parking and hotel information are provided on the back of this letter.

We look forward to seeing you at our first meeting in 2012!

League of California Cities Policy Committee Meetings - January 19 – 20, 2012

(The League office is located directly behind the Convention Center.)

Meeting Locations: Sacramento Convention Center: 1400 J Street, Sacramento 95814 or
League of California Cities: 1400 K Street, Sacramento 95814

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 not required. **One-way ticket per person: \$13.00. 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 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 home. 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 Streets.

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).

HOTELS:

Hyatt Sacramento, 1209 L Street, Sacramento (\$165 + taxes and fees) - Please contact Megan Dunn at mdunn@cacities.org for the online housing link to get the discounted League rate. This rate is not available by phone or at Hyatt.com. This venue is the Headquarter Hotel for the League's New Mayors & Council Members Academy from January 18 -20. **THE DISCOUNTED RATE WILL NOT BE AVAILABLE AFTER JANUARY 6, 2012.**

REVENUE AND TAXATION POLICY COMMITTEE

Thursday, January 19, 2012

10:00 a.m. – 3:00 p.m.

Sacramento Convention Center, Room 204, Sacramento

Note: For city officials arriving early, please join us from 9 – 9:45 a.m. for a continental breakfast at the League offices at 1400 K Street, 3rd floor (behind the 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 website at www.cacities.org and clicking on "Bill Search" found at the left column. Be sure to review the most recent version of the bill.

A G E N D A

- I. SPECIAL ORDER: State Budget and Redevelopment Briefing for all policy committee members, 10:00 – 10:45 a.m., Room 204, Sacramento Convention Center**
Upon adjournment, individual policy committee meetings will begin.
- II. Welcome and Introductions**
- III. Public Comment**
- IV. Overview of Parliamentary Procedures** (*Handout*) *(Informational)*
- V. Committee Orientation** (*Attachment A*) *(Informational)*
- VI. Strategic Goals for 2012** (*Attachment B*) *(Informational)*
- VII. Review of Summary of Existing Policy & Guiding Principles** (*Attachment C*) *(Action Item)*
- VIII. Committee Work Program**
 - 2012 Draft Work Program (*Attachment D*) *(Action Item)*
- IX. Additional Discussion of State Budget (if necessary) – Mike Coleman, Dan Carrigg**
- X. Use Tax Update – Pending Federal Legislation – Dan Carrigg** (*Handout*)
- XI. Other Legislative Items (if necessary) – Dan Carrigg**
- XII. Review of California Forward Initiative: The Government Performance and Accountability Act – 11:30 a.m.** (*Attachment E*) *(Action Item)*
 - Jim Mayer, Executive Director, California Forward
 - Fred Silva, Senior Fiscal Policy Advisor, California Forward
- XIII. Discussion: Update on Realignment Protection Proposals** (*Attachment F*) *(Informational)*
- XIV. Pension Reform Update** *(Informational)*
 - Dwight Stenbakken, League Deputy Executive Director
 - Summary of Governor Brown's Pension Plan (*Attachment G*)
 - Copy of League's adopted Pension Reform Action Plan (*Attachment H*)
- XV. Next Meeting: THURSDAY, March 29, 2012, Doubletree Hotel, Ontario**

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 can 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 Web site.



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HOW LEAGUE POLICY COMMITTEES WORK

January 2012

Policy Committee Subject Matter

The League has eight (8) policy committees, each with its own subject matter jurisdiction. You may refer to the “*Summary of Existing Policy and Guiding Principles*” booklet (*Summary*) to find the subject matter for each committee. This document will be updated in January 2012 and again in January 2014. Policy in the *Summary* is used to determine League legislative and regulatory positions. The *Summary*, in its entirety, is located on the League’s Web site at www.cacities.org/summary. Individual sections are located on each policy committee’s Web page, which are available at www.cacities.org/polcomm.

Policy Committee Legislative Agenda Items

League policy committees review bills or regulatory proposals on issues for which the League does not have existing policy, or for which staff members feel a policy discussion needs to occur for greater clarity or background on an issue. Staff will lobby legislation, funding proposals, or regulatory changes where existing policy provides clear direction.

Role and Responsibility of Committee Members

The strength of the League’s policy process and ability to effectively engage in the legislative process is based on the active involvement of and the expertise of city officials. We rely on your technical and policy knowledge, thoughtfulness, strategic thinking, and political savvy. Your role is to engage in thoughtful discussions at the meeting. Members should review the agenda and background material prior to the meetings, attend each meeting, and stay for the entire duration of the meeting.

Committee Recommendations on Positions on Bills

The committee’s actions or positions are a recommendation to the League Board of Directors for a formal League position. Possible committee recommendations can be:

- Support
- Oppose
- Support-if-amended (as appropriate, specific amendments may be requested)
- Oppose-unless-amended (as appropriate, specific amendments may be requested)
- No position
- Neutral

There are nuanced differences between some of these positions. For example, “*support-if-amended*” sends a very different message than “*oppose-unless-amended*.” Both positions might seek the same change but the support-if-amended position means that the League would be listed with the “supporters”

of the bill in most legislative analysis. In addition, “*no position*” and “*neutral*” have different meanings and require different actions from staff. Selection of one or the other depends in part upon what type of message or political posture the League needs to take. Staff will advise the committee about the implications of each on a case-by-case basis.

Approval by League Board Needed for All Committee Recommendations

All committee actions are recommendations to the League Board, which has the final say on all positions. Under no circumstances are individual committee members nor the committee itself authorized to speak on behalf of the League. When a committee action is supported by a large majority (e.g., 32 to 3), the recommendation is placed on the Board’s consent calendar. When the committee vote is split (e.g., 15-13), the item will be presented as an action item for the Board’s discussion. Staff will also provide information about the reasons behind the committee’s recommendation to the Board.

Most of the time, the Board adopts the recommendation of the policy committee. When the Board adopts a different position, staff will notify the committee members of the reason for the different position. This likely will be done in the next regular communication with the committee.

Some issues cut across more than one committee. When this occurs, staff will coordinate and bring a bill to more than one committee for review and recommendation. The recommendations are then forwarded to the League Board and if there is a different recommendation, the League Board resolves the difference.

Role of the Committee Chair

The chair’s role is to balance the often competing needs of the membership to have a full and thoughtful discussion on the issues within the very real time constraint. The chair will often limit debate – either in the number of speakers or the amount of time each speaker has – in order to ensure that we can move ahead on our agenda and cover the items included. We ask that when you make comments on issues before the committee that you be brief and concise and that you not repeat what has already been stated. Also, if you have already spoken on an issue, the chair may ask you to hold your comments until after new speakers are able to share their comments.

Committee Schedule and Process

Committees generally meet three times a year (January and June in Sacramento, March in Ontario), plus an abbreviated meeting at the Annual Conference (September in San Diego) to review resolutions if any are assigned to it. (The September meeting schedule will be announced in mid-July). Meetings begin at 10:00 a.m. and conclude by 3:00 p.m., although some subcommittees may meet at 9:00 a.m. Please plan to be present for the full duration of the committee meetings.

Agendas/Disseminating Information

A meeting notice is mailed to committee members about a month to six weeks in advance of the meeting, containing travel and logistical information. An agenda packet is mailed at least one week before a meeting and also sent via e-mail. **(Note: Following the January meeting, agenda packets will only be sent via email and posted online. If you prefer a hard copy of the agendas and highlights, please contact Meg Desmond by email: mdesmond@cacities.org or phone: 916-658-8224)** Highlights that summarize committee actions are prepared by staff and provided to committee members about two to three weeks after the meetings. All materials are also available on the League’s Website: www.cacities.org/polcomm.

We encourage you to visit the League’s Web site: www.cacities.org. In addition to containing committee materials, the Website contains information on the League’s priorities and a link to track individual bills

and the League's position on them. You should also subscribe to the League's electronic newsletter *CA Cities Advocate*.

For meetings that are heavy in legislative review (generally in March/April and June), staff will try to find a balance between getting the agenda packet out early and the need to delay finalizing the agenda packet in order to include as many legislative items as possible and in their most current version. At some meetings, staff may use a supplemental agenda for last minute legislative issues. We will use e-mail as appropriate to send out late-breaking information or to gather committee input throughout the year. It is important that we have your preferred e-mail.

How to Get an Item on the Agenda

Because staff prepares background material in advance of the meeting, and prepares the agenda in consultation with the Chair and Vice Chair, it is difficult to add items at the last minute. In addition, the League tries to comply with the spirit of the Brown Act in its meetings. If you wish to have the committee discuss an item, you should contact staff well in advance of the meeting in order to determine the feasibility of including it on the agenda, and if so, allow staff time to prepare the appropriate background material. Because of time constraints and a full work program before the committee, it may not always be possible to respond to such requests.

Issues Should Have Statewide Impact

Although some of you may represent your division, your department, your affiliate organization, or simply yourself, we should all keep in mind that the League must address issues of statewide impact and interest. Thus, while an issue or bill may be of interest to your city or region, if it does not have broader, statewide implications, the League likely will not engage in that policy discussion or take a position. You should keep this in mind if you wish to suggest an item for discussion.

Brown Act and Roberts Rules of Order

The League tries to comply with the spirit of the Brown Act. Thus, when the committee discusses items not already on the agenda (e.g., supplemental legislative agenda), the Chair will ask for a vote of approval to add that item to the agenda. The League also follows Roberts Rules of Order and provides a brief overview of key procedural steps in Roberts Rules as they apply to committees.

Staffing for Committee

Each committee has a staff lobbyist assigned to it. This individual is your main point of contact for logistics or questions about the agenda. Generally, each lobbyist has a "main" committee and will remain with the committee throughout the meeting. Occasionally he/she may leave the meeting to make guest appearances in other committees to discuss issues or bills. Additional staff may also be present to support the committee's work.

League Partners and Other Guests

The League Partners have a non-voting representative assigned to each policy committee and are seated at the table with other committee members. In addition, city officials, other members of the League Partners Program, and interested members of the public are welcome to attend the meetings. We provide an opportunity for our League Partners and other members of the public to offer comment on items before the committee during the designated public comment period on the agenda.



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2012 LEAGUE STRATEGIC GOALS¹

Support Sustainable and Secure Public Employee Pensions and Benefits.

Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

Promote Local Control for Strong Cities. Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

Build Strong Partnerships for a Stronger Golden State. Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity and responsiveness of our state government and intergovernmental system.

¹ Adopted by the League Board of Directors in San Diego, November 18, 2011

SUMMARY OF EXISTING POLICIES AND GUIDING PRINCIPLES

Update – 2012 DRAFT

Every two years, the League updates its “summary of Existing Policies and Guiding Principles” to reflect new League policy adopted during the past two years. The purpose of this update is *not* to develop new League policy or revisit existing League policy. The document provided indicates new policy adopted during the past two years in **bold underlining** or **~~bold strikeouts~~**. This is new policy that has been adopted through Annual Conference Resolutions, League positions on bills approved by the League Board of Directors, or broad League policy approved by the League Board of Directors over the last two years.

Committee members should review the proposed update and consider whether it accurately reflects the actions taken by the policy committee (and League Board) over the last two years, and whether there are any missing policy items or errors in describing policy. Committee members who wish to propose new League policy or to revisit existing League policy should suggest that the issue be placed on an agenda for a future policy committee meeting, as opposed to attempting to modify the policy through this update.

Revenue and Taxation

Scope of Responsibility

The Committee on Revenue and Taxation reviews issues related to finance administration, taxation reform, revenue needs, and revenue sources at the federal, state and local levels.

Summary of Existing Policy and Guiding Principles

Cities and the League

- **Preamble**. Inherent in these recommendations is the underlying principle that meaningful fiscal reform should allow each level of government to adequately finance its service responsibilities, with each being accountable to taxpayers for its own programs.
- **Efficiency**. Cities and the League should continue to emphasize efficiency and effectiveness, encouraging and assisting cities to achieve the best possible use of city resources.
- **Authority and Accountability**. Cities must locally achieve political authority and accountability for revenues raised and services provided. For accountability, revenues should be logically linked to traditional and emerging responsibilities. Cities must effectively communicate the good news about city programs and operations, as well as information concerning financial conditions and city responsibilities.

- Alliances. Cities should seek alliances with counties, schools, other cities, employee organizations, other local agencies, and business and professional organizations to support cooperation, sound financial policies and joint action.
- Initiative. Cities and the League are prepared to use the statewide initiative process, if necessary, to secure fiscal independence and a sound intergovernmental financial structure. Initiative efforts should, to the extent feasible, incorporate and, in no case violate, the principles developed by the Fiscal Reform Task Force as follows:
 - Cities require a greater share of the property tax and other reliable, discretionary revenues in order to finance local services to property.
 - Cities require constitutional protection of their revenue sources in order to provide insurance against diversion by the state of these revenues in the future for non-municipal purposes.
 - Major reforms in the unfunded mandate reimbursement process should be enacted to make it more workable and meaningful.

Legislature or the Voters

- Local Authority and Accountability. To preserve local authority and accountability for cities, state policies must:
 - Ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fees, etc.
 - Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
 - Oppose any state or federal legislation that would pre-empt or threaten local taxation authority including but not limited to Utility User's Taxes.
 - Allow every level of government to enjoy budgetary independence from programs and costs imposed by other levels of government.
 - Authorize a simple majority of the voters in a city or county to establish local priorities, including the right to increase taxes or issue general obligation bonds.
 - Offer incentives to reward cities achieving program goals rather than withhold or reduce revenues to accomplish targets.
- State Legislative and Budget Reforms. To stabilize state funding and programs and reverse the trend of the state's reliance on local revenues to solve the state's fiscal crises, the state should implement fiscal and legislative reforms which may include for consideration the following:
 - A two-year spending plan with the first session focused on expenditures over the period.
 - Oversight hearings that review programs for savings, duplication or gaps in services.
 - Limits on the number of bills that legislators may introduce.
 - A prudent reserve fund.
 - Official records kept of all Assembly official meetings.

- o A balanced deficit reduction approach, which could include temporary revenue increases dedicated solely to retiring short-term debt, spending cuts, short-term borrowing and multi-year spending limitations.
- o Long term restructuring measures, including increased local government property tax shares to create balanced growth and separate budget detail of all state expenditures at local level.

State Mandates

- The state must provide full and prompt reimbursement to all local agencies for all state-mandated programs and/or infractions and losses associated with local revenue shifts.
- Local agencies must be authorized to petition the Commission on State Mandates immediately after legislation is chaptered for determination of eligibility for reimbursement, and reserve the right to directly pursue court intervention without an administrative appeals process.
- Reforms are needed in the mandate approval and reimbursement process.
- The State should be prohibited from deferring mandate payments.
- Unless specifically requested by a city, no new duties, responsibilities or obligations should be assigned to a city or cities under state realignment.¹

Additional Revenue

- Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level² by the current system to meet the requirements of a growing population and deteriorating services and facilities.
- When disasters occur in various areas of the state, state government has traditionally stepped in to assist with recovery efforts through various means, including the passage of legislation to provide income and property tax relief to affected individuals and businesses, and reimbursing local governments for their losses. The League supports disaster recovery legislation that includes mitigation for losses experienced by local governments. The League also supports establishing a federal debt guarantee program that supports state catastrophe insurance programs for post-event debt that they incur as a result of paying for insured losses caused by major natural catastrophes.³

Reduce Competition

- Revenue from new regional or state taxes or from increased sales tax rates should be distributed in a way that reduces competition for situs-based revenue. (Revenue from the existing sales tax rate and base, including future growth from increased sales or the opening of new retail centers, should continue to be returned to the point of sale.)

¹ Reflects position taken on amendment to SCA 1X 1, April 2011.

² This change was adopted by the committee in April, 2010.

³ This change reflects the committee's support of S.866 (Nelson) in January 2010.

- The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected. Restrictions should be implemented and enforced to prohibit the expansion of questionable businesses formed to circumvent the principle of situs-based sales and used to divert sales tax revenues from other regions in return for favorable treatment.

Funding for Counties

- Counties require additional funding if they are to fulfill their state-mandated and traditional roles.
- As legal agents of the state, county expenditures in that capacity should be funded by the state. Their local programs should be financed locally.
- The concept of "self-help" for counties should be expanded. An example might be that counties could receive certain state funding if they raise a specified level of revenue locally.
- To alleviate competition among cities and counties, funding for counties should be accompanied by agreements on new development in undeveloped areas within the cities' sphere of influence.

Regional Revenues

- Local government issues, programs, and services do not always recognize local government jurisdictional boundaries. In cases where regional issues, programs, and services are identified, multi-jurisdictional revenues should then be identified and implemented. As an example, the sales tax has been considered and used by many countywide areas to address multi-jurisdictional transportation issues.
- Support regional cooperation on common interests and goals by providing access to share incremental growth in ERAF property tax.

Federal Streamlined Sales and Use Tax Agreement (SSUTA)

- There are more questions than answers for California cities about potential state participation in the SSUTA. The SSUTA offers many more risks for California cities than benefits. Thus, the League should:
 1. Continue to monitor developments of the SSUTA and related federal legislations, but not support any additional efforts that would lead to California joining the agreement. This position can always be revisited at a future point if events change.
 2. Strongly oppose any federal effort that attempts to force California to conform to the Agreement, or amendments to federal legislation that would directly undermine California's utility user tax structure.
 3. Work with the State Board of Equalization and other parties on alternative efforts to increase the collection of use taxes within California. Share the League's analysis of the SSUTA with interested parties, exchange information on use tax collection issues with municipal Leagues in other states, including those states with tax structures similar to California.

Note: The League will review new legislation to determine how it relates to existing League policies and guiding principles. In addition, because this document is updated every two years to include policies and guiding principles adopted by the League during the previous two years, there may be new, evolving policies under consideration or adopted by the League that are not reflected in the current version of this document. However, all policies adopted by the League Board of Directors or the League's General Assembly become League policy and are binding on the League, regardless of when they are adopted and whether they appear in the current version of "Summary of Existing Policies and Guiding Principles."



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COMMITTEE ON REVENUE AND TAXATION
2012 Work Program – DRAFT PROPOSAL

LEAGUE 2012 STRATEGIC GOALS

In addition to its normal workload, the committee will focus on supporting the 2012 goals adopted by the League Board of Directors. The 2012 strategic goals include:

- **Support Sustainable and Secure Public Employee Pensions and Benefits.** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.
- **Promote Local Control for Strong Cities.** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.
- **Build Strong Partnerships for a Stronger Golden State.** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity and responsiveness of our state government and intergovernmental system.

While being guided by the strategic goals above, the Revenue and Taxation Policy Committee will focus on and monitor the issues below, which may or may not directly relate to the 2012 Goals:

- The 2012 promises to be another difficult year for the state budget. Cities will need to remain on alert for additional efforts by the state to take revenue, or shift state costs and responsibilities. The aftermath of the redevelopment court decision will likely dominate discussions, and many initiatives that could impact local budgets and authority are being filed for the November ballot.
- Actively engage in the effort to protect vital local revenues including the transient occupancy tax, and utility user's tax.
- Evaluate federal efforts to develop a nationwide approach to collecting use tax, and its implications on California cities, including the recently passed AB 155.
- Monitor developments on pension reform and retiree health benefit discussions.
- Monitor the implementation and effects of Proposition 26.
- Remain informed and take action, where necessary, to prohibit additional state mandates funded or unfunded.
- Review, when necessary, proposed changes in Board of Equalization regulations that may affect local revenues.

**Revenue and Taxation Policy Committee
Proposed November Ballot Measure
January 2012**

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

1. Initiative Measure 11-0068: The Government Performance and Accountability Act

Text: http://ag.ca.gov/cms_attachments/initiatives/pdfs/i1011_11-0068_%28government_performance%29.pdf

Analysis by Legislative Analyst's Office: <http://www.lao.ca.gov/ballot/2011/110721.aspx>

Summary: This ballot measure has been referred to both the League's Revenue and Taxation and Administrative Services policy committees for review at their January meetings. The measure would alter both state and local budget practices and makes other changes affecting the state legislative and budget-adoption process. The provisions with the most direct impact on cities are listed in paragraphs 9, 10 and 11. The measure's sponsor is California Forward, a non-profit organization focused on improving California governance. The proposal is currently awaiting title and summary with the Attorney General. Given that California Forward is engaged in outreach to city officials on this measure, it is important the League adopt and communicate a position to cities.

Initiative Summary:

- 1) **Voter Intent:** The Act's stated purpose is to bolster results and accountability to taxpayers by improving the budget process for State and local governments and encouraging local governments to work together. One consistent theme is that State and local governments would be more efficient, effective and transparent through a budget process that examines progress toward program goals. The Act declares that *"the shared purpose of State and local governments is to promote a prosperous economy, a quality environment, and community equity."* This purpose is advanced *"by achieving at least the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health."*
- 2) **Findings:** The Act's findings about California government (both state and local) include:
 - government has lost the confidence of its citizens and is not meeting their needs;
 - government at all levels must be transparent, willing to listen and accountable for results;
 - government must have a shared vision of public purpose, must collaborate regionally, and must work together to provide public services effectively and efficiently; and
 - a primary purpose of public budgets is to link dollars to goals and communicate progress toward goals.
- 3) **State Budget Requirements:** Changes in the State budget and legislative process comprise the majority of the Act. Most importantly, the Act:
 - (a) Requires a biennial (two-year) performance-based State budget consistent with the new purposes and goals outlined above in paragraph 1 and containing the following seven elements:
 - i. Estimate of total resources available for expenditures for the budget and succeeding fiscal year;

- ii. Projection of anticipated expenditures and revenues for the three succeeding fiscal years;
 - iii. "A statement of how the budget will promote the purposes of achieving a prosperous economy, quality environment, and community equity, by working to achieve at least the following goals: increasing employment; improving education; decreasing poverty, decreasing crime; and improving health."
 - iv. Performance standards and outcome measures to assess and report program progress;
 - v. Outcome measures for each major expenditure and their relationship to the purposes and goals listed above in paragraph (iii).
 - vi. A statement of how the State will align its expenditures with those of other government entities that implement State programs on its behalf to achieve the purposes and goals listed in paragraph (iii).
 - vii. A public report on progress and effectiveness in achieving the purposes and goals in paragraph (iii) according to the prior year's outcome measures.
- (b) Requires the State to fully implement these budgeting changes by the 2015-16 fiscal year.
- 4) Legislative Oversight: Requires legislative oversight once every five years of the performance of State-funded programs whether implemented by the State or by local agencies. Performance standards will be set in statute and the budget. Oversight includes a review of local Community Strategic Actions Plans to: a) consider amending or repealing any locally-identified State obstacles, and b) assess whether the Action plans have improved delivery and effectiveness of services in all parts of the community.
- 5) Governor's Budget, \$25 Million Threshold: Requires the Governor's budget to propose offsetting state program reductions or equivalent additional revenue for if the Governor's Budget¹ includes a proposal to either:
- (a) Reduce state tax revenues by more than \$25 million in that fiscal year or succeeding fiscal year.²
 - (b) Establish a new state program or expand an existing state program, including a state mandated program, the effect of which would increase state costs by more than \$25 million, in that fiscal year or succeeding fiscal year. Numerous exemptions are provided. The following exemptions are not counted as expanding the scope of an existing State program:
 - Restoring funding that was reduced in any fiscal year after 2008-09 to balance the budget;
 - Increases in funding to fund existing responsibilities, including increases in cost of living or workload and any increase authorized by a memorandum of understanding (MOU) approved by the Legislature;
 - Growth in State funding as required by federal law or a law in effect as of the Act's effective date;
 - Funding to cover one-time expenditures; and
 - Funding to repay the costs of state mandates related to local government employees.
 - Also exempted from the definition of "state costs" are payments of principal and/or interest on a (existing or new) State general obligation bond.

¹ This provision applies to proposals included in the Governor's budget. It is not clear what application, if any, this limitation would have to the final budget bill approved by the Legislature and sent to the Governor.

² None of the exemptions which apply to proposals to expand spending apply to a proposal to reduce revenues.

- “Additional revenue” is defined to include, but is not limited to, revenue resulting from specific changes to federal or State law that the State agency responsible for collecting the revenue has quantified and determined to be a “sustained increase”.

- 6) Unclear Effect on “Rainy Day” Reserve Fund (ACA 4): The definitions listed above also apply to a provision included in both this measure and ACA 4, the “Rainy Day” state reserve fund constitutional amendment placed on the ballot as part of the 2009 budget agreement. Should this measure pass, it would require Legislative Counsel to rewrite ACA 4 to harmonize with this Act. ACA 4 requires up to 3% annually in General Fund revenues, and revenues exceeding a 20-year state revenue trend to be allocated to fund a reserve account. This year, the Legislature—with a majority vote – passed a statute that moved ACA 4 from the June 2011 to the November 2014 ballot.³
- 7) Changes to a Governor’s Ability to Address a Fiscal Emergency: This measure makes several changes enacted by Proposition 58, approved at the March, 2004, statewide ballot. Prop. 58 established a process whereby the Governor could declare a fiscal emergency as a result of a substantial decline in revenues or increase in expenditures in a previously approved state budget. In such an event, the Governor is authorized to issue a proclamation declaring a fiscal emergency, call the Legislature into special session, and provide the Legislature with proposed legislation to address the emergency. If the Legislature fails to pass and send a bill or bills to address the fiscal emergency within 45 days, the Legislature may not act on any other bill or adjourn for a joint recess until those bills have been passed and sent to the governor. Requires a bill addressing the fiscal emergency to contain a statement to that effect.

This measure changes that process in the following way:

- Authorizes the Legislature to present a bill or bills to the Governor in response to the governor’s proclamation declaring a fiscal emergency. States that such a bill shall mean “conclusively” that the bill addresses the fiscal emergency.
- Requires a bill sent to the Legislature by the Governor within 45 days containing a statement that the bill is addressing a fiscal emergency to take immediate effect. (This allows urgency measures to be adopted with a majority vote rather than two-thirds)
- States that if the Legislature fails to act within 45 days, the Governor can issue an executive order reducing or eliminating any General Fund appropriation for that fiscal year not prohibited by federal law or the state Constitution.
- Provides the ability of the Legislature to override an executive order with a two-thirds vote.⁴

³ Establishing a state “Rainy Day” reserve fund was important to Republican legislators who negotiated the 2009 budget agreement. Legislative Democrats moved that measure to the November 2014 ballot, SB 202 (Hancock), over Republican opposition. It is unclear how a provision that amends ACA 4, and requires Legislative Counsel to rewrite it, will be viewed by Republican legislators. Having Legislative Counsel, rather than the Legislature, rewrite the terms of a ballot measure that has been previously approved to be placed on the ballot may raise disputes about delegating policy issues to that office.

⁴ This proposal enhances legislative over executive power. In the waning years of the Schwarzenegger Administration, legal battles emerged over the Governor’s authority to impose furloughs on state employees. After declaring a fiscal emergency and proposing various budget cuts to the Legislature, the Governor was dissatisfied with the level of legislative response and sought to make cuts through executive order. Ultimately, those decisions were upheld by the courts. *Professional Engineers in California Government v. Schwarzenegger*, 50 Cal. 4th 989. The changes in this Act provide more authority to the Legislature in these situations by allowing urgency measures to be approved with a majority vote and stating that legislation shall mean “conclusively” that the bill addresses the fiscal emergency.

- 8) New Three-Day Print Rule: Prohibits the Legislature from acting on bills and the budget—other than bills in a special session addressing a natural disaster or terrorist attack—unless the measures with amendments have been in print and available to the public for at least three days.
- 9) New Local Government Budgeting Requirements: Beginning with budget year 2014-15, will require local government budgets to include all the following:
- A statement of how the budget will promote, *“as applicable to a local government entity’s functions, role, and locally-determined priorities, a prosperous economy, quality environment, and community equity, by working to achieve at least the following goals: increasing employment; improving education; decreasing poverty, decreasing crime; and improving health, and other community priorities.”*
 - A description of outcome measurements to assess progress toward the local government’s goals and community priorities;⁵
 - A statement of the outcome measurement for each major expenditure and its relationship to the overall goals established by the local government entity;
 - A statement of how the local government will align its expenditures and investments of public resources to achieve the established goals; and
 - A public report on progress in achieving goals and an evaluation of the effectiveness in achieving the outcomes according to the measurements set in the prior year’s budget.

Each local government must also develop and implement an open and transparent process to encourage public participation in developing its budget, including identifying community priorities.

- 10) Community Strategic Action Plans. Provides incentive funds for the creation of Community Strategic Action Plans by counties as follows:
- (a) Dedicates 0.035% of the State sales and use tax (approximately \$180 million) annually to create the Performance and Accountability Trust Fund to provide incentives for adopting Plans. These funds are represented a byproduct of “realignment savings.” Beginning in FY 2014-15, each county that has adopted a Plan and submitted it to the Controller will receive a portion of funds based on the county’s percentage of the total population for all of the eligible Plans. If the State reduces the sales and use tax bases and the Fund receives less revenue than in FY 2013-14, the difference shall be provided by the General Fund.⁶
 - (b) Authorizes a county board of supervisors to develop a Community Strategic Action Plan (“Plan”) to deliver public services more effectively and efficiently. Requires other local governments in the county with services in the Plan’s anticipated scope to be invited to participate. Local governments may also petition the county to be included in the planning process, to initiate or amend a Plan. The Plan is to be drafted through an open and transparent process that encourages participation. Intent language at the beginning of the measure declares that it is the

⁵ While local governments can exercise discretion in deciding which of the listed purposes and goals apply to them, it is to be expected that there will be debate about what these terms mean and which ones apply to a city. It remains unclear what effect, if any, the intent language at the beginning of the measure when declaring a “shared purpose” of state and local government will be. It also is unclear how the Legislature will apply these terms to the state budget.

⁶ The way this measure is drafted it appears that all of the funds will be allocated to those counties which elect to adopt a Plan. If that is the case, then there will likely be pressure on counties to adopt a Plan or see their “share” of these funds distributed to other counties. Since the language allocating the funding to counties is statutory rather than an amendment to the Constitution, the Legislature could clarify this area of law with a statute requiring a two-thirds vote.

purpose of these Plans “for advancing community priorities that they (local agencies) cannot achieve by themselves.”

- (c) Requires the Plan to include outcomes, measurements, reporting methods and statements that:
- outline how it will achieve the stated purposes and goals;⁷
 - describe services to be delivered and the roles and responsibilities of participating entities;
 - explain why those services will be delivered more effectively and efficiently under the Plan;
 - provide for resource allocation to support the Plan, including any funds received from the Performance and Accountability Trust Fund;
 - consider disparities within communities served; and
 - explain how the Plan is consistent with budgets adopted by participating entities.⁸
 - include a method for regularly reporting outcomes to the public and to the state.
- (d) Requires at least a majority of the entities “providing municipal services...to at least a majority of a county’s residents” (counts both population within cities and unincorporated area residents), and one or more school districts serving at least a majority of the pupils in the county, must participate in the Plan. The Plan (and amendments) must be approved by a majority vote of the county and each participating local government and school district. *The Plan shall not apply to any local government that does not approve it.*⁹
- (e) Prohibits a school district from receiving funds under the Plan from the Performance and Accountability Trust Fund. Funds paid to a school district can be from any other source determined by the participating entities.¹⁰
- (f) Authorizes counties, cities, and other local government entities, including school districts and community college districts that are parties to a Plan to enter into contracts to apportion their shares of ad valorem property taxes, provided the contract is approved by each entity’s governing board by a two-thirds vote. *(Cities and counties can already agree to share sales tax revenue with a two-thirds vote of their governing bodies.)*
- (g) Authorizes entities that adopt Plans to be granted statutory, regulatory and funding flexibility for administering state financed programs,¹¹ as follows:

⁷ The Plan must achieve the listed purposes and goals. Will the Legislature remain content to fund plans with diverging interpretations of what these purposes and goals mean or adopt uniform criteria?

⁸ This requirement to specify in a Plan how the budgets adopted by participating local agencies are consistent with the Plan could affect the discretion of an individual agency to adopt a budget that matches its community’s priorities. For instance, if a city supported an effort by its county Plan to spend its state incentive funds on health care, does that mean that the city must also spend its own funds on health care?

⁹ A regional approach to public safety funding under the “reduced crime” goal could be one possible focus of a Plan which matches a traditional interest of cities, and possibly schools, and tracks with the state’s realignment of corrections’ responsibilities to counties. “A prosperous economy” and “increasing employment” could be interpreted as a regional economic development effort. Much depends on how the state—which has significant other budget leverage over counties and schools—interprets the goal of this tool.

¹⁰ The initial allocation of incentive funds to counties and prohibiting schools from accessing those funds raises significant questions over where additional revenue would come from to support a Plan. Counties are likely to be underfunded from realignment. Schools have incurred significant cuts to their funding. Special districts and cities are the only other entities of local government these funds could come from.

¹¹ This option appears to be limited to programs operated by counties and schools, but programs such as COPS could come under a “state-financed” definition. From a political standpoint, if there is consensus in the Legislature or administrative agency to allow a functionally equivalent interpretation it may be easier, and less legally risky, to clarify this by statute.

- Plan adoptees may integrate state or local funds to provide Plan services and advance Plan goals.
- If parties to a Plan believe that a state law or regulation impedes Plan progress, they may propose provisions that are *“functionally equivalent.”* They must describe the intended state objective, explain how the rule is an obstacle, and describe the proposed community rule and how it will improve outcomes. These “functionally equivalent” provisions are required to be submitted to the Legislature with the Plan; if within 60 days the Legislature takes no action to disapprove it, the provision is deemed operative and in compliance with the state statute. Regulatory agencies have 60 days to disapprove equivalent provisions or they are deemed in compliance. *(Legislative or administrative review does not appear to be required if no alternatives to state laws and regulations are proposed in the Plan)*
- Authorizes the state to contract with local governments participating in a Plan “to perform any function that the contracting parties determine can be more efficiently and effectively performed at the local level.”

(h) Requires Counties to evaluate the effectiveness of Plans at least once every four years. The evaluation must include public comments and is to be used to improve the Plan and by the public to assess government performance. Four years after the first allocation of funds, the Legislative Analyst will evaluate the extent to which adopted Plans have improved the efficiency and effectiveness of service delivery or reduced the demand for State-funded services.

11) State Incentives For Collaborative Regional Planning: A separate provision requires the state to consider and determine how it can support “*through financial and regulatory incentives*” local entities’ efforts to address challenges and resolve problems that they have “*voluntarily and collaboratively determined*” are best addressed at a regional scale to advance *a prosperous economy, quality environment, and community equity*. The State is required to give priority for “state-administered” funds for infrastructure and human services, “as applicable”, to local entities that have voluntarily developed a regional collaborative plan and are making progress toward its goals.¹²

Fiscal Impact on Cities: Unknown but potentially significant fiscal impact; unknown costs, savings and revenues due to:

- 1) New processes required for budgeting increase local costs.
- 2) Revenue sharing of property taxes is permitted; unclear whether local agencies would participate and net impact to cities.
- 3) Local agencies that adopt approved Plans might receive budgetary benefits from regional approaches to public safety, economic development or infrastructure.

Representatives of the League’s Fiscal Officers and City Manager’s departments will be analyzing local budget impacts of this measure in greater depth in advance of the policy committee meetings. Their conclusions will be shared at those meetings.

¹² This is a completely separate provision that is not connected to the adoption of a Plan. The enactment of this legislation could inspire legislation to further develop what this provision means. The “voluntary and collaborative” language may protect local agencies from attempts at state leverage. A clear constitutional priority is provided for “state-administered” funds for infrastructure and human services to support these regional efforts. It is unclear which funds these provisions will be interpreted to apply, but given the condition of the state budget, there are unlikely to be any new funds in the near future. Any reallocation of existing funds is bound to be controversial.

Existing League Policy There is some consistency between League policies and the Act’s intentions; the League’s 2012 Strategic Goals and specific League policies do encourage regional collaboration and support transparency and State government reforms. For example:

The League’s Revenue and Taxation policies also support some of the Act’s proposed reforms of State legislative and budget processes, including a two-year spending plan, oversight hearings for program review, and an emphasis on efficiency and effectiveness. In the State-local government relationship the following League policies advocate for accountability, incentives-based approaches and regional collaboration:

- “Inherent in these recommendations is the underlying principle that meaningful fiscal reform should allow each level of government to adequately finance its services responsibilities, with each being accountable to taxpayers for its own programs.”
- State policies should “offer incentives to reward cities achieving program goals rather than withhold or reduce revenues to accomplish targets.”
- “In cases where regional issues, programs and services are identified, multi-jurisdictional revenues should then be identified and implemented.”

At the 2011, Annual Conference the League membership supported a resolution calling for improved legislative transparency.

The League’s adopted Smart Growth Principles include support for coordinated planning: “Coordinate planning with neighboring cities, counties, and other governmental entities so that there are agreed-upon regional strategies and policies for dealing with regional impacts of growth...” They also encourage full community participation to “foster an open and inclusive community dialogue and promote alliances and partnerships to meet community needs.” Finally, the League’s policies on Open Meeting Law states: “The League supports legislation that recognizes the need to conduct the public’s business in public.”

While some League policies conceptually support the direction of several of this Act’s proposals, the details and language of this proposal does matter. The Act’s intent sections acknowledge in that “many governmental services are best provided at the local level,” yet the question remains whether or not that principle is sufficiently embedded in the structure, language and direction of this measure. For example, the language that speaks to a new joint purpose for state and local government and various goals raises questions about the Act’s conformance with the League’s mission to “expand and protect local control.”

Background on California Forward: California Forward describes itself as “a nonpartisan, nonprofit organization working to bring government closer to the people.” California Forward was launched by five foundations to propose changes to the way California government operates. Its Leadership Council includes former State policymakers and representatives of business, labor and academia,¹³ selects and guides the organization’s projects.

¹³ Thomas V. McKernan, Co-Chair, CEO of the Automobile Club of Southern California, Robert M. Hertzberg, Co-Chair, Chair & Founder of G24 Innovations Robert L. Balgenorth, President of the State Building & Construction Trades Council of California, AFL-CIO, David Davenport, Research Fellow at the Hoover Institution, Carl Guardino, President and CEO of the Silicon Valley Leadership Group, R. William "Bill" Hauck, Former President of the California Business Roundtable, Antonia Hernández, President & CEO of the California Community Foundation, Fred Keeley, Former Assembly Speaker pro Tempore Joanne Kozberg, Principal at California Strategies, LLC, Stewart Kwoh, President & Executive Director of the Asian Pacific American Legal Center of Southern California, Donna Lucas, Former Deputy Chief of Staff for Strategic Planning & Initiatives for Governor Arnold Schwarzenegger, Sunne Wright McPeak, President & CEO of the California Emerging Technology Fund, Bruce McPherson, Former California Secretary of State, Eugene J. "Gene" Voiland, Former President & CEO of Aera Energy LLC, Arturo Vargas, Executive Director, NALEO, Peter Weber, Executive Committee Chair of the California Partnership for the San Joaquin Valley, Lenny Mendonca, Director of the San Francisco office of McKinsey & Company, Cruz Reynoso, Former Associate Justice of the California Supreme Court & the Third District Court of Appeal, Constance L. "Connie" Rice, Former Co-Director of the Los Angeles NAACP Legal Defense & Educational Fund

In order to understand its proposed solutions, it helps to see California Forward's view of the problem. California Forward believes that the State lacks a unified vision and strategy to achieve statewide goals in the biggest areas of General Fund spending—education, public safety and health and human services. While local governments provide most essential services, the State sets the rules for how funds are spent. With different agencies addressing small pieces of complex problems, it is hard to collaborate on mutual goals, share resources and reduce costs. Local leaders have trouble integrating and collaborating long term because of legislative mandates and budget volatility. Therefore, California Forward's solution is a fundamental reform of the relationship between State and local governments. In California Forward's model, the State should establish clear priorities for public programs; they propose five "priority outcomes" for State and local governments: increased employment, improved education, decreased poverty, decreased crime and improved health.

Representatives from California Forward have engaged in various outreach efforts to local officials, including providing a briefing to the League board on their policy paper that proposes restructuring State and local government relationships and responsibilities, *Smart Government: Making California Work Again*, in May, 2011. Several weeks before this measure was filed, the organization began to share drafts on a confidential basis with League staff for comment. While making it clear to their representatives that city officials would need to be consulted on any final position on this measure, League staff suggested numerous amendments to the provisions directly affecting local governments in an attempt to reduce anticipated concerns from city officials. To California Forward's credit, many of those suggested amendments were taken directly or in modified form, but other suggested changes were not. City officials now have a chance to review this measure in its final form and make a recommendation on the League's position.

Comments:

1. City officials, like many other individuals and organizations, want to improve the operation of their state legislature and support transparent and accountable government at all levels. That said, the details of any state Constitutional change must be carefully reviewed and considered. This measure proposes many changes that California Forward believes will collectively result in an improved Legislature, make local government budgeting more focused and transparent, and encourage various elements of government to work better together. Do city officials agree the changes in this measure will result in improved governance at the state and local levels?
2. The most direct impact on cities in this measure is the requirement to adopt performance-based budgeting. There are costs associated with these activities. Do city officials agree that performance-based budgeting, as set forth in this measure, would improve the transparency, accountability and focus of local budgeting and thus worth the costs?
3. The Act's intent language declares that *"the shared purpose of State and local governments is to promote a prosperous economy, a quality environment, and community equity."* This purpose is advanced *"by achieving at least the following goals: increasing employment, improving education, decreasing poverty, decreasing crime, and improving health."* This language would be applied to the state budget. Local governments (cities, counties, schools and special districts) would have to consider these same goals when adopting their budgets. These terms are undefined in the measure. Do city officials agree that there is a shared purpose between the goals of state government and that of city government? If so, do the above listed purposes and goals match that of city officials?

4. Community Strategic Action Plans, in concept, seem to offer an opportunity for regional collaboration. Yet there are many requirements in the measure that city officials will have to weigh.
 - a. The available state incentive funds are provided to counties that adopt a Plan. Counties will likely need additional funds to support realignment and be eager to adopt plans. One of the factors to be reviewed by the Legislative Analyst is the extent to which these plans reduce demand for state-funded services.
 - b. School districts representing a majority of pupils in the county must agree to the Plan, but schools are prohibited by the measure from receiving the funds provided to counties.
 - c. The adopted plans must state how they will “achieve” the purposes and goals listed above. A Plan must include an allocation of resources, including the state incentive funds provided to counties, and explain how it is consistent with the budgets adopted by the participating governmental entities.
 - d. At least a majority of local government entities providing “municipal services” must also agree to the plan.

Do city officials see opportunities for collaboration with counties and schools despite the numerous restrictions and requirements?

5. This measure proposes numerous changes to the state legislative and budget process. Some, such as a three-day print rule, are clearly supportable based upon existing League policy. In concept, proposals for a two-year budget and requiring more legislative oversight are supportable as well. Given the many exceptions, it remains to be seen whether the \$25 million threshold in this measure alters state spending practices. Also debatable is the effect of the enhanced authority of the Legislature versus the Governor in responding to a declared fiscal crisis.
6. The most fundamental questions, however, with this measure revolve around the new purposes and goals for the state budget. The terms “*prosperous economy, a quality environment, and community equity*” are not defined, widely understood or reflect a clear popular consensus. For instance, many would debate the term “prosperous economy” and whether state government should have a significant role. What does “community equity” mean? How is it to be applied? What do goals like “*increasing employment, improving education, decreasing poverty, decreasing crime, and improving health*” mean? Should this measure pass, the Legislature will define these terms. For cities, that value their local autonomy, how these provisions will be ultimately interpreted, applied or potentially enforced remains the critical question.

Staff Recommendation: Discussion. The challenge with taking a position on a Constitutional Amendment is that no amendments are possible. There are provisions in this measure for city officials to like; there are provisions to be concerned about. The question for city officials is whether or not this measure, on balance, merits support?

Support/Opposition (as of 12-19-11)

UNKNOWN

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January 6, 2012

To: Members League Committees on Revenue and Taxation Policy and Public Safety

From: Dan Carrigg, League Legislative Director

Re: Informational Item for Review: Ballot Initiatives Affecting Constitutional Protection for the 2011 Public Safety Realignment Programs

Attached is some background information on two recently filed initiatives that affect the recently-passed realignment legislation. As you know, the 2011 budget agreement contained measures which:

- ☒ Realigned numerous state responsibilities to counties, and made significant changes in public safety and corrections policy, but did not provide permanent and protected funding for those programs.
- ☒ Included funding for local COPS programs and allocations to county sheriffs to offset booking fees. Unfortunately, those, and other local public safety programs, were funded in part from a sweep of city vehicle license fees in SB 89. (*The League has filed litigation on the VLF sweep*).

The California State Association of Counties (CSAC), seeking constitutional protection for the revenues allocated to fund realignment, has filed “*The Local Taxpayers, Public Safety and Local Services Protection Act of 2012*.” This measure includes additional legal protections for local public safety funds including prohibiting funds from being shifted without a four-fifths legislative vote.

Several weeks later the Governor filed a ballot measure, *The Schools and Local Public Safety Protection Act of 2012*, which proposes various tax increases to address budget issues. It also contains similar, but less aggressive protections for realignment and public safety funding than the proposal submitted by CSAC.

In early January 2012, CSAC’s Board of Directors will be meeting to decide whether to support the Governor’s proposal or to continue to proceed with their measure. League staff will brief you on the latest developments on this topic.

From a city perspective, neither one of these measures are ideal. Neither one returns the shifted VLF funds to cities, nor provides additional funds to cities to address city impacts of public safety realignment.

This information is being provided to ensure that you have the most up-to-date information on this important topic. Given that CSAC had not yet decided which course to pursue, and the full scope of potential budget and ballot measures in 2012 has not yet been revealed or properly evaluated, the League is not seeking a formal position on either of these measures at this time. Positions on these and other ballot measures can be taken at a later date.

Ballot Initiatives Providing Constitutional Protection for the 2011 Public Safety Realignment Programs

Informational Item for Review by the
Revenue and Taxation Policy Committee and Public Safety Policy Committee
January 2011

Summary: Two recently submitted initiatives for the November 2012 seek voter approval to constitutionally protect the existing share of funding for the 2011 Public Safety Realignment programs. One sponsored by the California State Association of Counties (CSAC) and the other is sponsored by Governor Jerry Brown.

The CSAC sponsored initiative, *The Local Taxpayers, Public Safety and Local Services Protection Act of 2012*, would constitutionally protect and guarantee ongoing state funding to counties and local governments for the 2011 Public Safety Realignment and state subvention grants to local law enforcement, including Citizens' Option for Public Safety (COPS), booking fees, and various county-based programs. If enacted, 1) existing funds, comprised of a portion of the state sales tax and the vehicle license fee (VLF) revenues previously allocated to cities and the county of Orange, would be dedicated to realignment and subvention programs; 2) the legislature would be prohibited from increasing the cost of realignment without providing additional funding; 3) the legislature would be prohibited from reducing the dedicated sales tax unless the cost of the realigned program responsibilities are reduced or eliminated; and 4) only a four-fifths vote of the legislature could reduce or divert funding for the local law enforcement grants. Full text is available at:

[http://ag.ca.gov/cms_attachments/initiatives/pdfs/i1004_11-0061_a1ns_\(local_services_funding_protection\).pdf](http://ag.ca.gov/cms_attachments/initiatives/pdfs/i1004_11-0061_a1ns_(local_services_funding_protection).pdf).

The second initiative, sponsored by Governor Brown, is *The Schools and Local Public Safety Protection Act of 2012*. This would also provide constitutional protection to the current share of realignment funding, with some level of protection against additional costs imposed on counties. In addition, it would generate new revenue by increasing sales and excise taxes by one-half cent and raising income taxes on the wealthy on a sliding scale based on total taxable income.¹ These new revenues would be dedicated to, and guaranteed for, K-12 and community college education, for a total of approximately \$7 billion dollars in the first year. The increased tax rate would expire in June 2017, with total revenue collected estimated to reach \$35 billion over the five year period. In addition, this revenue would be counted as part of the General Fund, and therefore be part of the Prop 98 guarantee for schools. Full text is available at: http://ag.ca.gov/cms_attachments/initiatives/pdfs/i1035_11-0090.pdf

Background: The 2011 Public Safety Realignment program, through AB 109 and numerous trailer bills, was signed into law lacking protection against future diversion or reduction in funds, even though program responsibilities would remain with counties permanently. The major realignment stakeholders from local government and public safety had made much of their support for the realignment plans contingent on adequate, on-going funding. Governor Brown stated his support for establishing such protections but ultimately the final realignment program provided none. A side-by-side comparison is provided beginning on page 5 of this document.

The two measures are identical in some areas but also differ greatly in others. Areas of noted differences include:

- ✎ Definitions provided for “2011 Realignment”;
- ✎ Protections of realignment, COPS and booking fee subvention grant monies;
- ✎ How funds are directed from the state to the Local Revenue Fund;
- ✎ Coverage and reimbursement of additional costs incurred by counties under realignment;

¹ Personal income tax rate increases for single filers of 1 percent for income between \$250,000 and \$300,000, 1.5 percent for income between \$300,000 and \$500,000, and 2 percent for income above \$500,000. Joint filers follow the same scale but for higher amounts: \$340,000, \$408,000, and \$680,000.

- ⌘ Protections in case the legislature reduces or repeals sales tax or VLF rate.

In terms of similarities, both initiatives provide:

- ⌘ The state is not required to provide subvention of funds for mandate imposed by the state at request of a local agency or to comply with federal law;
- ⌘ Funds in County Local Revenue Fund must be spent to maintain state's eligibility for federal matching funds;
- ⌘ The state shall not submit to the federal government plans or waivers that increase costs without providing funding for cost increase;
- ⌘ The state pays for 50% of increased costs due to subsequent changes in the federal statutes or regulations relating to 2011 Realignment Legislation;
- ⌘ Should the state be involved in complaint in a federal judicial or administrative proceeding and the settlement imposes a cost or increases costs, then state must pay 50% of the nonfederal share;
- ⌘ Controller may perform audits of expenditures from the Local Revenue Fund and County Local Revenue Fund;
- ⌘ If the state sales tax rate or VLF rate are reduced or repealed, the state must provide alternative funding to make realignment program funding whole;
- ⌘ All state funds required to be allocated must be from funds other than property taxes, Social Services Subaccount of the Sales Tax Account in Local Revenue Fund;
- ⌘ Non-supplant protections for realignment public safety funding.

Finally, both initiatives lack any provisions for municipal frontline law enforcement, a direct city allocation for realignment impact mitigation, or a restoration of city and county of Orange VLF general purpose revenues.

Staff Recommendation: Discussion requested from staff because this is an informational item at this time. League protocol for reviewing ballot initiatives usually requires that the initiative first qualify for ballot placement in a scheduled election. However, staff is seeking feedback prior to the initiatives qualifying because constitutional protections for realignment and new tax rates will be a focal point in the FY 2011-12 budget negotiations.

Fiscal Impact: The CSAC initiative itself does not have a new fiscal impact since it constitutionally protects budget decisions made for the FY 2011-12 budget. There is no direct allocation to cities or frontline law enforcement beyond existing COPS grants.

Governor Brown's initiative also relies on the existing share of state sales tax to fund realignment. All additional revenues raised by the half-cent sales and use tax, and income tax, rate increases are directed to K-12 and community college purposes.

Existing League Policy: Relevant policies support League advocacy for sufficient funding for public services, including COPS funding. The policies support:

- ⌘ 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.
- ⌘ Allow every level of government to enjoy budgetary independence from programs and costs imposed by other levels of government.
- ⌘ Protecting Citizens Option for Public Safety (COPS) funding and advocating for additional funding for local agencies to recoup the costs of crime and increase community safety.

In September 2011, the League's delegate assembly convened at the Annual Conference voted to support fully funding the implementation of the corrections realignment, including local municipal police department needs

with constitutional protection of that funding, and also greater representation of city officials on the local Community Corrections Partnerships, which are tasked with developing the local corrections plans in each county.

Comments:

What Counts for Cities: Specific for cities, the most important item to note is what is missing from the initiatives. Neither provides for a direct allocation for city frontline law enforcement funding or other mitigation resources, nor do they reinstate the diverted VLF revenues. While cities would gain additional protections against future threats to COPS and booking fee subvention threats through the CSAC initiative, this would not necessarily be considered a “win” because cities are still missing \$130 million in VLF revenue, approximately 60% of which goes to law enforcement.

City Stakeholders Weigh-In: The California Police Chiefs Association and the League spoke with CSAC during the ballot drafting process to express concerns about the lack of frontline police funding, and the use of VLF shares to pay for subvention grants to local law enforcement. The request for “follow the offender” funding as an inmate left state prison or county jail and entered their local community was ultimately not included. CSAC cited it was because it would have required an additional share of the sales tax rate to meet these requests without interfering with the existing county share for realigned public safety, health and social service programs.

During this time, in a letter to CSAC the “Big Ten” Mayors noted that cities and counties must collaborate. They stressed that funding is important to cities which also need a guaranteed and protected funding stream to supplement counties’ work and ensure realignment succeeds. The Mayors encouraged CSAC to follow three guiding principles to develop its initiative.

- 1) Funding should “follow the offender” directly to public safety agencies that directly and indirectly oversee or apprehend parolees, as well as to cities and counties where law enforcement personnel must protect their communities from potential offenses by parolees.
- 2) The state should fund cities that are implementing data-driven, comprehensive gang prevention strategies that include evaluation outcomes and re-entry plans.
- 3) Funds should be provided to cities for supplemental services they will provide to assist in re-entry (i.e. housing, workforce development).

Difference in Definitions Could Mean Less Money for Local Agencies: The Governor’s measure provides a definition that is both broader and narrower than the CSAC initiative. The Governor provides less funding for realignment since new health and social services programs can be added after January 1, 2012, that will be funded with the same, existing funding sources. However, Governor’s measure is potentially narrower than the CSAC measure because it requires that the legislation be called “2011 Realignment” and that it provides for the assignment of public services responsibilities from the state to local agencies.

Difference in Protections for Local Funding, Including COPS: The Governor’s initiative is much less clear than the CSAC measure about use of funding for the COPS program. This is because the definition of “2011 Realignment Legislation” in the Governor’s initiative is not as explicit as the definition of in the CSAC measure. In addition, the CSAC measure restricts use of the funds to the specific list of 2011 Realignment Legislation (including the COPS program). The Governor’s measure restricts funds in the Local Revenue Fund for “Public Safety Services” and restricts funds in the County Local Revenue Fund for Public Safety Services as specified by 2011 Realignment Legislation. The restriction of the Local Revenue Fund is not related to realignment.

Official Support/Opposition: *(as of 12/9/11)*

CSAC Initiative:

Support: CSAC (sponsor), California State Sheriffs' Association, Chief Probation Officers of California.
Oppose: Unknown

Governor Brown's Initiative:

Support:

Oppose:

November 2012 Ballot Initiatives Providing Constitutional Protections for the 2011 Public Safety Realignment

Updated December 9, 2011

Sponsor	California State Association of Counties (CSAC)	Governor Edmund G. Brown, Jr.
Title	“The Local Taxpayers, Public Safety and Local Services Protection Act of 2012”	“The Schools and Local Public Safety Protection Act of 2012”
Findings and Declarations	<ul style="list-style-type: none"> ✧ In 2011 Legislative session, the State Legislature transferred the responsibility for a number of public services to counties and other local governments but did not provide a guaranteed source of ongoing funding to pay for these services. ✧ Intent of ballot measure to require State to transfer ongoing funding to pay for costs of services realigned in 2011. 	<ul style="list-style-type: none"> ✧ Ballot measure will make the tax system more equitable. ✧ New taxes are temporary – will end in 6 years; goes directly to local school districts and community colleges. ✧ Cities and counties guaranteed ongoing public safety funding.
Purpose	Requires the State to provide ongoing, guaranteed funding to counties and other local governments for cost of providing realigned services.	Protects schools and local public safety “by asking the wealthy to pay their fair share of taxes.” Provides constitutional protection to the shift of local public safety programs and the shift of state revenues to local governments to pay for these programs.
Definitions of Terms	<p>“2011 Realignment” term is defined as list of 10 bills and specific programs in the Welfare and Institutions Code, as enacted as of October 2011. This includes the state to county corrections realignment for low-level offenders, post-release supervision of state inmates who have completed their prison term, and the local supervision of state parolees. In addition, includes health, mental health, drug and other social services programs under county administration as of July 1, 2011.</p> <p>“Law Enforcement Subvention Programs” includes COPS, booking fee subventions to counties, and various rural sheriff, drug task force, and juvenile justice grants to counties.</p> <p>“Public Safety and Other Local Services” captures both these definitions.</p>	<p>The “2011 Realignment Legislation” term used does not list specific legislation or programs but provides for “Public Safety Services” that includes:</p> <ul style="list-style-type: none"> ✧ Employing and training public safety officials ✧ Managing local jails and providing housing, treatment, services, and supervision of juvenile and adult offenders. ✧ Services for preventing child abuse, neglect or exploitation; adoption and adult protective services. ✧ Mental health services to children and adults and services for substance abuse. <p>Definition also includes all legislation enacted <u>on or before September 30, 2012</u> as part of the realignment. However, bills enacted after January 1, 2012 may not include new programs except for the early periodic screening, diagnosis, and treatment program and mental health managed care.</p>

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Funding and Protection Levels	Dedicates existing 1.0625% share of state sales and use tax plus VLF (less costs of administering the fund). Continuously appropriates to each County Local Revenue Fund exclusively to fund public Safety and other local services as defined and clearly includes COPS program. Requires no new funding source or tax rate.	Dedicates existing 1.0625% share of state sales and use tax plus VLF. Continuously appropriates to the state Local Revenue Fund 2011 to fund public safety services by local agencies. Money in each County Local Revenue Fund used exclusively to fund public safety services by local agencies as specified by the “2011 Realignment Legislation” definition. Additional revenue collected as a result of the increased reserved for education purposes. For five years beginning January 1, 2013, sales and excise taxes would be increased by one-half percent. Income taxes would be increased on income over \$250,000 on a sliding scale of total taxable income.
State Mandate Claims	Mandates imposed by the 2011 Realignment are not subject to state mandate reimbursement claims under Article XIII B, Section 6.	Mandates imposed by 2011 Realignment Legislation plus any costs imposed to comply with Brown Act in context of performing services under 2011 Realignment not subject to state mandate reimbursement claims under Article XIII B, Section 6.
Protection Against Future Additional Costs	Prohibits the Legislature from enacting legislation, and agencies from enacting regulations, after October 9, 2011, that increases costs to local agencies unless it includes additional ongoing funding. Any such legislation that does not provide funding is void. Local agencies are not required to provide programs or services if no allocation is provided. Local agencies will not be reimbursed for continuing to provide these services after state allocations cease.	Does not prohibit enactment of legislation or regulations that may increase costs without additional funding for local agencies. If legislation or regulations are enacted, they only apply to local agencies to the extent funding is provided. Local agencies will not be reimbursed for continuing to provide these services after state allocations cease.
Reduction of Program Responsibility	Legislature may reduce or eliminate one or more realigned programs and reduce funding accordingly in which case local agencies are no longer required to provide that service.	<i>Not addressed in this ballot initiative.</i>
Reducing rate or repealing sales tax/VLF	If Legislature reduces or repeals revenue from sales tax or VLF rate, and adopts an alternative source of revenue, then the new source of revenue is continuously appropriated to Local Revenue Fund. If the state does not adopt alternative revenue, then Controller transfers funds from the state General Fund. Property tax revenue cannot be used for this purpose.	State must provide moneys to Local Revenue Fund in an amount equal to amount of reduced revenues. Method for determining that amount will be described in legislation adopted after January 1, 2012. If no alternative is adopted, then Controller transfers funds from General Fund.

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<p>Local Law Enforcement Grants (COPS, Booking Fee Subventions)</p>	<p>For the “Law Enforcement Subvention Programs” the legislature may reduce, eliminate, or reallocate the funding with a four-fifths super majority vote.</p>	<p>No additional protections for state subvention grants for local law enforcement programs.</p>
<p>Other Information</p>	<ul style="list-style-type: none"> ⌘ Local agencies may challenge a reduction in funding associated with a reduction or elimination of realignment duties. Should the court find in favor of the local agency, the Controller shall allocate the improperly reduced or unallocated funds. ⌘ Funds are continuously allocated to the County Local Revenue Fund, for allocation to Public Safety and Other Local Services (including COPS programs). 	<ul style="list-style-type: none"> ⌘ AG or local district attorney must expeditiously investigate and may seek civil or criminal penalties for misuse of moneys from County Local Revenue Fund 2011. No additional investigation authority granted to district attorney for misuses in state fund. ⌘ If a state or local agency fails to perform their duties under the 2011 Realignment, any appropriate party may seek judicial relief. ⌘ Provides if a competing ballot measure that also addresses income tax passes, the measure with the most votes wins. There are no provisions addressing competing realignment measures. ⌘ No mechanism for moving funds from the Local Revenue Fund to the County Local Revenue Fund for allocation for local services.

Gov. Brown's Pension Plan

On October 27, Gov. Jerry Brown released a pension reform plan that would apply to all California state, local, school and other public employers and employees. This new Twelve Point Pension Reform Plan goes a bit further than the plan he released in March. The Governor's office did not issue specific bill language, but did provide a summary (http://gov.ca.gov/docs/Twelve_Point_Pension_Reform_10.27.11.pdf) of his plan.

In short, the Governor's pension proposal:

1. Requires equal sharing of pension costs among employers and employees;
2. Imposes a mandatory hybrid system for new employees;
3. Increases retirement ages for new employees;
4. Requires a three year average calculation for final compensation for new employees;
5. Calculates benefits based on regular, recurring pay;
6. Limits public post-employment to 960 hours;
7. Requires forfeiture of benefits if convicted of certain felonies;
8. Prohibits retroactive pension increases;
9. Prohibits pension "holidays;"
10. Prohibits purchase of "air time" or additional service credits;
11. Increases pension board independence; and
12. Reduces retiree health care costs for the state and encourages local governments to do the same.

During the press conference following its release, the Governor indicated that he will respect the legislative process and will submit his proposal to the Conference Committee on Public Employee Pensions for debate. A press release issued by Assembly Speaker John Pérez (D-Los Angeles) stated: "... the conference committee is tasked with examining the current public pension system, the efficacy of recent reforms, and options going forward to help bring fiscal stability to the systems in a way that's fair to both workers and the citizens of California."

The Speaker and Senate pro Tem Darrell Steinberg (D-Sacramento) appointed the members of the conference committee in early October, which includes:

- Sen. Gloria Negrete McLeod (D-Chino);
- Sen. Joe Simitian (D-Palo Alto);
- Sen. Mimi Walters (R-Laguna Niguel);
- Assembly Member Michael Allen (D-Santa Rosa);
- Assembly Member Warren Furutani (D-Long Beach); and
- Assembly Member Jim Silva (R-Huntington Beach).

The Conference Committee held its first hearing the day before the Governor released his plan. It met to discuss the current conditions on public employee benefits and the reforms taking place locally and statewide. Santa Monica City Manager Rod Gould attended, speaking on behalf of the League by relaying to the committee the League's policy on pension reform.

The Conference Committee met in December on the Governor's pension plan. They are expected to meet again in late January to discuss hybrid plans.

The League will continue to keep you up to date on the progress of the Conference Committee's work.

For questions please contact Natasha Karl at nkarl@cacities.org.

PENSION REFORM ACTION PLAN

July 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 challenges 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, 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 a police officer's salary, 40% of a fire fighter's salary and 25% of a miscellaneous employee's salary for their pensions; contributions that are fiscally unsustainable. Many cities face 25% or more increases in pension contribution costs in the next three years and those rates are likely to remain high for a decade or more. Causes of the problem include:

1. Large losses on pension investments due to the Great Recession.
2. Enhanced benefit formulas granted after 1999 (SB400/AB616).
3. Increased life span of retired employees.

A PRINCIPLED APPROACH

Public retirement systems should provide fair benefits for career 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 Plan (DBP) for career employees; supplemented with other retirement options including personal savings (e.g. 457 Plan).
3. Public pension costs should be shared by employees and employers (taxpayers).
4. Be portable across all public agencies to sustain a competent cadre of California public servants.

STAGES OF A SOLUTION

Many of the 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, 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. We believe the League of California Cities should engage the unions, Legislature, and Governor in the legislative process to formally change the structure of PERS thus protecting the fiscal integrity of cities and PERS retirement for public employees. This could include jointly sponsoring an initiative if legislative change is insufficient.

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: 7-8% for miscellaneous employees and 8-9% for safety employees.
2. Provide a two-tier retirement system with new hires being placed in a reduced benefit tier.
3. Allow employees to pick-up a portion of the employer's PERS costs up to PERS limits through negotiation to better share the normal costs of pensions.
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.

A City Managers Department survey in February 2011 indicates one in five cities responding to the survey have implemented a second tier for new hires. Further, the majority of cities surveyed (61%) are currently negotiating pension reforms.

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

Courts have held that current and former local government employees have rights to the pensions promised them at hiring. As such, the following recommendations most likely would not pertain to former employees or the prospective benefits of current employees.

A Defined Benefit Plan is the most effective vehicle to accumulate and distribute pension benefits and is the preferred retirement system for municipal employees. According to staff of the National Institute of Retirement Security, dollar for dollar, a Defined Benefit Plan yields considerably more (46%) retirement savings than a Defined Contribution Plan.

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.

- options for all types of member classes.
3. Base final retirement salary on three highest paid years worked.
 4. Prohibit enhancing the second tier pension formulas for twenty years.
 5. Calculate benefits only on base salary eliminating all “spiking.” No overtime, vacation or sick leave included in the pension calculation.
 6. Eliminating the purchase of “air time” (purchase of time not served)
 7. Eliminate the availability of Employer Paid Member Contribution (EPMC).
 8. Require employees to pay the employees share of PERS (e.g. 7-8% for miscellaneous employees and 8-9% for safety employees.)
 9. Remove caps on the percentages employees can pay for the total cost of PERS programs.
 10. Give Government agencies through the collective bargaining process the option to extend retirement ages for miscellaneous employees up to social security retirement ages. Seek minimum (floor) retirement age of 60 for miscellaneous employees and 55 for safety employees before earning full retirement benefits.
 11. Prohibit retroactive pension benefit increases.
 12. Meet any retirement needs for part-time employees with alternatives to a Defined Benefit Plan.
 13. Delete the 1,000 hours rule for part-time employee mandatory enrollment in CalPERS.
 14. Prohibit employees and employers from taking contribution “holidays.”
 15. Provide employers with a hybrid pension system option that caps the Defined Benefit PERS pension at an annual maximum retiree benefit equal to 70% 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. A DCP should integrate with a DBP not, as some pension revision plans suggest, substitute for it.
 16. Eliminate the requirement that any negotiated changes in pension benefits under the Public Employees’ Retirement Law (PERL) be voted on twice by the affected employees.

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. To the extent permitted by federal and state law, a well-designed State Constitutional Amendment or comprehensive legislative overhaul is needed for prospective retirement formula reductions and incremental retirement age increases for current employees to guarantee their already accrued 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 (preferably with financial expertise) to ensure greater representation of tax payer interests with regard to public pension decisions.

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. If the above reforms prove unfeasible or ineffective, 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.
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 professional actuarial evaluations of unfunded components of OPEB's and Pension Plans are completed.
7. To the extent permitted by federal and state law prohibit payment of pension benefits to a public employee convicted of a felony related to fraudulently enhancing those benefits.

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.