

PUBLIC SAFETY POLICY COMMITTEE
Friday, March 30, 2012
10:00 a.m. – 3:00 p.m.
DoubleTree Hotel, Grove Room, Ontario, CA

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/billsearch. Be sure to review the most recent version of the bill.

A G E N D A

Special Order of Business Post Redevelopment & State Budget Update 10:00 – 10:45 a.m., Harvest Room, Doubletree Hotel, Ontario

- I. Welcome and Introductions**
- II. Public Comment**
- III. Approval of 2012 Committee Work Program (Attachment A)** *Action*
- IV. Civil Disturbance Readiness: What Should City Leaders Do To Be Prepared?**
- Speaker: Jerry Harper, Jerry Harper Consulting Services
- V. Board Report – February Action Items** *Informational*
- VI. State Legislative Update *** (Attachment B)
**Due to legislative committee deadlines, additional materials and analyses will be provided prior to the meeting with a supplemental agenda.*
 - 1) AB 801 (Swanson). Code Enforcement Officers. *Action*
 - 2) SB 1351 (Rubio). Peace Officers. (Community Corrections Facilities.) *Action*
*- Speakers: Steve Miklos, ACCAPS President, Vice-Mayor, City of Folsom;
Paul Lazono, Chief of Corrections, Shafter Community Correctional Facility*
 - 3) SB TBD (Calderon). Fireworks *Action*
 - 4) Metal Theft Legislative Package *Informational*
 - 5) Registered Positions on Legislation *Informational*
- VII. Legislation and Budget Issues Impacting 9-1-1 Emergency Communication Service**
- Speaker: The Honorable Norma Torres, Chair, Assembly Select Committee on 911 Service; Assembly Member, District 61
- VIII. Subcommittee Reports**
 - Emergency Response/Disaster Preparedness
 - Realignment
 - Technology
- IX. Next Meeting: FRIDAY, June 15, 2012, Sacramento Convention Center**

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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COMMITTEE ON PUBLIC SAFETY
2012 Work Program

LEAGUE 2012 STRATEGIC GOALS

The committee will focus on supporting the 2012 goals adopted by the League Board of Directors. The 2012 strategic goals are:

- 1. 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.
- 2. 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.
- 3. 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.

In addition, the committee will also focus on the following issues:

TECHNOLOGY AND INTEROPERABILITY

- Opportunities to automate and streamline Department of Motor Vehicle forms that local law enforcement must complete for greater efficiency.
- Increasing and enhancing public safety interoperability systems, including data sharing and the ability for multiple jurisdictions to communicate amongst each other.
- Role of personal technology in disaster alert systems and ensuring that expanded or improved systems do not reduce local control of equipment/tower citing in local jurisdictions. *(SG #2: Promote Local Control for Strong Cities)*
- Improve communication exchanges between local and state information systems, including services provided by the California 2-1-1 telephone system.
- Monitor reorganization proposals affecting the California Technology Agency and the duties they are assigned, especially those with local government interface. *(SG #3: Build Strong Partnerships for a Stronger Golden State).*

CHANGES TO ROAD SAFETY

- Implementation of DUI checkpoints following enactment of Assembly Bill 353 (Cedillo; 2011) and impacts to effectiveness of checkpoints as a public safety tool. (*SG #2: Promote Local Control for Strong Cities*)
- Effect of unlicensed drivers on local fire service and the emergency medical services system, in addition to law enforcement services.

OCCUPY WALL STREET MOVEMENT

- Best practices for crowd control, including managing acts of civil disobedience and avoiding conflicts with constitutional rights of freedom of speech and right to assemble.

EMERGENCY/DISASTER PREPAREDNESS & RECOVERY

- Work collaboratively with League Partners program to develop Webinar series that will educate city staff and elected officials on preparedness and response best practices.
- Study, and as appropriate, make recommendations regarding the reorganization of the California Specialized Training Institute (CSTI) programs to ensure ongoing training opportunities for emergency personnel serving cities.

CORRECTIONS REFORM

- Improving data collection and dissemination for local police departments, through CLETS or other law enforcement systems to provide “real time” data and increase accessibility.
- Improving information sharing between the state, counties, and cities the needs of mental health inmates in the post-release community supervision population as well as parolees prior to their release.
- Study, and make recommendations as appropriate, reform or realignment proposals for the California state prison and/or county jail systems. This includes probation and parole, as well as system-wide changes impacting local public safety and quality of life in cities. (*SG #3: Build Strong Partnerships for a Stronger Golden State*).

PUBLIC SAFETY POLICY COMMITTEE
Legislative Agenda
March 2012

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916-658-8214)

1. AB 801 (Swanson). Code Enforcement Officers.

Bill Summary:

This bill would extend powers of arrest, including felony arrest, and associated protections from liability to all code enforcement officers upon entering a memorandum of understanding with the chief of police or sheriff of the applicable jurisdiction and successful completion an introductory course of training prescribed by the Commission on Peace Officer Standards and Training.

Currently, this additional authority can only be extended to illegal dumping officers. Also, AB 801 would create a specific list of disqualifications that would prevent certain individuals from becoming Code Enforcement Officers, including conviction of a felony offense, conviction of a misdemeanor-felony drug offense, or following a court finding of mental incompetence.

Background:

In 2006 the League supported legislation (AB 1688; Niello) to provide additional police powers to illegal dumping officers within the scope of their duties. This added illegal dumping officers to an existing list of specific city, county, and state employees who have powers of arrest but are not peace officers, pursuant to Penal Code Section 830.7. The employee classification was added to address the problem of an illegal dumping being limited to citizen's arrest when confronting a felony violation in the line of their duties.

According to the sponsors, the California Association of Code Enforcement Officers, the term "illegal dumping officer" is now arcane and has been replaced with the more general term "code enforcement officer." Further, the sponsors offer that AB 801 "assures that all code enforcement officers have the fullest range of authority to grapple with critical quality of life in the communities they serve."

The definition of "code enforcement officer" (per Penal Code Section 829.5) that would potentially be eligible under AB 801, if meeting specified requirements, would include any person employed by a city, charter or incorporated, or other government subdivision, who had enforcement authority for health, safety, and welfare requirements, whose duties include enforcement of any statute, rule, regulation, or standard, and who is authorized to issue citations or formal complaints. The definition would apply to fire, building, zoning, environmental quality, and health code enforcement, among others.

Staff Recommendation:

Discussion. While this measure upholds the local discretion to extend powers of arrest through the chief of police, it establishes a broad new city employee segment that could be eligible to exert powers of arrest within the scope of their employment. The committee should consider what, if any, benefits or challenges it would create for community safety. In addition, the committee should consider the merit of the bill sponsor's claim that "illegal dumping officer" is no longer appropriate terminology.

Committee Recommendation:

Fiscal Impact:

No state general fund impact. Potential for extensive costs to local agencies to meet the additional training requirements for personnel with new powers of arrest, if approved by the local police chief.

Existing League Policy:

There is no current League policy addressing this area. (See background for past action on related legislation.)

Comment:

How Arcane is the Terminology? The sponsors of the bill offer that the term “illegal dumping officer is an arcane phrase that describes a code enforcement function. It has been replaced in the day to day operations of local governments with the term *code enforcement officer*.” The term “illegal dumping officer” is now six years old, and while the assertion may be true in some local jurisdictions, this may be an overly broad statement.

Local Control Maintained: AB 801 expands the potential pool of city and county employees who can be authorized to have powers of arrest. City autonomy is maintained through the discretion of the police chief entering into an MOU. Cities that have approved illegal dumping officers to have the powers of arrest would likely need to alter their local ordinances to reflect the new definition and potential powers for all code enforcement officers, regardless if they approve or disapprove expanding powers of arrest.

Initial Comments from Fire Chiefs Department: This bill was discussed by the League Fire Chiefs Department because of the possible impacts on their fire code enforcement officers. Several shared it with their code compliance divisions. Many of the comments expressed concerns that granting arrest powers would necessitate granting full police powers to be effective. Further, members of the League Fire Chiefs Department stated they have protocols to work in collaboration with their police department should a felony crime be witnessed. Allowing fire code enforcement officers to have the powers of arrest, including felony arrest, is likely unnecessary and possible problematic.

Possible Next Steps for Code Enforcement: At face value, AB 801 seems to be fairly straightforward – an additional segment of city and county employees could have arrest powers and access to federal and state criminal history information (upon showing a compelling need). However, it moves all code enforcement officers closer to peace officer status, which may begin a slippery slope for employee training requirements and employee benefits classification.

Support/Opposition: (as of March 9, 2012)

Support

California Association of Code Enforcement Officers (*sponsor*)

California Police Chiefs Association

California Narcotics Officers Association

Opposition

None on file

2. SB 1351(Rubio). Peace Officers – Community Corrections Facilities

Bill Summary:

This bill would reinstate the definition of a peace officer that includes city or county employees while on duty as a correctional officer in a Community Corrections Facility, which was previously granted prior to the enactment of the October 2011 Public Safety Realignment plan.

Background:

Prior to 2011, Community Corrections Facilities (CCFs) were correctional facilities that contracted with the California Department of Corrections and Rehabilitation (CDCR) to provide bed space for lower risk felony offenders. The CCFs were originally developed to help reduce overcrowding conditions in the state prison facilities. Prior to the 2011 Public Safety Realignment (Realignment) there were seven CCFs owned/operated by local agencies (one county, six cities) in the state.

The Realignment program made changes to how inmate populations are housed based on commitment sentence and prior convictions. The inmate population that was previously eligible for a CCF term is now housed in county jail facilities. To ease possible bed shortage problems in county jails, the Realignment program package does authorize counties to contract for bed space with the CCFs. However, the current statute does not provide that custody staff, namely city employees who were staff for the CCFs when under contract with the state, peace officer status while on duty.

This measure seeks to grant city and county employees who are custody staff in the CCFs the same peace officer status they had when the CCFs were under contract with CDCR.

The author provides in a press release dated February 24, “In the Central Valley, four CCFs in Delano, Shafter, Taft and Coalinga each employed approximately 60 employees, though all were laid off in line with the current ‘realignment’ plan that shifts many criminal justice responsibilities and costs from the state to counties. Each CCF is able to house about 550 inmates. The four affected communities all have high unemployment rates ranging from 14.2% to 35.2%. With the elimination of existing funding streams for these local correctional institutions during ‘realignment’, CCFs have sought to contract with counties that are receiving state inmates. Unfortunately, many counties are reluctant to contract with CCFs whose guards do not maintain sworn peace officer status, which they previously held for the last 21 years when they contracted directly with the state.”

Staff Recommendation:

Discussion and with consideration to SUPPORT. This item was brought to the committee in January. At that time the committee recommended “no position” and to review the proposal again in March with the bill’s proponents to understand the true need to alter the peace officer status definition.

Committee Recommendation:

Fiscal Impact:

No state general fund impact. Fiscal impact largely limited to those regions operating CCFs.

Existing League Policy:

There is no existing League policy specific to this legislation.

Comments:

A Technical Fix is an Important Fix — This measure is very much a technical fix to align former policies and procedures under the new contracting authority. Without it, the new contracting authority for counties may be useless.

All Aboard — According to the sponsors (Association of California Cities Allied with Public Safety), all counties that have made contact with the local operating agency regarding housing inmates sentenced to county jails in their CCF want assurance that CCF custody staff would be afforded peace officer status. One county has already included the CCF in their Community Corrections Plan as a potential solution with the understanding that custody staff are given peace officer status.

Another Solution to Avoid Early Release of Inmates — The state has relied on county facilities to alleviate prison facilities overcrowding. Some county jails with population caps have the benefit of CCFs as their “release valve” mechanism to alleviate their population overflows. Counties have expressed that without peace officer status, the CCF custody officers are only able to provide professional services similar to that of a security guard.

The Most Direct Impact of Realignment on Cities — Much of the state level dialogue about realignment, in all service areas, focuses on the relationship between the state and county. The CCFs contracts are one of the few statutory changes directly referencing city facilities and services.

Support/Opposition: (as of March 9, 2012)

Support

Association of California Cities Allied with Public Safety (ACCAPS) (*sponsor*)

City of Coalinga

City of Taft

Opposition

None on file

3. SB TBD (Calderon) Fireworks.

Summary:

This measure would expand current “safe and sane” fireworks sales if authorized by a city, county, or fire district to include the New Year holiday (December 26 – January 1) through January 2, 2018. Local agencies authorizing sales during the Fourth of July holiday and/or the New Years holiday would also be authorized to levy a 7% surcharge on total gross sales in their jurisdiction to be used for processing permits, inspecting fireworks stands, offering public education and awareness programs on responsible fireworks use, enforcement of municipal ordinance, and fire suppression duties stemming from “safe and sane” fireworks.

Background:

Current law, through adoption of a local ordinance, a city, county, or fire district, permits the sale of “safe and sane” fireworks from June 28 to July 6. “Safe and sane” refers to fireworks approved by the State Fire Marshal.

Sellers are first required to obtain a sales license, good for one year, from the State Fire Marshal and pay associated fees to the state. Local ordinances may include an administrative fee related

to the processing of permits. Local ordinances may also regulate the number of permits available, sale locations, hours, and days within the Fourth of July sales time period.

Relative to other neighboring states, California has some of the most stringent safety and environmental restrictions on permissible fireworks. The fireworks industry has sought to expand the “safe and sane” fireworks period in California through numerous legislative efforts (see Existing League Policy section below). Often, the struggles of nonprofits’ fundraising efforts are cited by the fireworks industry as the reason for needing to expand sales opportunities.

According to the bill’s sponsor, American Promotional Events, Inc., a report from a nonprofit think tank in the San Francisco Bay Area concluded that the sale of “safe and sane” fireworks during the Fourth of July holiday constituted the single largest collective source of funds for nonprofit organizations in the state. In 2007, a legislative policy committee analysis on a fireworks bill (AB 839, Calderon; 2007) estimated that “safe and sane” fireworks sales totaled \$70 million for more than 3,000 nonprofit organizations over the Fourth of July holiday.

The bill under consideration is the first measure introduced seeking an additional sales period *in addition to* a direct revenue source for local jurisdictions to recoup costs related to mitigating “safe and sane” firework impacts to those community permitting sales.

Staff Recommendation:

Discussion and consideration of a NEUTRAL position or OPPOSE UNLESS AMENDED to request one or more of the following possible amendments:

- 1) Establish that the related fee for a permit may be subject on a sliding scale, based on the fire hazard severity level at the time of the sales period. For instance 7% fee of gross sales would apply with low fire risk rating, 8% for moderate, and 10% for high, as determined by an existing local or state body presiding over the jurisdiction.
- 2) Include any other possible expenses that local agencies may incur through fireworks sales to ensure cities can fully recoup costs related to fireworks impact mitigation.
- 3) Any other terms that may be necessary to limit fire hazard risk during the Fourth of July or New Year holiday sales period.

Committee Recommendation:

Fiscal Impact:

Additional revenue for state and local agencies participating in fireworks sales related to permitting/licensing fees. Local costs and revenues vary by jurisdictions approving or denying additional sales period. Unquantifiable impact to potential emergency response needs for all cities, regardless of authorized fireworks sales within their jurisdiction.

Existing League Policy:

- The League has opposed the statewide expansion of fireworks sales without local discretion. (AB 1295, Bermudez; 2005).
- The League has also opposed efforts to expand fireworks sales when additional fees or surcharges would be levied and collected by state agencies and departments for state-level programs. (AB 1371, Portantino; 2011).
- The League was “neutral” on legislation that allowed for the one-time authorization of fireworks sales over the New Year “Millennium” holiday, at the discretion of the city or county jurisdiction, from December 26, 1999 to January 1, 2000 (AB 2090, Miller; 1998).

- The League supported legislation that authorized local jurisdictions to adopt streamlined enforcement and administrative fine procedures related to the possession of 25 pounds or less of dangerous fireworks (SB 839, Calderon; 2007).

Comments:

Share the Wealth: Nonprofit organizations often play an important role in providing direct social services to communities. The bill's sponsor contends that the ability of nonprofits' ability to raise revenue through fundraisers and continue community programs has been cut severely given the economic downturn. Some cities that have approved sales over the Fourth of July holiday have not sought to levy a surcharge for permits to maximize nonprofit organizations fundraising efforts.

Fee For Actual Costs, Not a Tax for General Revenue: Cities currently allowing for fireworks sales should consider if 7% of gross sales in their community would be sufficient to cover expenses related to either of the holiday time periods for fireworks sales. Because of the fee definition provided in Prop 26 and the Sinclair Paint Case, cities must levy a fee that reflects real costs for the eligible items listed in the bill.

Feedback from the Fire Chiefs Department: The League Fire Chiefs Department sees this measure as creating possible positive outcomes because local control is retained and additional revenue opportunity to direct costs recovery is offered. Fire safety is their ultimate concern and the majority of their investigation and response efforts focus on illegal fireworks, not those classified as "safe and sane."

Just the Facts: One main argument against increased fireworks sales is that greater access equates to greater fire and personal injury risk. However, it has been difficult to identify and quantify costs related to fireworks related incidents. This is further complicated because of the difference between "safe and sane" and illegal fireworks usage. Until better data collection and analysis is conducted, anecdotal information may be overshadowing actual impacts of "safe and sane" fireworks use.

NIMBY 101: A another argument for not allowing expanded fireworks sales, regardless of possible revenue to mitigate the impacts, is that "safe and sane" fireworks can be bought in one jurisdiction but be used, illegally, in the next. In addition, fires do not respect city limit lines or county boundaries. A city that bans fireworks may still face increased risk if their neighboring jurisdiction permits them. Further, the city that bans fireworks sales and use will receive no compensation for investigation, inspection, or fire response services under this bill.

How Severe is the Fire Danger? Members of the Fire Chiefs Department have shared the fire risk for northern California in the winter months is generally very low. Southern California, however, has been moving towards a "year-round" fire season given continuous dry conditions and persistence of Santa Ana winds in December. The true fire risk varies year to year depending on a variety of conditions in the area.

Support/Opposition: (as of March 9, 2012)

Support

American Promotional Events, Inc, (*sponsor*)

Opposition

None on file.