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Drone Industry Launches End-of-Session Attempt at Pre-Emption

League and Police Chiefs Oppose Moratorium Stalling Tactic

Despite the Legislature's rejection earlier this year of amendments that would have pre-empted local drone regulation, and the recent Federal Aviation Administration (FAA) ruling supporting local authority, drone industry lobbyists continue to walk the Capitol halls pushing a new pre-emption proposal in the final weeks of the legislative session. This is not really a surprise after a year of such skirmishes. *For more, see Page 2.*



AB 2220 (Cooper) Sent to Governor with Strong BiPartisan Vote

*Bill Expands Options for Cities with 100,000 Residents-Plus
Considering District-Based Elections*

Gov. Jerry Brown now has legislation on his desk, [AB 2220 \(Cooper\)](#), to allow cities with a population of over 100,000 the flexibility to switch to district-based elections by ordinance. This is the same authority that cities under 100,000 already have thanks to last year's SB 493 (Canella). AB 2220 passed the Senate Monday afternoon with a bipartisan vote of 32-4. *For more, see Page 3.*

[AB 2320 \(Calderon and Low\)](#) was amended in early April to add a provision pre-empting local governments from enacting ordinances regulating drones. That provision, however, was forced out in the Assembly Local Government Committee following vigorous opposition from the League and the California Police Chiefs Association. The measure has since advanced through the Legislature without any pre-emption provision.

In June, the FAA rejected pre-emption of state and local drone regulation laws and ordinances, stating that "certain legal aspects concerning small UAS (unmanned aircraft systems) use may be best addressed at the state or local level." Please see "[New FAA Drone Rules Reject Federal Pre-emption of State and Local Drone Laws,](#)" *CA Cities Advocate*, June 23, 2016.

Fast forward to August 2016. Still determined to push for some kind of pre-emption scheme, lobbyists for DJI, a Chinese drone manufacturer reputed to have the largest market share of the industry in the United States, have approached both legislators and staff with a new [proposal](#), which would pre-empt local authority.

The working group proposal appears to be a stalling tactic to prevent further efforts at meaningful local drone regulation in California in the short-term. If successful it would ultimately present local governments with a likely minimal take-it-or-leave-it template for local regulation that would not be reflective of an individual community's public safety and privacy priorities.

DJI's proposal would entail a de facto moratorium on new local drone regulation until a 10-member working group is established at the Governor's Office of Planning and Research (OPR) and develops a model ordinance. Given the proposed composition of the working group, which would include a preponderance of industry allies, and possibly individuals who have already been identified, the League and the Police Chiefs are concerned they would be consistently outvoted.

The proposed working group would include:

- The director of OPR;
- A representative of a manufacturer of unmanned aircraft appointed by Gov. Jerry Brown;
- A representative of academia who has published on legal and policy issues related to unmanned aircraft appointed by the vice chair of the Senate Select Committee on Defense and Aerospace;
- A representative of a community-based organization representing the model aircraft community appointed by the chair of the Assembly Select Committee on Emerging Technologies;
- One public member appointed by the Speaker of the Assembly;
- One public member appointed by the President pro Tempore of the Senate;
- One ex-officio member representing the FAA; and
- One representative of industry that provides unmanned aircraft related airspace safety technology to airports appointed by the Los Angeles World Airports Chief of Police.

Once the model ordinance is crafted, which could take at least one to two years, local governments would face limited options for drone regulation: either enact the model ordinance verbatim, or forget about local drone regulations of any kind. This is precisely the cookie-cutter approach that the League and the Police Chiefs have consistently rejected in previous meetings with the industry and in legislative committee hearings.

This effort by the drone industry appears to be driven by a fear that cities will follow the lead of the city of Los Angeles, which currently has the most comprehensive and restrictive drone ordinance of any jurisdiction in the state. Los Angeles has already prosecuted violators of its drone ordinance.

Jurisdictions in Orange County have also encountered problems. On June 5, a grand jury convened by Orange County in response to nearly 100 drone-related incidents within a year, issued a recommendation that every city in the county adopt drone ordinances with civil penalties for violators, based loosely on the Los Angeles ordinance.

The industry appears concerned that jurisdictions across the state will follow suit, creating what they have termed “a patchwork” of potentially differing regulations across various cities and counties. The League and the Police Chiefs counter that since the state and federal government have failed to enact a comprehensive regulatory structure to address public safety, privacy and other concerns arising from irresponsible and intrusive use of these devices, then locals must retain full authority to address such issues locally.

Next Steps

City officials are encouraged to urge their legislators to reject any last-minute efforts by this industry to pre-empt local efforts to address drone-related issues of concern to their residents.

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Since SB 493's enactment, several cities with populations over 100,000 have wanted the same flexibility to change their elections from at-large to district-based. As a result, the League worked with Assembly Member Jim Cooper (D-Elk Grove) to introduce AB 2220.

The by-ordinance approach provides additional flexibility for local agencies with changing demographics address representation issues under the state's voting laws in a less-costly and expeditious manner than current options.

The League wishes to thank Assembly Member Cooper for his efforts on this matter, as well as the many legislators supporting the bill. Cities are encouraged to send letters to the Governor requesting a signature. A sample letter can be found at www.cacities.org/billsearch by plugging AB 2220 into the search bar.
