

**GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS POLICY COMMITTEE  
HIGHLIGHTS**

Friday, March 29, 2019

Hilton Orange County/Costa Mesa, 3050 Bristol Street, Costa Mesa

**ATTENDANCE**

Members: Richard Constantine (Chair), Jess Talamantes (V.Chair), Michael Allawos, Bill Baber, Melanie Bagby, Patricia Black, Rick Bonilla, Matthew Bronson, Stefan Chatwin, Jason Dominguez, Harold Duffey, Kerry Eden, Leon Garcia; Jennifer Gomez, Peter Grant, Dean Grose, Rene Guerrero, Jason Haber, George Harris, Mike Healy, Christy Holstege, Randi Johl, Jelani Killings, Geoff Kors, Sara Lamnin, John Leonard, Joe Lopez, Frank Luckino, Carlie Myers, Lori Ogorchock, Alexandra Orologas, Gaurdenz Panholzer, Glenn Parker, La Vonda Pearson, Mary Ann Reiss, Maribel Reynosa, Steve Sanchez, Melinda Sayre, Robert Schultz, Corey Sianez, Cindy Silva, Arne Simonsen, Randall Stone, Jess Talamantes, Susan Tavalero, Acquanetta Warren

Staff: Dane Hutchings

**I. State Budget and General Briefing**

Jeff Slowey, Chair, League Revenue and Taxation Policy Committee, gave a brief introduction to the General Briefing Session. After his welcome, he Stacey Mattina, Chair, League Housing, Community and Economic Development Policy Committee, gave a brief introduction to the General Briefing Session. After her welcome, she

introduced League President Jan Arbuckle, Council Member, Grass Valley, who welcomed everyone to the second round of policy committee meetings of the year. President Arbuckle then introduced Rich Garbarino, League Immediate Past President, Carolyn Coleman, League Executive Director, and acknowledged all of the League Partners in the room.

President Arbuckle then shared a highlight of the most recent League board meeting where the Board had the pleasure of meeting with newly elected Governor Gavin Newsom. Arbuckle stated that the Governor's decision to visit the League Board of Directors and his willingness to stay for over an hour demonstrates the importance of our collective city voice. She encouraged everyone in the room to register for the League's Legislative Action Day and remain engaged, then handed the meeting over to Carolyn Coleman.

Ms. Coleman thanked President Arbuckle for all of the hard work she dedicates to her role, and then emphasized the importance of the policy committees in developing the Leagues positions on key issues. She then introduced Dan Carrigg, League Deputy Executive Director and Legislative Director. The rest of the briefing was presented by the League's legislative team.

Mr. Carrigg began by reinforcing the importance of showing up for Legislative Action Day and meeting with Assembly Members and Senators face to face. Mr. Carrigg then introduced the League's fiscal advisor, Michael Coleman, to walk everyone through the State Budget update. Mr. Coleman briefly discussed the moderate growth of the economy, but acknowledged that there are some signs of a slowing economy, and stressed the importance of maintaining a balanced budget.

Mr. Carrigg then gave an overview of the political dynamics of having a new Governor, a Democratic legislative super majority, and longer legislative term limits. He said that legislators and interest groups are inclined to test Governor Newsom by sending him many bills Governor

Brown would not previously sign. This would be a year when we will all find out what the Governor is willing to say no to.

Mr. Carrigg went on to discuss two important economic development bills, SB 5 and AB 11. Both of these measures would reinvest the state into tax increment financing. A renewed investment would greatly improve opportunities for economic development and provide a great opportunity for the state to work with locals to accomplish shared state and local goals. Mr. Carrigg then referred to [a hand out with a list of the current economic development tools](#) currently available to cities. In addition, Mr. Carrigg discussed ACA 1 and several initiatives that have qualified for the ballot including the split roll, bail reform, and the Grocers and Police Chiefs criminal justice reform initiative. Then Mr. Carrigg introduced the League's lobbyists to discuss their respective issue areas.

Jason Rhine, League Assistant Legislative Director, focused on the housing affordability and availability challenges throughout the state. Mr. Rhine noted that housing legislation is a high priority for the Governor, Legislature, and the League this year. He noted that if achieved, Governor Newsom's goal of producing 3.5 million housing units by 2025 would create an unprecedented level of housing production in the state. Additionally, Mr. Rhine encouraged members to engage and advocate for legislation that will help local governments address their housing challenges while preserving appropriate local control.

Mr. Rhine also briefly discussed the Governor's housing trailer bill proposal and [a short list of bills of significant concern](#). This year, he said, housing related legislation touches on nearly every section of housing law before many of the laws enacted over the past two years have had time to be implemented. The League has been working closely with the Governor's office and Legislators on the trailer bill language and the 200+ housing related bills introduced this legislative session.

Dane Hutchings, League Legislative Representative, briefed members on issues related to governance, transparency, and labor relations. Mr. Hutchings began by discussing the political realities in Sacramento surrounding employee relations legislation and then briefly discussed several bills regarding worker compensation and elections. Mr. Hutchings also highlighted AB 1332, which would significantly limit the ability for state and local agencies to cost-effectively contract for a variety of public services, create an ever-evolving blacklist of prohibited companies and create millions of dollars of unfunded mandates. Mr. Hutchings also briefly discussed the recent [Cal Fire pension decision](#) and its impact.

Charles Harvey, League Legislative Representative, gave an update on various public safety related issues including cannabis and cannabis deliveries, drones, police use of force, and gun legislation. On the topic of cannabis, Mr. Harvey discussed the legislative and expected judicial challenges of the recent Bureau of Cannabis Control regulations authorizing cannabis deliveries in any jurisdiction in the state. In addition, Mr. Harvey discussed AB 392 (Weber), the re-introduction of a police use-of-force bill from last year, which the League opposed, and SB 230 (Caballero) an alternative bill backed by police chiefs that the League would likely support.

Derek Dolfie, League Legislative Representative, highlighted evolving environmental and community issues that will be big in 2019. A major issue is organic waste diversion and the regulations that will implement a 50% reduction target coming out this summer. Mr. Dolfie also discussed various proposals that seek to provide clean water to California residents. He also touched on bills regarding recycling, energy, disaster preparedness, storm water, aging, homelessness and tobacco use regulations.

Rony Berdugo, League Legislative Representative, discussed transportation, communications, and public works. Mr. Berdugo began by discussing the proposal to link SB 1 transportation dollars with housing production. The proposal was met with hostility by many legislators and Mr. Berdugo suggested that folks in the room speak to their legislator and tell them that this proposal should not move forward. Next, he discussed the FCC small cell order and how the League and others have attempted to push back against this in the courts and on the federal level. Finally, Mr. Berdugo discussed emergency alert legislation and disaster preparedness regarding seismic safety.

Lastly, Dan Carrigg briefly discussed issues related to revenue and taxation. Mr. Carrigg touched on the League's support of AB 147 (Burke) which would implement the *Wayfair* decision in California and increase revenue for local governments, and discussed legislation that would limit sales tax agreements that shift revenue from other jurisdictions.

## **II. Special Briefing: Impacts of Cal Fire Local 2881 v. California Public Employees Retirement System**

[Jonathan Holtzman](#), Partner with Renne Public Law Group (RPLG), briefed committee members of both the Revenue and Taxation Committee and the Governance, Transparency, and Labor Relations Committee on the Supreme Court's recent decision on the Cal Fire Case. RPLG wrote the League's Amicus Brief on this case. The core issue at hand was whether or not "classic" level members still have a vested pension right to purchase future years of service – more commonly known as "airtime". This option was eliminated after the enactment of PEPR in 2012.

The Court refuted the plaintiff's assertion that airtime was a vested right protected by the California Constitution. Mr. Holtzman presented the key finding of the California Supreme Court and whether or not the decision would substantially change the landscape of future California pension-related litigation.

Mr. Holtzman went on to explain the history of pension case law in California and how it ultimately crafted and coined the term "The California Rule." The "California Rule" was established during a 1955 case called *Allen V. City of Long Beach*. The "rule" has governed pension law for decades and is rooted in the concept that when workers enter a contract with their employer the day they begin employment, that contract cannot be diminished unless replaced with similar and equal benefits.

Prior to the Cal Fire ruling, case law addressing vested rights issues has emphasized that employees have a right to substantial and reasonable pension benefits that are subject to adjustments to accommodate changing conditions, as defined by constitutional jurisprudence. Additionally, vested rights case law asserted that the intent to create a vested right must be reinforced in "clearly and unequivocally expressed" statute or a plaintiff must prove that the vested right was intended to be there by implication.

Based on this case law, the Supreme Court ruled narrowly by asserting that air time was not a vested benefit because it was not codified in the legislative statute, and that it may be modified prospectively. The Court reaffirmed that this principle may be adjusted via collective bargaining while a Memorandum of understanding (MOU) is still viable. This decision was shaped by the fact that air time was not tied to actual public service and therefore could not be considered "deferred compensation." Because the Court concluded the benefit was not vested, it had no occasion to address prior "California Rule" precedent.

Mr. Holtzman concluded his presentation by outlining the key takeaways from the Cal Fire decision: the legislature must outline a clear intellectual justification for vesting benefits and that changes to the ultimate pension benefit structure are justifiable if they do not implicate core pension benefits, as defined by the pension formula. Additionally, the Court decision included the assertion that CalPERS does not have the authority to exercise discretion in determining what is constitutional and what is not.

### **III. Welcome and Introductions**

Chair Constantine welcomed committee members and reiterated that the agenda included bills that did not reflect existing League policy and that positions taken by this policy committee had the potential to change that. He began introductions of himself, Vice Chair Jess Talamantes, and League staff. This was followed by introductions of each committee member, which included their name, title, and city.

### **IV. Public Comment**

No Public Comment.

### **V. Brown Act Clarification (Page 9):**

*Use of Social Media by Local Elected Officials: Update  
AB 992 (Mullin) Open meetings: local agencies: social media*

Dane Hutchings updated Committee members on the League's efforts to provide clarifying framework regarding social media use that adheres to Brown Act Standards. League staff brought a proposal to the GTLR policy committee in January which discussed the topic of social media and the Brown Act related to local elected officials. The Committee recommended that staff work with the League's City Attorney Department and Brown Act Committee to discuss and prepare a more specific recommendation.

Mr. Hutchings explained that while League staff and the Brown Act Committee were in the process of developing proposed bill language, Assembly Member Mullin introduced AB 992, which seeks to modernize Brown Act Standards by taking into account interactions via social media platforms. Although ideally the League would have liked to craft this language in tandem with the Brown Act committee with the Policy Committee's consent, Mr. Hutchings reiterated that Assembly Member Mullin is the ideal legislator to run this bill, given his knowledge of the Brown Act and strong relationship with the League.

Allison Leary, Deputy General Counsel and Lead staff member of the League's Brown Act Committee, discussed the proposed language in AB 992. Ms. Leary explained that the Brown Act Working Group crafted some amendments to the proposed bill and felt that the use of social media as well as direct interaction with other council members should fall under the same rules and restrictions as outlined in [section 54952.2](#) of the Government code.

**Discussion:** Committee members deliberated the proposed amendments. Some members voiced concerns with the portion of the proposed language that states, "*The participation in, internet-based social media platforms by a majority of the members of a legislative body, provided that a majority of the members do not discuss among themselves business of a specific nature that is within the subject matter jurisdiction of the legislative body of the local agency,*" specifically with the words "a majority of." Because the composition of what constitutes a majority situationally shifts, some members believed that this language was too specific. Ultimately, despite these concerns, Committee Members moved to follow staff recommendation and support the bill in concept while staff continues to work with the author's office on amending the measure with the

GTLR and Brown Act Committee amendments. This was met with unanimous approval over over two-thirds vote.

## **VI. 2019 Legislative Agenda**

### ***AB 17 (Salas) Elections: vote by mail ballots***

Mr. Hutchings briefed committee members on AB 17 by Assembly Member Salas, which would make it unlawful for a public or private employer to request or require their employees to either bring their vote by mail ballot (VBM) into the workplace or to request or require their employees to vote on their vote by mail ballot in the workplace. Mr. Hutchings explained to committee members that the author's office has no report of any incidents that are related to the issue this bill seeks to prevent and that it seems to be a proactive response to a potential problem. He then went on to outline the recommended amendments the League would like to see before removing its proposed opposition, which include clarifying language, defining what evidence needs to be present in order to bring civil action against an employer, and making clear whether this bill pertains to both blank ballots and filled out ones.

Committee members expressed confusion regarding the lack of solid evidence relating to the issue the bill seeks to prevent. A motion to accept staff recommendation to oppose the bill unless amended was passed by a majority vote of over two thirds.

### ***AB 220 (Bonta) Political Reform Act of 1974: campaign funds: childcare costs***

Mr. Hutchings briefed committee members on AB 220 by Assembly Member Bonta, which would authorize the use of campaign funds to pay for child care expenses resulting from a candidate or officeholder engaging in campaign activities or performing official duties. League staff made mention that the bill's intent is to encourage more women to run for elected office, and that unusual expenses like parking fines, specific clothing, and home security systems are already authorized to be covered by campaign funds.

**Discussion:** Committee members engaged in a thoughtful discussion about the potential implications of the bill. Some members discussed whether or not this bill would cause a slippery slope for the misuse of funds while others recognized the intent of the bill and saw that using funds for childcare could free up time for the candidate to participate in more campaign-related activities. Ultimately, the Committee recommended to support if the bill language provides clarity relating to whether "reimbursement" for childcare cost constitutes a direct invoice from campaign funds or from a candidate's personal funds. The motion passed by a two-thirds majority vote.

### ***SB 523 (McGuire) Elections: vote by mail ballots.***

Mr. Hutchings discussed SB 523 by Senator McGuire, which would align the time allowed for voters to correct a missing signature on a vote by mail ballot (VBM) with the time currently allowed to correct a mismatching signature on a vote by mail the voter that there is a mismatched signature on their unsigned ballot statement at least ballot. This bill also adds translation and notification requirements, imposing additional duties on local election officials. League staff stated that concerns with the bill stem from the shorter timeline associated with the missing signature and that local election officials would be required to notify eight days prior to the certification of the elections.

**Discussion:** Committee members related their concerns with the challenges this bill could impose on local election officials and constrained timelines. They also expressed concern with how it could delay the certification of election results. Despite these concerns, committee members expressed their favor for an ethical election system, which values consistency and getting votes

counted in a timely and accurate manner. The Committee recommended to remain neutral, which was passed by unanimous vote.

#### **VII. Legislative Items of Interest**

Mr. Hutchings gave a brief overview of bills relating to the Committee's interests that were currently in the legislature. If note were bills relating to public employee retirement system divestment from certain entities, employment sexual harassment, and the expansion worker's compensation protections.

Mr. Hutchings highlighted Assembly Member Bonta's [AB 849](#), which seeks to completely overhaul the process for establishing new election district boundaries and modifying existing ones by imposing stringent requirements that far exceed Brown Act Standards. These modifications would undoubtedly create hundreds of thousands of dollars in unfunded and/or suspended mandates as well as unworkable confusion and implementation challenges for local government agencies.

Another highlighted bill of interest was Assembly Member Bonta's [AB 1332](#), which would significantly limit or effectively eliminate the ability for state and local agencies to cost-effectively contract for a variety of public services, create an ever-evolving blacklist of prohibited companies and create millions of dollars of unfunded mandates.

#### **VIII. GTLR Work Plan and Strategic Goal Update**

Mr. Hutchings gave a brief update to the committee on the progress of the League's strategic goal #3 which is to promote the sustainability of public pension and retirement health benefits. He explained that the accomplishment of this goal entails a lot of defense playing and maintaining a civil relationship with CalPERS. The League plans to release an update the "[Retirement System and Sustainability Study and Findings Report](#)" by 2020 and will continue outreach to educate cities as to how best to address the issues of rising pension costs and unfunded liabilities.

**Next Meeting: Friday, June 14, Sacramento Convention Center, Sacramento**