PUBLIC SAFETY POLICY COMMITTEE  
Friday, April 13, 2018  
10:00 a.m. – 3:00 p.m.  
Sheraton Fairplex Hotel & Conference Center, 601 West McKinley Avenue, Pomona

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

SPECIAL ORDER: State Budget and Issues Briefing for all policy committee members  
10:00 – 10:45 a.m., Room California 2  
Upon adjournment, individual policy committee meetings will begin

I. Welcome and Introductions

II. Public Comment

III. “Reducing Crime and Keeping California Safe Act of 2018” (Attachment A)  
Proponents:  
Representatives from California Grocers Association and California Police Chiefs Association  
Opponents:  
Representative from Californians for Safety and Justice  
Thomas G. Hoffman, (Retired) Director, Department of Adult Parole Operations, California  
Department of Corrections and Rehabilitation

IV. State Legislation (Attachment B)  
A. AB 1968 (Low) Mental health: firearms  
B. AB 2256 (Santiago) Law enforcement agencies: opioid antagonist

V. State Fire Response and Disaster Relief Draft Policy (Attachment C)  
Nearly 70 wildfire and disaster response bills have been introduced. Given the volume, League staff will present some draft policies to several policy committees for discussion and refinement. Once adopted, these policies will help guide League positions on 2018 post-disaster legislation.

VI. State and Federal Drone Policy Update (Attachment D)  
Discussion on Drones, RE: AB 3173 (Irwin)

VII. Cannabis Implementation and Enforcement Update  
Lori Ajax – Chief, Bureau of Cannabis Control  
For Lori Ajax Bio and BCC Leadership Staff click here  
Click here for Duties of State’s Three Licensing Authorities  
Click here for California Cannabis Web Portal

Next Meeting: Friday, June 8, Sacramento Convention Center, Sacramento

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 may 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 Website.
Police Chiefs-Grocers Initiative  
*Reducing Crime and Keeping Californians Safe Act of 2018*

**Bill Summary:**
This measure would broaden the definition of violent felonies to reflect a wider universe of offenses; address serial theft by enacting provisions facilitating prosecution for repeat offenses; address organized retail theft; alter the rules for granting parole to non-violent offenders; authorize DNA collection upon arrest for specified misdemeanors; and enact changes to the management of the post-release community supervision population of offenders.

**Bill Description:**
*Title and Summary* for this initiative (No. 17-0044) were issued by the California Attorney General on January 4, 2018. The Initiative has the following major components:

1) **Violent Felonies.** Expands existing list of violent felonies in the Penal Code, altering a number of offenses which are currently misdemeanors, to felonies, requiring sentencing to state prison upon conviction. Examples of these offenses are:
   a) Assault with a deadly weapon  
   b) Rape of an unconscious person  
   c) Rape via use of an intoxicating/controlled substance  
   d) Throwing acid with intent to disfigure  
   e) Discharging a firearm from a motor vehicle  
   f) Discharging a firearm at an unoccupied dwelling  
   g) Attempted arson  
   h) Conspiracy to commit serious or violent felony  
   i) Threatening a witness  

2) **Serial or Repeat Theft Offenses.** Authorizes felony charges for specified theft crimes currently chargeable only as misdemeanors.
   a) Specifies that the $950 threshold for grand theft does not apply to forgery, elder abuse involving theft, receiving stolen property, embezzlement, identify theft, or unlawful transfer of an access card.  
   b) Addresses serial theft by providing that upon the third conviction of petty theft or shoplifting where the value of stolen property exceeds $250, the penalty will be up to one year in county jail, or a term in county jail of 16 months, 2 years, or three years.  

3) **Organized Retail Theft.** Addresses organized shoplifting operations for retailers statewide.
   a) Provides that a person who commits two or more instances of theft of retail property or merchandise exceeding $250 during any 180-day period,
acting in concert with one or more persons, is guilty of organized retail theft.

b) Allows aggregation of property stolen on previous occasions during a 180-day period.

c) Allows prosecution in any county able to exercise jurisdiction for a single offense.

4) **DNA Collection.** Requires persons convicted of specified misdemeanors to submit to collection of DNA samples for state database. This will include theft, sexual violence, and drug crimes including forgery, burglary, passing bad checks, grand theft, receiving stolen property, lewd conduct, solicitation, assault, elder abuse, and controlled substances violations.

5) **Changes to Parole Criteria.** Imposes more restrictive criteria for parole as follows:

   a) Provides that the rule prohibiting inmates from being returned on parole to any location within 35 miles of a victim or witness would include those convicted of violent felonies, as the Initiative would re-define them.

   b) Imposes new standard of review for parole for non-violent offenders, specifically whether the inmate will pose an unreasonable risk of creating victims of felonious conduct if released from prison – and specifies 33 criteria to be considered by Parole Board.

   c) Affirmatively requires CDCR to give notice to victims of crime prior to inmate being reviewed for parole or release.

6) **Changes to Post-Release Community Supervision.**

   a) Authorizes county probation offices, upon a determination that authorized intermediate sanctions are not appropriate, to petition a court to revoke an individual’s PRCS if that person has violated the terms of his release for a third time.

   b) Authorizes warrantless arrest, including by a probation officer, if the supervisee on PRCS has failed to appear at a hearing to revoke/modify/terminate supervision.

**Fiscal Impact:**
According to the Legislative Analyst’s Office fiscal report:

- Increased state and local correctional costs projected to be in the tens of millions of dollars annually, related to increases in penalties for theft-related crimes, and changes to the non-violent offender release consideration process.
- Increased state and local law enforcement costs in the low millions annually, related to collecting and processing DNA samples from additional offenders.
- Increased state and local court-related costs of a few million dollars annually related to processing probation revocations and additional felony theft filings.
**Background:**

Recent Developments with the Initiative Backers
While the Retailers-Grocers are determined to proceed with the Initiative, the Police Chiefs have renewed their focus in recent weeks on possibly using the threat of the Initiative as leverage to persuade the Governor to back legislation enacting key reforms (specifically DNA Collection, re-defining violent felonies, and increasing prosecutorial options to address serial theft). This development is due in part to the significant pressure applied to major retailers by the Administration in an effort to get them to drop the initiative. As of this writing, signature gathering is continuing, and proponents are required to submit at least 365,880 valid signatures by July 3, 2018.

Information from the supporters of the initiative can be found here: [Keep California Safe](#)

Bottom Line for Police Chiefs
Of the many reforms contained in the initiative, the Police Chiefs have signaled to the League that the core reforms they must have are:

- Violent Felonies
- Serial and Organized Retail Theft
- DNA Collection

If the Chiefs are able to pursue discussions on a legislative solution with the Governor, the talks will ultimately focus on these three items.

The governor has been adamant in his opposition to this ballot measure in meetings with stakeholders and declared his willingness to campaign heavily against the measure should it qualify. He believes the measure goes too far in unravelling recent corrections reforms, and is concerned that increasing criminal penalties for a wide range of crimes will increase pressure on state prison bed space which has been capped at 137.5 percent of capacity by federal courts. If enacted as currently written, the Initiative could over time lead to prison beds filling up again in California’s correctional institutions, and at some point the state will exceed and remain above the prison population cap imposed by the federal court. This will undermine the Governor’s goal of getting California on a path to ending federal oversight of its prison system. The Initiative has no mechanism in it to avoid this outcome. An anti-recidivism component such as additional job training funding within the prisons could be the solution.

Other Major Ballot Battles Pending for the League
In addition to considering this ballot measure, the League is anticipating having to fight off a proposed repeal of SB 1 and the Transportation Tax, which poses a direct threat not only to California’s transportation infrastructure, but the League’s reputation and credibility as an organization. Also of great concern is the Business Roundtable’s proposal which would severely restrict local revenue options going forward.

There is hope that the Governor will actively join the opposition on both of these major threats to local control and revenue. The Governor has $15 million set aside that can
be used for ballot advocacy, and the capacity to raise much more. The Administration has communicated clearly that should this Public Safety Initiative qualify for the ballot, the Governor’s priority will be to defeat it.

Possibility Remains for Negotiated Solution with Governor:
In late March, the Governor met with the executive committee of the California Police Chiefs Association to discuss various issues, including the pending ballot measure. A positive outcome of the meeting was that there is an opening for the Police Chiefs to have discussions with the Governor about their public safety concerns. Should such discussions prove fruitful, and agreement be reached with the Governor on a more refined alternative, it would avoid the costs and uncertainty associated with a contentious ballot measure.

Existing League Policy:
The League supports stiffer penalties for violent offenders, and proposals to expand the legal definition of violent felonies to cover activity that is clearly violent in nature. It also supports efforts to restrict the options for managing offenders who repeatedly violate the terms of their post-community release supervision. Finally, the League supports measures to address the sustained increase in property crimes since the enactment of Proposition 47, which raised the threshold for prosecution for grand theft, a felony, to $950.00.

Support and Opposition:
Support:
Elected Officials
Assemblyman Jim Cooper (D)  
Former Assemblyman Mike Gatto (D)  
Colusa County District Attorney Matthew Beauchamp  
Kings County District Attorney Keith Lee Fagundes  
Monterey County District Attorney Dean Flippo  
Orange County District Attorney Tony Rackauckas  
Riverside County District Attorney Michael A. Hestrin  
Sacramento County District Attorney Anne Marie Schubert  
San Luis Obispo County District Attorney Dan Dow  
Tulare County District Attorney Tim Ward  
Tuolumne County District Attorney Laura Krieg

Former Sacramento County Sheriff John McGinnis  
Whittier Mayor Joe Vinatieri  
Anaheim City Councilman Steve Faessel  
Monrovia City Councilman Tom Adams  
Pomona City Councilman Rubio Ramiro Gonzalez  
San Diego City Councilman Mark Kersey  
San Dimas City Councilman Ryan A. Vienna  
Former Assemblyman Russ Bogh  
Huntington Park Mayor Pro Tem Johnny Pineda  
West Covina Mayor Mike Spence  
Aliso Viejo Mayor David C. Harrington  
Orange County Supervisor Todd Spitzer

Cities:
City of Redding  
City of Citrus Heights
City of Gilroy
City of Atascadero
City of Chico
City of Huntington Park
City of Alhambra

Public Safety, Community and Business Leaders:
Association of Deputy District Attorneys
Association for Los Angeles Deputy Sheriffs
California Business Properties Association

California District Attorneys Association
California Grocers Association
California Police Chiefs Association
Crime Survivors CEO Patricia Wenskunas
Crime Victims United of California
Los Angeles Police Protective League
Ralphs Grocery
San Luis Obispo County District Attorney’s Victim Witness Director Diana Lynn McPartlan
Women Escaping a Violent Environment (WEAVE)

Opposition:
None on file. Note, this measure has not officially qualified for the ballot yet.

Recommendation: Support (Defer Board Taking Final Action, Pending Outcome of Police Chief’s/Support Coalition Negotiations with Governor)
The League clearly has plenty of policy that would lead to a support position on this measure. The real question is on timing. While possibility remains for a negotiated solution between the sponsors and the Governor, it would be advisable for the organization to defer final action pending the outcome of those discussions.
1. AB 1968 (Low) Mental Health: Firearms

Bill Summary:
AB 1968 (Low) restricts firearm possession for individuals at risk of harming themselves or others by prohibiting a person from owning a firearm if they are placed on an involuntary psychiatric hold (5150 hold) twice in one year.

Existing Law:
The name “5150 hold” comes from California Welfare and Institutions code Section 5150, which defines an involuntary psychiatric hold. It states, when a person, as a result of a mental health disorder, is a danger to others, or to himself or herself, or gravely disabled, a peace officer or clinician, may upon probable cause, take the person into custody for a period of up to 72 hours for assessment, evaluation, and crisis intervention, or placement for evaluation and treatment in a specified facility.

Existing law currently states that if a person is taken into custody by a “5150 hold” they are prohibited from owning or possessing firearms for five years after release from a facility. The person is able to own, possess, or purchase firearms again after the five-year period. However, the person may immediately upon release from the facility petition the court to own firearms again within the five-year prohibition period.

Bill Description:
AB 1968 aims to prevent firearms from falling into the hands of people who are mentally unstable and potentially violent to themselves or others. This bill would do three main things:

- Permanently removes the firearms of an individual who has been taken into custody on a "5150 hold" twice within one year, with the option to petition the court for a hearing to have them returned after 6 months of release from the facility;
- Prohibits the admitting facility from filling out the petition form on the individual’s behalf, and the petition would include an authorization for the release of the person’s medical and mental health records to the appropriate district attorney;
- Extends the length of time for a hearing to take place from 30 days to 60 days from receipt of petition.

Background:
Mass shootings in cities and schools have unfortunately become very common. This bill is among a suite of bills introduced by the Legislature to attempt to address the ability for potentially violent or mental unstable people from obtaining firearms. This bill hinges on prohibiting people who have been placed on an involuntary psychiatric hold, or commonly called a “5150 hold,” from owning firearms to prevent a potential future tragedy.

This law would add provisions prohibiting someone taken into custody on a “5150 hold” twice in one year from owing guns for the rest of their life and allow the person to petition a court, under preponderance of evidence, six months after their release from the facility to lift the prohibition on them owning guns. This petition would include a
person’s mental health history to the District Attorney in order for them to make a
determination with preponderance of evidence.

**Fiscal Impact:**
Unknown. However, there could be increased administrative and court costs associated
with this bill.

**Existing League Policy:**
*From League Public Safety policy:*
- “The League supports the reduction of violence through strategies that address
gang violence, domestic violence, youth access to tools of violence, including but
not limited to firearms, knives, etc., and those outlined in the California Police
Chiefs Policy Paper endorsed by the League Board of Directors.”

**Support and Opposition:**
*Support:*
- California District Attorneys Association
- California Association of Psychiatric Technician
- California Police Chief’s Association

*Opposition:* Unknown

**Comments:**
By targeting people who have been placed on a “5150 hold,” this bill attempts to keep
guns out of the hands of people who may use them in a violent way to themselves or
others. It also attempts to maintain a person’s second amendment right to own a firearm
by giving a person six months after their release from the facility to petition a court,
under preponderance of evidence, that they will not use guns in an unlawful way and lift
the prohibition on them owning guns. Additionally, by requiring that a person petitioning
the Court to include mental health history, this will help prevent people who could have
slipped through other screenings. This seems to be a balanced approach to prohibiting
potentially violent and dangerous persons from owning firearms while not curbing legal
gun ownership.

**Staff Recommendation:** Support

2. **AB 2256 (Santiago) Law Enforcement Agencies: Opioid Antagonist**

**Bill Summary:**
Would authorize a pharmacy or wholesaler to furnish naloxone hydrochloride (brand
name Narcan and Evzio) or other opioid antagonists to a law enforcement agency.

**Existing Law:**
Current law allows emergency medical service responders, pharmacies, hospitals, and
school pharmacies to furnish naloxone, if they have the proper training to administer it.
This bill would extend the same authorization to law enforcement employees.

Existing law does not allow non-patients or non-medical professionals to have or obtain
prescription drugs. Specifically, current law explicitly authorities emergency medical
service responders, pharmacies, hospitals, and school pharmacies the authority to
furnish naloxone.
Bill Description:
This bill would allow a pharmacy to furnish naloxone hydrochloride, commonly called Narcan, to employees of a law enforcement agency who have completed training on its administration. It also would require such a law enforcement agency to keep records of its use for at least three years and ensure the disposal or destruction of expired naloxone.

Background:
Over the last several years, the United States as seen a wave of opioid related overdose deaths. President Trump declared the Opioid Crisis a National Emergency in 2017 and called for public health officials to address the issue. California has not been impacted as strongly as other states, particularly in the south, but it continues to see deaths related to opioid overdoses.

Naloxone hydrochloride, also called Naloxone or Narcan, is a prescription opioid overdose reversing drug. This drug can be administered through both an intravenous injection or a nasal spray. Often when a person is overdosing from an opioid, such as heroin, their breathing will stop and cause them to asphyxiate. Narcan reverses this effect and will restore a person’s breathing in moments after administration.

Fiscal Impact:
Unknown. However, there could be cost savings to emergency rooms, hospitals, and EMS due to the wider use of overdose reversing drugs.

Existing League Policy:
From League Public Safety policy:
- “The League supports “Good Samaritan” protections that include both medical and non-medical care when applicable to volunteer emergency, law enforcement, and disaster recovery personnel.”

Note: The League does not currently have any policy pertaining to law enforcement using prescription drugs to help overdose victims.

Support and Opposition:
Support: Unknown
Opposition: Unknown

Comments:
This is a common sense bill to give law enforcement employees the ability to obtain a drug that can save lives. It would only allow trained persons to have access to this drug and has built in accountability through record keeping. Law enforcement is often the first on a scene of a potential overdose and this bill would give them the ability to reverse an overdose before paramedics arrive. By giving law enforcement this tool it would be a step in the direction of curbing the number of overdose related deaths in California.

Staff Recommendation: Support
PROPOSED UPDATE
LEAGUE DISASTER RELIEF AND PREVENTION POLICIES
April 2018

The wildfires in Northern and Southern California in October and December were the most costly and destructive in California history. Cities were also affected in an unprecedented way, as a fast moving wildfire entered urban neighborhoods in Santa Rosa. This has led to state to recognize a new normal: a year-around fire season. Because of the wildfires and the mudslide that followed in the Montecito area of Santa Barbara County, lawmakers have introduced approximately 70 bills that address various aspects of disaster prevention, notification, and recovery.

While the League has existing policy that addresses fire services, emergency services and emergency preparedness, gaps in certain areas have been identified. League staff has carefully reviewed the legislation and determined that it would be helpful to have some additional guidance in this policy area from our members to help tailor League positions on 2018’ disaster related legislation.

Thus, we are requesting five League policy committees to consider and refine several potential policies. The committees that will review various aspects include:

- Community Services
- Environmental Quality
- Housing, Community and Economic Development
- Public Safety
- Transportation, Communication and Public Works

League policy committee staff will revise these policies to reflect committee input and produce an updated summary for the League Board.
Background:
Safety of the public during a disaster depends on widespread notification of residents as well as carefully coordinated emergency shelters and local services. Among the issues communities must address during disasters are health and mental health care needs, animals, elderly, homeless, and medically-fragile individuals.

One area of legislative focus is helping ensure communities are better prepared for disasters. Another area of legislative focus is assisting with post-disaster non-medical assistance to help individuals and communities recover. This is an area where League policy does not offer much guidance, so League staff—after reviewing some of the legislation—has proposed some potential policy for consideration.

Potential Additions to League Policy:
League staff recommend the committee consider adopting the following policy statements:

- **Amend existing policy**: The League supports additional funding for local agencies to recoup the costs associated with fire safety in the community and timely mutual aid reimbursement for disaster response services in other jurisdictions. The League also supports additional funding for local agencies to preposition fire personnel and equipment as well as coordinate notification systems with local and state agencies.

- **New proposed policy**: The League supports measures that provide resources for local governments to coordinate services to assist displaced residents and communities recover from wildfires, earthquakes and other natural disasters.

Committee Action:

Board Action:
HOUSING, COMMUNITY AND ECONOMIC DEVELOPMENT POLICY COMMITTEE
Topic: Residential Insurance

Background:
Following the wildfires substantial attention has been focused on underinsured homeowners. While there is debate in the Sacramento regarding which entities should bear the cost of rebuilding, cities are not directly involved in this discussion. Rather, cities’ interest may lie more appropriately in ensuring that (1) future consumers of property insurance are fully insured for the cost of rebuilding a home and (2) residential property owners have sufficient support during the rebuilding process.

The League does not have existing policy regarding residential insurance coverage.

Potential Additions to League Policy:
League staff recommend the committee consider adopting the following policy statements:

- The League believes homeowners should be insured for the value of rebuilding a home to current building standards. The League supports measures to increase transparency in insurance policies so that homeowners can make informed decisions.

- The League believes residents who have experienced a wildfire or other natural disaster are entitled to fair residential property insurance practices that provide flexibility to rebuild, including that insured property owners should not lose insurance coverage during the rebuilding effort.

- The League also believes residential property insurance policies should not be canceled based on weather-related claims or immediately following a disaster.

Committee Action:

Board Action:
ENVIRONMENTAL QUALITY POLICY COMMITTEE
TRANSPORTATION, COMMUNICATIONS & PUBLIC WORKS POLICY COMMITTEE
Topic: Utilities

Background:
Current law provides that utilities found to be even partially at fault for a wildfire are strictly liable for damages caused by that wildfire. The immense costs of the most recent wildfires have resulted in discussions at the state level of the fairness of this standard, whether an investor-owned utility can withstand such costs, and who should bear the burden of rebuilding communities following a wildfire.

Investor-owned utilities (IOUs) and publicly-owned utilities (POUs) must also maintain the infrastructure in such a way as to reduce fire risk. One area of discussion is that if the strict liability standard were to remain in place, what mitigating effects may be useful for the utility, such as the ability to clear cut vegetation within a certain radius of utility poles. However, this authority could result in unintended environmental consequences associated with removing vegetation.

Existing League policy supports cooperation regarding public health and safety resulting from fires near the wildland urban interface.

Staff Recommendation:
League staff recommend the committee discuss the strict liability standard utilities are currently held to and consider the relative merits and drawbacks of authorizing IOUs or POUs to cut vegetation when maintaining power lines. We also encourage the committee to consider the differences between fire in wildland and forest management practices and utilities operating in urban areas.

Committee Action:

Board Action:
California Emergency/Disaster Response Bills

Better Preparedness
- AB 1877 (Limón D) Office of Emergency Services: communications: translation
- AB 1954 (Patterson R) Timber harvest plans: exemption: reducing flammable materials
- AB 1956 (Limón D) Fire prevention activities
- AB 2091 (Grayson D) Prescribed burns
- AB 2120 (Quirk D) Fire: agricultural burning
- AB 2112 (Santiago D) Federal 21st Century Cures Act: community-based crisis response plan: grant
- AB 2144 (Chen R) State parks: wildfires
- AB 2238 (Aguiar-Curry D) Local agency formation: regional housing need allocation: fire hazards: local health emergencies: hazardous and medical waste
- AB 2333 (Wood D) Office of Emergency Services: mental health response
- AB 2551 (Wood D) Forest and Wildland Health Improvement and Fire Prevention Program
- AB 2576 (Aguiar-Curry D) Emergencies: healthcare
- AB 2645 (Patterson R) Greenhouse Gas Reduction Fund: forestry and fire prevention
- AB 2898 (Gloria D) Emergency services: local emergencies
- AB 2911 (Friedman D) Fire safety. Updating building standards
- AB 2913 (Wood D) Building standards: building permits: expiration
- AB 2915 (Caballero D) Workforce development boards: mutual disaster aid assistance: MOU
- AB 3098 (Friedman D) Residential care facilities for the elderly: emergency plans
- SB 821 (Jackson D) Emergency notification: Office of Emergency Services: county jurisdictions
- SB 833 (McGuire D) Emergency alerts: evacuation orders: operators
- SB 969 (Dodd D) Automatic garage door openers: backup batteries
- SB 1040 (Dodd D) In-home supportive services: natural disaster resulting in a state of emergency
- SB 1044 (Berryhill R) State Responsibility Area Fire Prevention Fees
- SB 1169 (Anderson R) Violations: penalties and fines: wildfire incidents
- SB 1181 (Hueso D) Emergency services: certified community conservation corps
- SB 1260 (Jackson D) Fire prevention and protection: prescribed burns
- SB 1416 (McGuire D) Business licenses: fees: fire inspections

Insurance
- AB 1740 (Daly D) Fire insurance: valuation of loss
- AB 1772 (Aguiar-Curry D) Fire insurance: indemnity
- AB 1797 (Levine D) Residential property insurance
- AB 1799 (Levine D) Insurance: policy documents
- AB 1800 (Levine D) Fire insurance: indemnity
- AB 1875 (Wood D) Residential property insurance
- AB 1923 (Limón D) Residential property insurance: wildfires: consolidated debris removal
- AB 2229 (Wood D) Fire insurance: standard form
• AB 2594 (Friedman D) Fire insurance
• AB 2941 (Berman D) Health care coverage: state of emergency
• AB 3166 (Burke D) Insurance: residential property insurance: requirements upon nonrenewal
• AB 3180 (Frazier D) Insurance: misrepresentations
• SB 897 (Mcguire D) Residential property insurance: wildfires
• SB 824 (Lara D) Insurance: nonrenewal
• SB 894 (Dodd D) Property insurance
• SB 917 (Jackson D) Insurance policies
• SB 1263 (Portantino D) Residential property insurance

Utilities
• SB 819 (Hill D) Electrical corporations: rates
• SB 901 (Dodd D) Electrical corporations: local publicly owned electric utilities: electrical cooperatives: wildfire mitigation plans and measures
• SB 1088 (Dodd D) Electrical and gas corporations: safety and resilience plans

Other
• AB 425 (Caballero D) Timber harvesting plans: exemptions: temporary roads
• AB 898 (Frazier D) Property taxation: revenue allocations: East Contra Costa Fire Protection District
• AB 1283 (Rodriguez D) Mutual aid: reimbursements: volunteer firefighters
• AB 1765 (Quirk-Silva D) Building Homes and Jobs Act: fee waiver: states of emergency
• AB 1919 (Wood D) Price gouging: state of emergency
• AB 2089 (Mathis R) Volunteer firefighters: background checks
• AB 2092 (Acosta R) Board of Forestry and Fire Protection
• AB 2228 (Wood D) Education finance: school apportionments: wildfire mitigation
• AB 2380 (Aguiar-Curry D) Fire protection: privately contracted private fire prevention resources
• AB 2585 (Patterson R) Prescribed burns: burn managers: liability
• AB 2672 (Patterson R) California Global Warming Solutions Act of 2006: wildfires
• AB 267 (Quirk-Silva D) Office of Small Business
• AB 2727 (Flora R) Personal income taxes: credit: volunteer firefighters
• AB 2966 (Aguiar-Curry D) Disaster relief. State share of dead and dying tree removal up to 100%
• AB 3122 (Gallagher R) Taxation: disaster relief
• ACA 24 (Waldron R) Property taxation: transfer of base year value: disaster relief
• SB 896 (Mcguire D) Aggravated arson
• SB 912 (Beall D) Housing
• SB 914 (Dodd D) Local agency contracts
• SB 1035 (Jackson D) General plans
• SB 1091 (Stone R) Property taxation: transfer of base year value: disaster relief
• SB 1415 (Mcguire D) Building standards: violations
April 6, 2018

Draft Updated Drone White Paper

Summary

The League, the drone industry, and the California Police Chief’s association have been asked to work collaboratively on the state of drones in California.

AB 3173 (Irwin)\(^1\) is the vehicle that will be used to develop this regulatory framework over the coming months. The League would like to have a discussion with our members on how this objective can be best achieved and what are some common policy principals all cities share.

In the past several years, the League has supported bills (AB 868 (Jackson) and 2724 (Gatto)), which sought to establish statewide regulations on drones. Both of these bills failed due to pressure from the drone industry and fear of federal preemption from the FAA. The League also played an important role in fighting off several statewide preemption attempts by the drone industry.

Given this backdrop, the League is looking to recruit some volunteers from our members to help develop policies in this area.

There are currently only two areas of California state law that apply to drones:
- Penal Code section 402(a)(2) – Prohibition of interfering with police, fire, EMS operations
- Civil Code section 1708.8(b) – Invasion of privacy laws

This objective of beginning to develop drone policy principles is particularly urgent given the active efforts in state legislatures across the country, and at the federal level, to strip cities of the ability to enact reasonable regulations that protect their residents and enable productive use of drones. The League will need to work collaborative with our members in order to capture what priorities all cities share on this issue.

While the efforts of the drone industry to achieve local pre-emption have so far failed here in California, the industry is engaged in a nationwide push, seeking to preempt cities in every state. We expect that the industry will continue to push for policies in Sacramento to eliminate local governments’ ability to enact reasonable and common sense restrictions on behalf of their communities.

\(^1\) http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201720180AB3173
Overview

This paper will describe the broad existing authority of cities to address drone-related concerns and assess how local government regulations fit into an overall regulatory scheme for this technology. Currently, there are three types of drone operators: local and state government, recreation and hobbyists, and businesses. This paper aims to illustrate how all three types of drone operators could fit into one statewide regulatory framework. In addition, the League has compiled a variety of resources for cities, attached as appendices, which include the following:

- Appendix A: Draft Drone Legislative Policy Principles
- Appendix B: Draft Policy Principles
- Appendix C: FAA Guidance to Cities, Counties, and States
- Appendix D: Do’s and Do Not’s of a Municipal Drone Ordinance

Introduction

The impetus for this guidance from the viewpoint of California cities is twofold: (1) to preserve the authority of cities to address uniquely local concerns as drone operations increase dramatically, and (2) to enable cities to welcome the economic benefits of drone operations through narrowly-tailored and enforceable rules.

In recent years, California cities have seen a significant rise in the number of drone-related incidents that illustrate the challenges cities will need to address now and in the future. In the last several years, there have been numerous incidents in which drones interfered with first responders, including firefighting aircraft, air ambulance helicopters, and law enforcement helicopters. Drone interference with firefighting aircraft reached such a level that in July 2016, the U.S. Department of the Interior confirmed that it was partnering with private sector entities on technology to help ground drones entering restricted airspace. Drones have crashed into power substations leaving entire neighborhoods without power. Drones have been seen flying over critical infrastructure without permission. Drones have been operated above police stations. Drones have flown over large public gatherings, falling from the sky, injuring children and damaging...
The drone industry has not released statistics about their failure rates, or the standards to which their products are built, meaning it is impossible to know if or when a drone will simply fall from the sky injuring people or property below. While federal law prevents drones from flying over unprotected people, there is no federal prohibition on flying over or adjacent to almost any other place (like roads, outside windows of apartments, schools, and single family homes, police stations, fire houses, etc.) meaning communities are at the mercy of falling or out-of-control drones, the reliability of whose construction is unknown.

While some activities are prohibited by federal law, cities face a challenge in enforcing federal law or relying on existing law to address unsafe or reckless operation of this technology. Opponents of municipal regulations may argue that general conduct based rules like recklessness or general statutes like nuisance are enough. Yet cities across the nation have had substantial difficulty prosecuting cases using statutes of general applicability.

Enforcement though, is only one part of the discussion. More important is the fact that cities have always had the authority to regulate certain kinds of conduct ranging from skateboards and bicycles on city streets and sidewalks, to the usage of heavy equipment, to the requirement that individuals obtain commercial film permits prior to operating in designated areas of the city at certain points in time. These are traditional police, land use, and zoning powers that protect the safety and tranquility of communities, ensure order, and provide for the general welfare.

If a city has the power to make reasonable time, place and manner restrictions around 1st Amendment and 2nd Amendment rights, certainly drone operators can be expected to similarly abide by time, place and manner restrictions. There is no Constitutional right to fly a drone wherever and whenever someone wishes, especially not when property rights, privacy rights, public safety, nuisance protections and the police power are in conflict with that operation.

Notwithstanding the challenges articulated above, the economic benefits and opportunities are enormous. Drone sales are skyrocketing and productive uses are

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8 Citation: Micro UAS task force report
9 The City of Seattle, for example, recently required a 4-day trial to prosecute someone for reckless endangerment, despite actual injuries inflicted after a drone flew over a parade, fell from the sky and struck two people. A local prohibition on flights over crowds or in certain downtown areas would have eliminated the need for a long, fact intensive trial and would have allowed the city to make it clear to operators that the conduct was prohibited. Similarly, the City of Los Angeles in prosecuting a person for violation of its drone ordinance, reviewed potential arguments that could be raised under the pre-emption doctrine, and opted to limit the charge to reckless operation of a drone endangering life or property. The jury’s verdict was Not Guilty in that they found the defendant operated his drone recklessly, but that it did not rise to the level of endangering life or property. The City cited its concern with a speedy resolution and a desire not to have resources tied down contesting an appeal.
increasing. Drones are saving money, saving time, and saving lives in cities across the country and across California. This is nowhere more true than in how cities and counties are using drones themselves. Police, fire, and other city agencies are using drones to enhance the ways they serve their citizens, including search and rescue activities, emergency medical response, firefighting, accident investigation, and more. Thus, cities have to weigh the real and immediate benefits of drone use against the safety, privacy, and nuisance concerns that often loom large.

The task of balancing costs and benefits, however, does not rest solely on cities. Federal and state regulators have and will continue to play a role in articulating the rules that will help ensure safe drone operations. An appropriate role for Federal and state regulators, does not mean that preemption is the answer. On the contrary, local regulations can and should complement federal and state regulations in an integrated regulatory framework. This is a critical point because downtown San Francisco is very different from Oxnard, or Napa. State and federal regulators will never know on which sidewalk special coordination is needed prior to operating a drone, they won’t know about local public gatherings, nor will they know which areas of town raise particular concerns. Cities, however, are quite adept at making these types of decisions based on local information and local context. In addition, in the event of drone incidents, it is local agency first responders (primarily police and fire) who will get the call. Local governments can and should enact ordinances to guide that response when local police and fire agencies are inevitably called upon.

Finally, the technology that powers drones is rapidly evolving and, in fact, many of the challenges faced by cities today will be solved by the technology of tomorrow. Such technologies include advanced permitting systems, geo-fencing, detailed mapping systems built into the drones, and eventually air traffic management for drones (also known as Unmanned Traffic Management). This, then, is the task for cities: preserving the existing authority to adopt narrowly-tailored rules relating to drone operations consistent with their local police power and FAA guidance, while enabling the many benefits of drone technology. The League’s

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objective is to preserve cities right to exercise their authority in a responsible and defensible fashion that is tailored to their community.

Background

Industry Advocates of Preemption

In advocating before the U.S. Congress as well as the Federal Aviation Administration (FAA) and in various state legislatures around the country, some members of the UAS industry have argued that state and local regulations are completely pre-empted by the federal regulations promulgated by the FAA. The pre-emption of any other regulations in U.S. airspace, they argue, is total. In advancing this argument, the industry has claimed that any outdoor operation by a drone is effectively in the navigable airspace, and thus cities have no authority to regulate any activity by a drone.

The reality as expressed by the FAA is somewhat different. The FAA has publicly staked out a more qualified form of pre-emption in the area of UAS regulation, both in its December 2015 fact sheet, as well as in its long awaited rules for drone operation, so-called Part 107 rules. For example, the FAA articulated a number of areas where state and local laws may be appropriate to regulate some of the concerns associated with drone operations, including:

- “State law and other legal protections for individual privacy may provide recourse for a person whose privacy may be affected through another person’s use of a UAS.”
- “State and local laws, such as trespassing, may provide a remedy for companies whose small UAS operations are deliberately interfered with by people entering the area of operation without permission.”
- “State law and other legal protections may already provide recourse for a person whose individual privacy, data privacy, private property rights, or intellectual property rights may be impacted by a remote pilot’s civil or public use of a UAS.”
- “Property rights are beyond the scope of this rule. However, the FAA notes that, depending on the specific nature of the small UAS operation, the remote pilot in command may need to comply with State and local trespassing rules.”
- “[H]obbyists or other third parties who do not have the facility owner’s permission to operate UAS near or over the perimeter or interior of amusement parks and attractions may be violating State or local trespassing laws.”

Additional Guidance from the FAA

In fact, in January of 2017, the FAA Administrator, Michael Huerta, appeared at the U.S. Conference of Mayors annual conference in Washington D.C. and indicated that state and local governments have substantial authority, that the rules for manned aviation do not necessarily apply to unmanned aircraft, and that a national conversation is

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15 14 C.F.R. Part 107
necessary. That conversation has begun at the FAA’s Drone Advisory Committee and because it may lead to state and local governments having greater authority, we expect the industry will be pushing hard for preemption this year as it may be their last chance.

In addition to the general guidance provided in the Fact Sheet and the context of Part 107, the FAA, in response to queries from cities, counties, and states, has provided even more concrete statements of the scope of municipal authority.

_For specific guidance from the FAA on this point, please see the letters from the FAA attached as Appendix A: FAA Guidance to Cities, Counties, and States._

**State Preemption**

After unsuccessful efforts to effect federal preemption, certain interests within the UAS industry have pursued preemption at the state level.

Opponents of municipal drone regulations commonly make an argument about an alleged “patchwork quilt” of laws. According to this argument, reasonable time, place, and manner restrictions relating to drones will be confusing for operators to understand. This argument also stems from federal precedent relating to airliners transiting flying across the country, which is entirely irrelevant when applied to drone operations, which take place between homes and above city sidewalks where airliners have never operated.

An argument about a patchwork is also an oversimplification and mischaracterization of the role municipalities play in an integrated regulatory environment. Different cities require different building and film permits: does this “patchwork” hamper construction? Some cities permit bicycles on certain sidewalks, while prohibiting them on others. Cities throughout California have, for decades, prohibited model aircraft in certain parks while allowing them in other parks. This is the essence of local control. The use of a loud or dangerous piece of equipment may make sense in a light commercial district, however the use of the same equipment in a residential neighborhood may require greater coordination or protections. The only elected officials who understand this context are local officials. While the patchwork argument is a strawman, it would be wise for cities to avoid enabling this argument (as discussed below).

The rules that apply to automobiles or other ground-based vehicles are a useful example in this case. Drivers, commercial or recreational, are subject to a host of rules (federal, state or local) that govern when and where you can drive in a given community. Nonetheless, stop signs, traffic lights, speed limits and time-based restrictions (such as around schools) do not make it “confusing” or impossible to operate a car.

Rather, it is those very rules, clearly conveyed to drivers, that allow cities to welcome vehicles. Cities know that if a safety risk emerges (e.g., an area where accidents are
likely to happen or speeding habitually), they will have the flexibility to put a stop sign or change the speed limit. Similarly, cities can allow commercial driving knowing that they have the authority to restrict such activity if it poses a nuisance or hazard to citizens (for instance, limiting the hours when trash trucks may operate in a given neighborhood or the size of a vehicle that may operate on a certain road). Cities know that in crowded pedestrian areas, skateboarding, rollerblading, or bicycling may need to be prohibited, and on certain beaches and in certain parks even throwing a ball may be prohibited at certain times.

The invention of drones didn’t suddenly make local control unnecessary. On the contrary, it is an argument in favor of local control where cities can determine how to best to welcome the beneficial uses of drones while balancing the potential harms. Through this iterative discussion at the local level, the best policies will emerge. The answer to the fallacious “patchwork quilt” argument is for cities to narrowly tailor rules to their particular concerns and effectively communicate relevant rules to operators.

*For a discussion of this issue in greater detail, please see the League guidance attached as Appendix D: Do’s and Do Not’s of a Municipal Drone Ordinance.*

**Previous California Drone Legislation**

In 2016, the League supported SB 868 (Jackson), which attempted to establish a statewide regulatory framework. This bill died in the Assembly.

Another bill, AB 1680 (Rodriguez) added operating a drone to the existing law that prohibits a person from interfering with police officers, firefighters, EMS, or military. This bill was signed into law by the Governor.

In 2017, the League supported AB 2724 (Gatto), which was vetoed by Governor Brown, that would have done three things:

- Require drone manufacturers include a link to the FAA’s Internet Web site containing safety regulations or best practices applicable to unmanned aircraft,
- Require unmanned aircraft equipped with global positioning satellite mapping capabilities to also be equipped with geofencing technological capabilities that prohibit the unmanned aircraft from flying within any area prohibited by local, state, or federal law
- Require the owner of an unmanned aircraft to procure adequate protection against liability imposed by law on owners of unmanned aircraft, including the payment of damages for personal bodily injuries and death, and for property damage, resulting from the operation of the unmanned aircraft

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16 http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160SB868
17 https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1680
18 http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB2724
The Governor indicated in his veto message that a piecemeal “patchwork” of local regulations was not the way to go and requiring geofencing may cause for federal preemption.

**Local Regulatory Framework**

Given the background above and the nature of this relatively new technology, local governments, in crafting a local regulatory framework, should strive to craft and enact regulations that accomplish the following objectives:

1) Are narrowly crafted so as to enhance public safety without being unduly restrictive.
2) Are a reasonable use of municipal police power under Article XI, Section 7 of the California Constitution.
3) Do not invite charges of federal pre-emption, based on the guidance provided by the Federal Aviation Administration.¹⁹
4) Are harmonized with state and local regulations to ensure an integrated and intelligible regulatory framework.
5) Encourage positive commercial and recreational uses of drones by providing clear guidelines.

To that end, the League of California Cities aims to develop a framework that does not encroach on FAA jurisdiction, while also maintaining cities ability to regulation and control the activity of drones in their community.

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¹⁹ See “State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet, released by the Office of the Chief Counsel of the Federal Aviation Administration, December 17, 2015.
Appendix A: Summary of Existing Bill, AB 3173 (Irwin)

Current Legislative Framework

The following is the initial legislative framework put forth but the involved parties as a jump off point for future discussions.

   a) A person shall not operate an unmanned aircraft system required to be registered by federal law without valid paper or electronic evidence of registration.
   b) Any peace officer authorized to enforce state and local laws is authorized to demand evidence of registration from a person operating an unmanned aircraft system.
   c) Any person who operates an unmanned aircraft system while under the influence of intoxicating liquor, any drug, or any combination of any intoxicating liquor and drug, in a condition that he or she is unable to exercise reasonable care and control of the aircraft, is guilty of a misdemeanor.
   d) A violation of subdivision (a) or (c) is an infraction punishable by a fine not to exceed five hundred dollars ($500).
   e) This section does not preclude any administrative, civil, or criminal action under federal law.
   f) As used in this section, “unmanned aircraft system” means any airborne device that does not carry persons and is piloted from a remote location, whether or not that device contains a camera or other recording equipment. “Unmanned aircraft system” includes those devices commonly referred to as drones, unmanned aerial vehicles, remotely piloted aircraft, or remotely controlled aircraft.
Appendix B: Draft Policy Principles
The League has drafted 10 policy principles for discussion that will serve as the beginning of a potential statewide legislative framework.

1. The right to enact and enforce rules of general applicability in a manner that addresses unsafe drone operations (trespass, nuisance, or noise)
2. The ability to appropriately zone or plan for commercial drone use
3. The projection of citizens through the prohibition against careless and reckless operations that endanger life or property
4. The protection the privacy of California’s citizens from illegal drone use
5. The ability, or guidance from FAA, for operation of UAS during parades, public holiday celebrations or other city-wide civic events
6. The assurance that accountability measures are in place to insure that operators are aware of and accountable to local rules
7. The ability for cities to enforce compliance with due process provisions
8. The right to establish rules for operation in, around, and near critical infrastructure
9. The right to ensure the lawful use of law enforcement use of drones
10. The ability for cities to tailor their drone regulations to fit their specific cities’ needs
Appendix C: FAA Guidance to Cities, Counties, and States
David Wolpin, Esq.
Weiss Serota Helfman Cole & Bierman
200 E. Broward Blvd.
Suite 1900
Ft. Lauderdale, FL 33301

Re: City of Aventura Proposed UAS/Drone Ordinances

Dear Mr. Wolpin:

The FAA is in receipt of your May 5, 2016 correspondence regarding proposed unmanned aircraft systems (UAS) ordinances for Aventura. Please find below the FAA’s comments regarding Aventura’s proposed language.

1. Regarding the definitions sections, if any of these definitions relating to aviation are not consistent with the FAA’s official definitions in federal statutes or regulations, then the city could be open to a preemption defense in the future.

2. Regarding the ordinance establishing UAS operational restrictions at public gatherings, as stated in the FAA’s UAS Fact Sheet and generally speaking, any law that regulates flight paths or establishes operational bans are operational restrictions with which we could not concur. The city’s prohibition of UAS being “flown in any airspace ...” constitutes such an operational restriction. However, the city may regulate where UAS may take off or land (i.e., launched).

3. Regarding the ordinance concerning privacy, to the extent this ordinance regulates flight paths or ban operations in certain airspace, these would be operational restrictions with which we could not concur. The City of Aventura is free to apply any generally applicable voyeurism or privacy laws (i.e., those that might apply anywhere within the city limits) not specifically directed at UAS use or UAS operations. However, proposed section 30-211(3) is directed solely at UAS.

The City of Aventura is free to pursue UAS legislation. However, if there is a legal challenge and the agency’s views are requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.
Thank you for contacting the FAA regarding your proposed ordinances. If you have any questions, please do not hesitate to contact us.

Sincerely,

[Signature]

Brandon C. Goldberg
Attorney
Office of the Regional Counsel
Southern Region
VIA EMAIL
JUN - 9 2016

Austin D. Roberson
Associate County Attorney
Cobb County Attorney’s Office
100 Cherokee Street, Suite 350
Marietta, GA 30090-7003
e-mail: Austin.Roberson@CobbCounty.org

Re: Cobb County Proposed UAS/Drone Ordinances

Dear Mr. Roberson:

The Federal Aviation Administration (FAA) is in receipt of your June 2, 2016 correspondence regarding proposed unmanned aircraft systems (UAS) ordinances for Cobb County. Thank you for coordinating with the Agency. Please find below our comments regarding Cobb County’s proposed language.

Regarding section 86-50, Definitions, if any of these definitions relating to aviation are not consistent with the FAA’s official definitions in federal statutes or regulations, then the county-defined terms could be open to a preemption defense in the future. The FAA has exercised its authority from Congress to enact exclusive air safety and airspace management standards. Based upon the FAA’s promulgation of pervasive regulations in these areas, the courts have inferred a preemptive intent to displace all state law on the subject of air safety, control of the airspace, and flight management and efficiency. This includes aviation-related definitions.

Regarding section 86-51, Restrictions, as stated in the FAA’s December 17, 2015 UAS Fact Sheet and generally speaking, any law that regulates aircraft flight paths or establishes operational bans of aircraft are operational restrictions with which we could not concur. The county’s prohibition of UAS being flown within certain distances of sports stadiums, airports, or other venues constitutes such an operational restriction and would be inconsistent with the Federal statutory and regulatory framework. As a land use matter, the county may regulate where UAS may take off or land (i.e., launched), but this does not include overflight.

In response to your general query concerning what standards local governments can set through ordinance, the County may apply any generally applicable police power laws addressing voyeurism or privacy laws, etc. (i.e., those that might apply anywhere within the county limits) not specifically directed at UAS use or operations. Courts distinguish between state laws that directly affect aeronautical safety, on the one hand, and facially neutral laws of general application that have merely an incidental impact on aviation safety.
The FAA cannot prevent Cobb County from pursuing UAS legislation. However, if section 86-51 was legally challenged and the agency's views were requested by a court or other official body, our position would be consistent with the principles set forth in the Fact Sheet.

Thank you for contacting the FAA regarding your proposed ordinances. If you have any questions, please do not hesitate to contact us.

Sincerely,

[Signature]

Brandon C. Goldberg
Attorney
Office of the Regional Counsel
Southern Region
Dear General Reyes:

I write in response to Utah’s recent enactment into law of H.B. 3003, Unmanned Aircraft Amendments, pertaining to the “neutralization” of unmanned aircraft systems (UAS) by law enforcement officials in certain wildland fire areas that pose an imminent or direct threat to the State’s efforts to protect people and property from wildland fires.

The Department of Transportation, of which the Federal Aviation Administration (FAA) is a part, shares Utah’s concern about interference, by UAS or any aircraft operation, with fire prevention or firefighting efforts. As Secretary of Transportation Anthony Foxx noted in a statement last summer, “Flying a drone near aerial firefighting aircraft doesn’t just pose a hazard to the pilots ... When aircraft are grounded because an unmanned aircraft is in the vicinity, lives are put at greater risk.” See, “Wildfires and Drones Don’t Mix,” FAA Press Release (July 29, 2015). https://www.faa.gov/news/press_releases/news_story.cfm?newsId=19234

We understand that Utah enacted the new law—which authorizes designated law enforcement officials responding to wildland fires, to “neutralize” (“disable,” “damage,” “interfere” or “take control”) UAS that fly in areas designated as wildland fire scenes—because State officials and legislators believe that this summer’s wildfires in Utah have become significantly worse due to UAS operations interrupting firefighting air operations.

We also are aware and concerned that air tankers fighting the large Saddle Fire in southwestern Utah were grounded several times because of interference by UAS, despite the FAA’s 5-mile Temporary Flight Restriction. Indeed, with your assistance, FAA is prepared to pursue and prosecute UAS operators who have violated FAA’s restricted airspace and/or operated a UAS so as to endanger the life or property of another.

It is noteworthy that on July 15, the president signed into law the FAA Extension, Safety, and Security Act of 2016, which addresses interference with wildfire suppression, law enforcement, or emergency response efforts by UAS operations. Under § 2205 of the Act, if an individual operates a UAS and knowingly or recklessly interferes with a wildfire suppression, law enforcement, or
emergency response effort, that individual shall be liable to the U.S. Government for a civil penalty of up to $20,000.

The FAA recognizes that state and local law enforcement agencies often are in the best position to detect and investigate unauthorized or unsafe UAS operations in cooperation with federal law enforcement agencies, including the FAA. The FAA and state and local government are being presented with many difficult challenges as we attempt to apply existing law and regulations to the extensive proliferation of UAS operations throughout the country in a wide variety of circumstances and conditions. Our success in dealing with these challenges will be very much dependent upon a cooperative approach to these issues.

As you know, Congress vested the FAA with authority to regulate the areas of airspace use, management, efficiency and safety, among other matters, 49 U.S.C. §§ 40103, 44502, and 44701-44735, and also provided fines and penalties for damaging, destroying or disabling any aircraft (including a UAS) in the navigable airspace, 18 U.S.C. § 32(a)(1). Accordingly, the FAA has substantial equities to ensure that implementation of the “neutralization” provisions of H.B. 3003, including through the use of any electronic jamming technology, conforms to federal law and does not inadvertently or otherwise endanger aviation safety and the integrity of the national airspace system (NAS), including possible interference with a range of frequency signals relied on by FAA Air Traffic Control (including, for example, Automatic Dependent Surveillance-Broadcast (ADS-B)).

To ensure aviation safety and the efficiency of the NAS, it is essential that the FAA examine and understand the means by which Utah’s law enforcement officers propose to “neutralize” UAS. In the spirit of the need for cooperative efforts that I have mentioned above, I understand discussions on this issue have begin between FAA representatives and appropriate law enforcement and other State officials, including a Utah State Senate UAS Committee working group. It is important to maintain open and transparent communication between the FAA and state and local officials.

Thank you in advance for your assistance in ensuring the FAA and Utah State officials enjoy a collaborative relationship as we work to ensure the safety of the NAS and aircraft operations do not interfere with the State’s important wildfire fighting responsibilities.

Should you have any questions or need additional information, please do not hesitate to contact either me at (202) 267-3332, Jonathan Cross, Senior Attorney, Regulations Division (202-267-7173), Dean Griffith, UAS Team Lead, Regulations Division (202-267-1854), or Joshua Holtzman, Director, Office of National Security Programs and Incident Response (202-267-7980).

Sincerely,

Reginald C. Govan
Chief Counsel
Appendix D: Do’s and Do Not’s of a Municipal Drone Ordinance
The Do’s & Don’ts of City Drone Ordinances

**DON’T**

- Don’t create restrictions affecting the airspace or regulating the in-flight operation of unmanned aircraft.
  
e.g. “No flying a drone faster than 100mph.”

- Don’t copy and paste the restrictions within FAA Part 107 into a city’s ordinance.
  
e.g. “No flights over 400ft.”

- Don’t create outright bans on unmanned aircraft usage and operation.
  
e.g. Implement excessive and onerous permitting and reporting requirements.

- Don’t create rules that place undue burden on an operator.
  
e.g. “Drones may only take-off and land in a small designated area of the city.”

- Don’t place multiple use restrictions.
  
e.g. “No flying within 20ft of an open-air assembly area during regular school hours.”

**DO**

- Create rules rooted in a city's traditional land use or zoning powers.
  
e.g. “No take-off or landing near a police heliport.”

- Follow the recommendations of the FAA and NLC, and tailor restrictions to traditional municipal authority.
  
e.g. Laws of general applicability related to nuisance or trespass.

- Create reasonable time, manner and place restrictions to safeguard your citizens.
  
e.g. “No take-off or landing in a residential zone from 10pm-9am M-F.”

- Make it easy for operators to understand and be aware of local rules and be held accountable.
  
e.g. Drone operators are required to give notice of their flights.

- Create flexible rules to accommodate changing needs and technology.