REVENUE AND TAXATION POLICY COMMITTEE
Friday, January 18, 2019
10:00 a.m. – 3:00 p.m
Sacramento Convention Center, 1400 J Street, Rm. 204, Sacramento
AGENDA

SPECIAL ORDER: State Budget and Issues Briefing for all policy committee members
10:00 – 10:45 a.m., Room 204, Sacramento Convention Center
Upon adjournment, individual policy committee meetings will begin

I. Welcome and Introductions

II. Public Comment

III. Overview of Parliamentary Procedures and Roberts Rules (Attachment A) Informational

IV. Committee Orientation (Attachment B) Informational

V. League Strategic Goals for 2019 (Attachment C) Informational

VI. Review of Existing Policy & Guiding Principles (Attachment D) Informational

VII. Additional Discussion on State Budget Proposal Informational
Speakers: Mike Coleman, Fiscal Policy Advisor, League of California Cities; Dan Carrigg, Legislative Director, League of California Cities
- Legislative Analyst’s Office Nov. Fiscal Outlook (Click to view)
- Governor’s Budget
- League’s Summary of Governor’s Budget (Attachment E)
- Legislative Analyst’s Office Comments on Governor’s Budget (not yet available)

VIII. Expected Rev. & Tax Issues in 2019 Session (Wayfair, Tax Reform, etc.) Informational
Speakers (11:30): Colin Grinnell, Staff Director, Senate Governance and Finance Committee; Carlos Anguiano, Principal Consultant, Assembly Revenue and Taxation Committee

IX. State Legislative Update Informational
- Tax Increment Restoration: SB 5 (Beall) and AB 11 (Chiu)
  - Background on needs for local tax increment tools (Western City Article)
- Update on Wayfair Implementation
  - CDTFA Implementation Memo
  - AB 147 (Burke)
  - League’s Analysis of AB 147 (Attachment G) Action
- Reintroduction of Annexation and Incorporation Measures
  - Background on city loss of VLF (Western City Article)
  - Background information on 2018 League sponsored bill (to be reintroduced in 2019)
- Cal Fire Pension Case Update
- Tax reform discussion proposals
- City Manager Working Group Legislative Recommendations (Attachment F) Action
  - Tightening laws on future tax agreements
  - Allocating use tax from county pools to destination
  - Reducing threshold for direct allocation of use tax from construction projects from $5 million to $100k.
X. **New Governor’s Administration**  
   **Informational**  
   Speaker: Ana Matosantos, Cabinet Secretary

XI. **Adoption of 2019 Work Program** *(Attachment H)*  
   **Action**

Next Meeting: Friday, March 29, Hilton Orange County/Costa Mesa, 3050 Bristol Street, Costa Mesa, California

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**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). 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.

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**Brown Act Reminder:** The League of California Cities’ Board of Directors has a policy of complying with the spirit of open meeting laws. Generally, off-agenda items may be taken up only if:

1. Two-thirds of the policy committee members find a need for immediate action exists and the need to take action came to the attention of the policy committee after the agenda was prepared *(Note: If fewer than two-thirds of policy committee members are present, taking up an off-agenda item requires a unanimous vote)*; or
2. A majority of the policy committee finds an emergency (for example: work stoppage or disaster) exists.

A majority of a city council may not, consistent with the Brown Act, discuss specific substantive issues among themselves at League meetings. Any such discussion is subject to the Brown Act and must occur in a meeting that complies with its requirements.

**Informational Items:** Any agenda item listed for information purposes may be acted upon by the Policy Committee if the Chair determines such action is warranted and conforms with current League policy. If the committee wishes to revise League policy or adopt new policy for an item listed as informational, committees are encouraged to delay action until the next meeting to allow for preparation of a full analysis of the item.
Parliamentary Procedure Basics Relating to League Policy Committees
(adapted from Robert’s Rules of Order Newly Revised¹)

Note: This document is designed to provide practical examples of common procedural matters encountered by League policy committees. It strives to provide guidance to foster productive and efficient meetings; it is not meant to be an exhaustive or comprehensive discussion of Robert's Rules. As always, it is the role and discretion of the chair to provide helpful guidance to individuals that may digress from the appropriate form and substance related to the conduct of meetings and the presentation of motions and other procedural matters set forth below.

I. COMMON MOTIONS

1. Main Motions
   Purpose: To introduce items to the committee for their consideration.
   Example: "I move the staff recommendation to support AB 123."

2. Motion to Amend
   Purpose: Retains the main motion under discussion, but changes it in some way.
   Example: "I move to amend the (presented main) motion to support AB 123 if amended."

"Friendly" Amendments
   Purpose: To offer an amendment to the main motion that is still supportive of the main motion.
   Example: If there is currently a motion to support AB 123 on the floor and a committee member makes a "friendly" amendment to support AB 123 and also request that staff report back after contacting the sponsor for clarification on specific language.

   Note: This is commonly mishandled procedurally. Often the individual that seeks to offer the "friendly" amendment will inquire if the maker of the original motion will "accept" the amendment, and if so the chair will treat the motion as amended. This is not the proper way to handle such an amendment. It is not the discretion of the mover of the original motion (or the chair) to accept or decline the amendment, rather it must be adopted by the committee.

   However, if it appears to the chair that an amendment (or any other motion) is uncontroversial, it is proper for the chair to ask if there is "any objection" to adopting the amendment. If no objection is made, the chair may declare the amendment adopted. If even one member objects, however, the amendment is subject to debate and vote like

any other, regardless of whether its proposer calls it "friendly" and regardless of whether the maker of the original motion endorses its adoption.

3. **Substitute Motion**
   
   **Purpose:** Removes the motion under discussion and replaces it with a new motion.

   **Example:** When there is a main motion on the floor to support a bill, a substitute motion would be, “I move a substitute motion that the committee oppose AB 123.”

**Addressing Multiple Motions**

The following examples provide guidance relating to how multiple motions are handled, and the impact failed substitute motions have on original (main motions) and any proposed amendments. The last motion presented should be considered first.

**Note:** Substitute motions commonly occur during policy committee meetings, yet Robert’s Rules does not make a distinction between motions to amend and substitute motions. However, motions to amend must be considered prior to a main motion. Because the use of "substitute" motions is fairly widespread, the label as it is reflected in practice is used in the examples below. Rosenberg’s Rules of Order² do reference substitute motions and their impact is also reflected below.

**Example 1**

Committee Member 1: "I move that we support AB 123."
Committee Member 2: "I move that we support AB 123, if amended."
Committee Member 3: "I move a substitute motion that we oppose AB 123."

**Characterizing the Motions:**
In the above example:

- Committee Member 1 has made a (main) motion.
- Committee Member 2 has made an amendment to Committee Member 1’s motion.
- Committee Member 3 has made a substitute motion to Committee Member 1’s motion.

**Order for Consideration and the Possible Outcomes**

Committee Member 3’s motion is considered first. If Committee Member 3’s motion fails, Committee Member 2’s motion will be considered next. If Committee Member 2’s motion fails, Committee Member 1’s motion will be considered. If Committee Member 2’s motion passes, there is no need to consider Committee Member 1’s motion.

If Committee Member 3’s motion passes, there is no need to consider Committee Member 1’s motions because Committee Member 3’s motion replaces Committee Member 1’s original motion. There is also no need to consider Committee Member 2’s motion since it is an amendment to Committee Member 1’s motion that has been replaced by Committee Member 3’s substitute motion.

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Example 2
Committee Member 1: "I move that we support AB 123."
Committee Member 2: "I move a substitute motion that we oppose AB 123."
Committee Member 3: "I move that we oppose AB 123 unless amended."

Characterizing the Motions
In the above example:
Committee Member 1 has made a (main) motion.
Committee Member 2 has made a substitute motion to Committee Member 1’s motion
Committee Member 3 has made an amendment to Committee Member 2's substitute motion (sometimes referred to as a substitute to a substitute motion).

Reviewing the Possible Outcomes
Committee Member 3's motion should be considered first. If the motion fails, Committee Member 2's motion is considered.
If Committee Member 2’s motion passes, it is not necessary to consider Committee Member 1’s motion because Committee Member 2's motion substitutes for it.

If Committee Member 3’s motion fails, Committee Member 2's motion is considered. If Committee Member 2’s motion fails, the substitute motion for Committee Member 1’s motion fails, and Committee Member 1's motion is considered.

If Committee Member 3’s motion passes, it is not necessary to consider Committee Member 1’s motion because Committee Member 3's motion substitutes for it.

Example 3
Committee Member 1: "I move that we support AB 123."
Committee Member 2: "I move a substitute motion that we oppose AB 123."
Committee Member 3: "I move a substitute to the substitute motion that we take no position on AB 123."

Characterizing the Motions
In the above example:
Committee Member 1 has made a (main) motion.
Committee Member 2 has made a substitute motion to Committee Member 1’s motion
Committee Member 3 has attempted to make a substitute to Committee Member 2's substitute motion (sometimes referred to as a substitute to a substitute motion).

Reviewing the Possible Outcomes
While procedurally permissible, in an effort to avoid confusion Committee Member 3’s motion should not be entertained by the chair until Committee Member 1 and Committee Member 2's motions have been discussed and voted upon.

Committee Member 2's motion should be considered first. If the motion fails
Committee Member 1’s motion is considered. If Committee Member 1’s motion fails, then Committee Member 3’s may make the motion to "take no position on AB 123."

If Committee Member 2's motion passes, it is not necessary to consider Committee Member 1’s motion because Committee Member 2's motion substitutes for it.
4. **Motion to Withdraw**  
*Purpose:* To withdraw an item from discussion.

*Making the Motion to Reconsider:* Only the individual that made the initial motion can make a motion to withdraw an item from discussion. The individual may interrupt a speaker (after being recognized by the chair) to withdraw the motion under discussion at any time.

*Note:* This type of motion typically occurs following some debate by the committee that may provide additional information that influences the mover to reconsider continued debate on the original motion presented. Another member may subsequently make the same motion after it has been properly withdrawn.

*Example:* “Madame Chair, I move to withdraw my motion to support AB 123.”

5. **Motion to Reconsider**  
*Purpose:* To revisit discussion of an issue.

*Making the Motion to Reconsider:* A motion to reconsider must be made by an individual that previously voted in the majority of the original motion. A motion to reconsider made by an individual that previously voted in the minority must be characterized as out of order.

*Timing:* A motion to reconsider must be made at the same meeting where the original motion was discussed, or the next meeting of the body. Motions for reconsideration following the next meeting are out of order.

*Example:* “I move to reconsider the committee’s position to support AB 123.”

6. **Motion to Table**  
*Purpose:* This motion is often used in the attempt to "kill" a motion by setting it aside. The option is always present, however, to "take from the table," for reconsideration by the committee.

*Note:* This type of motion should be reserved to temporarily set an item aside if agreed upon by a majority of the committee to take up an item of immediate urgency. However, in practice it is sometimes used as an option to end debate and prevent a vote, and not typically to take up an item of immediate urgency. This is technically improper procedure (or out of order) under Robert's Rules.

*Example:* “I move that the committee table the motion to support AB 123.”

7. **Call for the Question**  
*Purpose:* To refocus the committee on the agenda in the event there is sentiment that the discussion has drifted. The individual seeking to end debate must first be recognized by the Chair, make the motion and the motion must receive a second. The motion must be adopted by a 2/3 vote or unanimous consent.

*Example:* “I move the previous question.”
Note: The above procedure is consistent with Roberts Rules, however, in practice when an individual calls for the question a vote is not usually taken. The motion simply serves as an indicator to the chair that the debate may have drifted from the agenda, and the chair should remind the committee to return to the agenda. If there is a sense that the current discussion is productive the chair may elect to ask for a vote relating to the motion to call for the question, or the chair may propose continued discussion for some short period to allow individuals that wish to speak the opportunity.

8. **Motion to Appeal**
   
   **Purpose:** To appeal a ruling made by the chair. A committee member may move to appeal a ruling by the Chair, but it must be seconded and receive a majority vote to be reversed.

   *Example:* "I move to appeal the Chair’s ruling that the committee approved support of AB 123."

9. **Adding an Item to the Agenda for Consideration**
   
   **Purpose:** To have the committee discuss an item that is not on the prepared agenda before them. Because the League is committed to complying with the legal requirements and spirit of the Brown Act additional agenda items may be considered only if they fall within any of the below exceptions:

   - An item may be added to the agenda by circulation to the committee members and posting on the League website at least 72 hours prior to the meeting.
   - An item may be placed on the agenda at the meeting if the majority decides that it is an “emergency situation.” An emergency situation includes work stoppage, crippling disaster, or any other activity that impairs public health safety or both.
   - Two-thirds of the committee members present (or all of the members if less than two-thirds are present) must determine that there is a need for immediate action, and the need to take action arose *subsequent* to the circulation of the agenda.

   If an item does not fall within one of these exceptions it may not be discussed and acted upon, but may be added to a subsequent agenda.

   *Note:* *This procedure is typically used when there is a supplemental agenda that is distributed at the meeting that was not mailed to the committee prior to the meeting.*

II. **OTHER ITEMS**

1. **Point of Privilege**
   
   **Purpose:** To draw attention to an item that interferes with the comfort of the meeting.

   *Example:*
   
   Committee Member: “Point of privilege.”
   Chair: “State your point.”
   Committee Member: “Madame Chair, may we inform the hotel staff that the room is uncomfortably hot and request that the air conditioning be adjusted.”
2. **Point of Order**  
*Purpose:* To draw attention to inappropriate conduct at the meeting.

*Example:*  
Committee Member: “Point of order.”  
Chair: “State your point.”  
Committee Member: “Madame Chair, the motion was approved without opportunity for debate.”

3. **Public Comment**  
In the spirit of the Brown Act an opportunity for public comment is included on all agendas. The chair should exercise discretion in determining the appropriateness and extent of public comment during committee meetings setting reasonable limits as needed.

III. **HOW TO PRESENT A MOTION**

1. Obtain the floor by raising your hand and wait to be recognized by the chair.
2. Make your motion.  
   a. Speak clearly and concisely.  
   b. Always state a motion affirmatively. For example, "I move the staff recommendation that we support AB 123..." rather than, "I move that we do not take a position ...".
   c. Avoid comments unrelated to the subject of the motion.  
   d. Avoid making any arguments supporting your motion at this time, simply state the motion.
3. Wait for someone to second your motion.
4. Another member will second your motion or the chair will call for a second.
5. If there is no second to your motion it is lost and no vote will be taken by the committee.
6. If there is a second to your motion the chair should re-state the motion, or ask League staff to re-state the motion.  
   a. The chair will say, "it has been moved and seconded that we ..." This places the motion before the committee for consideration and action.  
   b. The committee then either debates the motion or may move directly to a vote.  
   c. Once a motion is presented to the committee by the chair it becomes "committee property," and cannot be changed by the maker of the motion without the consent of the committee.
7. At this point the individual making the initial motion (the mover) may elect to expand on the motion. For example, this would be the appropriate time for the mover to present an argument in support of the motion.
8. The chair should always recognize the mover first.  
   a. All comments and debate must be directed to the chair.  
   b. Keep to the time limit (if any) for speaking that has been established.  
   c. The mover may speak again only after other speakers are finished, unless called upon by the chair.
9. Putting the Question to the Committee  
   a. The chair asks, "Are you ready to vote on the question?"
   b. If there is no more discussion, a vote is taken on the motion.  
   c. If the motion passes, the committee moves on to the next item on the agenda.
d. If the motion fails, and no other motion is on the floor, then a new motion is in order.

Note: If a motion to support AB 123 fails, this does not mean that there is opposition to AB 123 by default. A separate motion to oppose AB 123 or some other formal motion must be made and voted on by the committee.

IV. VOTING ON A MOTION

1. Voting is Conducted by Voice
   The chair asks those in favor to say, "aye," those opposed to say "no." If the outcome is unclear by voice, a hand vote may be taken. Any member may move for an exact count. Following the vote, the chair should announce the outcome.

   Example:
   Chair: There is a motion and a second to support AB 123. All those in favor say, "aye." All those opposed say, "no." If the outcome by voice is clearly in support the chair would announce that, "The motion to support AB 123 passes." If the outcome results in opposition to the motion, the chair would announce that, "The motion to support AB 123 fails." If the outcome is unclear the chair, or another member may ask for a hand count.

V. QUORUM

1. Presumption of a Quorum
   The presence of a quorum is presumed unless the issue is raised.

   Note: It is not necessary, and is disfavored for the chair to routinely begin a meeting inquiring about the presence of a quorum.

2. Calculating the Presence of a Quorum
   If the issue of whether a quorum is present is raised, a quorum consists of a majority of all appointed, voting members of a policy committee. A majority simply means more than half, not fifty percent plus one.

3. Votes Taken Prior to the Question of Whether a Quorum is Present Are Valid
   If a vote(s) is taken prior to the question of whether a quorum was present is asked, and it is later determined that a quorum was not present when the vote(s) was taken, the action taken is still valid.

4. Votes Taken in the Absence of a Quorum are Advisory
   A vote may be taken on matters even if a quorum is not present, but all votes taken by that body will be advisory to the League Board or the General Resolutions Committee, and the Board or the General Resolutions Committee must be advised that a quorum of the body was not present. The vote count should also be noted and communicated.
COMMITTEE ORIENTATION

Policy Committee Subject Matter
The League has seven (7) policy committees, each with its own subject matter jurisdiction. You may refer to the “Summary of Existing Policy and Guiding Principles” booklet (Summary) to find the subject matter for each committee. This document is updated every two years. Policy in the Summary is used to determine League legislative and regulatory positions. The Summary, in its entirety, is located on the League’s Web site at www.cacities.org/summaryofexistingpolicies Individual sections are located on each policy committee’s Web page, which are available at www.cacities.org/polcomm.

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

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

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

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

There are nuanced differences between some of these positions. For example, “support-if-amended” sends a very different message than “oppose-unless-amended.” Both positions might seek the same change but the support-if-amended position means that the League would be listed with the “supporters” of the bill in most legislative analysis. In addition, “no position” and “neutral” have different meanings.
and require different actions from staff. Selection of one or the other depends in part upon what type of message or political posture the League needs to take. Staff will advise the committee about the implications of each on a case-by-case basis.

Approval by League Board Needed for All Committee Recommendations

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

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

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

Role of the Committee Chair

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

Committee Schedule and Process

Committees generally meet three times a year (January and June in Sacramento, April in Southern California), plus an abbreviated meeting at the Annual Conference (September or October) to review resolutions if any are assigned to it. Meetings begin at 10:00 a.m. and conclude by 3:00 p.m., although some subcommittees may meet at 9:00 a.m. Please plan to be present for the full duration of the committee meetings.

Agendas/Disseminating Information

Agenda packets will only be sent via email and posted online. If you prefer a hard copy of the agendas and highlights, please contact Meg Desmond by email: mdesmond@ cacities.org or phone: 916-658-8224) Highlights that summarize committee actions are prepared by staff and provided to committee members about two to three weeks after the meetings. All materials are also available on the League’s Website: www.cacities.org/polcomm.

We encourage you to visit the League’s Web site: www.cacities.org. In addition to containing committee materials, the Website contains information on the League’s priorities and a link to track individual bills and the League’s position on them. You should also subscribe to the League’s electronic newsletter CA Cities Advocate.
For meetings that are heavy in legislative review (generally in April and June), staff will try to find a balance between getting the agenda packet out early and the need to delay finalizing the agenda packet in order to include as many legislative items as possible and in their most current version. At some meetings, staff may use a supplemental agenda for last minute legislative issues. We will use e-mail as appropriate to send out late-breaking information or to gather committee input throughout the year. It is important that we have your preferred e-mail.

**How to Get an Item on the Agenda**

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

**Issues Should Have Statewide Impact**

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

**Brown Act and Roberts Rules of Order**

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

**Staffing for Committee**

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

**League Partners and Other Guests**

The League Partners have a non-voting representative assigned to each policy committee and are seated at the table with other committee members. In addition, city officials, other members of the League Partners Program, and interested members of the public are welcome to attend the meetings. We provide an opportunity for our League Partners and other members of the public to offer comment on items before the committee during the designated public comment period on the agenda.
League of California Cities 2019 Strategic Goals

1. Provide Cities Additional Funding and Tools and Preserve Local Authority to Address Housing Production, Affordability and Homelessness Challenges.
   - Provide additional funding and preserve local mitigation fee authority to ensure cities have sufficient resources to update local plans that reflect community input, improve and expand local infrastructure, address environmental impacts and deliver services to support new housing development.
   - Restore a robust form of tax increment financing to advance transit-oriented development, build affordable and workforce housing, improve jobs/housing balances, and revitalize local neighborhoods and communities.
   - Increase resources to provide emergency shelter, alcohol and drug treatment, housing, mental health and other wrap-around services and facilities to assist people of all ages, including seniors, experiencing homelessness.
   - Provide CEQA streamlining to expedite housing construction.
   - Ensure the availability of adequate water supplies to support new growth.
   - Preserve local authority to ensure housing development is consistent with local housing elements, design requirements and other applicable criteria adopted with community input.
   - Given California’s massive identified deficit in affordable housing, the Legislature and Governor should set aside a substantial amount of the state’s budget surplus to support additional affordable and workforce housing construction and expand skilled workforce training.

2. Improve Disaster Preparedness, Recovery and Climate Resiliency.
   - Provide resources to cities and expand partnerships to better prepare for and recover from wildfires, seismic events, erosion, mudslides and other disasters.
   - Improve community preparedness and resiliency to respond to climate-related, natural and man-made disasters.

3. Promote Sustainability of Public Pension and Retirement Health Benefits.
   - Continue to work with employee organizations, CalPERS, the Administration and the Legislature to drive public awareness of the fiscal challenges cities face as a direct result of growing unfunded pension liabilities and retirement health benefits.
   - Work collaboratively to achieve meaningful options and flexibility for cities to address these challenges in order to stabilize local budgets and ensure sufficient funding remains available to provide services to communities.

4. Address Public Safety Concerns of California Cities.
   - Reform recently enacted criminal justice laws — enacted by both statute and initiative — that have eroded public safety protections of California residents through the passage of the Police Chiefs/Grocer’s-sponsored criminal justice reform measure eligible for the November 2020 state ballot, or by equivalent reforms achieved through legislative action.
   - Protect public safety by reducing access to firearms for the mentally ill.
   - Protect existing city authority to deliver local emergency services.
   - Support additional tools and resources to address critical community challenges such as homelessness, mental health, domestic violence, drug rehabilitation, human trafficking and workforce development for ex-offender reentry.
Revenue and Taxation

Scope of Responsibility

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

Summary of Existing Policy and Guiding Principles

Cities and the League

Preamble
Inherent in these recommendations is the underlying principle that meaningful fiscal reform should allow each level of government to adequately finance its service responsibilities, with each being accountable to taxpayers for its own programs.

Efficiency
Cities and the League should continue to emphasize efficiency and effectiveness, encouraging and assisting cities to achieve the best possible use of city resources.

Authority and Accountability
Cities must locally achieve political authority and accountability for revenues raised and services provided. For accountability, revenues should be logically linked to traditional and emerging responsibilities. Cities must effectively communicate the good news about city programs and operations, as well as information concerning financial conditions and city responsibilities.

Alliances
Cities should seek alliances with counties, schools, other cities, employee organizations, other local agencies, and business and professional organizations to support cooperation, sound financial policies and joint action.

Initiative
Cities and the League are prepared to use the statewide initiative process, if necessary, to secure fiscal independence and a sound intergovernmental financial structure. Initiative efforts should, to the extent feasible, incorporate and, in no case violate, the principles developed by the Fiscal Reform Task Force as follows:

- Cities require a greater share of the property tax and other reliable, discretionary revenues in order to finance local services to property.
- Cities require constitutional protection of their revenue sources in order to provide insurance against diversion by the state of these revenues in the future for non-municipal purposes.
- Major reforms in the unfunded mandate reimbursement process should be enacted to make it more workable and meaningful.

Legislature or the Voters

Local Authority and Accountability
To preserve local authority and accountability for cities, state policies must:
• Ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fees, etc.
• Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
• Oppose any state or federal legislation that would pre-empt or threaten local taxation authority including but not limited to Utility User’s Taxes.
• Allow every level of government to enjoy budgetary independence from programs and costs imposed by other levels of government.
• Authorize a simple majority of the voters in a city or county to establish local priorities, including the right to increase taxes or issue general obligation bonds.
• Offer incentives to reward cities achieving program goals rather than withhold or reduce revenues to accomplish targets.

State Legislative and Budget Reforms.
To stabilize state funding and programs and reverse the trend of the state’s reliance on local revenues to solve the state’s fiscal crises, the state should implement fiscal and legislative reforms which may include for consideration the following:
• A two-year spending plan with the first session focused on expenditures over the period.
• Oversight hearings that review programs for savings, duplication or gaps in services.
• Limits on the number of bills that legislators may introduce.
• A prudent reserve fund.
• Official records kept of all Assembly official meetings.
• A balanced deficit reduction approach, which could include temporary revenue increases dedicated solely to retiring short-term debt, spending cuts, short-term borrowing and multi-year spending limitations.
• Long term restructuring measures, including increased local government property tax shares to create balanced growth and separate budget detail of all state expenditures at local level.

State Mandates
The state must provide full and prompt reimbursement to all local agencies for all state-mandated programs and/or infractions and losses associated with local revenue shifts.

Local agencies must be authorized to petition the Commission on State Mandates immediately after legislation is chaptered for determination of eligibility for reimbursement, and reserve the right to directly pursue court intervention without an administrative appeals process.

Reforms are needed in the mandate approval and reimbursement process.

The State should be prohibited from deferring mandate payments.

Unless specifically requested by a city, no new duties, responsibilities or obligations should be assigned to a city or cities under state realignment.

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

The League supports legislation that would make adjustments to the vehicle license fee-property tax swap of 2004 to ensure that the formula appropriately accounts for city incorporations and annexations of inhabited territory.

The League supports legislation that would bolster existing local efforts to enforce local ordinances and revenue collection associated with short-term rentals.

**Reduce Competition**

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

The existing situs-based sales tax under the Bradley Burns 1% baseline should be preserved and protected.

Tax proceeds collected from internet sales should be allocated to the location where the product is received by the purchaser.

Restrictions should be implemented and enforced to prohibit the enactment of agreements designed to circumvent the principle of situs-based sales and redirect or divert sales tax revenues from other communities, when the physical location of the affected businesses does not change.

**Funding for Counties**

Counties require additional funding if they are to fulfill their state-mandated and traditional roles.

As legal agents of the state, county expenditures in that capacity should be funded by the state. Their local programs should be financed locally.

The concept of "self-help" for counties should be expanded. An example might be that counties could receive certain state funding if they raise a specified level of revenue locally.

To alleviate competition among cities and counties, funding for counties should be accompanied by agreements on new development in undeveloped areas within the cities’ sphere of influence.

**Regional Revenues**

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

**Revenue Modernization**

**Property Tax**
The League supports legislation which would clarify and improve the definition of “change of ownership” for property tax reassessment purposes to include when more than 90 percent of direct or indirect ownership interests in a legal entity are cumulatively transferred in one or more transactions. Such changes would reduce the use of complicated strategies employed to evade reassessment of property upon changes of ownership.

**Sales Tax**
- **Sales and Use Tax Base:** The League supports modernization to the sales tax through measures that would either broaden the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed, and expanding the sales tax base to services, such as those commonly taxed in other states. Specific proposals in these areas should be carefully reviewed so that the impacts of any changes are fully understood.
- **Sales Tax Sourcing Rules:** Support as League policy that point of sale (situs) is where the customer receives the product. Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.
- **County Pool Use Tax Allocations:** Support the League working with the state Board of Equalization to update the county pool allocation process to ensure that more revenues are allocated to the jurisdiction where the purchase or first use of a product occurs (usually where the product is delivered).
- **State Sales Tax Exemptions:** The League opposes state legislation that proposes to grant exemptions for specific products that fails to protect those portions of the sales tax that are dedicated to local government.

**Federal Streamlined Sales and Use Tax Agreement (SSUTA)**

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

**Federal Legislation Requiring Use Tax Collection**

The League supports federal legislation that would require the collection of use tax from internet or “remote sales” that meets the following conditions:
- Is limited to the collection of sales and use taxes.
- Does not require states to participate in the SSUTA.
Requires remote sellers to collect the full destination rate (combination of state and local rate at location the product will be delivered).

- Exempts intrastate (non-remote sales within California) from the destination rule.
- Provides sufficient flexibility to accommodate California’s tax structure. (There are instances where the state, for policy reasons, has opted not to collect the state’s share of sales taxes on an item, but the local rates on those items are still collected).

State regulatory actions and possible legislation may be needed to address issues raised by the collection of new revenue from remote sales. Implementation by the State Board of Equalization would likely require appropriate software for remote sellers to implement the new system.

Note: The League will review new legislation to determine how it relates to existing League policies and guiding principles. In addition, because this document is updated every two years to include policies and guiding principles adopted by the League during the previous two years, there may be new, evolving policies under consideration or adopted by the League that are not reflected in the current version of this document. However, all policies adopted by the League Board of Directors or the League’s General Assembly become League policy and are binding on the League, regardless of when they are adopted and whether they appear in the current version of “Summary of Existing Policies and Guiding Principles.”
Governor Newsom Unveils Proposed FY 2019-20 Budget
Additional Funding for Housing and Homeless, Transportation Funds Threatened

Gov. Gavin Newsom held a lengthy press conference this morning to unveil his first budget proposal, which includes $144 billion in General Funding spending and — combined with proposed special fund and bond proceed allocations — totals $209 billion. While maintaining he was being fiscally prudent — increasing the Rainy Day Reserve to $15.3 billion, paying down a total of $4.1 billion state pension liabilities, allocating an additional $700 million to a social safety net reserve and $2.3 billion in general reserves — he also proposed major spending augmentations in various areas, including:

- Allocating $500 million to expand childcare infrastructure;
- Increasing CalWORKs (welfare) payments by 25 percent;
- Spending a total of $80.7 billion on K-12 and Community Colleges, including $750 million to address barriers to full-day kindergarten;
- Augmenting funds to UC and CSU, and extending the free community college program to two years;
- Supplemental Cal Grants to assist college students with children;
- Doubling the state’s Earned Income Tax Credit for low income households;
- Expanding Medical to serve undocumented youth between 19-25; and
- Providing six months of paid parental leave.

Many of the above expenditures reflect a troubling economic undercurrent in California, despite its position as the world’s fifth largest economy. Demographic information reveals that since 2007, the median income for households with bachelor’s degrees has stayed relatively flat at $72,000, but average income for those with less education has declined from $42,000 to $35,000 in the same time period.

As he previewed in an announcement earlier this week, the Governor’s budget includes $415 million in funding for emergency preparedness and response. Of the $415 million, the Governor indicated he will propose a historic investment of $305 million in new emergency planning funding. The remaining $110 million is expected to be carried over from last year, and one-time funding repeated from last year’s appropriations.

Cities received additional housing-related investments, including $500 million to build homeless shelters, $500 million for affordable housing tax credits and $500 million for moderate housing production. When asked by reporters about restoring redevelopment, the Governor shied away from committing to reintroducing the tool, saying instead that affordable housing resources were being restored and that we should make Enhanced Infrastructure Finance Districts (EIFD) more useful by repealing the current 55 percent vote requirement associated with issuing debt, and pairing them with federal Opportunity Zone incentives.

Of paramount concern to cities is a policy proposal that would empower the Department of Housing and Community Development (HCD) with top-down authority to dictate local land use policies and penalize local communities if new state quotas are not met by stripping local transportation dollars and other vital revenue.

Detailed budget areas of importance to cities are outlined below.

**Housing, Community and Economic Development**
This budget is a mixed bag for local government in regards to housing. While historic levels of new funding are proposed to help address homelessness and affordable housing needs, the budget also includes possible statutory changes that would undermine local land use authority, limit the ability to impose impact fees and jeopardize local transportation revenues.

**RHNA Reforms, Production and Enforcement/Link to Transportation Funding**

The budget proposes to increase housing production long-term by “revamping” the Regional Housing Needs Assessment (RHNA) process. As part of this new process, HCD will use its new authority under Chapter 370, Statutes of 2017 (AB 72) and Chapter 958, Statutes of 2018 (686) to more actively oversee housing element implementation and take enforcement action on local governments as needed. Additionally, the Governor wants to explore the possibility of linking housing production to transportation funds and other applicable sources of funding (see transportation section for greater detail).

**Capping Local Impact Fees**

While the budget does not contain a direct proposal to limit or restrict local planning or impact fees, it does declare that these fees contribute substantially to the cost of development. Additionally, during the Governor’s press conference, he stated that impact fees are “out of control” and he is forming an impact fee task force. The Governor also said that he is considering “going to the ballot” to address the problem.

**Short-Term Planning and Performance Incentive Grants**

$750 million in one-time funding is proposed to increase housing production and provide technical assistance to local governments. HCD is directed to establish new higher short-term housing production goals at each income level for all jurisdictions. These include:

- $250 million (SB 2 funds) for technical assistance for local governments to develop plans that include but are not limited to: streamline housing approvals, complete California Environmental Quality Act (CEQA), improve permitting or rezone to increase density; and
- $500 million for grants to local governments that can be used for general purposes if they achieve unspecified milestones associated with enhanced planning and increased housing production.

**Funding for Housing Tax Credits and Moderate-Income Housing Production**

- $500 million General Fund one-time funding for the development of moderate-income housing. The California Housing Finance Agency will expand the existing Mixed-Income Loan Program that provides a lower subsidy than traditional state housing programs.
- $500 million, and up to $500 million annually thereafter, upon appropriation, for affordable housing tax credits as follows:
  - $300 million to the existing housing tax credit program that targets new construction projects that pair with the underutilized 4 percent federal tax credit program.
  - $200 million to a new program targeting housing projects for households earning between 60 and 80 percent of area median income.

**Accelerating Housing Bond Allocations**
The budget proposes to accelerate awards to qualifying projects from the $4 billion Veterans and Affordable Housing Bond Act of 2018.

**Building on Excess State Property/No Local Approvals**

The budget proposes to allow affordable housing developers to build demonstration projects on excess state property, which does not require local approvals, and use creative and streamlined construction processes. Developers, selected through a competitive process, will receive low-cost, long-term ground leases.

**Changes to Enhanced Infrastructure Finance Districts**

The budget proposes to expand Enhanced Infrastructure Financing Districts (EIFDs) authority by removing the 55 percent voter approval threshold to issue debt. The Governor believes that more cities and counties will form EIFDs if they have greater ability to raise capital. Additionally, the budget proposes to pair EIFDs with federal Opportunity Zones. The state will also conform to federal law and allow for deferred and reduced taxes on capital gains in Opportunity Zones for investments in green technology or affordable housing, and for exclusion of gains on such investments in Opportunity Zones held for 10 years or more.

**Homelessness**

**$500 Million General Fund One-Time Funding for Homelessness**

Last year $500 million in one-time funding was allocated to local jurisdictions to address emergency homelessness needs. This year’s proposed budget once again allocates $500 million in one-time funding for jurisdictions that site and build emergency shelters, navigation centers or supportive housing.

The proposed allocation of these funds is similar to the formula from last year’s budget:

- $200 million will be distributed by the Business, Consumer Services and Housing Agency (BCSH) through Continuums of Care to jurisdictions that establish joint regional plans. In order to receive the money, cities and counties must work together and collaborate to site and build emergency shelters, navigation centers or supportive housing;
- $100 million will be allocated to the 11 most populous cities in the state; and
- $200 million will be made available to jurisdictions that show progress in permitting new supportive housing units or constructing emergency shelters and navigation centers.

**CEQA Streamlining for Homeless Shelters**

The Administration will seek legislation to grant homeless shelters, navigation centers, and new supportive housing units the same streamlined environmental review recently given to sports stadiums. The expedited CEQA review will accelerate judicial review of challenges to an Environmental Impact Report.

**Department of Transportation (Caltrans) Airspace for Emergency Shelters**

The budget includes the development of a statewide policy for the use of Caltrans airspace, or land located in the state’s highway right-of-way, for emergency shelters, expanding on 2018
legislation that allowed for such spaces on up to 30 parcels in Oakland, San Jose, Los Angeles, San Diego, and Stockton.

**Assisting Homeless Individuals to Qualify for Federal Disability**

The budget proposes an annual appropriation of $25 million General Fund beginning in 2019-20 to continue the Housing and Disability Advocacy Program to assist homeless, disabled individuals with applying for the federal Supplemental Security Income disability benefit programs. Participating counties are required to match any state funds on a dollar-for-dollar basis.

**Whole Person Care Pilot Programs**

$100 million General Fund (one-time with multi-year spending authority) is allocated for Whole Person Care Pilot programs that provide housing services. These programs coordinate health, behavioral health (including mental health and substance use disorder services), and social services. This funding will be used to match county investments in health and housing services with a focus on the homeless mentally ill population.

**Accelerating Allocation of No Place Like Home Funds**

The budget proposes to accelerate awards to qualifying projects authorized by Proposition 2, authorizing a $2 billion bond to construct housing for the homeless mentally ill.

**Mental Health Workforce Investment**

$50 million General Fund is proposed for training opportunities for mental health practitioners.

**Job Creation**

$27 million in Greenhouse Gas Reduction Funds (GGRF) is proposed to increase job training and apprenticeship opportunities focused on disadvantaged communities.

- Pre-Apprenticeship Construction Partnerships — $10 million annually for 5 years to place approximately 3,000 disadvantaged workers in apprenticeships for a career in the trades by doubling the training capacity for each of the existing 14 regional hubs;
- Training Partnerships — $10 million annually for five years to place 2,000 disadvantaged workers into entry-level jobs and develop skills in climate and technology-related occupations through the expansion of existing partnerships;
- Worker Transition Fund — $5 million annually for five years to provide income replacement in conjunction with retraining for approximately 1,500 displaced workers resulting from climate policies or automation; and
- Technical Assistance and Program Administration — $2 million for 11 positions and contract resources at the California Workforce Development Board to support these programs.

**Transportation and Infrastructure**

While the Administration plans to release a five-year infrastructure plan later this year, the Governor’s proposed January budget includes $4.8 billion for transportation generated by SB 1
Local Allocations:
- $1.2 billion for local streets and roads, including $600 million for cities and $600 million for counties;
- $458 million for local transit operations;
- $386 million for transit, commuter, and intercity rail;
- $200 million for the State-Local Partnership Program;
- $100 million for the Active Transportation Program;
- $36 million for Commuter Rail and Intercity Rail; and
- $25 million for Local Planning Grants.

State Allocations:
- $1.2 billion for maintenance of the state highway system known as the State Highway Operation and Protection Program;
- $400 million for bridges and culverts;
- $307 million for trade corridor enhancements; and
- $250 million for commuter corridors.

In addition to these allocations, the budget includes $2.4 billion to pay off the state’s budgetary debts, including the elimination of all outstanding loans from special funds and transportation accounts for the first time in over a decade.

It is important to note that the SB 1 allocations above do not represent all of the transportation tax revenue cities will receive. In fact, omitted from this summary are the existing revenue streams from the Highway Users Tax Account (HUTA), which are similar in amount to the SB 1 revenues. For the latest city transportation funding estimates, please visit www.californiacityfinance.com in the coming weeks.

New Threat to SB 1 Funding

Over the last two years, the passage and defense of SB 1 (Beall), the largest transportation infrastructure investment in state history, which dedicates all of the new revenue to transportation projects in every community across the state, required every resource available to the League and a coalition of transportation stakeholders in partnership with the Legislature and Administration. The voters rejected Proposition 6 and sent a strong signal that fixing potholes and making roads safer in their communities is a top priority. Therefore, it is very concerning to be faced just a couple of months later with a proposal that threatens promises made to the voters.

The Governor’s January budget states:

“Going forward, the state will strongly encourage jurisdictions to contribute to their fair share of the state’s housing supply by linking housing production to certain transportation funds and other applicable sources, if any. The Administration will convene discussions with stakeholders, including local governments, to assess the most equitable path forward in linking transportation funding and other potential local government economic development tools to make progress toward required production goals.”
The $54 billion transportation investment in SB 1 is a major accomplishment for state and local governments, and while this investment will make significant improvements to transportation across the state, it does not represent a windfall for state or local agencies. In fact, for the last 10 years, state and local governments have consistently identified massive backlogs and funding shortfalls for the state and local transportation networks exceeding $50 and $70 billion over 10 years, respectively.

As a result of SB 1, however, the unmet funding need for local streets and roads shrinks by approximately $18 billion, while two-thirds of the network moves into a state of good repair. Absent such investment, such shortfalls would have grown by $20 billion and over half of all roads would have fallen into a state of disrepair. SB 1 will stabilize road conditions across the state in the aggregate, while seeing significant improvement where such investments can be maximized. Preserving these investments and the commitment made to the voters will continue to be a top priority for the League.

**Addressing State Infrastructure Maintenance**

The budget includes one-time funds to address backlog of deferred state maintenance needs to the following departments:

- $112 million — Department of Corrections and Rehabilitation;
- $45 million — Department of Parks and Recreation;
- $40 million — Judicial Branch;
- $35 million — Department of State Hospitals;
- $16 million — Department of General Services;
- $10 million — Department of Fish and Wildlife;
- $7 million — Network of California Fairs;
- $6 million — Department of Forestry and Fire Protection;
- $5 million — Department of Developmental Services;
- $5 million — California Military Department;
- $5 million — California Highway Patrol;
- $5 million — Department of Veterans’ Affairs;
- $5 million — State Special Schools;
- $3 million — Department of Motor Vehicles
- $3 million — Exposition Park;
- $3 million — Department of Food and Agriculture;
- $3 million — Housing and Community Development;
- $2 million — Employment Development Department;
- $2 million — Office of Emergency Services;
- $1 million — California Conservation Corps;
- $1 million — Hastings College of the Law;
- $1 million — Tahoe Conservancy;

**Emergency Preparedness and Response**

The Governor prioritized emergency preparedness and response in his brief tenure, as evidenced by his early focus on the issues. In a press conference held early this week in Colfax, the Governor unveiled two executive orders and $415 million in funding for emergency
preparedness and response. Watch the 45-minute press conference and read the Governor’s press release for full coverage.

The January budget proposal lays out funding proposals for emergency preparedness and response as follows:

Support for Affected Communities

The budget proposes the following allocations for local communities affected by the devastating disasters in recent months:

- **Property tax backfill** — $31.3 million to backfill property tax losses for cities, counties and special districts:
  - $11.5 million to backfill entities in Butte, Lake, Los Angeles, Orange, Riverside, Shasta and Siskiyou counties for losses estimated to be incurred in 2019-20 as a result of the 2018 wildfires;
  - $16.1 million to backfill entities in Butte County for losses estimated to be incurred in 2020-21 and 2021-22 due to the 2018 Camp Fire; and
  - $3.6 million to backfill entities in Lake County for losses estimated to be incurred in 2019-20, 2020-21, and 2021-22 resulting from the wildfires in 2015, 2016, and 2017.
- **Debris removal** — $155.2 million for waiving local county share of costs for debris removal. This is an estimate, as the budget assumes a $2.5 billion estimate for debris removal costs for the Camp, Woolsey, and Hill fires and the federal government is expected to cover 75 percent of those costs; and
- **Backfill affected schools Prop. 98 funding.**

Department of Forestry and Fire Protection (CAL FIRE)

The Governor’s budget includes a total of $2.6 billion and 7,645.6 positions for CAL FIRE. Earlier this week, the Governor detailed the $415 million in appropriations specifically for emergency preparedness and response. Proposed appropriations are as follows:

- **Fire Prevention** — $213.6 million for fuel reduction projects through prescribed fire crews and grants for forest health projects, implementation of the recently enacted wildfire prevention and recovery legislative package, which streamlines regulatory barriers for fuel reduction projects, and disposal of illegal and dangerous fireworks. Of this, $200 million was agreed to as part of last year’s SB 901 compromise to appropriate $1 billion over five years;
- **Enhancing Aviation Resources** — $120.8 million General Fund to add aircraft with increased tactical capabilities to CAL FIRE’s aviation fleet to meet the challenges associated with more severe wildfire activity. This includes:
  - $11.4 million for the first year of operating C-130 air tankers that will be transferred from the U.S. Air Force; and
  - $109.4 million to continue replacement of CAL FIRE’s helicopters with new Blackhawk helicopters.
- **Expanding Firefighting Surge Capacity** — $64.4 million General Fund for fire protection capabilities to:
  - Add new 13 year-round fire engines to be located in the highest fire risk areas;
- Expand staffing for bulldozer operations during emergency wildfire events;
- Accelerate replacement of fire engines and mobile equipment as a result of wear and tear from the longer fire season; and
- Add five CAL FIRE/California Conservation Corps fire crews at Los Padres, Camarillo and Butte fire centers.

- **Emergency Responder Services** — $6.6 million to expand CAL FIRE’s health and wellness program and to provide medical and psychological services and peer support to firefighters; and
- **Technology** — $9.7 million to support incident commanders with data gathered via remote sensing technology, situational awareness software and satellite imagery, and 100 additional fire detection cameras that will be linked into the existing command centers to provide additional data on conditions.

**Office of Emergency Services**

California’s Office of Emergency Services (Cal OES) coordinates emergency readiness and response activities. This budget proposes an additional $172.3 million for the following activities:

- **Mutual Aid** — An additional $25 million in ongoing General Fund funding has been proposed for mutual aid to support existing Cal OES and local government prepositioning;
- **9-1-1 advancements** — $60 million in one-time funding ($10 million in 2018-19 and $50 million in 2019-20) to upgrade the 9-1-1 system from analog to digital. This budget also assumes a 9-1-1 fee structure will take effect in 2020 to generate about $170 million annually. Imposing a fee would require a two-thirds vote of the Legislature;
- **Broadband Communication and 9-1-1** — $1 million for emergency communications coordination and First Responder Network Authority broadband services;
- **California Earthquake Early Warning** — $16.3 million in one-time funding to complete a statewide earthquake early warning system;
- **Public Education** — $50 million for one-time to begin a comprehensive statewide education campaign on disaster preparedness and safety in high-risk areas and for local grants; and
- **California Disaster Assistance Act (CDAA)** — $20 million in one-time funding to repair or replace public real property damaged or destroyed by a disaster, and to reimburse local government for unspecified emergency activities in response to a state of emergency. Total CDAA funding is proposed to be $82.6 million in 2019-20.

**Additional Proposals**

- **Public Safety Radios** — Updates to radio systems used by first responders who often operate on different systems and relay messages through dispatchers:
  - $59.9 million over five years for a new California Interoperable Public Safety Radio System for Cal OES;
  - $2.9 million to the Department of Justice to replace radios;
  - $1.6 million to the Department of Fish and Wildlife to replace vehicle-mounted and handheld radios; and
  - $62.4 million to the California Highway Patrol (CHP) to replace radio systems in vehicles, $18 million to replace laptops and hand-held citation devices, and $9.5 million to replace information technology infrastructure.
• Implement Wildfire Prevention and Recovery Legislation (SB 901, Dodd, 2018)—$20.5 million for the following purposes:
  o $9.2 million to the California Public Utilities Commission for wildfire cost recovery proceedings, wildfire mitigation plans, and oversight of utility compliance;
  o $7.9 million to the State Water Resources Control Board (SWRCB) and Department of Fish and Wildlife to review timber harvest plan exemptions and inspections, permits, and enforcement to improve forest health and vegetation management; and
  o $3.4 million from the Greenhouse Gas Reduction Fund to the Air Resources Board for air quality and smoke monitoring and modeling, as well as air district public education efforts on prescribed burns and other fuel reduction activities (see additional allocations in Cap and Trade section).

Related Activities and Executive Orders

The Governor also signed two executive orders earlier this week, the second and third of his short tenure.
• Executive Order N-05-19 requires CAL FIRE, in coordination with other state agencies, to report to the Governor within 45 days with recommendations to prevent and mitigate wildfires, including deploying personnel and resources, policy changes for rapid fuels management, and a methodology to assess at-risk communities. When determining which communities are at greatest risk, this executive order requires CAL FIRE to consult with local stakeholders and to consider “socioeconomic factors and vulnerable populations that exacerbate the human toll of wildfires.” Further, the executive order announces the new $50 million public education campaign described in the Cal OES section above; and
• Executive Order N-04-19 requires the state to develop a new approach to procurement with the goal of deploying new innovative solutions to the state’s wildfire crisis by spring 2020. This executive order is intended to speed up the use of new technology for fire detection by the next fire season.

Earlier this week, the Governor signed a joint letter to President Trump, along with Washington Gov. Jay Inslee and Oregon Gov. Kate Brown, requesting partnership between state and federal governments on forest management.

Environmental Quality

Cap-and-Trade

Over the life of the Cap-and-Trade program, approximately $9.3 billion of revenues have been appropriated to numerous programs. This budget proposes a $956 million expenditure plan, which the Governor noted is approximately $400 million less than the previous fiscal year. The expenditure plan is outlined in the figure below.
Drinking Water

Because many of the small water systems in the state are unable to supply clean drinking water, the Governor proposes the following allocations for safe drinking water projects:

- **Safe Drinking Water Projects** — $168.5 million in Prop. 68 funds for SWRCB for technical assistance, grants and loans to public water systems in disadvantaged communities for infrastructure improvements to meet safe and affordable drinking water standards, including drinking water and wastewater treatment projects;

- **Emergency Water Supplies** — $10 million General Fund for SWRCB to address safe drinking water emergencies in disadvantaged communities, including interim alternate water supplies (bottled or hauled water) and emergency improvements or repairs to existing water systems, such as well rehabilitation or replacement, extension of service, consolidation projects, or treatment systems;

- **Technical Assistance** — $10 million General Fund for SWRCB to contract with, or provide grants to, provide services to a designated water system to achieve compliance with current drinking water standards. Technical assistance could also include the development of a community-based needs assessment and preparation of grant applications for capital projects; and

- **Safe and Affordable Drinking Water Fund** — Establish a new special fund, with a dedicated funding source from new water, fertilizer and dairy fees, to enable SWRCB to
provide communities, especially disadvantaged communities, access to safe and affordable drinking water. This proposal is consistent with SB 623 (Monning, 2017), which failed to pass the Legislature. Proposed funding of $4.9 million General Fund on a one-time basis for SWRCB and the Department of Food and Agriculture to begin implementation, including for fee collection systems, an annual implementation plan and a map of high-risk aquifers used as drinking water sources.

Additional Allocations

- Exide Lead Acid Battery Facility — $50 million is allocated on a one-time basis to accelerate cleanup of properties within a 1.7 mile radius of the Exide lead acid battery facility that operated in Vernon.

Community Services

The Governor proposed major new investments to provide support for children and families from cradle to career. Among his proposals are universal preschool for low-income four year olds, trauma screenings for children enrolled in Medi-Cal and additional measures to address poverty.

Child Care and Early Learning

$1.2 billion is proposed to increase child care and early education provider rates and increase the number of children served. Major proposals include:

- Universal Full-Day Kindergarten — $750 million General Fund to eligible school districts to construct or retrofit facilities and reduce barriers to providing full-day kindergarten;
- Universal Preschool — $124.9 million General Fund (with additional funding expected for the next two fiscal years) to fund 200,000 slots by 2021-22;
- Subsidized Child Care — $500 million in one-time General Fund to expand subsidized child care facilities and provide education to the child care workforce; and
- CalWORKs — $347.6 million to increase grants by 13.1 percent effective Oct. 1, 2019 to 50 percent of the federal poverty level. The maximum grant level for an assistance unit of three would increase from $785 to $888 per month.

Working Families Tax Credit

The Governor proposes to rename California’s version of the Earned Income Tax Credit the Working Families Tax Credit and double the size to $1 billion. It is proposed to provide a $500 tax credit for low-income families with children under the age of six, and expand to 400,000 additional full-time workers who earn $15 per hour. Funding for this tax credit is proposed to come from a “revenue neutral tax conformity package that will bring components of the state’s tax policies in line with the new federal law and remove burdens for small businesses.”

Child Savings Accounts

$50 million is proposed to establish new child savings account pilot projects funded by a one-time General Fund appropriation. The funding would support pilot projects to develop model
programs and partnerships with First 5 California, local First 5 Commissions, local government and philanthropy. Eligible uses of the accounts would be for college or vocational school tuition, room and board, books, supplies and equipment and mandatory fees.

**California Arts Council**

$10 million is allocated to the California Arts Council to expand grant programs for public access to the arts, arts education and cultural infrastructure. The budget also anticipates matching funds.

**Public Safety**

The budget provides and augments funding for several programs of interest to local agencies:

- $14.9 million General Fund to restore Commission on Peace Officer and Standards and Training to its historical budget level prior to the decline in fine and fee revenues;
- $20 million General Fund to make permanent a one-time augmentation included in the 2018 Budget Act for training on use of force and de-escalation and engaging with individuals experiencing a mental health crisis;
- $10 million ongoing General Fund for Cal OES to continue funding for the Human Trafficking Victim Assistance Program;
- $4.2 million General Fund to establish two regional task forces within the Department of Justice (DOJ) to address the statewide human trafficking epidemic by focusing on the worst sexual predators who are involved in human trafficking;
- $5.8 million in General Fund dollars on a limited-term basis for CHP to coordinate with DOJ in the creation of regional task forces aimed at reducing organized retail theft activities;
- $16.9 million for the administration of the Armed Prohibited Persons System (APPS), including:
  - $11.3 million to shift the existing APPS program from the Dealers’ Record of Sale Account to the General Fund; and
  - $5.6 million in General Fund to support increased APPS workload.
- $6.9 million to the Bureau of Firearms for Dealers’ Record of Sale Account to address increasing workload related to firearm sales.

**Corrections Realignment**

The Department of Finance estimates net General Fund savings of $78.5 million from Prop. 47 when comparing 2018-19 to 2013-14, an increase of $13.8 million over the estimated savings in 2017-18. The following amounts are provided for county realignment programs:

- $116.4 million to continue incentivizing counties to reduce the number of felony probationers sent to state prison; and
- $11.8 million for county probation departments to supervise the temporary increase in the average daily population of offenders on Post-Release Community Supervision.

**California Penal Code Review**

The California Penal Code has dramatically increased in size from about 234,000 words in 1965 to 1.2 million words in 2018. The budget includes $576,000 to begin an effort under the
California Law Revision Commission to simplify and rationalize criminal law and criminal procedures included in the Penal Code.

**Department of Corrections and Rehabilitation (CDCR)**

The budget proposes total funding of $12.6 billion ($12.3 billion in General Fund and $303 million in other funds) for CDCR in 2019-20. While the average daily adult inmate population for 2018-19 is now projected to increase from 126,890 to 128,334 (a 1.1 percent increase from Spring 2018 projections), current projections show a year-over-year downward trend by approximately 1,360 offenders between 2018-19 and 2019-20. Prop. 57, the Public Safety and Rehabilitation Act of 2016, is currently estimated to reduce the average daily adult inmate population by approximately 6,300 in 2019-20, growing to an inmate reduction of approximately 10,500 in 2021-22.

**Rehabilitation & Reentry**

$475.3 million General Fund is allocated to the Division of Rehabilitative Programs, and includes:

- $5.5 million for a package of programs specifically aimed at improving literacy rates among the offender population, including:
  - Diagnostic remedial reading program;
  - Computer-based learning;
  - English as a Second Language;
  - Teacher mentor program;
  - Literacy Coaches; and
  - Literacy Mentor Program.

- $2.5 million for an expanded tattoo removal program for the adult offender population. Based on the existing Prison Industry Authority program model, this funding could allow tattoos to be removed from approximately 4,400 additional offenders per year.

**Inmate Medical Care and Mental Health Services**

The budget dedicates $3.3 billion in General Fund to health care services programs, which provide access to mental health, medical and dental care for inmates.

**Juvenile Justice**

The Division of Juvenile Justice is projected to have a population of 759 young offenders in 2019-20 and focuses on providing rehabilitative programming designed for young offenders. The budget proposes to move youth correctional facilities from CDCR to a new department within the Health and Human Services Agency. $2 million is included in the budget to provide matching funds for a California Volunteers/AmeriCorps federal grant, which will support 40 half-time AmeriCorps members in organizations assisting youth released from the Division of Juvenile Justice.

**Statewide Issues and Various Departments**

**California Public Employee Retirement System (CalPERS) and Retiree Healthcare (OPEB)**
The state’s total unfunded CalPERS liability is $58.7 billion of an approximant $153 billion unfunded liability. The Governor’s budget proposal includes:

- $3 billion in additional payments to CalPERS, in addition to the minimum required contribution of $6.8 billion ($3.9 billion General Fund) required by statute. Unlike the $6 billion supplemental payment approved in FY 2017-18 (which by in large was a loan from the state’s Surplus Money Investment Fund), this $3 billion allocation is directly from the state’s General Fund — making it the largest direct pre-payment in California history. This payment is projected to save the state approximately $7.2 billion over 30 years.
- $390 million in Prop. 2 debt funding is proposed to pay down the General Fund’s share of the aforementioned FY 2017-18 $6 billion supplemental payment; and
- $2.3 billion for state retiree healthcare benefits representing a 1.7 percent of the total General Fund.

**Proposed Paid Family Leave Expansion and Taskforce**

Although no specific plan or proposed funding is allocated, the Administration announced its intention to expanding the Paid Family Leave Program from three months to six months.

The existing program allows workers to take up to six weeks of paid leave annually to care for a seriously ill family member or to bond with a newborn or newly adopted child, with wage replacement of up to 70 percent of salary based on income level. Each parent may take up to six weeks of paid family leave and, under California’s Disability Insurance Program, a birth mother may take an additional six weeks of leave to recover from childbirth.

A taskforce will be convened to consider different options to phase-in and expand the program to accommodate single parent households by allowing a close relative to be designated. The Administration will also consider changes as needed to expand existing worker protections and non-retaliation protections to incentivize workers to access these benefits.

**2020 Census**

The Administration is proposing an additional $50 million for census activities bringing the total to $140.3 million. A majority of this allocation will be distributed to counties who have the highest hard-to-count population, minority population outreach, public private partnerships and the creation of complete count committees across the state.

The 2020 Census is critical to California. Data collected is directly linked to representation in the U.S. House of Representatives as well federal dollars received for a wide array of state and local programs. Furthermore, California has the highest amount of hard-to-count population. Additionally, the budget includes $4 million for the California Housing and Population Sample Enumeration — a statewide survey that will identify barriers to a complete count and identify successful approaches in an effort to develop recommendations for the 2030 Census.

**Office of Digital Innovation**
The Governor announced the creation of the Office of Digital Innovation, which would be housed under the Government Operations Agency. The agency will have the authority to develop and enforce requirements for state departments to assess their service delivery models and underlying business processes. Initial start-up costs are projected at $36.2 million ($33.7 million General Fund) with $14.6 million ($9.6 million General Fund) in ongoing costs.

Next Steps

Following the release of the Governor’s budget, an analysis by the Legislative Analyst’s Office is expected shortly. The League will continue to examine the details of this budget proposal and provide addition information to cities as warranted.
September 10, 2018

To: City Managers Participating Sales Tax Working Group

From: Dan Carrigg

Re: Summary Report

**Background:** The League’s City Managers Sales Tax Working Group commenced in early 2018, as an outgrowth of the City Manager’s Department being approached by League staff in the fall of 2016 to discuss the need to have an internal discussion on updated League Revenue and Taxation policies. A key policy change to be discussed by the Working Group affected the allocation (or sourcing) of sales tax revenue with the addition of the following phrase to League policy: “Support as League policy that point of sale (situs) is where the customer receives the product.” In short, League policy embraced a shift to “destination allocation” for sales tax revenue. The rationale for this change was based on concerns over the growth of e-commerce and corresponding changes to sales tax allocation among cities. While supporting destination allocation, League’ policy also reflected concern for impacts of a transition on cities by including the phrase: “Specific proposals in this area should be carefully reviewed so that the impacts of any changes are fully understood.”

The working group’s efforts became more internally relevant in late March when SCA 20 (Glazer) was introduced, proposing a shift of local sales tax to destination allocation by January 1, 2020. As the result of increased interest, more city managers were added to the Working Group in early summer. Since then, the group has met every two-weeks during the summer months at the League’s offices, and on September 6th via webinar.

**Focus of the Group:** The Working Group explored the issues and options related to allocation of local Bradley-Burns Sales and Use Tax revenues derived from online sales, which included:

- information on online retail trends;
- discussion of potential impacts of sales tax rebate agreements between cities and online retailers;
- discussion of existing “use tax” allocations from online retailers) via county pools, including affiliate-nexus transactions (e.g., Amazon, etc.) and use tax now reported and paid by business and consumer purchasers;
- estimates of additional sales (use) tax collection (that under current rules will flow through county pools) from implementation of the recent South Dakota v Wayfair decision;

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1 As of Sept 6, 2018 Meeting

2 For two years in a row, 2015 and 2016, one of the League’ strategic goals established by our membership was to: “Update the Local Government Tax Structure to Respond to the “New Economy.” Consistent with the constitutional protections for property, sales and local taxes contained in Propositions 1A and 22, develop policy options, where feasible, for responding to the erosion of the major local government revenue sources resulting from the expansion of e-commerce, increased consumption of retail services rather than goods, changing patterns of commerce, and innovations in technology.”

3 “Sourcing” rules determine the location of a taxable transaction for the purpose of determining the rate and allocation of the tax revenues from the transaction.
• reviewing various (limited)\textsuperscript{4} analyses on possible budgetary impacts of a switch to destination allocation;
• discussing the infrastructure demands faced by cities serving as logistics centers, with warehouses and fulfillment centers, for the distribution of e-commerce goods, and impacts of a shift to destination sourcing and allocation on these communities.
• discussing the effects of sales tax sourcing and allocation rules on the ability of different types of land use development (e.g., affordable housing, market rate housing, warehouse, commercial, etc.) to generate sufficient added revenue to cover added service costs;
• discussing impacts on cities with significant business-to-business sales, including whether they were less impacted by e-commerce trends affecting traditional consumer goods, and whether they should be exempted or otherwise treated differently;
• considering possible phase-in formulas (between origin and destination) for sales tax sourcing;

Recommendation: While there remain diverging views, the consensus was to proceed in two steps:

Step One:

1. Further Limiting Rebate Agreements: the consensus was that:
   - Sales tax rebate agreements involving online retailers should be prohibited going forward. They are inappropriate because they have the effect of encouraging revenue to be shifted away from numerous communities and concentrated to the benefit of one.\textsuperscript{5}
   - Any type of agreement that seeks to lure a retailer from one community to another within a market area should also be prohibited going forward. Existing law already prohibits such agreements for auto dealers and big box stores.\textsuperscript{6}

1. Shift Use Tax from Online Sales, including from the South Dakota v Wayfair Decision Out of County Pools: This recommendation is based first on the principle of “situs” and that revenue should be allocated to where the use occurs. Each city and county in California imposed a Bradley Burns sales and use tax rate under state law in the 1950s. The use tax on a transaction is the rate imposed where the purchaser resides (the destination). These use tax dollars, including new revenue from the South Dakota v Wayfair decision, should be allocated to the destination jurisdiction whose Bradley Burns tax applies and not throughout the entire county.\textsuperscript{7}
   - Shift of these revenues — from purchases from out of state retailers including transactions captured by the South Dakota v Wayfair decision — out of county pools to full destination allocation on and after January 1, 2020.\textsuperscript{8}

\textsuperscript{4} A major challenge the group faced was a lack of adequate data. Both Hdl and MuniServices have limited data to model the effects of a transition because their information is derived only from cities that happen to have a local transactions and use tax (TUT). More than half of all cities, including larger cities like Los Angeles do not have a TUT.

\textsuperscript{5} Amend Section 53084.5, of the Government Code (that contains existing prohibitions on rebates of Bradley Burns sales taxes) to specifically prohibit: Future sales tax rebate agreements between local agencies and retailers involving any sales tax revenue from the sale of products that are ordered either online or by another means and delivered to purchasers in the territorial jurisdiction of another city or county.\textsuperscript{5}

\textsuperscript{6} Amend 53084 of the Government Code to prohibit agreements that involve the relocation of any retailer. (Section 53084 of the Government Code already prohibits the use of “any form of financial assistance” to a vehicle dealer (within 40 miles) and big box retailer (within 25 miles) which close one location then open another within one year in a market area.\textsuperscript{66}

\textsuperscript{7} Dated (former BOE) policies have allocated these use tax dollars into county wide pools.

\textsuperscript{8} Reflects working group agreement to shift these use taxes to destination more immediately, while the CDTFA looks at sales tax allocation issues. The group is also concerned about the future corporate plans of Amazon which accounts for nearly half of all online revenues. The fulfillment centers located in state are not legally owned by...
2. **Request/Require CDTFA Analysis on Impacts of Sales Tax Destination Shifts:** After discussion of numerous phase-in options for destination sourcing and allocation for sales taxes, the group ultimately decided that a more complete analysis was needed to sufficiently determine impacts. Since the two companies most cities rely on for sales tax analysis, HdL and MuniServices, were constrained to modeling with transaction and use tax (district tax) data, concerns centered on the problem of making decisions without adequate information. Since the California Department of Tax and Fee Administration (CDTFA) administers the allocation of local sales and use taxes, it is in the best position to produce an analysis that examines:

- The impacts on individual agencies of a change in sourcing rules. This would likely be accomplished by developing a model to examine 100% destination sourcing with a report to the Legislature early in 2020.
- The model should also attempt to distinguish between business-to-consumer transactions versus business-to-business transactions.
- The model should analyze the current number and financial effects of city and county sales tax rebate agreements with online retailers and how destination sourcing might affect revenues under these agreements.
- The plan would be to first “request” CDTFA to perform such an analysis, potentially with the aid of interested legislators, or the new administration. This would ensure the availability of data in time for 2020, in anticipation that a constitutional amendment would be needed to make any sales tax allocation changes. Legislation would be more complicated and take longer.

**Step Two:**

**Conditions for considering a Constitutional Amendment that moves toward destination allocation:**

Absant better data to help inform the decision, the group declined to prescribe if/how a transition to destination would be accomplished, and the sentiment was the issue was better revisited once data was available. In anticipation that the data would reveal significant negative impacts on some agencies, the group desired that any such shift should be accompanied by legislation broadening of the base of sales taxes, including as supported by existing League policy including:

- Broadening the tax base on goods, which includes reviewing existing exemptions on certain goods and expanding to digital forms of goods that are otherwise taxed, and
- Expanding the sales tax base to services, such as those commonly taxed in other states.

Amazon, and thus Amazon continues to collect use and report use taxes under “affiliate nexus” rules. These revenues are distributed via county pools in proportion to other taxable sales among the agencies within each county. Absent a shift to destination allocation, should Amazon take title to these fulfillment centers there would be a significant concentration of local sales tax revenue in those communities. Reflects working group agreement to shift these use taxes to destination more immediately, while the CDTFA looks

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9 While all members of the group want to avoid undue harm to specific agencies, some were also concerned that some prior phase-in proposals were not aggressive enough and the changing economy required faster transition. The group also discussed allowing those under existing rebate agreements to “opt out” and remain on full origin sourcing rules until the earlier of when they expired or by a fixed date at the end of a phase-in period.

10 The group is also aware that legislators could introduce proposals in 2019 affecting tax reform and/or destination allocation, which could influence the policy discussion.
**Upcoming Briefing at League Annual Conference:** League staff will provide a brief presentation on the progress of the working group and draft framework at the Annual Conference in Long Beach will be the morning of **Wednesday, Sept. 12th**, for the League’s Revenue and Taxation Committee and the City Manager Department Business Meeting.
1. **AB 147 (Burke) Wayfair Implementation**

**Bill Summary:** This bill proposes several changes to California law, including as that law is currently interpreted by the California Department of Tax and Fee Administration (CDTFA), to implement the recent US Supreme Court holding of *South Dakota v. Wayfair, Inc.*, (2018).

**Bill Description:** This bill proposes the following changes to California law to implement the recent US Supreme Court holding of *South Dakota v. Wayfair, Inc.*, (2018):

1) Applies a use tax collection requirement on any retailer that in the preceding calendar or the current calendar year has a cumulative sales price from the sales of tangible personal for delivery in this state exceeding $500,000. (*This is different than the $100,000 or 200 separate transaction standard used in South Dakota and replicated in proposed CDTFA implementation regulations.*)

2) Reduces from $1 million to $500,000 the current total sales threshold that applies to retailers that enter into agreements (of a total of more than $10,000 within the preceding 12 months) to directly or indirectly refer potential purchasers whether by Internet-based link or and Internet Web site. (*This provision reflects an effort to have a level playing field for retailers at the $500,000 level.*)

3) Requires retailers who are registered with CDTFA and engaged in business in the state that facilitates a retail sale by another seller that is not registered with CDTFA to collect and remit applicable use taxes for sellers if the retailer:
   a. Lists or advertises for sale, in any forum, tangible personal property that is subject to California use tax.
   b. Directly or indirectly collects payments from the customer and transmits payment to the seller, regardless of whether the retailer receives compensation in exchange for the services. (*This provision imposes a duty on retailers to collect applicable use taxes when they market and collect revenue for third-party sellers*)

4) Defines “a retailer engaged in business in the district” (for purposes of application of local transactions and use taxes) to include any retailer having a cumulative sales price from the sales of tangible personal for delivery in this state exceeding $500,000. (*This provision resolves a major implementation issue affecting local government revenues derived from collection of local transaction and use taxes. Absent this change, CDTFA is interpreting existing law to only require collection of a TUT if the retailer does more business than the threshold in a district.*)

5) Includes an urgency clause enabling the bill to take effect immediately. (*This is needed to ensure this new criteria takes effect prior to the April effective date of current CDTFA regulations.*)

**Background:**
The landmark US Supreme Court holding of *South Dakota v. Wayfair, Inc.* in June of 2018, addressed a longstanding and growing problem associated with the rapid growth of online sales. Previous Court decisions were based on antiquated catalogue sales
disputes that pre-dated the Internet and required retailers to have a physical nexus with each state prior to imposing an obligation on an out of state retailer to collect and remit applicable sales and use taxes from customers for remote sales. In *Wayfair* the Court upheld South Carolina’s statute that imposed collection duties on any retailer that was doing either more than $100,000 or 200 separate transactions into the state.

California has a “log arm” statute which basically requires sellers to collect and remit California sales and use tax to the extent permitted under the Commerce Clause of the US Constitution. The *Wayfair* decision upheld the $100,000 or 200 separate transactions threshold used in South Carolina.

In late December, the CDTFA –using the authority of California’s long arm/Commerce Clause statute--issued an implementation memo to retailers which imposed the $100,000 or 200 separate transactions threshold collection requirement on all retailers effective April 1, 2019. A major wrinkle CDTFA identified affecting millions of dollars in local government revenue was that a retailer did not have a duty to collect and remit local transaction and use taxes unless they were selling into a district at the $100k/200 transaction threshold.

AB 147, seeks to address a number of problems to smooth the implementation of *Wayfair* and address some of the issues identified by CDTFA:

1) Moving to a $500,000 across-the board threshold makes the law easier to implement for retailers, and avoids some of the disputes about compliance impacts on “mom and pop” retailers associated with the $100k/200 standard. While the $500k threshold is higher than the $100k/200 standard, the revenue losses are consider minor.

2) Requiring large retailers who sell items for third parties closes a major tax collection loophole.

3) Clarifying that local district taxes must also be collected by any retailer meeting the $500k threshold avoids a nightmare of confusion for both retailers, CDTFA and local government and ensure collection of tens of millions in local revenue.

**Fiscal Impact:** The implementation of the *Wayfair* decision will result in the collection of hundreds of millions of dollars for state and local agencies from out of state and Internet-based sales. Collection of these revenue helps level the playing field for brick and mortar retailers.

CDTFA estimates revenue resulting from e-commerce compliance with California’s Use Tax Law between $1-$2 billion. Given that the vast majority of e-commerce activity is conducted by retailers exceeding the $500,000 threshold proposed by the bill, revenue losses between the South Dakota’s $100k/200 threshold and $500,000 is estimated to be minor: less than $10 million total.
**Existing League Policy:**
Additional revenue is required in the state/local revenue structure. There is not enough money generated by the current system or allocated to the local level by the current system to meet the requirements of a growing population and deteriorating services and facilities.

The League supports federal legislation that would require the collection of use tax from internet or “remote sales” that meets the following conditions:
- Is limited to the collection of sales and use taxes.
- Does not require states to participate in the SSUTA.
- Requires remote sellers to collect the full destination rate (combination of state and local rate at location the product will be delivered).
- Exempts intrastate (non-remote sales within California) from the destination rule.
- Provides sufficient flexibility to accommodate California’s tax structure. (There are instances where the state, for policy reasons, has opted not to collect the state’s share of sales taxes on an item, but the local rates on those items are still collected).

**Comments:** CDTFA is already implementing the *Wayfair* decision based on the authority of existing California law. This bill is an effort to update California law to improve implementation in advance of April 1.

**Support/Opposition:** (None yet received)

**Staff Recommendation:** Support. This measure will improve state and local collection of use tax from out-of-state sales, and is an improvement over CDTFA’s proposed implementation or *Wayfair* based upon existing law.

**Committee Recommendation:**

**Board Action:**
COMMITTEE ON REVENUE AND TAXATION
2019 Work Program – DRAFT PROPOSAL

LEAGUE 2019 STRATEGIC GOALS

In addition to its normal workload, the committee will focus on supporting the 2018 goals adopted by the League Board of Directors. The 2018 strategic goals include:

- Provide Cities Additional Funding and Tools and Preserve Local Authority to Address Housing Production, Affordability and Homelessness Challenges
- Improve Disaster Preparedness, Recovery and Climate Resiliency
- Promote Sustainability of Public Pension and Retirement Health Benefits.
- Address Public Safety Concerns of California Cities.

In addition, the committee will focus on and monitor the issues below, which may or may not directly relate to the 2019 Goals:

- Remain informed on developments associated with the upcoming Cal Fire ruling, and engage where necessary on legislation and administrative activity at CalPERS affecting pensions and other post-employment benefits.
- Advocate for appropriate implementation of the Wayfair decision to expand collection of use tax from remote sales.
- Monitor and engage on state budget developments, including proposals that may affect local government or provide funding opportunities.
- Support efforts to restore more robust forms of tax increment financing.
- Engage in tax reform discussions that may develop at the state level, using League policies as guidelines.
- VLF and New Incorporations/Annexations: Sponsor legislation to address the fiscal viability of new incorporations and annexations of inhabited areas.
- Remain on alert for proposals that could undermine local revenue, affect funding for infrastructure, or shift costs and responsibilities.
- Continue to monitor and protect vital local revenues including the transient occupancy tax, and utility user’s tax.
- Remain informed and take action, where necessary, to prohibit additional state mandates funded or unfunded.
- Monitor issues associated with the California Department of Tax and Fee Administration.