

**REVENUE AND TAXATION POLICY COMMITTEE**

Friday, June 14, 2019

**10:00 a.m. – 3:00 p.m**

Sacramento Convention Center, 1400 J Street, Rm. 204, Sacramento

**A G E N D A**

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

*Upon adjournment of the general briefing session, the members of the Governance, Transparency and Labor Relations Committee will join the Revenue and Taxation Committee for an opportunity to meet and have a discussion with Lisa Middleton, the newly appointed local government representative on the California Public Employees' Retirement System (CalPERS) Board of Administration.*

- I. Special Presentation (11:00 a.m.)**  
[Lisa Middleton](#), City Council Member, Palm Springs (*Attachment A*) *Informational*  
Local Government Representative, CalPERS Board of Administration.  
(This will be an opportunity to briefly hear from and engage in a discussion with the recently appointed local government representative to the CalPERS Board.)
- II. Welcome and Introductions**
- III. Public Comment**
- IV. Additional Discussion of State Budget** *Informational*
  - [Governor’s May Revise](#)
  - [LAO Comments](#)
  - [League Analysis of May Revise](#)
  - Disaster and Emergency Response Budget and Legislation Update (*Attachment B*)
- V. Legislative Update** *Informational*
  1. [Implementation of AB 147 \(Burke\)](#) (*Attachment C*)
  2. Status of AB 213 (Reyes) and AB 818 (Cooley) Annexations and Incorporation
  3. ACA 1 (Aguiar-Curry) Affordable Housing and Infrastructure Funding
  4. Update on Housing and Housing Finance (*Attachment D*)
  5. Tax Increment and Economic Development Legislation
  6. Effort to extend AB 1717’ UUT collection on prepaid wireless
  7. 2019 Workers Compensation (*Attachment E*)
- VI. Genevieve Jopanda, Chief of Staff, [Fiona Ma](#), State Treasurer (noon)(*Attach. F*)** *Informational*  
(Ms. Jopanda will brief the committee on the priorities for Treasurer Ma)

**Next Meeting (tent.): Annual Conference, Long Beach, October 16**  
Staff will notify committee members after August 22<sup>nd</sup> if the policy committee will be meeting in October.

**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.

# Lisa Middleton



[Download Full-Size Photo](#)

## Board Member

**Position:**

Local government elected official

**Committees:**

- Board Governance
- Investment
- Performance, Compensation & Talent Management
- Risk & Audit

**Board Terms:**

Upon appointment by Gov. Gavin Newsom

Lisa Middleton is serving her first appointment to the CalPERS Board of Administration. She was appointed to the Board by Gov. Gavin Newsom in May 2019.

Lisa was elected to the Palm Springs City Council in November 2017. Representing Palm Springs, she serves on the Riverside County Transportation Commission, the Sunline Board of Directors, and the Coachella Valley Mountains Conservancy. Also representing Palm Springs, she serves on the following Coachella Valley Association of Governments committees: Transportation, Energy & Environment, and Conservation.

She is a member of the League of California Cities Transportation and Public Works Policy Committee and a member of the League's Riverside County Division Executive Committee.

Prior to her election, Lisa served as a member of the Palm Springs Planning Commission and as chairwoman of the Organized Neighborhoods of Palm Springs. She is a member of the board of directors of Neighborhoods USA, the Equality California Institute, and the Desert LGBTQ Center. In 2014 she was the Center's interim executive director.

Lisa retired after serving 36 years with California's State Compensation Insurance Fund. At her retirement she was the senior vice president of Internal Affairs with executive responsibility for internal audits, fraud investigation, public records, and governance. Lisa was also a member of California's Fraud Assessment Commission. In 2010 she chaired the Commission.

She earned a bachelor's degree in political science and holds a master's degree in public administration from USC. She also completed the LGBT Leadership Institute program through the UCLA Anderson School of Management. Lisa is the first transgender person elected to a non-judicial office in the State of California.

## Disaster and Emergency Response Budget and Legislation Update

### **Political Context**

At the beginning of the year, approximately 90 bills were introduced pertaining to improving disaster preparedness, recovery, and climate resiliency. Out of these bills, nearly half are continuing on with 53 still moving through the legislative process. As bills cross over to their adjacent legislative houses, the Legislature is considering how to address investor-owned utility wildfire liability, how to best prepare for the next catastrophic disaster, and how the state can become better equipped to rebound in the wake of a major disaster.

Unfortunately, there has been talk by groups outside of the Legislature of attempting to change the constitutional strict liability standard of inverse condemnation. While there are no current proposals in writing, there are several reports that call for a change to this standard, as outlined below.

The League, along with a coalition of other local government, victim, and insurance organizations have strongly advocated against changing the inverse condemnation standard and are holding regular meetings to coordinate and collaborate to prevent this standard from changing.

### **Inverse Condemnation**

#### **Governor's Strike Force Report**

On April 12, a Strike Force created by the Governor released the "[Wildfires and Climate Change: California's Energy Future](#)" report that recommended three concepts that are potential courses of action the Legislature can take to address the issue of investor owned utility wildfire liability. The concepts being:

- Creating a liquidity-only fund that would provide funding for utilities to pay wildfire damage claims pending CPUC determination of cost recovery, potentially coupled with modification of cost-recovery standards;
- Changing the constitutional standard of inverse condemnation to a fault-based standard; and
- Creating a catastrophic wildfire fund coupled with a revised cost-recovery standard to spread the cost of catastrophic wildfires more broadly among stakeholders.

This report only makes recommendations to the Legislature to pursue some or all of these concepts as a legislative plan is developed. In his press conference announcing the release of this report, Gov. Newsom called on the Legislature to get something bold done by the July summer legislative recess. This remains an ambitious goal as there are many other important issues, such as housing, occupying legislators' attention.

**SB 901 Commission Report:** The Commission on Catastrophic Wildfire Cost and Recovery (Commission), created by [SB 901 \(Dodd, 2018\)](#), was charged with conducting research and making policy recommendations to the Legislature on changes

to law that would ensure equitable distribution of costs among affected parties, including investor-owned utilities, local governments, and others.

On May 29, the Commission released a draft [executive summary](#) report that calls for sweeping changes to how California will manage wildfire liability, including calling for the change of the constitutional strict liability standard of inverse condemnation to a fault-based negligence standard. The draft executive summary report will be considered for adoption by the full Commission at a hearing on June 7. The League is planning on submitting written and verbal comments expressing our serious concerns with the executive summary including, among other things, changing the inverse condemnation standard.

The Governor and legislative leaders released a [joint press release](#) committing to “decisive action to strengthen our emergency response system, mitigate wildfires, help achieve the state’s clean energy goals, and support safe, reliable and affordable power.” While the statement also reflected a recommendation of the commission to “act now to stabilize the energy market and our utilities by addressing the liability faced by utilities after catastrophic wildfires,” various news outlets and legislators were interpreting the press statement to convey that the inverse issue would not be pursued this year.

### **League Co-Sponsors Emergency Management Preparedness Summit**

The League, along with the California State Association of Counties (CSAC), co-sponsored the Administration’s [Emergency Management Preparedness Summit](#), organized by the California Office of Emergency Services, on June 3<sup>rd</sup>. This summit brought together key players in charge of preparing all Californians for future emergencies and disasters. A key focus was on enhancing local emergency management, risk prevention, response and recovery. Select representatives from each city, county, and other relevant groups were invited to attend. This was a great opportunity for the League to partner with the Administration on the important issue of emergency management and preparedness that effects every city across the state.

### **Legislative Budget Proposals**

Below is an outline of the proposed appropriations for disaster preparedness, recovery and climate resiliency that the Legislature has changed from the Governor’s May budget proposal, as they head into the 2019 Joint Budget Conference Committee. They include:

#### **Support for Affected Communities**

- Governor proposed a \$10 million one-time General Fund appropriation to support local communities in their recovery from the unprecedented devastation of the Camp Fire. The Senate agreed to the proposal while the Assembly modified the proposal to include an additional \$25 million in one-time funds.

## Office of Emergency Services

- Governor proposed \$75 million for state and local entities to respond to investor-owned utility (IOU)-led Public Safety Power Shutdowns (PSPS). The Senate approved \$37.5 million for this purpose, and approved \$37.5 million only upon the receipt of a report to the Legislature on how the funds have been and will be used. The Assembly approved the proposal and adopted provisional budget bill language requiring specified use of funds and reporting on the use of funds and outcomes achieved. The Houses will need to work out the timing on the release of the funds and what reporting requirements are needed for the funds.

The 2019 Joint Budget Conference Committee is meeting in advance of the June 15 deadline to settle any budgetary discrepancies between both of the Houses' budget proposals. Once the Conference Committee settles on a unified proposal, it will be voted on by each house and presented to the Governor.

## **2019 Legislative Proposals**

At the time of this writing, approximately 53 bills have been passed out of their Legislative Houses and will be considered in the second house's policy committees. Some of the bills we previously supported have died or been held, but many are continuing to move through the legislative process. Below is an updated list of higher-tier disaster-related and climate resiliency legislation the League has engaged on:

### Wildfire Recovery and Relief:

- AB 41 (Gallagher). This bill is an urgency measure declaring that the state will fully reimburse local agencies for the costs incurred as a result of the Camp Fire. *League Position:* Support. Bill is in the Senate awaiting policy committee referral.
- AB 235 (Mayes). This bill creates the California Wildfire Catastrophe Fund Authority that would allow both municipally and privately owned utilities to participate in the fund and requires each participating entity to make an initial contribution and annual contributions to the authority. It would also require the fund's board of directors to deposit those contributions into an account dedicated to receiving contributions from that participating entity. The contributions would be tax-free. *League Position:* Watch. Bill has been referred to the Senate Energy, Utilities, and Communications Committee.
- AB 740 (Burke). This bill is a work in progress that creates the Climate Change Catastrophe Compensation Fund. This fund is aimed at ensuring that victims of wildfires caused by climate change are compensated in a timely manner, to provide reimbursements to insurers for a portion of those wildfire losses, and to avoid lengthy legal proceedings. A funding source for this fund has not yet been identified. *League Position:* Watch. Bill is in the Senate awaiting policy committee referral.
- SB 45 (Allen). This bill would place a \$4.3 billion bond measure on the 2020 ballot. The bill is similar to the failed water bond from 2018, Proposition 3, but includes funding categories for reducing wildfire risk and restoring areas affected

by wildfires. The League is generally supportive of this bill, but is seeking to strengthen the funding allocations for wildfire response.

*League Position:* Pending. Urgency bill, is currently awaiting a hearing in the Senate Appropriations committee.

#### Seismic Safety:

- AB 234 (Nazarian). This bill would provide a 30% income tax credit for completed seismic retrofitting projects for buildings that are vulnerable to seismic activity.  
*League Position:* Support. Bill was held on the Assembly Suspense File.
- AB 429 (Nazarian). This bill would require the Alfred E. Alquist Seismic Safety Commission, to identify funding and develop a bidding process for hiring a third-party contractor to create an inventory of potentially vulnerable buildings. The bill would also require the third-party contractor, in conjunction with the commission, by July 1, 2022, to develop a statewide inventory of potentially seismically vulnerable buildings in 29 specified counties in California using information developed by local jurisdictions.  
*League Position:* Support. Bill is referred to the Senate Governmental Organization Committee.

#### Emergency Preparedness:

- AB 266 (Choi). This bill offers a tax credit to homeowners to offset the purchase and installation of attic vent closures for their homes, with the intent to prevent the spread of residential fires.  
*League Position:* Support. The bill was held on the Assembly Suspense File.
- AB 291 (Chu). This bill is sponsored by the City of San Jose and establishes a Local Emergency Preparedness and Hazard Mitigation Fund to support staffing, planning, and other emergency mitigation priorities to help local governments meet emergency management, preparedness, readiness, and resilience goals. The bill would create a \$500 million General Fund continuous appropriation to fund this program.  
*League Position:* Support. The bill was held by the Assembly Appropriations Committee and is a two-year bill.
- AB 297 (Gallagher). This bill requires the Superintendent of Public Instruction (SPI) to extend average daily attendance relief to school districts and charter schools where no less than 5% of the residences within the district were destroyed by the November 2018 wildfires.  
*League Position:* Support. The bill was held on the Assembly Suspense File.
- AB 1079 (Santiago). This bill would authorize providing telephone numbers to law enforcement agencies, public environmental health agencies, city or county offices of emergency services planning agencies, private for-profit agencies that contract with or at the direction of public agencies for 911 response or emergency alerts to receive those numbers to test these communication systems.  
*League Position:* Support. The bill has been set for hearing in the Senate Energy, Utilities, and Communications Committee.

- AB 1699 (Levine). This bill would prohibit telecommunications providers from throttling or from failing to provide adequate service to its public safety customer accounts during a state of emergency.  
*League Position:* Support. The bill has been referred to the Senate Energy, Utilities, and Communications Committee.
- SB 46 (Jackson). This bill would authorize cities to obtain the contact information of its residents from their local public utility, or from their own public records, for purposes of enrolling residents into the local emergency alert warning system and only for that purpose.  
*League Position:* Support. The bill was held on the Senate Appropriations Suspense File and is a two-year bill.
- SB 209 (Dodd). This bill establishes the California Wildfire Warning Center to monitor statewide weather conditions to prevent wildfires. The bill would require an electrical corporation to deploy at least one weather monitoring station for every circuit in a high fire threat district. The ideas in this bill are similar to San Diego Gas and Electric weather monitoring model.  
*League Position:* Support. The bill is in the Senate awaiting policy committee referral.
- SB 670 (McGuire). This bill requires telecommunications providers to notify CalOES regarding 911 service and emergency alert outage information and CalOES to provide such information to local offices of emergency services.  
*League Position:* Support. The bill is in the Senate awaiting policy committee referral.

#### Climate Resiliency:

- SB 515 (Caballero). This bill expands the fuels and feedstocks that are eligible to satisfy requirements related to specified contracts for mandated electricity generation from biomass facilities. The bill seeks to allow existing biomass facilities to take feedstock from areas that are considered very high and high risk of wildfires in order to help prevent the next devastating wildfire.  
*League Position:* Support. The bill is in the Assembly awaiting policy committee referral.

#### Next Steps

All bills advancing this year have now crossed houses and are awaiting referrals or hearings in their respective second house policy committees. Even though many bills have already died or become two-year bills, there are still a number of bills addressing wildfires, disaster preparedness, and climate resiliency. The League will continue to monitor and track these bills and funding proposals as they work through the legislative and budgetary process. The League will also monitor and remain engaged in any legislative activity focused on addressing investor-owned utility wildfire liability.



# AB 147, California's New Online Sales Tax Collection Law: What Cities Need to Know

May 1, 2019

State and local agencies will begin to see a revenue boost following the signature by Governor Newsom on April 25, 2019, of League-supported AB 147 (Burke), which will expand the collection of millions in state sales and use taxes from out-of-state sales via the implementation of the landmark U.S. Supreme Court decision in *South Dakota v. Wayfair*, 138 S.Ct. 2080 (2018).

The *Wayfair* decision addressed a longstanding problem associated with the rapid growth of online sales, resulting in the under-collection of billions in local sales and use tax revenues across the country.

Previous Court decisions, led by *Quill Corp. v. North Dakota* (1992) 504 U.S. 298, 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 reversed those decisions by upholding a South Dakota statute that imposed a collection requirement on out-of-state vendors selling more than \$100,000 or 200 separate transactions into the state. For more background on *South Dakota v. Wayfair*, please see the [Legal Notes article](#) from the June 2018 issue of *Western City* magazine.

Since this decision, most states have enacted their own implementing regulations and statutes; AB 147 is California's version. The League thanks the author, Assembly Member Autumn Burke, principal co-author Senator Mike McGuire, and sponsor State Treasurer Fiona Ma for their leadership in drafting and advancing this important legislation.

## **AB 147 (Burke) Signed; Makes Essential Changes to Implement *Wayfair***

AB 147 (Burke) provides important direction in the law for the implementation of *Wayfair* in California. Acting on the authority "to impose a use tax collection duty on retailers who have specified levels of economic activity in this state, even though they do not have a physical presence in this state," the bill:

- 1) Adds "economic nexus" provisions stipulating that a "retailer engaged in business in this state" includes any retailer that, in the preceding calendar year or the current calendar year, has a cumulative sales price from the sale of tangible personal property for delivery in California that exceeds \$500,000;[\[1\]](#)
- 2) Makes conforming changes to Transactions and Use Tax law, ensuring that retailers collect those taxes too if they meet the \$500,000 statewide threshold.[\[2\]](#)
- 3) Defines a "marketplace facilitator" as the retailer responsible for the collection and remittance of sales and use taxes effective October 1, 2019. Marketplace facilitators contract with sellers to

sell goods and services on their on-line platforms. Facilitators generally list products, process payments, collect receipts, and in some cases, take possession of a seller's inventory, hold it in warehouses, and ship it to customers.

### **Transactions and Use Taxes Included for both In-State and Remote Transactions**

Under AB 147, the obligation to collect applicable transactions and use tax<sup>[3]</sup> on all sales made for delivery in any city or county that imposes a transactions and use tax applies to a retailer *whether inside or outside of California* if, during the preceding or current calendar year, the total combined sales of tangible personal property in California or for delivery in California by the retailer and all persons related to the retailer exceed \$500,000. This new collection requirement supersedes prior California Department of Tax and Fee Administration (CDTFA) direction regarding transactions and use tax collection requirements<sup>[4]</sup> and will increase transactions and use tax collections from in-state as well as out of state sales.

### **Modest, But Positive Fiscal Effect**

Digital commerce has been growing at over ten percent annually in recent years, more than four times the pace of overall economic growth. California's large size means that - compared to other states - it is more likely that on-line businesses already have physical presence and therefore have already been collecting and remitting California sales and use tax. Nevertheless, estimates are that between \$1.0 and \$1.7 billion of California sales and use taxes went unpaid in 2017.<sup>[5]</sup>

Out-of-state small businesses, those with less than \$500,000 total annual taxable sales transactions in California, are not obligated to collect and remit tax.<sup>[6]</sup> Based on US Census data, CDTFA estimates that this affects less than five percent of these taxable sales from out of state sellers. Sellers are still liable for the sales tax due on such transactions but the compliance rate, other than for businesses that are audited, is expected to be low.

California's sales and use tax is composed of a number of state and local rates and allocations. Of the \$1 billion to \$2 billion in annual uncollected sales and use tax revenue, about \$125 million to \$250 million would go to cities and counties for the one percent Bradley-Burns local rate. A similar amount would go to local transactions and use tax rates (local add-on sales taxes). This would be a boost in sales and use tax revenues of about 1.8 to 3.5 percent. Under current CDTFA rules, this out-of-state use tax is distributed through state and countywide "pools" in proportion to the rest of taxable sales within the county.

<b>California Sales and Use Tax Revenues</b>				
	<i>millions</i>		<b>Estimated Annual</b>	
	<b>rate</b>	<b>2018 Collected</b>	<b>Uncollected low</b>	<b>Out-of-State high</b>
State General Fund	3.9375%	\$26,243	\$480	\$959
County Realignment	1.5625%	10,414	190	381
Proposition 172	0.5000%	3,332	61	122
County TDA	0.2500%	1,766	30	61
City* Bradley-Burns	1.0000%	7,047	122	244
Add-On Local Trans. & Use	varies	6,765	117	234
<b>Total</b>		<b>\$ 55,568</b>	<b>\$ 1,000</b>	<b>\$ 2,000</b>

*Source: Michael Coleman based on GAO analysis and CDTFA data. 4/2019*

### Effective April 1 ... but Marketplace Rules Effective October 1

The provisions of AB 147 requiring collection and remittance of sales and use tax by out of state retailers are effective April 1, 2109. However, the marketplace facilitator requirements are effective October 1, 2019. Moreover, there are substantial hold-harmless provisions for marketplace facilitators for compliance errors until January 1, 2023.



### Further Information

CDTFA Special Notice April 2019: New Use Tax Collection Requirements for Remote Sellers and New District Use Tax Collection Requirements for All Retailers—Operative April 1, 2019. <https://www.cdtfa.ca.gov/formspubs/l632.pdf>

Bill Text: AB-147 Use taxes: collection: retailer engaged in business in this state: marketplace facilitators. (2019-2020) [https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill\\_id=201920200AB147](https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201920200AB147)

[1] Revenue and Taxation Code § 6203. AB147 establishes a larger threshold than initially imposed by CDTFA. In Special Notice L-565, published in December 2018, CDTFA adopted a threshold of \$100,000 in sales or 200 separate transactions, identical to South Dakota.

[2] Revenue and Taxation Code § 7262

[3] Transactions and use taxes are often referred to by the CDTFA as “district taxes.”

[4] See CDTFAs Special Notice L-591.

[5] US Government Accountability Office, “Sales Taxes: States Could Gain Revenue from Expanded Authority, but Businesses Are Likely to Experience Compliance Costs.” GAO-18-114: November 16, 2017.

[6] Unless the transaction is via a “marketplace facilitator” as defined

- See more at: <http://www.cacities.org/Top/News/News-Articles/2019/May/AB-147,-California-s-New-Online-Sales-Tax-Collecti#sthash.gbNtEVdt.dpuf>

## Housing and Homeless Update

In the last several weeks, the Legislature has taken action on hundreds of legislative proposals. Of those, nearly two dozen pertain to housing and land use and could have a significant impact on how cities plan, zone, and approve housing. As of May 31<sup>st</sup>, all bills had to be out of the house of origin or are dead for the year.

Governor Gavin Newsom and the Legislature are also finalizing the 2019/2020 State Budget, which must pass the Senate and the Assembly by June 15<sup>th</sup>. The new fiscal year begins on July 1<sup>st</sup>.

### **2019/2020 State Budget – Housing and Homelessness**

When the budget was introduced in January, it was a mixed bag for local government in regard to housing. While it contained historic levels of new funding, \$1.75 billion, to help address homelessness and affordable housing needs, it also included budget trailer bills that would have made statutory changes to undermine local land use authority, limit the ability to impose impact fees and jeopardize local transportation revenues. Much has changed in the last five months.

League staff have worked closely with the Governor's office, Legislative budget staff, and leadership in both houses to address many of our key concerns. Unfortunately, the Governor continues to propose that SB 1 transportation funding be linked to compliance with housing element law, zoning, and entitlements to meeting the State's housing goals, but the Legislature does not appear inclined to withhold or shift transportation funds. Below is a summary of the most significant budget provisions.

### **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; and
  - \$200 million to a new program targeting housing projects for households earning between 60 and 80 percent of area median income.

This budget proposal is also reflected in AB 10 (Chiu), supported by the League, which passed out of the Assembly and is now pending in the Senate.

### **Homelessness**

Last year \$500 million in one-time funding was allocated to local jurisdictions to address emergency homelessness needs. The 2019/2020 budget allocates \$650 million to site and build emergency shelters, navigation centers or supportive housing, to be distributed as follows:

- \$100 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;
- \$275 million will be allocated to the 13 most populous cities in the state; and
- \$275 million will be made available to counties.

Other notable funding allocations:

- \$120 million for expanded Whole Person Care Pilots.
- \$150 million for strategies to address the shortage of mental health professionals in the public mental health system.
- \$25 million for Supplemental Security Income advocacy.
- \$40 million for student rapid rehousing and services for University of California (UC) and California State University (CSU) system.
- \$20 million in legal for eviction prevention.

#### Planning Grants and Incentive Grants

The Governor's January Budget proposed allocating \$750 million one-time funding for local planning (\$250 million) and incentive grants for reaching housing production milestones (\$500 million). The May Revise made two significant changes: 1) school districts and county offices of education will be eligible to compete with cities and counties for a portion of the \$250 million in planning and technical assistance support; and 2) the \$500 million incentive grants for meeting housing production milestones was repurposed and is now being allocated to the Infill Infrastructure Grant Program administered by the Department of Housing and Community Development (HCD).

The Infill Infrastructure Grant Program provides assistance available as gap funding to infrastructure improvements required for specific residential or mixed-use infill development. All of the funds are allocated through a competitive process, based on the merits of the individual infill projects and areas.

The League worked with the California Association of Councils of Government to suggest improvements to the planning grants proposal which have largely been accepted by the Administration. Discussions continue with the Administration on other housing-related issues.

#### Budget Trailer Bill – RHNA Reforms and Linking Transportation Funding to Housing

The Governor's original proposal attempted to make significant changes to the RHNA allocation process, enhance the powers of Council of Governments (COGs), provide incentives to cities as housing is produced, and link SB 1 transportation funding to compliance with housing element law, zoning, and entitlements. Following several months of negotiations, the Governor released a much improved housing trailer bill.

Specifically, this measure:

- Establishes the Local Government Planning Support Grants program for the purpose of providing regions and jurisdictions with one-time funding, including grants for planning activities to enable jurisdictions to plan for the Sixth Cycle of the Regional Housing Needs Assessment.
- \$125 million is available to be allocated from HCD to COGs for the following housing related purposes:
  - Technical assistance in improving housing permitting processes, tracking systems, and planning tools.
  - Facilitating technical assistance between jurisdictions.
  - Establishing regional housing trust funds.
  - Developing local or regional policies to link transportation funds to housing outcomes.
  - Performing infrastructure planning, including for sewers, water systems, transit, roads, or other public facilities necessary to support new housing and new residents.
- \$125 million is available to cities and counties to assist in planning or other activities related to meeting their Sixth Cycle of the Regional Housing Needs Assessment.
  - \$1.5 million to very large localities (with populations over 750,000).
  - \$750,000 to large localities (with populations between 300,000 and 749,999 inclusive).
  - \$500,000 to medium to large localities (with populations between 100,000 and 299,999, inclusive).
  - \$300,000 to medium localities (with populations between 60,000 and 99,999, inclusive).
  - \$150,000 to small localities (with populations between 20,000 and 59,999, inclusive).
  - \$65,000 to very small localities (with populations under 20,000).

Funds can be used for rezoning and encouraging development by updating planning documents and zoning ordinances, such as general plans, community plans, specific plans, sustainable communities' strategies, and local coastal programs; completing compliance with CEQA; establishing Workforce Housing Opportunity Zones; adopting local planning processes to speed up housing approvals; and creating or improving accessory dwelling unit ordinances.
- By December 31, 2022, HCD and OPR must engage in a stakeholder process to identify any issues with the allocation and implementation of the Regional Housing Needs Assessment, and what changes may be necessary to ensure a fair, transparent, and objective process for identifying housing needs across the state.
- By December 31, 2022, HCD, California State Transportation Agency, and OPR shall propose opportunities to link transportation and other non-housing funding to housing element and annual progress report compliance, and policies that support meeting housing goals.

## **Legislative Proposals**

It has been a very active year on housing policy and land use. The most significant development has been the tabling of SB 50 (Wiener) for the rest of the year. This proposal sought to up-zone around transit, require up to four-plexes in single-family zones, increase allowable density, limit or eliminate parking requirements, and equip developers with more authority over local land use. Even though SB 50 has been sidelined for now, the following bills remain active and are of major concern:

SB 330 (Skinner) Housing Crisis Act of 2019.

- Freezes local planning requirements for a five-year period.
- Would prohibit parking requirements within ¼ mile of a rail stop.
- Would freeze nearly all fees once a “preliminary: application is submitted.
- Would allow a developer to delay construction for up to 3 years and not face increased fees.

AB 1279 (Bloom) Planning and Zoning: Housing Development: High-Resource Areas.

- Would require HCD to determine “high-resource areas”, areas of high opportunity and low residential density not experiencing displacement or gentrification.
- Would require by-right approval for up to 100 units and 55 ft., if the project meets affordability requirements and site limitations.
- Projects would not need to be near transit.

AB 1763 (Chiu) Density Bonuses: Affordable Housing.

- Would greatly expand existing Density Bonus Law to allow developers to receive a density bonus of 80% and four additional concessions if 100% of project’s units are affordable to low-income households.
- For projects that are 100% affordable to low-income households and are within one-half mile radius of a major transit stop, a city would have to allow unlimited density and an additional three stories or 33 ft.
- If the development is within one-half mile of a high quality transit corridor, a city would have to allow unlimited density and an additional two stories or 22 feet.

SB 13 (Wieckowski) Accessory Dwelling Units.

- Would cap/limit impacts fees and other mitigation fees.
- Would require jurisdictions to act on an ADU application within 60 days of application submittal.
- If HCD finds that a jurisdiction’s ordinance is out of compliance, the department would notify the Attorney General that the jurisdiction is in violation of the law.

## **Key Housing Bills to Support**

SB 5, authored by Senator Beall and Senator McGuire, would re-engage the state in local efforts to finance affordable housing and infrastructure. Their measure would authorize the state to partner with local governments and allocate up to \$2 billion annually for affordable housing projects and infrastructure that meet state and local government policy objectives. SB 5 passed out of the Senate on a 31-4 vote with strong bipartisan support.



ACA 1, authored by Assembly Member Aguiar-Curry, provides additional flexibility to local agencies by reducing the voter-approval threshold from two-thirds to 55 percent for cities and counties to fund critical public infrastructure and affordable housing. This measure is pending on the Assembly Floor and has not received a vote. Given that this is a proposed measure for the 2020 ballot, final action may be delayed as the legislature focuses on more pressing issues.

AB 10, authored by Assembly Member David Chiu, would increase the state's Low Income Housing Tax Credit from \$85 to \$500 million. This is a dramatic, fivefold increase over the current spending cap. Increasing available state tax credits for low-income housing is a great step in beginning to reassemble state investment in affordable housing in California. These state tax credits will leverage additional federal tax credits and tax exempt bond authority, which will help build a significant amount of units. It will also spur economic activity, creating additional jobs and contribute to state and local tax revenues. AB 10 passed out of the Assembly on a 77-0 vote. This proposal is also reflected in the Governor's budget.

It is clear that both sticks and carrots are on the menu for the 2019/2020 session and cities will need to strongly engage in the legislative process.

### **Existing Funding Opportunities**

SB 2, Planning Grants: In 2017, the Legislature passed and the Governor signed SB 2 (Atkins) The Building Homes and Jobs Act, which imposed a \$75 recordation fee on specified real estate documents to generate hundreds of millions of dollars per year for affordable housing, supportive housing, emergency shelters, and transitional housing. In 2018, 50 percent of all funds generated by the fees will be set aside for cities to update local plans that streamline housing approvals. Beginning in 2019, and for all other years, 70 percent of the funds are directed to locals based on the federal Community Development Block Grant (CDBG) formula.

The Notice of Funding Availability (NOFA) for the first year funding allocation has been released and cities are now able to apply for the funding. The League hosted a webinar in conjunction with the California Department of Housing and Community Development (HCD), Senate President Pro Tempore Toni Atkins' office, the Institute for Local Government (ILG), and Place Works on April 17<sup>th</sup> to assist cities in the application process. Eligible activities may include:

- Updates to general plans, community plans, specific plans, local planning related to implementation of sustainable communities' strategies, or local coastal plans.
- Updates to zoning ordinances.
- Environmental analyses that eliminate the need for project-specific review.
- Local process improvements that expedite local planning and permitting.

League staff participated in stakeholder meetings hosted by the California Department of Housing and Community Development (HCD) to help implement SB 2 and get funding to cities as fast as possible.

## Get Funding

- [2019 Notice of Funding Availability – SB 2 Planning Grants Program](#) (PDF)
- [SB 2 Planning Grants Program Application](#) (PDF)
- [Government Agency Taxpayer ID Form](#) (PDF)
- [Maximum Grant Amounts Per Jurisdiction](#) (PDF)
- [Guidelines](#) (PDF)

## Next Steps

Even though significant progress has been made in recent weeks, the League will continue to work with the Governor and the Legislature on the state budget to increase the funding allocation available to cities to update city plans, provide cities with more incentives for housing approval and entitlements, and eliminate the linkage of transportation funding and housing production. Additionally, the League will work closely with the Legislature on dozens of housing and land use measures.



## 2019 Workers Compensation Legislation

California Workers' Compensation Law provides for several presumptions which apply specifically for Safety and Law Enforcement Positions. In Workers' Compensation Law, an injured worker generally has the burden of proof. The Injured Worker's burden is to prove that the injury was caused by "reasonable medical probability." This burden essentially means "more likely than not."

During the 2019 legislative session, the Legislature has introduced a series of measures, specifically in the workers' compensation space that will drive up employer cost and expand the system to pre-2012 reform levels. The predominant area we have seen this year surrounds the proposed expansions of presumptions within the Workers' Compensation system—all backed by the California Professional Fire fighters (CPF), the Peace Officers Research Association of California (PORAC) and/or The American Federation of State, County and Municipal Employees (AFCME).

### **How do Presumptions Drive Cost?**

The presumptions afforded to Safety and Law Enforcement officers allow them to gain an evidentiary advantage in proving industrial causation. One of the biggest challenges for employers for presumptions is that it takes cost-containment measures off of the table such as the ability to use apportionment in assessing the causation of the injury – especially when the use of '4850' time is accounted for.

Additional presumptions within the workers compensation system and expanding the classification of employees eligible for presumptions becomes incredibly challenging for employers to try and stabilize costs, ensure appropriate staffing and provide adequate services to the public. There is also a concern that this will lead to an increase in the prevalence of Industrial Disability Retirement (IDR's) which are costly for public agencies.

### **Governor Brown Blocked Broad Expansions of Worker's Comp**

In 2012, Governor Brown spearheaded one of the largest workers' compensation reform packages in recent memory. His action sent an incredibly strong message to the Legislature, the public and interest groups such as the attorneys and organized labor that he was unwilling to sign measures that would drive up employer cost. As such, Governor Brown became a critical backstop for curbing costs in the workers' comp system.

### **Governor Newsom's Position Unclear**

Governor Newsom, to date, has not indicated where he will land on proposed worker's compensation expansions. The California Professional Firefighters were early endorsers of Newsom's gubernatorial campaign and may anticipate Governor Newsom will be more receptive than Governor Brown. Despite the potential of the measures listed below to drive up costs for public employers in the workers' compensation system, the Legislature is poised to test this new Governor by sending him the majority, if not all, of these pieces of legislation. The critical question is, will Governor Newsom continue to hold the line on cost driving measures in the system? It is too soon to tell—but come September, we will find out the answer.

## **Current Workers Compensation Expansion Bills Affecting Public Employers**

Below are four measures that prove to be most problematic in the 2019 legislative session for public employers, ranked in order of greatest fiscal impact:

- 1) AB 1400 (Kamlager-Dove) Firefighting Operations. Civilian Employees.**  
Provides all presumptions within the Workers Compensation system currently authorized for active duty firefighters to “all fire service personnel.” This will apply broadly to all non-sworn fire personnel. **Sponsor: AFCME**
  
- 2) SB 542 (Stern) Post-Traumatic Stress Disorder.**  
Creates a new presumption for post-traumatic stress disorder within the workers’ compensation system for police and fire personnel. Applies retroactivity provisions to January 1, 2017. **Sponsor: California Professional Firefighters**
  
- 1) AB 932 (Low) Off-Duty Firefighters: Out-of-State.**  
Expands the scope of workers’ compensation to apply when a firefighter engages in a fire-suppression, rescue operation, the protection or preservation of life or property, outside of this state. **Sponsor: California Professional Firefighters**
  
- 2) SB 416 (Hueso) Expansion to All Peace Officers**  
Expands all presumptions in the workers’ compensation system currently approved for firefighters, sheriffs, police officers, California Highway Patrol officers, and arson investigation units to all employees designated as peace officers as defined in Chapter 4.5 of Title 3 of Part 2 of the Penal Code, except for those peace officers described in subdivision (b) of Section 830.1, subdivision (b) or (d) of Section 830.2, or Section 830.39, 830.4, or 830.5 of the Penal Code.  
**Sponsor: California Peace Officers Association of California (PORAC)**

## **Recent Action and Next Steps**

The League of California Cities,<sup>1</sup> in conjunction with the California Coalition on Workers Compensation (CCWC), California State Association of Counties (CSAC), California Special Districts Association (CSDA), and other statewide public and private organizations have joined together in opposing these measures. All the measures outlined above, however, have made it through their respective legislative houses. It is critical that cities work through the League to oppose these measures to increase our ability to either stop them in the Legislature or get these measures vetoed.

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<sup>1</sup> Dane Hutchings, who served as Legislative Representative for the League on these issues, recently joined Renne Public Policy Group as a legislative advocate and contributed to the development of this update. Dane continues to represent the League under contract on these issues through the 2019 Session.

# Fiona Ma, CPA

FOR STATE TREASURER

*Investing in California's Future*

## EXPERIENCED

As a CPA and member of the State Board of Equalization, Fiona Ma understands investment and finance. She has the expertise to serve as State Treasurer, overseeing trillions of dollars in state transactions and managing California's multi-billion dollar investment portfolio.

## PRINCIPLED

As State Treasurer, Fiona Ma will ensure that California's investments are sound, earning positive returns for our citizens. She will advocate for socially responsible investment that expands jobs, protects our environment and improves education.

## INNOVATIVE

Fiona Ma will put billions of dollars to work to build infrastructure, investing in projects for schools, transportation, parks and environmental protection. As many parts of California continue to lag in economic recovery, Fiona will manage investments to ensure shared prosperity for everyone.

**Fiona Ma is a Certified Public Tax Accountant and currently serves on the California State Board of Equalization, where she works to protect the rights for taxpayers while also ensuring that California collects its fair share of tax revenues.**

As one of two Certified Public Accountants (CPAs) to ever have served on the Board, Ma understands the challenges that businesses and taxpayers face today. As Chair, she has worked tirelessly to uphold the highest level of integrity in government and fought to increase accessibility, accountability and transparency over the Board the taxpayer money it oversees.

Prior to serving on the Board of Equalization, Ma was elected to the California State Assemblywoman from 2006-2012. She was the first Asian American woman to become Speaker pro Tempore of the State Assembly.

In the Assembly, Ma passed laws to protect consumers, help working families pay their bills prevent the spread of Hepatitis B, increase access to quality healthcare, and provide equal rights for all Californians.

As Chair of the Assembly Select Committee on Domestic Violence, Ma wrote legislation to strengthen the law and protect victims of domestic violence.

Ma previously served as a San Francisco Supervisor. She authored the landmark Local Business Enterprise ordinance on behalf of women and minority business owners and passed legislation to tackle human trafficking.

Prior to her career in public service, Ma worked as an accountant for Ernst & Young, before leaving to start her own accounting practice. Ma has been licensed in California as a Certified Public Account (CPA) since 1992.

She is a Member of Cal CPA and currently serves on the Board of CA Women Lead, the Honorary Chair and Spokesperson of the San Francisco Hep B Free Campaign, a Screen Actors Guild (SAG) member and a California Film Commissioner. She is married to Jason Hodge, a full-time firefighter and an Oxnard Harbor Commissioner.

**Genevieve V. Jopanda**  
**Chief of Staff, State Treasurer Fiona Ma**

Genevieve V. Jopanda, serves as Chief of Staff to Treasurer Fiona Ma. She brings to the State Treasurer's Office almost 20 years of business operations experience with expertise in leadership and organizational development with success in developing and implementing methodologies to strengthen and maintain the overall health of the organizations she has worked for.

Her previous positions of Customer Service Training Supervisor for the San Francisco Chronicle, South Bay Operations Director for the Hertz Corporation managing 7 off airport locations leading the lowest performing region to be the 8th most profitable region in the nation, Northern California General Manager for Zipcar, Inc. leading the most competitive region in the United States to profitability, Palo Alto Chamber of Commerce as its Programs, Events, and Marketing Director, and as the first Executive Director of San Francisco B Free Campaign public health awareness program leading the largest and most aggressive Hep B screening project in the country funded by the U.S. Centers for Disease Control have all developed her tool box in Lean Management, Capacity Building, and Human Relations.

Genevieve started her political career as a District Liaison to Speaker Pro Tempore Fiona Ma in 2010 serving as liaison to Northern San Mateo County. She has served on the Daly City Parks and Recreation Commission and is a founding member & former National Co-Chair of KAYA: Filipino Americans for Progress. She is most recently the Chair Emeritus of the Filipino American Caucus of the California Democratic Party and is also a recipient of the Filipina Women's Network Global 100 Most Influential Filipina Award.

Genevieve has been feeding her passion for community advocacy at a very young age and continues to do so by volunteering with focus on Anti Domestic Violence awareness, Filipino WWII Veterans advocacy, and mentoring at risk youth through college-career transitioning.

She is a proud aunt of 7 nieces and 2 nephews and was born and raised in San Francisco Bay Area.