

**REVENUE AND TAXATION POLICY COMMITTEE
HIGHLIGHTS**

Friday, March 29, 2019

Hilton Orange County/Costa Mesa, Catalina II Room, 3050 Bristol Street, Costa Mesa

ATTENDANCE

Members: Jeff Slowey (Chair), Olivia Valentine (V. Chair), Robert Biery, Marc Donohue, Marita Dorenbecher, Ryan Dunn, Juan Garza, John Gillison, Barbara Halliday, Loella Haskew, Mike Hennawy, Brian Johnson, Eric Levitt, Paul Navazio, Laura Parisi, Michael Perciful, Marcus Pimentel, Amanda Rigby, Doug Robertson, Sylvia Robles, Laura Rocha, Ed Sachs, Robert Samario, David Sander, David Sheasby, Fred Strong, Luis Uribe, Scott Voigts, Maya Williams, Edward Wilson, Jim Zervis

League Partners: Rob Braulik

Staff: Dan Carrigg

I. State Budget and General Briefing

Jeff Slowey, Chair, League Revenue and Taxation Policy Committee, gave a brief introduction to the General Briefing Session. After his welcome, he introduced League President Jan Arbuckle, Council Member, Grass Valley, who welcomed everyone to the second round of policy committee meetings of the year. President Arbuckle then introduced Rich Garbarino, League Immediate Past President, Carolyn Coleman, League Executive Director, and acknowledged all of the League Partners in the room.

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

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

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

Mr. Carrigg then gave an overview of the political dynamics of having a new Governor, a Democratic legislative super majority, and longer legislative term limits. He said that legislators and interest groups are inclined to test Governor Newsom by sending him many bills Governor Brown would not previously sign. This would be a year when we will all find out what the Governor is willing to say "no" to.

Mr. Carrigg went on to discuss two important economic development bills, SB 5 and AB 11. Both of these measures would reinvest the state into tax increment financing. A renewed investment would greatly improve opportunities for economic development and provide a great opportunity for the state to work with locals to accomplish shared state and local goals. Mr. Carrigg then referred to [a hand out](#)

[with a list of the current economic development tools](#) currently available to cities. In addition, Mr. Carrigg discussed ACA 1 and several initiatives that have qualified for the ballot including the split roll, bail reform, and the Grocers and Police Chiefs criminal justice reform initiative. Then Mr. Carrigg introduced the League's lobbyists to discuss their respective issue areas.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

III. Welcome and Introductions

Committee Chair Jeff Slowey, Council Member, Citrus Heights and Vice Chair Olivia Valentine, Council Member, Hawthorne welcomed the Committee members to the second policy committee meeting of 2019. The Committee members introduced themselves by stating their names, titles, and the cities they represent.

IV. Public Comment

No public comment.

V. Budget Update

Michael Coleman, the League's fiscal policy advisor, and Dan Carrigg, deputy executive director and legislative director, gave a brief budget overview and expanded on what was discussed in the general briefing. Michael Coleman warned that the expected revenue in the May revise of the budget might be different than what was anticipated in January. It was projected that the budget can only sustain an additional three billion dollars of new ongoing spending. With all of the spending proposals on the table and an economy that is expected to slow, the importance of good budgeting and restraint is increasingly important. Next, they discussed several bills that would impact the budget such as affordable housing tax breaks and earned income tax credits. Then they discussed the specifics of the Governor's housing budget proposal and expressed our dedication to continue working with the administration throughout the budget process.

VI. Legislative Agenda

SB 598 (Moorlach) Open Financial Statement and iXBRL.

- The committee was provided with an overview of the legislation and a brief background on Senator Moorlach. The committee then discussed the proposal and provided their initial thoughts and feedback to League staff. There were initial cost concerns and some questioned the need to mandate that all cities use this new language in place of their current technology. The committee discussed the benefit of having every document in the same digital language and the benefits of uniformity across the board.
- The Committee decided to take the staff recommendation and only take this item up for discussion at this meeting.

AB 485 (Medina) Local Economic Development Subsidies-Warehouses.

- The committee was briefed on the bill and the work of the City Manager Sales Tax Working group. Mr. Carrigg stated that based on the recommendations of the working group, this bill would go too far in restricting cities in giving local business subsidies.
- The committee voted to recommend a position of oppose. Motion Carried unanimously.

AB 176 (Cervantes) and SB 162 (Galgiani) CAEAFTA 10-Year Extension

- The committee was provided with an overview of both of these measures and was provided a brief history of the program. This measure would extend the existing California Alternative Energy and Advanced Transportation Financing Authority (CAEAFTA) Program for another decade to January 1, 2031. This program operated through the State Treasurer's Office is authorized to award \$100 million annually in sales tax rebates which affect both state and local shares. The LAO has estimated that a ten-year extension of this program would result in a loss of \$550 million to local governments.
- The committee voted to recommend a position of oppose. Motion Carried unanimously.

VII. Discussion with Senator John Moorlach, Senate District 37

Senator John Moorlach joined the committee to discuss his SB 598. The Senator gave a brief background on the bill and why he believes that it is necessary. The Senator believes that this bill will make it easier to pull information regarding local government coffers and reduce the time and cost associated with doing so. The Senator stated that he does not intend to make this bill retroactive and that going forward this bill will increase transparency. The committee members engaged in discussion with the Senator and voiced their concerns about the bill.

VIII. Legislative Update

Dan Carrigg briefed the committee on the below list of revenue and taxation bills of interest.

Sales and Use Taxes – Update

AB 147 (Burke) Wayfair Implementation

SB 531 (Glazer) Sales Tax Agreements

- Senator Glazer has not reintroduced SCA 20 and instead took one of the City Manager Sales Tax Working Group recommendations and introduced SB 531. The intent of this measure is to limit sales tax agreements so that a city can only give away their portion of revenue and not a neighboring city.
- ACA 13 (Oberholte) is the reintroduction of SCA 20. Dan Carrigg has already spoke with the office and will continue to brief the author on the work that has already been done on this issue.

Tax Increment/Economic Development

- SB 5 (Beall/McGuire) Tax Increment
The committee is briefed on how this tax increment financing program is proposed to work and speaks to its potential benefits.
- AB 11 (Chiu) Redevelopment
- SB 128 (Beall) EIFD (Plus Gov's Opportunity Zone Proposal)
- AB 1259 (Luz Rivas) CA New Markets Tax Credit

Local Revenue and Financing

- ACA 1 (Aguiar-Curry) 55% Vote for Local Infrastructure and Affordable Housing
- AB 213 (Reyes) City Annexation-Restoration of Funding and Incentives
- AB 818 (Cooley) Financing of New City Incorporations
- AB 1637 (Smith) Unclaimed property – will send support letter soon.
- SB 532 (Portantino) Former RDA Bonds: Affordable housing
- Property Tax and the Welfare Exemption

Tax Reform

- SB 522 (Hertzberg) Service tax spot bill
- SCA 3 (Hill) and SCA 4 (Galgiani) Property tax: inheritance exclusion

IX. Local Funding Opportunities

Dan Carrigg briefly spoke to the multiple opportunities that are currently available or soon to be available. Below are several of the current funding opportunities. A more comprehensive list is linked in the general session briefing notes.

- SB 2 Atkins—Funding for Local Planning
- Allocation of Housing Bonds
- Cap and Trade
- Park Bonds
- SB 1 Allocations

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