TRANSPORTATION, COMMUNICATION & PUBLIC WORKS POLICY COMMITTEE
Thursday, April 12, 2018
10:00 a.m. – 3:00 p.m.
Sheraton Fairplex Hotel & Conference Center, 601 West McKinley Avenue, Pomona

Individuals who wish to review the full text of bills included in this packet are encouraged to do so by visiting the League’s website at www.cacities.org and clicking on “Bill Search” found at the left column. Be sure to review the most recent version of the bill.

AGENDA

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

I. Welcome and Introductions

II. Public Comment

III. Ballot Measures Update
- Brandon Castillo - Bicker, Castillo, Fairbanks

IV. Legislative Update (Handout)

V. Legislative Agenda (Attachment A)
3. SB 460 (de León) Telecommunications. Universal Service.

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

VII. State and Federal Drone Policy Update (Handout)

VIII. Panel Discussion – Wireless Facilities – Industry Perspectives
- Speakers: Marc Blakeman, Vice President External Affairs, AT&T
  Teresa Acosta, Vice President, Madaffer Enterprises

IX. Adjournment

Next Meeting: Thursday, June 7, Sacramento Convention Center, Sacramento

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:
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
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.

NOTE: Policy committee members should be aware that lunch is usually served at these meetings. The state’s Fair Political Practices Commission takes the position that the value of the lunch should be reported on city officials’ statement of economic interests form. Because of the service you provide at these meetings, the League takes the position that the value of the lunch should be reported as income (in return for your service to the committee) as opposed to a gift (note that this is not income for state or federal income tax purposes—just Political Reform Act reporting purposes). The League has been persistent, but unsuccessful, in attempting to change the FPPC’s mind about this interpretation. As such, we feel we need to let you know about the issue so you can determine your course of action. If you would prefer not to have to report the value of the lunches as income, we will let you know the amount so you may reimburse the League. The lunches tend to run in the $30 to $45 range. To review a copy of the FPPC’s most recent letter on this issue, please go to www.cacities.org/FPPCletter on the League’s Website.
Transportation, Communications, and Public Works Policy Committee
Legislative Agenda – Action Items
Thursday, April 12, 2018

Staff: Rony Berdugo, Legislative Representative (916) 658-8283

1. **AB 1395 (Chu) State Highways. Department of Transportation. Litter Cleanup and Abatement. Report.**

**Bill Summary:** AB 1395 (Chu) would direct Caltrans to assign the highest priority for litter cleanup and abatement programs to litter deposited along state highways that have the most traffic and litter. Caltrans must also reallocate its existing resources to implement this new requirement. It would also direct Caltrans to conduct an assessment of litter associated problems, litter levels, and litter causes along state highways by January 1, 2020.

**Bill Description:**

Existing Law:
1. Grants Caltrans broad authority to have full possession and control of all state highways, all property and rights in property acquired for state highway purposes.
2. Directs Caltrans to assign a high priority to litter deposited along state highway segments adjoining storm drains, streams, rivers, waterways, beaches, the ocean, and other environmentally sensitive areas.
3. Makes it unlawful to litter on state highways.
4. Authorizes the government agency that is responsible for the maintenance of the highway to remove the material and charge the cost of removal from the person responsible for the dumping.

This bill:
1. Directs Caltrans to do the following:
   a. To assign highest priority for litter cleanup and abatement programs to litter deposited along state highways that have the highest volume of traffic and levels of litter;
   b. Reallocate its existing litter cleanup and abatement resources to carry out this requirement;

**Background:**
This is a two-year bill that was originally introduced address the litter and graffiti problem in the city of San Jose. Since its introduction, this bill was amended to re-prioritize current and future Caltrans litter cleanup and abatement resources to areas of the State that have higher traffic and litter volumes.
According to the author, this bill was introduced out of concern for a perceived pervasive litter problem in San Jose. The author reports that the city found litter to be such a problem that the city council tried to fine Caltrans for failure to keep clean the city’s freeways.

Fiscal Impact:
Assembly Appropriations Committee estimates a cost of $88,500 in transportation special funds for Caltrans to develop the plan required by this bill.

Existing League Policy:
From Transportation, Communications, and Public Works:
- “System Preservation and Maintenance. Given the substantial needs for all modes of transportation, a significant portion of new revenues should be focused on system preservation… (page 46).”
- “The League supports enhanced autonomy for local transportation decision-making and pursues transportation policy changes that move more dollars and decisions to local policy leaders (page 46).”

From Public Safety:
- “The League supports increased authority and resources devoted to cities for abatement of graffiti and other acts of public vandalism (page 42).”

Note: The League does not currently have existing policy on litter cleanup programs or its administration.

Comments:
By reallocating existing and future litter cleanup resources to higher traffic and litter areas of state highways, it could negatively affect smaller and more rural cities. Current law does not prioritize higher traffic and litter areas to receive preferential funding and this could set a precedent for segments of the highway adjacent to rural cities or cities with less traffic being un-prioritized from receiving state funding.

This bill has received no opposition in the Assembly and is currently in the Senate Rules committee.

Support-Opposition:
Support (as of 4.3.18):
Californians Against Waste

Opposition (as of 4.3.18):
None on file.

Staff Recommendation: The committee may wish to consider the following question:

1. Should the League support, oppose, take no position, or suggest amendments on this bill?
Committee Recommendation:

Board Action:


Bill Summary:
AB 1999 (Chau) would impose net neutrality rules on government owned networks (GON’s), owned or operated by a city, community services district, public utility district, or a municipal utility district. Additionally, the bill would delete the requirement that a community services district must locate a private person willing and able to provide broadband services before providing such services on their own.

Bill Description:
Existing law:
1. Allows any municipal corporation to acquire, construct, own, operate, or lease any public utility that provide certain services, including a means of communication.

2. Authorizes a community services district to construct, own, improve, maintain, and operate broadband facilities and provide broadband services if a district is unable to locate a private person willing or able to provide such services.

This bill:
1. Declares the intent of the legislature to protect and promote the Internet as an open platform enabling customer choice, freedom of expression, end-user control, competition, and the freedom to innovate without permission.

2. Prohibits local agencies that operate and provide broadband services from:
   o Blocking lawful content, applications, services, or nonharmful devices,
   o Impairing or degrading lawful Internet traffic on the basis of Internet content, application, or service, or use of a nonharmful device,
   o Engaging in paid prioritization.
   o Unreasonably interfering with or unreasonably disadvantaging:
     ▪ An end-user’s ability to select, access, and use broadband Internet access service or the lawful Internet content, applications, services, or devices of the end-user’s choice, and
     ▪ An edge provider’s ability to make lawful content, applications, services, or devices available to an end-user.

3. Deletes the requirement that a community services district must locate a private person willing and able to provide broadband services before providing such services on their own.

4. Defines the following terms:
o “Broadband Internet access service:” is a mass-market retail service by wire or radio in California that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.

o “Edge provider:” is any individual or entity in California that provides any content, application, or service over the Internet, and any individual or entity in California that provides a device used for accessing any content, application, or service over the Internet.

o “End user:” is any individual or entity in California that uses a broadband Internet access service.

o “Fixed broadband Internet access service:” is any broadband Internet access service that serves end users primarily at fixed endpoints using stationary equipment in California, including fixed wireless services, including fixed unlicensed wireless services, and fixed satellite services.

o “Local agency:” is agency of local government authorized by any other law to provide broadband internet access service, including a city, public capital facilities or projects financed by an infrastructure finance district, a community services district, a public utility district, and a municipal utility district.

o “Mobile broadband Internet access service:” is any broadband Internet access service that serves end users primarily using mobile stations in California.

o “Paid prioritization:” is the management of a broadband provider’s network to directly or indirectly favor some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (1) in exchange for consideration, monetary or otherwise, from a third party, or (2) to benefit an affiliated entity.

o “Reasonable network management:” is a network management practice that has a primarily technical network management justification, but does not include other business practices. A network management practice is reasonable if it is primarily used for, and tailored to, achieving a legitimate network management purpose, taking into account the particular network architecture and technology of the broadband Internet access service.

Background:
In response to the FCC’s recent decision to overturn net neutrality rules, some municipality and state government representatives have indicated that municipally owned networks, known as GON’s, can help save net neutrality by providing equal & open internet that is fast, affordable, and reliable.

Organizations, like the Business Roundtable, however, reject the notion that municipal broadband is better and more affordable than internet service provided by the private sector, especially where internet service already exists.
As it applies to net neutrality, proponents for GON’s argue that internet service owned and operated by the state, local government, small business, and non-profits are the best way to preserve a free and open internet. This year, there are several bills to impose net neutrality rules on private broadband providers and this bill, which would apply those same principles to GON’s. GON proponents argue that municipal governments are accountable to the public, not profits and can implement net neutrality rules and privacy protections that are no longer required of private sector providers. They also argue the GON’s can insert a level of competition in communities where only one or two private providers currently dominate individual markets, which can lower prices and improve performance in speed and reliability even for consumers that choose to stay with their private provider.

**Fiscal Impact:**
The fiscal impact to cities depends on a variety factors, including:
- The decision to deploy or not deploy a GON
- The business model for a GON, such as:
  - A public-private partnership where the municipality owns the fiber in the way it owns a utility and leases out that fiber to private providers that can then sell service to community residents.
    - Under this model, the municipality would generate revenues from the market rates lease it imposes.
  - Locally owned and operated network where the municipality owns the network and operates the service by charging businesses and residents directly for internet access.
- Any additional public benefits the GON may provide, such as free and open Wi-Fi in public spaces.
- Any fees, taxes, or service/utility charges a municipality imposes to maintain and operate the network.

It is unknown if the imposition of net neutrality principles would have any fiscal impact for cities that deploy a GON.

**Existing League Policy:**
From Transportation, Communications, and Public Works:

[…] Traditional franchising at the local level has served the valuable purpose of tailoring service to unique local conditions and needs and assuring responsiveness of providers to consumers. The continued involvement of local government in any new state or federal regulatory scheme by way of locally negotiated agreements is an essential component of telecommunications regulations; best serves the needs of consumers, and is consistent with the goal of providing consumers greater choice in telecommunications options.

Any new state or federal standards must conform to the following principles:

*Revenue Protection*
• Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.

• Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.

• A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.

• Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

Rights-of-Way

• To protect the public's investment, the control of public rights-of-way must remain local.

• Local government must retain full control over the time, place and manner for the use of the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.

Access

• All local community residents should be provided access to all available telecommunications services.

• Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

[...]

Customer Service Protection

1. State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service.

Comments:

• Likely to be set for Wednesday, April 25, 2018 in Assembly Local Government.

• The bill has been double-referred and will also be heard in Assembly Communications and Conveyance.

• The author’s office is willing to work with the League and local government stakeholders to address technical and substantive issues, but they do believe net neutrality rules should apply to both private and public providers.

Support-Opposition:

Support (as of 4.3.18):
None on file.

Opposition (as of 4.3.18):
None on file.
Staff Recommendation: The committee may wish to consider the following question(s):

1. Should the League support, oppose, take no position, or suggest amendments on this bill?

2. Instead of taking a position on this bill, should the League establish a set of guiding principles regarding net neutrality?

Committee Recommendation:

Board Action:

3. **SB 460 (de León). Telecommunications. Universal Service.**

Bill Summary:
SB 460 (de León) would impose net neutrality rules on broadband internet service providers in California and prohibit state agencies from entering into service contracts with any provider that does not adhere to net neutrality rules.

Bill Description:
Existing law:

1. Defines “information service,” “telecommunications,” and “telecommunications carrier.” (47 United States Code §153)

2. Authorizes the FCC, with some exceptions, to forbear from applying any regulation to a telecommunications carrier if the FCC makes specified determinations. States that a state commission may not continue to apply or enforce any provision that the FCC has determined to forbear. (47 United States Code §160)

3. Requires that all charges, practices, classifications, and regulations for and in connection with common carrier interstate communication service by wire or radio be just and reasonable, and any such charge, practice, classification, or regulation that is unjust or unreasonable is declared to be unlawful. (47 United States Code §§201 and 202)

4. Establishes duties on telecommunications carriers regarding interconnection to other telecommunications carriers, among other duties and responsibilities. (47 United States Code §251)

5. Establishes procedures for negotiation, arbitration, and approval of interconnection agreements among telecommunications carriers. (47 United States Code §252)
6. Requires the FCC and each state commission with regulatory jurisdiction over telecommunications services to encourage the deployment on a reasonable and timely basis of advanced telecommunications capability to all Americans by utilizing, in a manner consistent with the public interest, convenience, and necessity, price cap regulation, regulatory forbearance, measures that promote competition in the local telecommunications market, or other regulating methods that remove barriers to infrastructure investment. (47 United States Code §§706 and 1302)

7. Empowers the Federal Trade Commission (FTC) to prevent persons, partnerships or corporations, except common carriers, and specified others, from using unfair methods of competition in or affecting commerce and unfair or deceptive acts of practices in or affecting commerce which give rise to a claim. (15 United States Code §45 (a)(1))

8. Finds and declares the policies for telecommunications in California include, among others, universal service commitment by assuring the continued affordability and widespread availability of high-quality telecommunications services to all Californians. (California Public Utilities Code §709)

9. Prohibits the California Public Utilities Commission (CPUC) from exercising regulatory jurisdiction or control over Voice over Internet Protocol and Internet Protocol-enabled services, except as required or expressly delegated by federal law or expressly directed to do so by statute or as set forth in statute. (Public Utilities Code §710)

10. Establishes the Consumers Legal Remedies Act (CLRA), protects consumers against unfair and deceptive business practices and provides procedures to secure such protection. (Civil Code §1750 et seq.)

11. Prohibits certain unfair methods of competition and unfair or deceptive acts or practices undertaken by any person in a transaction that are intended to result or that result in the sale or lease of goods or services to any consumer, including misrepresentations of the person’s products or those of competitors and false or misleading advertising. (Civil Code §1770)

12. Provides that any consumer who suffers any damage as a result of the use or employment by any person of a method, act, or practice declared to be unlawful by Section 1770 of the Civil Code may bring an action against that person to recover or obtain any of the following: actual damages, but in no case shall the total award of damages in a class action be less than one thousand dollars ($1,000); an order enjoining the methods, acts, or practices; restitution of property; punitive damages; and any other relief that the court deems proper. (Civil Code §1780(a))
13. Authorizes the State Attorney General to prosecute for unfair business competition, false advertising, or fraudulent business practices any business that violates any of California’s false advertising laws. (Business & Professions Code §§17200 and 17204)

14. Establishes laws prohibiting the use of untrue or misleading in advertisements by any person, firm, corporation or association selling a product or service. (Business & Professions Code §17500 et seq.)

This bill:
1. Establishes the California Internet Consumer Protection and Net Neutrality Act of 2018 and state its intent is to ensure that corporations do not impede competition or engage in deceptive consumer practices, and that they offer service to residential broadband Internet customers on a nondiscriminatory basis.

2. Prohibits Internet service providers from:
   - Blocking lawful content, applications, services, or nonharmful devices,
   - Impairing or degrading lawful internet traffic based on Internet content, application, service, or use of a nonharmful device.
   - Engaging in paid prioritization or providing preferential treatment to any Internet customer.
   - Interfering with a customer's ability to select, access, and use broadband Internet access or lawful content, apps, services or devices of the customer's choice, and
   - Engaging in deceptive or misleading marketing practices that misrepresent the treatment of Internet traffic or content to its customers.

3. Makes the remedies and procedures of the CLRA available for violations of its provisions. This bill would also make clear that it does not preclude enforcement of the rights granted therein pursuant to the Unfair Competition Law (Business & Professions Code §17200 et seq.) and the False Advertising Law (Business & Professions Code §17500 et seq.).

4. Prohibits state agencies from contracting with an ISP unless that ISP certifies, under penalty of perjury, that it will not engage in the activities made unlawful by this bill.

5. Defines the following terms:
   - “Broadband Internet access service.” is a mass-market retail service by wire or radio in California that provides the capability to transmit data to and receive data from all or substantially all Internet endpoints, including any capabilities that are incidental to and enable the operation of the communications service, but excluding dial-up Internet access service.
   - “Edge provider.” is any individual or entity in California that provides any content, application, or service over the Internet, and any individual or
entity in California that provides a device used for accessing any content, application, or service over the Internet.

- "Internet service provider:" is a business that provides broadband Internet access service to an individual, corporation, government, or other customer in California.

- “Paid prioritization:" is the management of a broadband provider’s network to directly or indirectly favor some traffic over other traffic, including through the use of techniques such as traffic shaping, prioritization, resource reservation, or other forms of preferential traffic management, either (1) in exchange for consideration, monetary or otherwise, from a third party, or (2) to benefit an affiliated entity.

**Background:**

Net neutrality has been a major focus for cities at the national level. The National League of Cities and the U.S. Conference of Mayors have aggressively opposed the repeal of net neutrality rules.

Following the FCC vote to overturn net neutrality, the National League of Cities (NLC) President Mark Stodola, Mayor of Little Rock, Arkansas, released the following statement:

- “Today, the FCC took action to dismantle net neutrality and broadly preempt state and local authority to regulate broadband. Not only will today’s order harm local broadband choice and preempt local consumer protection authority, it permits internet service providers to engage in anticompetitive behaviors like blocking, throttling and paid prioritization. The FCC has created an environment that will discourage, rather than spur, competition and good citizenship by internet service providers in local markets. We hope that future action on net neutrality will restore and enshrine the ability of cities to protect their residents and promote robust broadband competition in their communities while expanding broadband access in underserved communities.”

In their letter (NLC) responding to the FCC action, they write:

- “We are also concerned that this proposal sets in motion broad unnecessary preemption of local authority over broadband services. State and local governments have traditionally regulated the infrastructure built in their jurisdictions, and provided protections to their residents who purchase broadband services. The order’s broad language intending “to preempt any state or local requirements that are inconsistent with the federal deregulatory approach” is a sweeping overreach that seems to intend to weaken or eliminate any local authority over broadband services at all […]”

NLC contends that cities should be concerned about the repeal of net neutrality rules for three key reasons, including:

- It directly preempts local authority by applying the rollback of these principles not only to federal regulation, but also any state and local regulation of broadband.
• It hurts local broadband choice by returning broadband from a Title II service to a Title service, which means it will be regulated as an information service instead of a telecommunications service which are subject to more stringent common carrier requirements. The removal of the more stringent requirements on private carriers will create more competitive disadvantages for municipal broadband against private broadband.

• It hurts consumers by enabling practices such as blocking, throttling, and paid prioritization when few broadband options exist for consumers and eliminates the ability for state and local government to respond to complaints against such practices.¹

Fiscal Impact:
The fiscal impact to cities is unknown, but it is possible that cities would see cost savings and/or maintain a certain level of broadband performance as a customer if net neutrality principles are preserved. Without such protections, it is unknown which customers, including municipalities, would be charged more for privileged access, speed, or reliability.

Existing League Policy:
From Transportation, Communications, and Public Works:

[…] Traditional franchising at the local level has served the valuable purpose of tailoring service to unique local conditions and needs and assuring responsiveness of providers to consumers. The continued involvement of local government in any new state or federal regulatory scheme by way of locally negotiated agreements is an essential component of telecommunications regulations; best serves the needs of consumers, and is consistent with the goal of providing consumers greater choice in telecommunications options.

Any new state or federal standards must conform to the following principles:

Revenue Protection
• Protect the authority of local governments to collect revenues from telecommunications providers and ensure that any future changes are revenue neutral for local governments.
• Regulatory fees and/or taxes should apply equitably to all telecommunications service providers.
• A guarantee that all existing and any new fees/taxes remain with local governments to support local public services and mitigate impacts on local rights-of-way.
• Oppose any state or federal legislation that would pre-empt or threaten local taxation authority

Rights-of-Way

- To protect the public’s investment, the control of public rights-of-way must remain local.
- Local government must retain full control over the time, place and manner for the use of the public right-of-way in providing telecommunications services, including the appearance and aesthetics of equipment placed within it.

Access

- All local community residents should be provided access to all available telecommunications services.
- Telecommunications providers should be required to specify a reasonable timeframe for deployment of telecommunications services that includes a clear plan for the sequencing of the build-out of these facilities within the entire franchise area.

[...]

Customer Service Protection

6. State consumer protection laws should continue to apply as a minimum standard and should be enforced at the local level. Local governments should retain the authority to assess penalties to improve customer service.

Comments:

- Many states are pursuing their own legislation to impose net neutrality principles on private broadband providers in response to the FCC action.
- Furthermore, the public overwhelmingly supports net neutrality principles.
- The League may want to take a position supportive of net neutrality principles consistent with the National League of Cities and the U.S. Conference of Mayors.

Support-Opposition:

Support (as of 4.3.18):
ADT Security Services
Center for Accessible Technology
City of Santa Monica
The Greenlining Institute
The Utility Reform Network

Opposition (as of 4.3.18):
Asian Pacific Islander American Public Affairs Association
Asian Pacific Islander American Public Affairs Association Bay Area Region
AT&T
Black Business Association
Black Chamber of Orange County
California Cable & Telecommunications Association
California Chamber of Commerce
California Manufacturers & Technology Association
Carmel Valley Chamber of Commerce
Central City Association of Los Angeles
Chambers of Commerce Alliance of Ventura and Santa Barbara Counties
Coalition for Responsible Community Development
Community Youth Center of San Francisco
Congregations Organized for Prophetic Engagement
CONNECT
Consolidated Communications
CTIA
Escondido Chamber of Commerce
Exceptional Parents Unlimited
Fresno Chamber of commerce
Frontier Communications
Greater Coachella Valley Chamber of Commerce
Greater Los Angeles African American Chamber of Commerce
Hacker Lab
Imperial Valley LGBT Resource Center
Inland Empire Economic Partnership
Innovation Tri-Valley Leadership Group
International Leadership Foundation
International Leadership Foundation Orange County Chapter
Janet Goeske Foundation
Jobs and Housing Coalition
KoBE Government Contracting Alliance
LEAD Projects/NetRoots
Lighthouse Counseling and Family Resource Center
Monterey County Business Council
Monterey Hospitality Benefits Group
Music Changing Lives
OCA Silicon Valley
Oceanside Chamber of Commerce
Organization of Chinese Americans Sacramento Chapter
Orange County Business Council
Orange County Hispanic Chamber of Commerce
Pacific Grove Chamber of Commerce
San Diego North Economic Development Council
San Diego Regional Chamber
San Gabriel Valley Economic Partnership
San Marcos Chamber of Commerce
Santa Ana Chamber of Commerce
Sprint
T Mobile
TechNet
The Fresno Center
The RightWay Foundation
Tracfone
UFCW Local 648
The committee may wish to consider the following question(s):

1. Should the League support, oppose, take no position, or suggest amendments on this bill?

2. Instead of taking a position on this bill, should the League establish a set of guiding principles regarding net neutrality?

Committee Recommendation:

Board Action:


Bill Summary:
AB 2681 (Nazarian) would require each building department of a city or county to create an inventory of potentially vulnerable buildings as it relates to seismic safety and require that information of inventory be submitted to the California Office of Emergency Services.

Bill Description:
Existing law:
1. Establishes a program within all cities and counties and their portions located within seismic zone four to identify all potentially hazardous buildings and to establish a program for mitigation of identified potentially hazardous buildings.

2. Requires local building departments shall do all of the following:
   o Identify all potentially hazardous buildings within their respective jurisdictions on or before January 1, 1990. This identification shall include current building use and daily occupancy load. Allows local building departments to establish a schedule of fees to recover the costs of identifying potentially hazardous buildings.
   o Establish a mitigation program for potentially hazardous buildings to include notification to the legal owner that the building is considered one of a general type of structure that historically has exhibited little resistance to earthquake motion. The mitigation program may include the adoption by ordinance of a hazardous buildings program, measures to strengthen buildings, measures to change the use to acceptable occupancy levels or to demolish the building, tax incentives available for seismic rehabilitation, low-cost seismic rehabilitation loans.
This law:

2. Finds and declares the following:
   o The devastation left by hurricanes Harvey, Irma, and Maria, and the September 2017 earthquakes in Mexico is a wake-up call for California.
   o The most recent California ShakeOut study estimates that a major quake along the San Andreas Fault could cause more than two hundred billion dollars ($200,000,000,000) in physical and economic damage, and could result in up to 1,800 or more deaths.
   o The chronic labor and affordable housing shortages from which most cities in California already suffer would be made dramatically worse for years to come following such an event.
   o California contains thousands of buildings that are known to present a heightened earthquake risk of death, injury, and damage based on their age, structural system, size, and location.
   oProtecting our state's economy, affordable housing stock, and social fabric from the long-lasting turmoil of earthquakes is of utmost importance, and the failure to do so could impact Californians' quality of life for decades.
   o Because the state represents the sixth largest economy in the world, the aftershocks of such an event would have national and even global impacts.

3. Requires each building department of a city or county to create an inventory of potentially vulnerable buildings as it relates to seismic safety and require that information of inventory be submitted to the California Office of Emergency Services. Vulnerable buildings are defined as:
   o Building is located in a region with a peak ground acceleration equal to or exceeding 0.3g determined by the 2008 U.S. Geological Survey National Seismic Hazard Model gridded data.
   o Building is located in the counties of Monterey, San Diego, San Luis Obispo, or Santa Barbara.
   o Building was approved using the 1995 or earlier edition of the California Building Code that consists of any of the following:
     ▪ Steel frame buildings with moment frame connections.
     ▪ Soft, weak, or open front walls at the ground floor level of light framed buildings.
     ▪Concrete or masonry building with flexible diaphragms.
     ▪ Buildings with precast, prestressed, or post-tensioned concrete.

Excludes from the definition:
   o Building constructed as a dwelling for four or fewer families.
   o Hospitals, public schools, or buildings owned by the state or federal government.
4. Requires, on or before January 1, 2020, each building department shall notify the owner of any building identified by the building department as a potentially vulnerable building of the status of the owner’s building.

5. Requires, on or before January 1, 2021, an owner who has received a notification from a building department submit a letter from a licensed professional engineer to the building department stating whether the building meets the definition of a potentially vulnerable building.

6. Specifies that no city or county, nor any city or county employee shall be liable for damages for injury to persons or property, resulting from an earthquake based on any inventory, assessment, or evaluation performed, any ordinance adopted, or any other action taken because of this bill’s requirements.

**Background:**
This bill is author sponsored and prompted by the most recent California Shakeout study, which estimates that a major quake (7.8 earthquake) along the San Andreas Fault could cause more than two hundred billion dollars ($200,000,000,000) in physical and economic damage, and could result in up to 1,800 or more deaths.²

**Fiscal Impact:**
The League is currently conducting a survey to determine the fiscal impact to cities for compliance with the new seismic safety related activities established in this bill. It is likely that most of the costs can be absorbed through existing practice as well as through fees imposed on building owners to comply with this bill.

However, the additional requirement to submit these inventories to the Office of Emergency Services is a new requirement that may have some fiscal impact.

**Existing League Policy:**
The League’s Transportation, Communications, and Public Works Policy Committee does not have any existing policy on seismic safety nor inventories of any public buildings, let alone potentially vulnerable buildings.

**Comments:**
- AB 2681 provides the League an opportunity to establish policy guidance on some of the following issues, including:
  - Seismic safety
  - Building inventories
  - Fiscal considerations for emergency preparedness measures

**Support-Opposition:**
Support (as of 4.3.18):
None on file.

Opposition *(as of 4.3.18)*:
None on file.

**Staff Recommendation:** The committee may wish to consider the following question:

1. Should the League support, oppose, take no position, or suggest amendments on this bill?

2. Instead of taking a position on the bill, should the League establish policy guidance on seismic safety and efforts to improve

**Committee Recommendation:**

**Board Action:**
PROPOSED UPDATE
LEAGUE DISASTER RELIEF AND PREVENTION POLICIES
April 2018

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

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

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

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

League policy committee staff will revise these policies to reflect committee input and produce an updated summary for the League Board.
COMMUNITY SERVICES POLICY COMMITTEE
PUBLIC SAFETY POLICY COMMITTEE
Topic: Better Natural Disaster Preparation

Background:
Safety of the public during a disaster depends on widespread notification of residents as well as carefully coordinated emergency shelters and local services. Among the issues communities must address during disasters are health and mental health care needs, animals, elderly, homeless, and medically-fragile individuals.

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

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

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

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

Committee Action:

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

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

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

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

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

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

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

Committee Action:

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

Topic: Utilities

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

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

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

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

Committee Action:

Board Action:
California Emergency/Disaster Response Bills

Better Preparedness

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

Insurance

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

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

Other
- AB 425 (Caballero D) Timber harvesting plans: exemptions: temporary roads
- AB 898 (Frazier D) Property taxation: revenue allocations: East Contra Costa Fire Protection District
- AB 1283 (Rodriguez D) Mutual aid: reimbursements: volunteer firefighters
- AB 1765 (Quirk-Silva D) Building Homes and Jobs Act: fee waiver: states of emergency
- AB 1919 (Wood D) Price gouging: state of emergency
- AB 2089 (Mathis R) Volunteer firefighters: background checks
- AB 2092 (Acosta R) Board of Forestry and Fire Protection
- AB 2228 (Wood D) Education finance: school apportionments: wildfire mitigation
- AB 2380 (Aguirar-Curry D) Fire protection: privately contracted private fire prevention resources
- AB 2585 (Patterson R) Prescribed burns: burn managers: liability
- AB 2672 (Patterson R) California Global Warming Solutions Act of 2006: wildfires
- AB 2687 (Quirk-Silva D) Office of Small Business
- AB 2727 (Flora R) Personal income taxes: credit: volunteer firefighters
- AB 2966 (Aguiar-Curry D) Disaster relief. State share of dead and dying tree removal up to 100%
- AB 3122 (Gallagher R) Taxation: disaster relief
- ACA 24 (Waldron R) Property taxation: transfer of base year value: disaster relief
- SB 896 (McGuire D) Aggravated arson
- SB 912 (Beall D) Housing
- SB 914 (Dodd D) Local agency contracts
- SB 1035 (Jackson D) General plans
- SB 1091 (Stone R) Property taxation: transfer of base year value: disaster relief
- SB 1415 (McGuire D) Building standards: violations