

Oct. 15, 2013
Issue #111

League-Opposed Workers' Compensation Statute of Limitations Bill Vetoed *Milestone Reached as Gov. Brown Acts on Remaining 2013 Legislation*

This past Sunday marked the Governor's signing deadline for all 2013 legislation. Upon issuing his last legislative update, the Governor signed a total of 1,003 measures and vetoed 96. Since taking the helm as the state's top governing official for the third time in January 2011, Gov. Jerry Brown has signed approximately 2,714 measures out of the 3,011 sent to his desk, or about 90 percent. As for vetoes, the Governor has only rejected some 297 bills, or almost 10 percent. Such liberal use of his signing pen this and previous years is of note as it may signal what one should expect during the final half of the 2013–14 biennial session. *For more, see Page 2.*



U.S. Supreme Court Rules California Must Reduce Prison Population by 10,000 by Jan. 27, 2014

The state of California was dealt a blow today when the U.S. Supreme Court denied Gov. Jerry Brown's appeal that requested an additional two years to fulfill the Court's order to reduce prison to 137.5 percent of capacity by Jan. 27, 2014. A previous [court order](#) extended the deadline from Dec. 31, 2013 by 27 days. The state has since 2006 reduced its prison population by 42,000. More than half (25,000) of that reduction has occurred following the enactment of [AB 109](#) in 2011. To meet the court order the state must lower that population by an additional 10,000. *For more, see Page 5.*



Governor Vetoes Bill to Collect Taxes on Prepaid Mobile Services

Last week Gov. Jerry Brown vetoed [AB 300 \(Perea\)](#), a bill that would have established a collection method for state and local taxes and fees levied on consumers of prepaid mobile telephone services. Without AB 300, there is no standard or reliable process for cities to collect utility users taxes on prepaid mobile services. While the League didn't take an official position on the bill this year, legislative representatives were active in negotiations to act as a conduit for all California cities and ensure the final product contains workable policies. *For more, see Page 5.*

League-Opposed Bill Vetoed

[AB 1373 \(John A. Pérez\): Public Safety Workers' Compensation Death Benefits](#)

Status: Vetoed, Oct. 13

League Position: Oppose, **HOT BILL**

AB 1373 (Pérez) was a labor-supported reintroduction of a [bill vetoed](#) by the Governor last year. Substantially similar to its predecessor, AB 1373 provisions sought to extend the statute of limitations from 240 weeks to 480 weeks for presumptive death benefit claims for cancer, tuberculosis or MRSA to be filed on behalf of a firefighter or peace officer. In his [veto message](#) this year, the Governor reiterated his previous reasons for not signing the bill; which included a lack of substantive information on the subject to “make a more informed policy and research based decision on this question in the future.”

If AB 1373 had been signed, local governments and agencies would have seen increased costs. While the League believes public safety officers deserve to be fairly compensated for on-the-job injuries, a lack of sufficient data to validate such an extension was of great concern. Even more so, the unknown fiscal implication of the bill was another significant issue.

League-Supported Bills That Were Signed

[AB 532 \(Gordon\): Local Housing Trust Fund](#)

Status: Signed, Oct. 12

League Position: Support

In 2006 voters passed [Proposition 1C](#) providing \$2.85 billion in bonds for a variety of local affordable housing and other development projects. Under initiative provisions, the Local Housing Trust Fund (LHTF) Program was established to distribute an allotment of matching funding grants to cities and counties for affordable housing projects. Monies were distributed to fund new and existing LHTFs separately. A sunset date of sorts was placed in the measure requiring that funds not awarded by November 2013 revert to the CalHome program. While the funding for existing housing trust funds has been exhausted, there remains over \$8 million for newly formed trust funds. Without AB 532, the remaining funds would be transferred to the Self-Help Housing Program and this precious funding source would not be available to California's most needy residents.

[AB 986 \(Bradford\): Flash Incarceration in City Jails](#)

Status: Signed, Oct. 13

League Position: Support

AB 986 authorizes “flash incarceration” of offenders under post-release community supervision (PRCS) to occur in municipal as well as county jails. [California Penal Code Section 3454](#) defines flash incarceration as a “period of detention in county jail due to a violation of an offender’s conditions of PRCS. The length of the detention period can range between one and 10 consecutive days.” In short, flash incarcerations are more frequent, short-term punishments for violations of PRCS.

Since the implementation of [AB 109](#) in 2011, county jails, many of which were already operating under self-imposed or court-ordered population caps, have been heavily impacted with increased numbers of offenders who previously would have been incarcerated in state prison. AB 986 is a positive step toward restoring a meaningful deterrent for this class of offenders, without sending them back to state prison.

League-Supported Bills That Were Vetoed

[AB 564 \(Mullin\): Local Certainty in Department of Finance Finding of Completion](#)

Status: Vetoed, Oct. 13

League Position: Support, Sponsor

Despite receiving unanimous support in legislative policy committees and both floors, Gov. Jerry Brown still [vetoed](#) AB 564. The bill obtained a high level of bi-partisan support because it simply reinforces the intent of the Legislature that successor agencies would be able to access and rely upon the specific benefits listed in statute once they received a finding of completion from the Department of Finance (DOF).

Sponsored by the League, AB 564 would have clarified statute to reflect legislative intent so successor agencies could rely on access to benefits over the long term. Under AB 564, after the initial approval of oversight board action by DOF, successor agencies and other public and private entities would have been reassured of the decision. Such clarification could prevent unnecessary future disputes, confusion and litigation, and assisted the affected communities in moving on from redevelopment agency dissolution.

[AB 1229 \(Atkins\): Local Inclusionary Housing Ordinances](#)

Status: Vetoed, Oct. 13

League Position: Support, **HOT BILL**

AB 1229 would have restored local inclusionary housing ordinances as they pertain to rental housing to address the [Palmer/Sixth Street Properties L.P. v. City of Los Angeles, 175 Cal. App. 4th 1396 \(2009\)](#) decision. In its ruling, the courts took a very broad interpretation of the [Costa-Hawkins Act](#) and its application on inclusionary housing ordinances, opining that inclusionary housing ordinances with regards to rental housing conflicted with and were preempted by the Costa-Hawkins Act. Costa-Hawkins was intended to restrict systems of rent control, not preclude rent restrictions on inclusionary housing.

Inclusionary housing programs are an important tool in the production of affordable new homes for working families. Compounded with the state's dissolution of redevelopment agencies, the [vetoing](#) of AB 1229 only exacerbates problems cities are facing surrounding affordable housing.

League-Opposed Bills That Were Signed

[AB 537 \(Bonta\): Arbitration and Tentative Agreement Impasse](#)

Status: Signed, Oct. 13

League Position: Oppose, **HOT BILL**

AB 537 deletes the requirement that a governing body adopt a memorandum of understanding (MOU) and introduces new terminology that is not defined, which will result in confusion, likely disputes, and possible delays.

The bill changes decades of local labor relations law by deleting the requirement that the MOU be presented for approval to the governing body after agreed upon by the local agency representatives and ratified by the employee organization. AB 537 requires that the governing body accept or reject a "tentative agreement" reached by the parties. This new practice would drastically change the widely followed procedural requirement that a governing body approve the final MOU implemented once agreed upon and ratified by the parties.

[SB 7 \(Steinberg\): Public Works Prevailing Wage Requirements for Charter Cities](#)

Status: Signed, Oct. 13

League Position: Oppose, **HOT BILL**

Under SB 7, state construction funding will be withheld from up to 51 charter cities, with a combined population of over five million people, in an effort to leverage state prevailing wage policies on projects solely funded by local tax dollars. The Supreme Court recently [ruled](#) that charter cities had the right under the Constitution to decide locally whether to require state prevailing wages for projects funded by local tax dollars. SB 7 nullifies that decision by imposing unconstitutional conditions on state public works grants that the voters in these cities help fund with their own state tax payments. In many cases, this will increase the cost of local projects.

[SB 313 \(De León\): Procedures for Public Safety Officers on Brady Lists](#)

Status: Signed, Oct. 12

League Position: Oppose, **HOT BILL**

The League believes SB 313 will create a dangerous and burdensome public safety precedent in that it, in some circumstances, prevents cities and public agencies from replacing or reprimanding officers who have been placed on “Brady” lists. The term “Brady” list stems from the legal standard established in [*Brady v. Maryland* \(1963\) 373 U.S. 83](#) where public safety officer names are identified by local district attorneys as untrustworthy or dishonest and placed on a Brady list. In some circumstances, such officers have engaged in lying in an official capacity or similar acts that can tarnish an officer’s credibility.

This measure ignores the underlying problem, which is the lack of due process or appeal in some jurisdictions. The focus of any legislative efforts should have been on amending the implementation of due process or appeals when an officer has been placed on a Brady list. Instead of addressing these problems, the bill now limits the authority of public agency employers to appropriately address personnel matters.

Status Update

Below is a breakdown on how many League bills have been signed or vetoed this year:

- League-Supported Bills Signed:
 - [AB 440 \(Gatto\): Hazardous materials: releases: local agency cleanup.](#)
 - [AB 483 \(Ting\): Local government: taxes, fees, assessments, and charges: definitions.](#)
 - [AB 513 \(Frazier\): Tire recycling program: rubberized asphalt.](#)
 - [AB 532 \(Gordon\): Local Housing Trust Fund.](#)
 - [AB 576 \(V. Manuel Pérez\): Revenue Recovery and Collaborative Enforcement Team Act: pilot program.](#)
 - [AB 639 \(John A. Pérez\): Veterans Housing and Homeless Prevention Bond Act of 2014.](#)
 - [AB 719 \(Hernandez\): Energy: energy efficiency: street light pole.](#)
 - [AB 748 \(Eggman\): Judgments against a public entity: interest.](#)
 - [AB 986 \(Bradford\): Postrelease community supervision: flash incarceration: city jails.](#)
 - [AB 1042 \(Hall\): Indian Gaming Special Distribution Fund.](#)
 - [AB 1090 \(Fong\): Public officers: conflicts of interest: contracts.](#)
 - [AB 1253 \(Blumenfield\): Vehicles: mobile advertising displays.](#)
 - [SB 31 \(Padilla\): Outdoor advertising displays: arenas.](#)
 - [SB 43 \(Wolk\): Electricity: Green Tariff Shared Renewables Program.](#)
 - [SB 191 \(Padilla\): Emergency medical services.](#)
 - [SB 211 \(Hernandez\): Tax administration: disclosure of information: Franchise Tax board and cities.](#)
 - [SB 254 \(Hancock\): Solid waste: used mattresses: recycling and recovery.](#)
 - [SB 470 \(Wright\): Community development: economic opportunity.](#)
 - [SB 510 \(Jackson\): Land use: subdivisions: rental mobilehome park conversion.](#)
 - [SB 684 \(Hill\): Advertising displays: redevelopment agency project areas.](#)
- League-Opposed Bills Vetoed:
 - [AB 729 \(Hérmendez\): Evidentiary privileges: union agent-represented worker privilege.](#)
 - [AB 1235 \(Gordon\): Local agencies: financial management training.](#)
 - [AB 1373 \(John A. Pérez\): Workers' compensation: firefighters and peace officers.](#)
- League-Opposed Bills Signed:
 - [AB 218 \(Dickinson\): Employment applications: criminal history.](#)
 - [AB 537 \(Bonta\): Meyers-Milias-Brown Act: impasse procedures.](#)
 - [AB 562 \(Williams\): Economic development subsidies: review by local agencies.](#)
 - [AB 691 \(Muratsuchi\): State lands: granted trust lands: sea level rise.](#)
 - [AB 792 \(Mullin\): Utility user tax: exemption: distributed generation systems.](#)
 - [AB 1149 \(Campos\): Identity theft: local agencies.](#)
 - [SB 7 \(Steinberg\): Public works: charter cities.](#)

- [SB 313 \(De León\): Public Safety Officers Procedural Bills of Rights Act.](#)
- League-Supported Bills Vetoed:
 - [AB 564 \(Mullin\): Community redevelopment: successor agencies.](#)
 - [AB 841 \(Torres\): Junk dealers and recyclers: nonferrous materials: payment.](#)
 - [AB 683 \(Mullin\): Local government: fines and penalties: assessments.](#)
 - [AB 1229 \(Atkins\): Land use: zoning regulations.](#)
 - [SB 804 \(Lara\): Solid waste: energy.](#)

For detailed information regarding bill signings and vetoes, please see the Governor's [press release website](#).

'Prison Population' Continued from Page 1...

The Governor has repeatedly warned that the Court's order would threaten public safety and has filed several appeals. The state will now proceed to implement SB 105 (summary below), with the amended deadline of Jan. 27. Rehabilitation funding that is slated to go to each county to help manage their offender programs is contingent on the outcome of a meet-and-confer process between the parties ordered by the federal court. This may result in a further extension of the inmate release deadline, however this process has not yet concluded.

A deal struck this summer by Governor Brown and Senate President Pro Tem Darrell Steinberg (D-Sacramento) authorizes the county funding. For more on SB 105, please see "[Governor's Prison Plan Supported by the League Among Local Government and Public Safety Groups](#)," *CA Cities Advocate*, Aug. 30, 2013.

[SB 105 \(Steinberg\): Corrections.](#)

Chapter 310, Statutes of 2013

This measure implements the Governor's plan to reduce California's prison population to 137.5 percent of capacity by Dec. 31, 2013. Re-opens 14 community corrections facilities (CCFs) across the state to house up to 3,000 inmates, and authorizes up to 5,000 inmates to be transferred out of state, including temporary authority to perform involuntary transfers, set to expire in three years. Projected cost of \$1.13 billion through the end of FY 2015–2016, with additional annual costs of about \$350 million to maintain the CCFs.

For more, please see "[Court Grants Fraction of Brown's Stay Request](#)," *CA Cities Advocate*, Sept. 25, 2013.

'AB 300' Continued from Page 1...

In his [veto message](#), the Governor called the bill duplicative and complex, and said the bill would result in significant and unnecessary costs to the state. He asked the author to work on a more cost effective solution.

The League will be meeting with the Governor's office and other stakeholders over the legislative interim recess to discuss next steps for the bill. For more information on AB 300, please see "[Collection Method for Taxes on Prepaid Mobile Services Sent to Governor](#)," *CA Cities Advocate*, Sept. 19, 2013.
