

## GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS POLICY COMMITTEE HIGHLIGHTS

Friday, January 18, 2019

Sacramento Convention Center, 1400 J Street, Room 203, Sacramento

### **ATTENDANCE**

Members: Richard Constantine (Chair), Jess Talamantes (V.Chair), Michael Allawos, Bill Baber, Patricia Black, Lisa Blackmon, Rick Bonilla, Matthew Bronson, Harold Duffey, Kerry Eden, Leon Garcia; Jennifer Gomez, Dean Grose, Rene Guerrero, Jason Haber, George Harris, Mike Healy, Christy Holstege, Davina Hurt, Randi Johl, Jelani Killings, Sara Lamnin, Joseph Lillio, Joe Lopez, Polly Low, Daniel Martinez, Laurie Murray, Lori Ogorchock, Glenn Parker, La Vonda Pearson, Pam Powell, Steve Sanchez, Ernie Schmidt, Robert Schultz, Corey Sainez, Margaret Silveira, Arne Simonsen, Susan Tavalero, Acquanetta Warren

League Partner: Algeria Ford

Staff: Dane Hutchings

### **I. State Budget and General Briefing**

On Friday, Olivia Valentine, Vice Chair, League Revenue and Taxation Policy Committee, gave a brief introduction to the general session. After her welcome, she introduced League President Jan Arbuckle and League Executive Director Carolyn Coleman who welcomed the committee members to the general session. League lobbyists, then gave a condensed version of the following presentation, prior to the arrival of two special guest speakers: Governor Newsom's Cabinet Secretary Ana Matosantos and Chief Deputy Cabinet Secretary for Executive Branch Operations Jason Elliott.

Deputy Executive Director/Legislative Director, Dan Carrigg, gave a brief overview that highlighted the importance of the League's 2019 Strategic Goals, and discussed both the state budget and legislative issues. Mr. Carrigg then introduced Michael Coleman, the League's Fiscal Policy Advisor, to discuss the Governor's January budget.

Mr. Coleman gave a short PowerPoint presentation on the 2019-20 January Governor's budget. Governor Newsom's proposed state budget includes \$144 billion in General Fund spending and when combined with proposed special fund and bond proceed allocations, totals \$209 billion. Mr. Carrigg explained that while general fund expending has increased, Governor Newsom was being fiscally prudent. The budget proposal increased the Rainy Day Reserve to \$15.3 billion, paying down a total of \$4.1 billion state pension liabilities, allocating an additional \$700 million to a social safety net reserves and \$2.3 billion in general reserves. Mr. Coleman warned that former Governor Brown warned of a looming recession and that the state needs to be prepared for a downturn. Also discussed the makeup of the current state Legislature, including the fact that the Democrats now have a "super-duper" majority in both legislative houses. For more information about the impacts of the budget on cities, please review the [League's analysis](#), and information on Mr. Coleman's website [here](#). Mr. Coleman then gave Dan Carrigg the floor.

Mr. Carrigg elaborated on some of the line items included in Governor Newsom proposed budget. This included homelessness funding, mental health, and disaster recovery. Mr. Carrigg also explained the new ballot initiative process where ballot measure sponsors can now pull measures from the ballot in exchange for legislative deals. 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 be active in advocating for legislation that will help local governments address their housing challenges while preserving appropriate local control functions.

Dane Hutchings, League Legislative Representative, briefed members on issues related to governance, transparency, and labor relations. He briefly discussed sexual harassment prevention legislation that would provide rebuttable presumptions and joint-several liability with contractors. Mr. Hutchings also mentioned divestment measures, the Governor's plan to extend paid family leave, and the pending outcome of the "Cal-Fire" case. He stressed that cities are struggling with increasing costs and securing additional flexibility for cities is a priority.

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 noted that the recently authorized Bureau of Cannabis Control regulations authorizing cannabis deliveries in any jurisdiction in the state would be harmful to cities and will take effect in the spring. In addition, Mr. Harvey discussed the topic of police use of force and the likely re-introduction of a police use of force bill from last year, which was authored by Assembly Member Weber.

Erin Evans-Fudem, League Legislative Representative, highlighted evolving environmental and community issues that will be big in 2019. Ms. Evans-Fudem discussed the programs and proposed funding allocations in the cap-and-trade program. She explained how those programs would continue to be a priority for cities. In addition, Ms. Evans-Fudem discussed the importance for cities to engage in discussions about organic waste recycling regulations, disaster relief and wildfire response legislation, the ramifications of the PG&E declared forthcoming bankruptcy, and clean drinking water legislation.

Rony Berdugo, League Legislative Representative, discussed transportation, communications, and public works. Chief among them was the concept Governor Newsom proposed to tie transportation dollars from Senate Bill 1 (Beall, 2017) to housing production. Mr. Berdugo also summarized the recent Federal Communication Commission's ruling that preempts cities' ability to site telecommunications infrastructure. This proposal is similar to SB 649 (Hueso, 2017) that was vetoed by Governor Brown in 2017 and garnered over 320 opposition letters from cities.

Lastly, Dan Carrigg briefly talked about issues related to revenue and taxation. Mr. Carrigg informed the general session about the Wayfair court case and bills that could affect city sales tax. Mr. Carrigg then welcomed Governor Newsom's Cabinet Secretary Ana Matosantos and Chief Deputy Cabinet Secretary for Executive Branch Operations Jason Elliott to begin their presentation.

#### Special Presentation and Discussion with Governor's Representatives:

Ms. Matosantos and Mr. Elliott spoke to the general session about Governor Newsom's budgetary and legislative priorities this year. Some of these items included, housing, transportation, and healthcare. Ms. Matosantos stressed that the administration wants to work with the League and local governments on a variety of issues. Mr. Elliott talked about his decade of city service in San Francisco and how he wants to work with local governments to implement Governor Newsom's agenda. Then Ms. Matosantos and Mr. Elliott took questions from the

general membership. The questions from the general session ranged, but included disaster and emergency response, implementation of the Wayfair decision, addressing homelessness, and tying transportation dollars to housing production. It was encouraging to hear Ms. Monasatnos say that cities should not be blamed or punished for things they do not control when it comes to the production of housing. After they took numerous questions, the general session was adjourned and policy committees commenced.

## **II. Welcome and Introduction**

Chair Constantine introduced himself, followed by Vice Chair Talamantes and League staff. This was followed by introductions from each committee member which included names, cities, position, and tenure or novice on the committee. Notably, there were many new committee members.

## **III. Public Comment**

No Public Comment.

## **IV. Overview of Parliamentary Procedure and Roberts Rules**

Members reviewed the conduct and procedure of the policy committee that will generally follow Roberts Rules of Order. League Staff will be a resource to ensure proper order of business and action.

## **V. Committee Orientation**

The Committee reviewed the jurisdiction of the committee and role of vetting policies for Board Review.

## **VI. Existing League Policy**

League staff briefed committee members on the League's publication of Summary of Existing Policy and Guiding Principles, specifically the sections relating to Governance, Transparency, and Labor Relations. League staff then went on to explain the process of updating the policy including the timeline, methods, history, and how the policy shapes the decisions lobbyists make in regard to legislative positions.

## **VII. Legal Update: Pensions**

Linda Ross, of Renne Public Law Group, gave a presentation to the committee about recent pension cases and their history as it relates to the "California Rule" which 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.

Ms. Ross then went on to highlight a few key pending cases before the California Supreme Court. Of note are the following cases: [\*Marin Assn. of Public Employees v. Marin County Employees Retirement Sys. \(2016\)\*](#), [\*Cal. Fire Local 2881 v. CalPERS \(2016\)\*](#), and [\*Alameda Deputy Sheriffs' Assn., et al. v. Alameda County Employees' Retirement Assn, et al. \(2018\)\*](#). The highlighted cases address the issues of the "comparable new advantage" requirement and what constitutes a "reasonable change" to vested pension benefits and the right to vested "airtime."

Ms. Ross concluded her presentation with a prospective look into the potential rulings for the highlighted cases as well as the pension system as a whole. Though it is hard to determine just how these cases will conclude, a shift in the structure of the pension system is a likely outcome.

Concerns regarding rising costs, missed employer contribution payments, and a total system collapse may affect what happens next. A link to Ms. Ross' presentation can be found [here](#).

#### **VIII. League Strategic Goals for 2019**

The Committee reviewed the League's 2019 Strategic Goals. The goals are as follows:

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

#### **IX. 2019 Committee Work Program**

The committee deliberated the 2019 work plan which will set the course for committee actions and League staff work. This plan included the aforementioned strategic goals along with specific issues related to Governance, Transparency, and Labor Relations. After much thought and attention given to the need to have the committee work on issues relevant to its entire jurisdiction, the committee approved the following 2019 work plan:

- **Public Pension Liability:** In addition to supporting strategic goal 3, the committee will discuss ways to create a cohesive and inclusive statewide messaging strategy to guide City officials in communicating these challenges to their employees, bargaining entities and residents.
- **Governance and Transparency:** Develop understanding of and advocate for effective policies regarding transparency and governance including but not limited to: California Public Records Act and Ralph M. Brown Act.
- **Elections:** Work with key stakeholders and the legislature to explore further legislation surrounding California Voting Rights Act (CVRA) related litigation and compliance.
- **Monitor Legislation:** Continue to monitor legislation as it relates to the subject matter of this committee. The committee will also meet via webinar, if necessary, to give staff feedback and take legislative positions when appropriate.

#### **X. Brown Act Clarification: Use of Social Media by Local Elected Officials**

The committee engaged in a discussion regarding the following question: Should the League sponsor a measure to clarify the Brown Act to allow city council members to comment and interact with other council members and the public via social media platforms? The League's Brown Act Committee recommended an update to the Brown Act, specifically, a clarification as to whether a "like" or comment on a social media post from one city official's page to another constitutes a violation.

**Discussion:** The committee expressed frustrations regarding ambiguities within the Brown Act and the gray areas encountered when adhering to its standards. Some of these ambiguities relate to expressions of collegial support vs. an actual meeting, if liking a post using expressive emoticons blurs the lines between what is appropriate and what is not, and if there should be a defined difference between a "like" and a "comment". Additionally, committee members noted that advancements in technology have the potential to date any choice to legislate this matter almost immediately. After a thoughtful conversation, the Committee moved to take the issue back to League staff to draft a more in-depth analysis including potential implications in engaging in legislation and any case law relating to the issue. The motion passed unanimously, and the committee plans to revisit this issue in the future, pending analysis.

**XI. Legislative Update**

League Committee Staff Dane Hutchings briefed committee members on legislative trends to look out for during 2019. These trends included labor related issues like expanded paid family leave, #MeToo legislation, and workers compensation expansion. Pension related issues like divestment measures and the outcomes of the “Cal-Fire” case are also on the horizon.

Additionally, elections and transparency issues like movement on District-Based Elections, Brown Act modifications, and updating video recording storage requirements are to be expected.

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