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ANALYSIS, COMMENTARY & UPDATES
PRIORITY FOCUS
ON LEGISLATIVE AND POLICY ISSUES THAT AFFECT CALIFORNIA CITIES

April 23, 2004
Issue #16-2004

**A STATE-LOCAL PARTNERSHIP TO CONSTITUTIONALLY
PROTECT LOCAL REVENUES?**

The historic achievement by the League and our LOCAL partners last week – filing over 1.1 million signatures to qualify the *Local Taxpayers and Public Safety Protection Act* for the November, 2004 ballot — was a major milestone in strengthening the local government voice in the State Capitol. The same day the signatures were filed (April 16) the Executive Committee of the League Board of Directors spoke with Governor Arnold Schwarzenegger by conference call about the LOCAL measure, the state budget, and the importance of constitutional protection of local revenues. *For more, see page 3.*

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**JOIN HUNDREDS OF CALIFORNIA'S COMMUNITY LEADERS AT
LOCAL LEGISLATIVE ACTION DAYS MAY 12 -13**

The LOCAL Coalition needs you now more than ever! The third annual Legislative Action Days will take place at the Sheraton Grand Hotel in Sacramento May 12 and 13 — right before the release of the Governor's May Revision on May 14. Join hundreds of local elected officials, public safety, health, labor and business groups from around the state in urging legislators to protect our local services from state budget cuts. *For more, see page 4.*

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**GOVERNOR APPOINTS FORMER CITY OFFICIAL
TO WASTE BOARD**

Governor Arnold Schwarzenegger announced this week the appointment of former Huntington Park Mayor Rosario Marin to the California Integrated Waste Management Board. Marin also served as President of the League's Mayors and Council Members Department before her appointment by President George W. Bush as Treasurer of the United States. *For more, see page 4.*

Hot Bills

Act Now

AB 3065 (Kehoe)
General Plan. Fire
Element. Position:
Oppose.

**SB 1808 (Committee
on Local Gov.)** Book-
ing Fees. Position:
Support.

*Want more details on
these and other bills?
Log on to the League of
California Cities Web site
at www.cacities.org/legtracking.*

- Page 2 **HELEN PUTNAM AWARDS: CALL FOR ENTRIES**
- LATINO CAUCUS HOSTS GOLF TOURNAMENT AT MCM FORUM**
- ASSEMBLY BUDGET SUBCOMMITTEE REVIEWS LOCAL GOVERNMENT PROPOSALS**
- Page 6 **LEGISLATIVE BILL SUMMARIES**

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HELEN PUTNAM AWARDS: CALL FOR ENTRIES

If your city has been doing outstanding work in any of nine categories, now is the time to get your deserved recognition by applying for the 2004 Helen Putnam Award. It is a wonderful way to thank your employees and collaborators, and also gain the appreciation of your residents.

The applications for the 2004 Helen Putnam Awards for Excellence were sent to all cities last month – to mayors and city managers – and are also available at: www.cacities.org/helenputnam.

The deadline for submissions is Friday May 14, 2004. So look around now for the best programs you have that are outstanding, and effective. The award recognizes the excellence of California cities as demonstrated by beneficial innovations, resourceful efficiencies, improved public service, and overall enhanced public trust and support. The award also provides a great opportunity to have a community celebration of the good work you are doing.

LATINO CAUCUS HOSTS GOLF TOURNAMENT AT MAYORS AND COUNCIL MEMBERS JULY FORUM

The League's Latino Caucus will sponsor its annual golf tournament immediately following the Mayors & Council Members Executive Forum on Friday afternoon July 30 in Monterey. If you are interested in playing, contact the Caucus at 916-669-1340, or email to CalLatinoCaucus@aol.com.

ASSEMBLY BUDGET SUBCOMMITTEE REVIEWS LOCAL GOVERNMENT BUDGET PROPOSALS

SUPPORT FOR COPS, BOOKING FEE SUBVENTIONS

The Budget Committees in both houses are beginning to do the background work necessary to build the 2004-05 state budget. On Tuesday, the Assembly Budget Subcommittee #4 met to review the budget issues that fall under its jurisdiction, including a variety of questions about local government finance.

The subcommittee reviewed the Governor's proposed \$1.3 billion property tax cut to local government that was introduced in his January budget. Local government representatives testified that cuts in this magnitude would result in a definite reduction in service levels and would likely affect key public safety services. In addition, the subcommittee reviewed a number of other local government related finance issues including the COPS/Juvenile Justice program, the Booking Fee subvention, library funding, Williamson Act subventions, specified state mandates and a variety of county related programs.

While few final decisions were made at the meeting, the good news to report is that the subcommittee was highly supportive of both the COPS program and retaining the Booking Fee subvention. This does not mean that these two key local government programs are safe from cuts or elimination as the budget debate moves into the final stages, but it does mean that the two programs enjoy broad, bipartisan support. Assembly Member Sarah Reyes was particularly supportive and promised to lead the efforts to retain these two programs. We encourage city officials in her district to both thank her and encourage her to continue to lead on this issue.

The subcommittee will continue its work in the weeks to come until it develops final recommendations on a wide variety of finance issues, including key local government finance issues.

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A STATE-LOCAL PARTNERSHIP? from page 1

The Governor indicated his strong willingness to work with the League and our partners to pass a constitutional amendment on the November 2004 ballot to protect local revenues. He also said his first duty is to restore the state's fiscal health, and to do that he said he needs the help of local governments in reaching that goal for two years.

Second, the administration is in the midst of preparing the Governor's revised budget for release in mid-May, and there is growing incentive to reconcile the budget with the LOCAL initiative. League staff discussed this issue with administration representatives and our LOCAL colleagues over the last few weeks, but with the workers compensation debate underway serious discussions were delayed until just last week.

Following that call the League Board of Directors discussed the proposal at its regularly scheduled meeting in Riverside, April 16-17. After several hours of discussion and debate, the Board reaffirmed its continued strong support for the just-filed *Local Taxpayers and Public Safety Protection Act* (the "LOCAL" initiative), including fundraising for this critical campaign. The Board also authorized the Executive Committee to enter into discussions at the invitation of the Governor about a November 2004 constitutional amendment package that would protect the same local revenues as the LOCAL initiative and respond to the Governor's budget proposals. After discussions the Executive Committee may only approve the alternative proposal following consultation with the Board of Directors.

The League Board of Directors was briefed again April 23 by conference call on the status of the discussions with the administration. No decisions were made.

The Board plans to work diligently over the next few weeks to evaluate this important opportunity, but its (and the League's) Number 1 priority is the constitutional protection of local revenues. If the proposal provides the same or better constitutional protection as the LOCAL initiative and receives the Governor's strong support, the Board will strongly consider it. In the meantime, the Board has signaled its commitment to move forward with the *Local Taxpayers and Public Safety Protection Act*, without fail.

In fact, a number of fundraising events for the campaign are scheduled next week.

Why Did This Happen Now?

As stories about the discussions with the administration began to appear in papers around the state, many questions have arisen among city officials: Why deal with the state now, when the LOCAL initiative just turned in 1.1 million signatures? Why accept the idea of state takeaways of local revenues, when the LOCAL initiative is all about preventing that from happening? What would happen to the LOCAL initiative? Would it come off the ballot?

First, the presence of the LOCAL initiative on the November 2004 ballot is assured because we filed enough signatures last Friday, April 16. It will be on the ballot. Nothing can change that fact now.

League General Assembly: Details to Follow Soon

Today League board members also supported a recommendation of the Executive Committee to hold a special meeting of the League General Assembly in Sacramento, associated with the LOCAL Legislative Action Days. The League Board of Directors will present details of any proposed agreement with the state, ensuring that members are able to get answers to their many questions. Delegates from member cities will be asked to vote to ratify any proposed agreement. A special notice will be sent out about this meeting in the next few days regarding the scheduling and agenda.

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LEG ACTION DAYS from page 1

The League is asking you to assemble a team of LOCAL supporters. Bring your elected leaders, public safety leaders, business leaders, and community leaders to demonstrate the broad support for protecting funding for locally delivered programs and services. (See "Governor Invites Local Partnership on Budget, Constitutional Measure" article.) Last year more than 1,000 local representatives attended and this year we expect an even bigger event.

Help get the public attention needed to preserve local services by being part of a giant press conference on the steps of the Capitol. The coalition is scheduling meetings for teams of LOCAL coalition members with their legislators in the legislators' Capitol offices. State Controller Steve Westly will give LOCAL members a briefing on the budget and the need for reform. The governor and legislative leadership from both houses were also invited to participate.

There will also be a League-only General assembly meeting associated with Legislative Action Days. (See "A State-Local Partnership?" article.)

Tentative Schedule: Legislative Action Days

Wednesday, May 12

- 7:30 a.m. - 5:00 p.m. - Registration
- 1:00 p.m. - 2:30 p.m. - Opening Remarks
 - Remarks from Controller Steve Westly
 - Discussion of Current Budget Issues and Strategies
- 2:30 p.m. - 5:30 p.m. - Visits with Legislators (LOCAL will arrange)
- 5:30 p.m. - 7:30 p.m. - Legislative Reception at the Sheraton

Thursday, May 13

- 8:00 a.m. - 9:30 a.m. - Continental Breakfast Session
 - Key Note Speakers: Members of Administration and Legislature
- 10:00 a.m. - 11:00 a.m. - Press Conference and Rally on the Capitol Steps
- 11:30 a.m. - Adjourn

Information on the League-only General Assembly will be provided soon.

Register for Legislative Action Days on-line today at www.calocal.org

WASTE BOARD from page 1

On the Waste Board she will fill the vacant public member position.

The League congratulates Rosario - as she is known by the many officials who have known and worked with her over the years - on her appointment.

The Governor also appointed Rosalie Mule to fill the industry position on the Waste Board. Mule has been director of municipal development for Waste Management of the Inland Empire in California and has previously worked for Waste Management and BFI in other states.

Both appointees will bring a wealth of local government experience and expertise to their new positions. The League looks forward to working with these two new appointees.

Our Mission

Restore and protect local control for cities through education and advocacy to enhance the quality of life for all Californians.

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A STATE-LOCAL PARTNERSHIP from page 3.....

What's Next: What City Officials Can Do

With **LOCAL Legislative Action Days** set for May 12 and 13 — right before the release of the Governor's May Revision on May 14 — city officials have the chance to significantly affect legislative action on the budget impacting cities and any potential constitutional amendment to protect local revenues that may be linked to it. Here is what we ask you to do:

Ask your legislators to ratify the LOCAL initiative. Set meetings in their district offices on Thursday or Friday, when they have returned from the Capitol. Stress the importance of their support for the principle of constitutional protection for local funds, an urge them to sign on as LOCAL initiative supporters. Even with the possibility of an alternative measure supported by the Governor, their support for the LOCAL initiative sends a strong signal that constitutional protection is essential. (There are 14 legislators who have endorsed the measure to date: Assembly Members Russ Bogh, Ellen Corbett, Bob Dutton, Bonnie Garcia, Guy S. Houston, John Longville, Abel Maldonado, Gene Mullin, Alan Nakanishi, Nicole M. Parra, Sharon Runner and Patricia Wiggins; and Senators Jeffrey Denham and Tom Torlakson.)

Register your city team for May 12-13 LOCAL Legislative Action Days, consisting of:

- a. The Mayor and at least one City Council Member
- b. City Manager and./or other key staff member
- c. A chamber of commerce representative
- d. Police Chief or other officer
- e. Fire Chief or other fire department representative
- f. Representatives of your city unions

After registering your team at <http://calocal.teal.net/>, please notify your League Regional Representative of the team members. (Remember most Regional Representatives are on vacation this week or next.)

A Final Thanks

Many thanks to those of you who have helped us reach this historic point in achieving our goal. Most of us believe that we wouldn't be here — negotiating with the administration on a November 2004 constitutional amendment/budget package that would secure the Governor's active support— if we had not been able to demonstrate our political will and organizational effectiveness by filing 1.1 million signatures to get on the ballot.

The next six months will be challenging and interesting for those of us involved in working to pass a constitutional amendment. We welcome your ideas and continued commitment.

Revised Edition

Navigating The Legislative Process

Deadlines, Procedures and Common Terms

NEW: An overview of the budget process and special sessions

Plus:

- A description of the legislative process
- Tips on writing an effective letter and testifying before a legislative committee
- Suggestions on how to participate in the League legislative program
- A glossary of commonly used legislative and budget terms
- A legislative calendar listing key state budget dates for city officials

This publication is available from the League for \$5. There is a ten percent discount on orders of five or more. Questions? Contact League Publications at 916-658-8257 or order online at: www.cacities.org/store

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Legislative Bill Action

The following are summaries of just a few of the legislative bills that are currently being acted upon by the League of California Cities. For more information about these and other bills, please visit the League website's new "Issues and Advocacy" page (www.cacities.org/issuesandadvocacy) – a one-stop location to access information about legislation, policy issues, and related developments. You can track information on bills (www.cacities.org/legtracking), locate legislators and legislative committees, send letters to legislators or the media through the online Advocacy Center, research League policy positions, access useful related links, and much more.

TRANSPORTATION AND PUBLIC WORKS

AB 2690 (Hancock) Public Works: Funds.

This bill is intended to address an issue that has garnered significant attention in recent months concerning the use of volunteer labor on certain public works projects. As Amended 4/12/04 the bill provides that, to the extent that public funds are made available for ecological restoration, watershed-based community outreach and environmental education projects, the funds shall be expended to preserve the ability for citizens to volunteer and work in concert with workers paid prevailing wages, thereby providing benefits to both community sustainability and the ecological health of the state's watershed and natural resources.

Much of the attention garnered by this bill is a result of an enforcement action taken by the Department of Industrial Relations (DIR) in July 2003 in relation to a stream restoration project in Shasta County. **Staff:** Natasha Fooman; **Status:** AsLab&Emp, Hrg. 4/21/04; **Position:** Support.

SB 1839 (Figueroa) Construction Contracts: Indemnity Agreements. **SB 1839** as drafted would apply to existing contracts and revise and recast indemnity provisions to apply to damages arising in whole or in part from the negligence or willful misconduct of the indemnitee or his or her agents, servants, or independent contractors who are directly or indirectly responsible to the indemnitee, as well as to agreements to defend an indemnitee.

SB 1839 imposes tort concepts of liability sharing according to fault on contracts. It removes the ability of a public entity to negotiate indemnity language, restates the law that it is against public policy to cause someone to indemnify another for that person's sole active negligence or willful misconduct, and it does not allow for transfer of liability for design defects. As written, the bill would broadly apply to nearly any contract related to construction including design, engineering, specialty consultants such as environmental and geotech consultants, project management, construction management and inspection.

SB 1839 removes the additional insured benefits and causes the city, county and the contractor's insurance company to sue one another to determine who will pay what. The only entities who will benefit from **SB 1839** are the insurance companies and the lawyers for those companies. This will make the lawsuits more extensive, reduce the possibility of settlements and increase litigation. **Staff:** Natasha Fooman; **Status:** SenJud, Hrg. 4/27; **Position:** Oppose.

AB 2549 (Pacheco) Works of Improvement: Disputed Amounts. The League is working with the sponsor's office to address the following concerns with this bill: **AB 2549** amends Public Contract Code section 7107, which would directly affect cities and counties. Existing law authorizes cities and counties to withhold "an amount not to exceed 150 percent of the disputed amount" from payments otherwise owed to contractors. **AB 2549** would limit withholdings to: liquidated damages, plus the amount withheld pursuant to Civil

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Code section 3186, plus 150% of the estimated cost of uncompleted work, plus 150% of the estimated cost to repair or replace contract work that was not performed according to contract.

However, it is possible for "disputed amounts" covered by the construction contract to also include: (1) damages for delays that do not relate to "completing," "repairing," or "replacing" work (to the extent not limited by a liquidated damages clause); (2) sanctions for violation of the subcontractor substitution restrictions (Public Contract Code section 4110); (3) indemnification for claims by third parties; and (4) withholdings to cover civil wage and penalty assessments issued by the Labor Commissioner (e.g., Labor Code section 1727). These are some examples of the types of problems cities and counties would encounter if AB 2549 is adopted. **Staff:** Natasha Fooman; **Status:** AsmJud, Hrg. 5/4; **Position:** Review and Comment.

SB 1422 (Kuehl). Vehicles. Removal. Senator Kuehl has decided not to pursue this bill this year. While we agree with provisions in the bill regarding vehicle removal by an officer upon re-examination of a driver when no other licensed driver is present, we respectfully request that Section 2 of the bill be deleted from the bill relating to vehicle removal charges.

Existing law allows local and state agencies to impose a charge equal to the administrative costs of the governmental agency relating to the removal, impound, storage, or release of a vehicle impounded. However, as currently written, Section 2 of **SB 1422** would prohibit cities and counties from imposing that charge on a person who is authorized to obtain the release of a vehicle following the removal of a vehicle upon the issuance of a notice of re-examination.

Local governments are facing severe budget shortfalls, and often these shortfalls impact public safety services in our communities. Cities and counties must be able to continue to impose administrative charges relating to vehicle removal,

impound and storage to recoup associated costs and ensure that police and fire personnel are able to continue offering the highest level of services to our residents. **Staff:** Natasha Fooman; **Status:** SenTrans, Pulled; **Position:** Support.

ACA 24 (Dutra) Transportation Investment Fund: Loans. **ACA 24** would take the first steps in protecting Proposition 42 monies to ensure that they are utilized as the voters intended for transportation purposes. This measure would require any loans of these funds to be repaid with interest synonymous with the manner in which Article XIX of the California Constitution protects other critical transportation funds. **ACA 24** passed out of Assembly Transportation on 4/19 by a vote of 11-2.

Transportation needs are well documented and enormous. Cities and counties are facing significant shortfalls for maintenance of the existing system as well as projects delays for critical expansion projects. The loss of transportation infrastructure investment jeopardizes the viability of the State's economy and will end up costing the taxpayer significantly more in the future. **Staff:** Natasha Fooman; **Status:** AsElecReapp&ConAm; **Position:** Support.

SB 1166 (Chesbro) Public Works. Existing law requires every operator of a subsurface installation, except the Department of Transportation, to be a member of a regional notification center. A regional notification center provides advanced warning of excavations or other work close to existing subsurface installations for the purpose of protecting those installations from damage.

This bill would authorize a design professional (defined as a person holding a valid professional engineer's license or a valid professional land surveyor's license) to obtain information regarding the location of subsurface installations from the appropriate regional notification center — if the design professional is retained to perform a fixed work, geotechnical engineering,

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soils engineering, or land surveying, and needs to know the location of subsurface installations.

Please send all comments to gmorelos@cacities.org. **Staff:** Natasha Fooman, **Status:** SenLG, Hrg. 5/5; **Position:** Review and Comment.

PUBLIC SAFETY

AB 1814 (Oropeza). Grand Theft. **AB 1814** provides that *every person who feloniously steals, takes, or carries away cargo of another is guilty of grand theft.*

AB 1814 also defines "cargo" as "any goods, wares, products, or manufactured merchandise that has been loaded into a trailer, rail car, or cargo container, awaiting or in transit, valued at more than \$400." In California, cargo theft is estimated to account for between \$1 million to \$2 million in losses every business day, an amount much higher than any other state. **AB 1814** will help affected law enforcement agencies accurately track this type of grand theft, and will assist in providing the necessary resources to the law enforcement agencies that protect our ports. **Staff:** Natasha Fooman; **Status:** AsmFlr; **Position:** Support.

AB 1831 (Bermudez) Homeland Security Funding. Federal Building. **AB 1831** will instruct the California Statewide Interoperability Executive Committee (CALSIEC) to create a performance standard that ensures interoperability among state and local public safety agency communication devices that meets and exceeds the federal Project 25 standards. **AB 1831** will also ensure that any utilization of funds from the Office of Homeland Security for the purpose of interoperable communication shall meet the standards set forth by the Committee. Interoperable communications among state and local public safety agencies is integral to the safety of our communities, and just as importantly, to the safety of our public safety personnel, who consistently jeopardize their own safety to protect others. The ability for multiple entities to communicate will

reduce danger, save lives, and minimize risks associated with events that require multiple agency response. **AB 1831** will also ensure that state and local public safety agencies will be allowed to maintain current communication systems until a specified performance standard is adopted. **Staff:** Natasha Fooman; **Status:** AsApps; **Position:** Support.

AB 1884 (Spitzer). Privacy Offenses. Immunity. **AB 1884** adds city attorney prosecutors to the designated list of law enforcement officers permitted to record or overhear communications for investigative purposes. Currently, city attorneys are allowed to record confidential communications, but must receive approval from the Attorney General or District Attorney to do so on a case-by-case basis. The ability to record confidential communications is an invaluable tool. Delays in investigations can be lost opportunities to conduct and gather important evidence, unnecessarily jeopardizing public safety. **Staff:** Natasha Fooman; **Status:** SenPubSfty; **Position:** Support.

AB 1907 (Pacheco). Arson. **AB 1907** would remove the sunset clause on California's aggravated arson statute, thereby making the law permanent. In 1994, the legislature passed Senate Bill 1307 (Craven) which established the crime of aggravated arson. This legislation was passed in response to the Southern California firestorms, which ravaged the counties of Los Angeles, Orange, Riverside, San Bernardino, San Diego, and Ventura. Of the 22 wildfires that struck Southern California in 1993, investigators determined that 16 of the fires were the work of arsonists. In all, almost 200,000 acres were scorched and over 1,000 structures were destroyed. Arson continues to be a major problem in California, which severely impacts the safety of our communities, including law enforcement, firefighters and other emergency responder personnel. **AB 1907** ensures that arson suspects will be prosecuted, thus sending a clear message that engaging in arson will result in severe penalties and restitution. **Staff:** Natasha Fooman; **Status:** Asm. Floor; **Position:** Support.

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AB 1924 (Bogh). Fire Prevention. Penalties. AB 1924 increases the fines for Public Resources Code violations relating to fire and the danger associated with the spread of fire. AB 1924 will increase the fines for illegal burning, making state law tougher to deter the illegal burning that occurs across California. Though trash burning is currently illegal, the fines are low and do not serve as a deterrent. AB 1924 gives cities and counties more authority to enforce laws prohibiting illegal burning. **Staff:** Natasha Fooman; **Status:** AsApps; **Position:** Support.

AB 2293 (Wolk). Emergency Medical Services. AB 2293 is a result of collaborative work by the League of California Cities, the California State Association of Counties and other stakeholders to resolve much of the conflict between local governments on emergency medical service (EMS) issues. To resolve conflicts associated with current law, AB 2293 puts a local advisory committee and appeals process for EMS issues into law.

The League is working with all affected stakeholder groups to amend this bill to address specific concerns, and hopes to reach a resolution soon so that we may move forward to provide the framework for a solution to long-standing perceived conflicts between cities and counties, the fire service and LEMSAs. **Staff:** Natasha Fooman; **Status:** AsHlth; **Position:** Sponsor.

AB 2406 (Bermudez). Fire Safety. AB 2406 would require that every fire department within a city with a population greater than 10,000 establish specified firefighter and emergency medical response time objectives. AB 2406 would also require these departments to prepare and provide a report every two years to the local governing body in which the fire department is located, as well as to the State Fire Marshall, which details whether or not the department is meeting these standards.

AB 2406 contains specific response time and staffing objectives that are drawn from a highly controversial standard adopted in 2001 by the National Fire Protection Association known as NFPA 1710, which was opposed by many local officials across the country. While the League agrees that

it is important for local governments to develop performance objectives and evaluations, a one-size-fits-all policy does not represent the diversity of California's cities. In addition, AB 2406 has the potential to have tremendous fiscal impacts on the state and local governments due to mandated reporting requirements, and also creates a perception that would increase liability for cities and counties.

In difficult budget times for the State of California, AB 2406 would have severe financial impacts to cities; many that are already struggling to provide public safety services despite tight budgets. The League is currently working with the author's office on amendments to reduce the amount of reporting required under the bill and to alleviate some of the financial implications. However, the underlying issue in the legislation that references NFPA "standards" (with regards to "response time" and "staff deployment") will soon be amended to be considered as "goals" instead of "standards." Unfortunately, regardless of these amendments - these "goals" will still provide undue liability for local governments, as they are still required to be measured by these "goals." **Staff:** Natasha Fooman; **Status:** AsApps, Hrg. 4/28; **Position:** Oppose.

AB 3065 (Kehoe). General Plan. Fire Element. AB 3065, as amended on April 16, 2004, would require that if a safety element of a city or county general plan addresses fire protection in a state responsibility area, the provisions of the element relative to fire protection shall be updated bi-annually, and shall include a report card that provides a self-assessment of the city's or county's fire protection efforts since the last update. The bill's author took amendments in committee on April 21, 2004 to remove the section of the bill dealing with reporting requirement that was originally objected by the League. The League has removed opposition based on the recent amendments. However, we will continue to work with the author on the rest of the bill. **Staff:** Natasha Fooman; **Status:** AsmLG; **Position:** Oppose.

SB 1698 (Torlakson). Emergency Response Liability. SB 1698 defines "emergency response" to help public entities recover costs associated with

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emergency response situations. Currently, existing law provides that any person who is under the influence of an alcoholic beverage or any drug, whose negligent operation of a motor vehicle, a boat or vessel, or a civil aircraft, causes any incident resulting in an appropriate *emergency response*, that person is liable for the expense of an emergency response by a public agency to the incident.

SB 1698 defines "emergency response" to mean either of the following: 1) an enforcement stop by a law enforcement agency utilizing emergency lights or sirens or both; 2) a fire, medical, or law enforcement response to a vehicle collision, medical emergency, or other incident requiring immediate assistance; and, 3) providing traffic control on a public roadway, or to ensure safety on a navigable waterway.

SB 1698 will make our communities safer by enforcing stiffer penalties for negligent offenders, holding them accountable for irresponsible actions. SB 1698 provides a common sense interpretation and approach to emergency response situations and related cost recovery. **Staff:** Natasha Fooman; **Status:** Failed in SenPubSfty; **Position:** Support.

SB 1808 (Committee on Local Gov.) Booking Fees. Existing law authorizes a county to impose, among other fees with respect to criminal justice services, a booking fee upon other local agencies for county costs incurred in processing or booking persons arrested by employees of those entities, and brought to county facilities for booking and detention.

Existing law continuously appropriates up to \$50,000,000 annually from the General Fund to the Controller commencing with the 1999-2000 fiscal year for allocation to cities and qualified special districts for actual booking and processing costs paid to the counties. SB 1808 would specify that for the 2004-05 fiscal year, the appropriation shall be allocated to cities and qualified special districts for reimbursement for actual costs incurred during the period of July 1, 2002, to July 1, 2003. This bill would require the Controller to allocate those funds no later than December 1, 2004. SB 1808 also sunsets the entire booking fee reimbursement program on January 1, 2007.

Currently, the state's reimbursement payments for booking fees reflect cities' 1997-98 costs. However, some cities now pay higher booking fees while other cities pay nothing, and state fiscal relief to cities that pay booking fees should be tied to the cities' actual costs. SB 1808 recalibrates the basis for reimbursement to reflect the 2002-03 booking fees. **Staff:** Dwight Stenbakken; **Status:** SenApps; **Position:** Support.

SB 1866 (Aanestad). Peace Officer Motor Vehicle Pursuit. SB 1866 will reduce the immunity currently afforded law enforcement agencies in civil actions based on injuries that result from vehicular pursuits of criminals. SB 1866 also provides that in a civil action for damages for personal injury or death, the immunity would apply only if: 1) the law enforcement agency adopts and implements a written policy on vehicle pursuits in conformity with the new required pursuit policy provisions created by the bill; 2) the pursuit was initiated, engaged in, or terminated by a peace officer acting within the scope of his or her employment whose action was not performed in bad faith or in a grossly negligent manner; and 3) the peace officer complies with the strict new policy guidelines set forth in the bill.

Officers in pursuit are forced to make split second, often life and death decisions. To suggest that a high-speed pursuit, with lives on the line will always go "by the exact letter of the book," is to misunderstand the nature of how fluid these dangerous situations are.

SB 1866 will not stop injuries from occurring, but it will ensure that taxpayers foot the bill for a criminal's decision to run from law enforcement. Strengthening penalties for fleeing from a peace officer will have greater impact on reducing the likelihood of suspects who flee. Thank you for your attention to our concerns. **Staff:** Natasha Fooman; **Status:** AsmJud; **Position:** Oppose.