



ENVIRONMENTAL QUALITY POLICY COMMITTEE
Friday, January 19, 2024
9:30am to 12:30pm

Register for this Meeting in advance:

https://us06web.zoom.us/meeting/register/tZwucuutqTwuGtQ0bKWBOkiMLX4UN- KRBGx

Immediately after registering, you will receive a link and confirmation email to join the meeting.

I. Welcome and Introductions

Speakers: Chair Illece Buckley Weber, Mayor, Agoura Hills
Vice Chair Max Perrey, Councilmember, Mill Valley
Cal Cities President Dan Parra, Mayor, Fowler
Cal Cities Executive Director and CEO Carolyn Coleman

II. Public Comment

III. General Briefing (Attachment A) Informational

IV. Cal Cities 2024 Advocacy Priorities (Attachment B) Informational

V. Updated Existing Policy and Guiding Principles (Attachment C) Action

VI. Plastic Waste Reduction Implementation Discussion

- SB 54 (2022): Plastic Pollution Prevention & Packaging Producer Responsibility Act Implementation, Stop Waste
Reusable Foodware Ordinance, City of Mill Valley

5 minute recess

VII. Adoption of 2024 Work Plan (Survey Results) Action

VIII. 2023-24 State Legislation and Budget Review Informational

IX. Opportunities to Engage with Cal Cities Informational

X. Adjourn

Next Meeting: Friday, March 22, (in person) 10:00 a.m. – 2:00 p.m.

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:

- 1) 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

2) 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.

The January 18-19, 2024 Policy Committees General Briefing

Overview:

The first month of the Legislature's return to Sacramento focused on moving bills from last year to the second house along with Gov. Gavin Newsom unveiling his proposed budget.

The bill introduction deadline is February 16. As the tidal wave of new bills are introduced, legislative policy committee and budget subcommittee meetings will begin in earnest beginning in late February and early March. This will be the first opportunity for Cal Cities to advocate on legislation important to cities.

Governor's Proposed Budget Highlights:

If there are two things Gov. Gavin Newsom wants everyone to take away from this year's \$291.5 billion budget proposal, it's "accountability and stretching those tax dollars." The proposal avoids deep cuts to most programs through a combination of reductions, borrowing, delays, deferrals, and shifts. Climate change and housing received the largest cuts, with existing spending largely maintained in other areas.

Newsom also said the magic word: ongoing. Last week, the League of California Cities called on lawmakers to honor previous funding commitments and create an ongoing funding stream to increase affordable housing and reduce homelessness. Although the latter was noticeably absent, Newsom did not claw back any current commitments on homelessness and acknowledged that conversations about ongoing funding are in play. He also underscored the need for strong state-local partnerships.

"We welcome the Governor's commitment to working closely with the Legislature on additional, ongoing funding to support local governments' response to the homelessness crisis," said Carolyn Coleman, Cal Cities executive director and CEO. "However, we can't afford to defer or delay the urgent need to put a roof over the heads of all Californians. That's why we are concerned about the roughly \$1 billion in proposed cuts to key housing programs."

The budget proposal is the first step in a lengthy series of negotiations over many months. Complicating this year's negotiations is what the Newsom Administration attributed to a difference in opinion about the state's short-term economic outlook. The Governor is projecting a \$38 billion deficit — far less than the Legislative Analyst's Office (LAO) predicted. A comprehensive Cal Cities budget breakdown can be found [here](#).

Policy Committee Information:

Community Services

Caroline Grinder, Lobbyist

This year, Cal Cities will continue to advocate for [ongoing funding to address homelessness](#). Cities fared well in the budget when it comes to homelessness funding commitments made in prior year's budgets. However, while the budget does not propose cuts to these critical programs, it also does not propose any new funding allocations. As in previous years, Newsom reiterated his focus on working with the Legislature to increase

oversight and accountability for how local governments utilize state homelessness funding. Cal Cities will continue to emphasize that accountability for state funding at the expense of action fails to expand or develop cities' capacity to address immediate homelessness challenges.

In breaking news, Cal Cities Board of Directors voted overwhelmingly to [support Proposition 1](#) during their December meeting. Proposition 1 will appear on the March 2024 ballot and includes substantial changes to the Mental Health Services Act and a \$6.38 billion bond to fund over 11,000 new behavioral health beds. In addition to supporting Proposition 1, Cal Cities Board directed staff to engage in the regulatory process and pursue legislation to implement reasonable oversight of licensed recovery housing and sober living homes to ensure the safety and success of those receiving services and support.

Looking to the year ahead, the Community Services Policy Committee will remain committed to advancing Cal Cities' [advocacy priority](#) of expanding investments to prevent and reduce homelessness. The committee will also continue to focus on other pressing issues, such as addressing the substance use and mental health crisis, supporting early learning and childcare programs, increasing access to open space, and bolstering cities' efforts to prepare for and respond to emergencies, among other issues.

Environmental Quality

Melissa Sparks-Kranz, Lobbyist

While the proposed budget maintains several noteworthy investments, as mentioned, it contains substantial reductions and shifts in funding that will impact cities. This year sees a major shift in funding which includes \$2.9 billion in reductions, \$1.9 billion in delays of expenditures to future years, and \$1.8 billion in shifts to other funds for climate-related programs. Additionally, we anticipate significant movement in the Legislature on several policy areas, including in organic waste, water management, and clean energy.

Climate Change

In years past, the Governor has identified combating climate change as a key priority within the administration. With the proposed budget limiting climate funding, such as the \$475 million reduction of planned investments in the Climate Innovation Program, Cal Cities anticipates a key focus of the Legislature will be around the climate bond proposals as a way to finance the long-term necessary capital investments to support the state's robust climate goals. With multiple climate related proposals introduced in last year's legislative session, Cal Cities will continue its active engagement to support a climate bond that would move to the ballot in November 2024.

Single Use Plastics, Recycling, and Organic Waste Diversion

This year started off with the release of the draft regulations for the single use packing and plastic food ware legislation, SB 54 from 2022. Cal Cities will be engaging with Cal Recycle over the next year on the regulations, as well as the Producer Responsibility Organization

representing plastic producers who have the extended responsibility of managing plastics through the end of their life cycle, including reimbursement to local jurisdictions implementing these recycling programs. Cities are implementing CalRecycle's SB 1383 organic waste diversion regulations; however, Cal Cities anticipates significant legislation to be introduced to reform SB 1383 following the analysis conducted by the Little Hoover Commission released in August 2023, which called upon the Legislature to put a complete pause on implementation of the statewide program. Cal Cities will continue to advocate for progress but will be weighing in on legislation to ensure city interests are protected if changes to the program are forthcoming.

Drought & Water Supply

California has experienced both extreme atmospheric river storms and megadrought conditions in the last several years. Early predictions show this water year starting out with less than average snowpack and precipitation conditions. The Governor's proposed budget reduces funding for various water programs and drought resilience by \$1.4 billion, the largest reduction being the \$350 million over the next two years for various watershed climate resilience programs. As a consequence of severe weather events and weakened funding, a large focus this year in the Legislature will be on the continuing water rights bills, as a means to evolve the overall management of water supply throughout the state. The discussions will continue with the state on the long-term urban water conservation standards that are currently going through the formal rulemaking process. As new legislation is introduced, Cal Cities will continue to review, analyze, and provide updates as needed.

Energy

Lastly, as the state moves towards its 100% clean energy and zero-emission future, city roles in this space will become more prominent. With more and more cities passing reach codes to phase out natural gas in their buildings and moving to incentive deployment of electric vehicle charging stations, the state will be looking to continue to partner with cities on accelerating this transition. Cal Cities anticipates the exploration of hydrogen manufacturing facilities with California receiving a National Hydrogen Hub award, of up to \$1.2 billion from the U.S. Department of Energy in October 2023 to accelerate the development and deployment of clean renewable hydrogen. Cal Cities will be monitoring these efforts and if additional legislation is introduced.

Despite this year's budget shortfalls in our policy area, the Environmental Quality Policy Committee will remain committed to advancing Cal Cities' [advocacy priority](#) of strengthening climate change resilience and disaster preparedness.

Governance, Transparency, and Labor Relations

Johnnie Piña, Lobbyist

The Governor's January budget contains investments aimed at improving worker health and safety programs, unemployment, paid family leave, and workers' compensation wait

times. While the budget largely maintains workforce investments, it does propose several reductions and delays in funding for workforce training and apprenticeships.

Legislatively, this year will be another year full of bills related to the governance, transparency, and labor relations space. We will see legislation related to challenges cities continue to face including managing California Public Records Act requests, managing upcoming elections, grappling with emerging technology such as artificial intelligence, managing disruptions in public meetings, dealing with hiring challenges and growing labor costs all in a time of economic uncertainty.

The Ralph M. Brown Act

Cal Cities is a co-sponsor of [AB 817 \(Pacheco\)](#) which passed out of the Assembly Local Government Committee this week and will continue to move through the legislative process. This measure would remove barriers to entry for appointed and elected office by allowing nondecision-making legislative bodies that do not have the ability to take final action to participate in two-way virtual teleconferencing without posting their location.

Housing, Community, and Economic Development

Waleed Hojeij, Policy and Legislative Affairs Analyst

Last year, more than 100 housing related measures were introduced in the legislature. We anticipate a similar number this year. Lawmakers are likely to focus on proposals seeking to require additional housing streamlining processes, adaptive reuse of existing structures, density bonus expansion, elimination of parking requirements, caps of development fees, and by-right housing approvals.

To complicate the matter further, the Governor is projecting a \$38 billion budget deficit. To help close the significant gap, he is proposing to cut \$1.7 billion from various housing programs. These cuts put California cities in a difficult position when it comes to spurring much needed housing development. The elimination of \$250 million from the Multifamily Housing Program leaves only \$75 million for 2023-2024. This is one of the most successful state programs to development multifamily housing, including affordable housing. The Governor would also like to cut \$200 million from the Infill Infrastructure Grant Program, leaving only \$25 million in 2023-2024. This grant program is already a highly competitive grant that helps provide funding for essential infrastructure. Without this funding many projects will be unable to be constructed.

While the Governor remains optimistic about our economic forecast, the Legislative Analyst's Office suggests a potential economic recession in the near future. Regardless, we will remain dedicated to supporting legislation that provides essential tools and incentives that bolster job creation and retention. The budget projects modest wage growth, personal income growth, historically low interest rates, and increased residential building permits in 2024. Some notable economic development allocations include:

- California Competes Program: Commits \$60 million to extend the California Competes grant program for one additional year.

- Recapitalization of the Infrastructure State Revolving Fund: A one-time increase of \$50 million to recapitalize the Infrastructure State Revolving Fund at the California Infrastructure and Economic Development Bank (IBank).

Public Safety

Jolena Voorhis, Lobbyist

Many cities have seen a significant increase in retail theft, organized retail theft, and smash and grabs. The Governor's proposed budget maintains existing efforts to reverse this trend, for a total of \$373.5 million over four years starting in 2022-2023. This includes resources for the California Highway Patrol's retail theft task forces and local law enforcement.

Other notable budget proposals include more funding to combat fentanyl, as well as some delays in programs and changes to various fire protection programs.

Regarding the outlook for 2024, please see the issues noted below:

Retail Theft

The Assembly has prioritized retail theft as a top priority and created the Select Committee on Retail Theft which met on December 19, 2023, and is expected to meet two more times in January. The Speaker and the Chairs of both of the relevant policy committees have indicated that changes to Proposition 47 are on the table for discussion and specific attention has been placed on addressing repeat offenders and having accountability for shoplifting and other theft.

The Little Hoover Commission is also holding hearings on retail theft as requested by the Legislature and is working on a report to be released in the spring. The Commission has held two hearings so far and speakers have included City Councilmember Gabe Quinto from El Cerrito, the California Retailers Association, and the California Grocers Association.

Addressing retail theft and the increase in crime is also one of Cal Cities top priorities. Cal Cities is working with a large coalition of other groups including the Police Chiefs, Retailers, Grocers, Probation Chiefs, Sheriffs and the Chamber to work on a solution to this problem this year.

The Governor announced several [legislative proposals](#) to address retail theft on January 8, 2024. This legislative package on retail theft would address the following issues: reselling, aggregation, organized retail theft, and local enforcement.

However, it should be noted, that these proposals would not amend Proposition 47 and therefore the impact may be limited.

Cannabis

Cal Cities expects several pieces of legislation on the cannabis issue, specifically related to local control issues and the implementation of AB 2188 related to drug testing of employees.

Fentanyl

Cal Cities is anticipating several bills to be introduced on Fentanyl in 2024. Of note is proposed legislation by Governor Newsom to add tranq to the list of crimes that could be prosecuted as a felony.

Revenue and Taxation

Ben Triffo, Lobbyist

The 2024-25 budget is shaping up to be a contentious challenge. In December 2023, the LAO reported that revenues were well below prior estimates, leading to a long-term budget deficit projection of \$68 billion. The Governor's January budget proposal falls in between those numbers, with Newsom predicting a \$37.86 billion shortfall. According to the Governor, this difference boils down to Prop. 98 savings, workload reductions, new revenues, and "less pessimism" about the near future.

The Governor's proposed budget draws \$13.1 billion from the state's reserve accounts, which the Administration described as an appropriate tool to help balance the deficit. The rest of the shortfall is balanced with \$8.5 billion in reductions, \$5.7 billion in internal borrowing, \$5.1 billion in delays, \$3.4 billion in fund shifts, and \$2.1 billion in deferrals. The Governor's proposed budget maintains \$18.4 billion in budgetary reserves.

ACA 13 and the Taxpayer Protection and Government Accountability Act

In other news, the Cal Cities Board of Directors voted unanimously to support ACA 13 (Ward) during the December meeting. ACA 13 is an effort to stop the "Taxpayer Protection and Government Accountability Act" initiative. The initiative — sponsored by the California Business Roundtable — would expand the definition of a tax and raise the voter approval threshold for some local taxes. The initiative would also limit certain fees to the minimum amount necessary to provide the service. Collectively, this measure annually places billions of local government revenue dollars at risk.

ACA 13, if approved by voters, would require any state or local initiative measure to conform with any increased voter threshold that it seeks to impose on future ballot measures. For example, if a measure looks to increase the voter threshold of a specific tax measure from a simple majority (50% +1) to a supermajority (two-thirds), the measure would be required to pass by that same supermajority. The measure also preserves the right of local governments to place advisory questions on the ballot and states that the provisions of this constitutional amendment apply to all statewide initiative measures submitted to voters on or after Jan. 1, 2024. If ACA 13 is approved by voters in November 2024, the Taxpayer Protection and Accountability Act would be required to pass by a two-thirds majority.

Going Forward

In 2024 the Revenue and Taxation Policy Committee will promote Cal Cities' advocacy priority of safeguarding local revenues and bolstering local economic development. The committee will also stay apprised of the recommendations being crafted by the City Managers Sales Tax Working Group and will fight any attempt to backfill the state's budget deficit using local revenue streams that provide essential local services.

Transportation, Communications, and Public Works

Damon Conklin, Lobbyist

Transportation

The Governor's proposed budget uses a combination of shifting and delaying funds to uphold 99 percent of last year's transportation commitments, resulting in \$13.6 billion. This includes \$791 million in funds shifted from the Greenhouse Gas Reduction Fund and \$3.1 billion in delays across various programs. The proposed budget also maintains \$10 billion — extended over seven years — in investments to further the transition to zero-emission vehicles. The largest spending reduction was \$200 million from the Active Transportation Program, leaving \$850 million for clean transportation and mobility programs, such as pedestrian and bicycle pathways.

The Governor's proposed budget proposes to delay \$1 billion of formula Transit and Intercity Rail Capital Program grant funding from 2024-25 to 2025-26 budget, leaving \$1 billion for this program in 2024-25; dedicate \$4.2 billion Proposition 1A for the High Speed Rail Authority to continue building the 119-mile Central Valley Segment from Madera to just north of Bakersfield; dedicate \$1.2 billion for projects that improve goods movement on rail and roadways at port terminals, including railyard expansions, new bridges, and zero-emission modernization projects; and delay \$45 million from the General Fund for grants intended to support zero-emission vehicles.

Autonomous Vehicles

Cal Cities is co-sponsoring legislation, [SB 915 \(Cortese\)](#) to prioritize local control in the decision to deploy autonomous vehicle (AV) services, where a company has already received any deployment approval by the DMV and the CPUC. Also, the measure seeks to improve public safety by addressing the problem of AVs delaying or interfering with emergency vehicles by allowing first responders and law enforcement to override a wayward AV that interferes with an emergency situation.

Advance Clean Fleet

The Advanced Clean Fleets (ACF) Regulation is the latest development by CARB to set increasingly stringent emission standards for mobile sources. Compliance requirements have already begun January 1, 2024, and reporting is due April 1, 2024. From 2024 to 2026, 50% of all vehicles, including class 2b-8 trucks (vehicles over 8,500 pounds), acquired by state or local governments must be ZEV. In 2027, that mandate moves to 100%.

Cal Cities will be looking at sponsoring and advancing legislation in 2024 to provide greater flexibility for cities compliance to the ACF regulations.

To find a list of relevant bills for each policy committee, please visit our [bill search webpage](#).

League of California Cities 2024 Advocacy Priorities

1. **Safeguard local revenues and bolster local economic development.**

Cities are the engine of the state economy. With a looming state budget deficit, it is critical to counter efforts by the state and corporations to erode or skim local revenue. Cal Cities supports increasing local revenue streams for local governments and **opposes any effort to reduce or eliminate existing funding to cities**. Cal Cities will use every tool in the toolbox — legislative, legal, and grassroots mobilization — to **fight a 2024 ballot measure** that represents an existential threat to local control. The measure, sponsored by the California Business Roundtable, would put at risk billions of dollars for essential local services. Cal Cities also supports legislation that will fund a **state-local partnership to enhance economic development** in these uncertain fiscal times.

2. **Strengthen climate change resiliency and disaster preparedness.**

The threat of climate change is no less during tough economic times. The state needs to accelerate its efforts to **prepare, reduce, and adapt** to the ever-changing risks posed by climate change — especially in **vulnerable and under-resourced communities**. These risks include wildfires, flooding, drought, and other extreme weather events. Cal Cities will pursue **funding strategies**, including potentially a bond, that provide cities with the necessary resources to **improve community and infrastructure resiliency**. Cal Cities will also seek to advance a partnership with state and federal agencies to strengthen essential infrastructure, including modernizing the state's **water supply** and energy grid.

3. **Improve public safety in California communities.**

A spike in retail theft, violent smash-and-grab robberies, fentanyl deaths and illicit drug use, and back-to-back natural disasters, as well as strained social services are creating challenges beyond the capacity of local governments. Cal Cities will partner with the state to advance solutions that help **reduce crime, increase emergency service capacity**, and provide more support to those residents struggling with **substance abuse**. We will work with the Legislature, the Governor, and allies to craft legislation that will **reform Proposition 47**, while **avoiding a return to the days of mass incarceration**.

4. **Expand investments to prevent and reduce homelessness and increase the supply of affordable housing.**

California cities are doing more than ever to get residents off the streets and into safe, stable, and affordable housing. However, the homelessness crisis in the world's fifth-largest economy continues unabated — fueled in part by a lack of affordable housing. Cal Cities is calling on the state to provide **ongoing funding** to bolster local efforts to support individuals experiencing, or at risk of, homelessness as well as strengthen state and local partnerships **to improve access to wraparound services**, including mental health and substance use treatment. Cal Cities also supports ongoing funding for cities to **jumpstart the construction of affordable housing**, while ensuring cities **retain local decision-making** and flexibility to achieve community and state housing goals.

Environmental Quality

SCOPE OF RESPONSIBILITY

The Committee on Environmental Quality reviews issues related to air, water and water quality, climate change, CEQA, integrated waste management, hazardous materials, coastal issues, energy, and utilities.

Summary of Existing Policy and Guiding Principles

Air Quality

Cal Cities supports inclusion of city officials on the governing boards of air districts and opposes efforts to delete such city representation.

Cal Cities believes cities should have the authority to establish local air quality standards and programs that are stricter than state and federal standards. Cal Cities opposes efforts to restrict such authority.

Cal Cities opposes legislation redirecting the funds authorized by Health and Safety Code Section 44223, which are currently used by local governments for locally based air quality programs.

Cal Cities opposes air quality legislation that restricts the land use authority of cities.

Cal Cities supports the requirement that both public and private diesel garbage trucks be retrofitted to reduce the amount of particulate matter pollution emitted from the trucks. (See also Integrated Waste Management Section below.)

Climate Change

Cal Cities recognizes that climate change is both immediate and long-term, with the potential for profound environmental, social, and economic impacts to the planet and to California.

Through the Global Warming Solutions Act of 2006 (AB 32 (Nuñez), Chapter 488, Statutes of 2006) California has embarked on a plan that requires the reduction of greenhouse gas emissions to 1990 levels by 2020. Although uncertainty remains about the pace, distribution, and magnitude of the effects of climate change, Cal Cities recognizes the need for immediate actions to mitigate the sources of greenhouse gas emissions and has adopted the following principles:

- Action Plans for Mitigating Greenhouse Gas Emissions. Encourage local governments to complete an inventory of greenhouse gas emissions, set appropriate reduction targets, and create greenhouse gas emission reduction action plans.
- Smart Growth. Consistent with Cal Cities Smart Growth policies, encourage the adoption of land use policies designed to reduce sprawl, preserve open space, and create healthy, vibrant, and sustainable communities.

- Green Technology Investment Assistance. Support tax credits, grants, loans, and other incentives to assist the public, businesses, and local agencies that invest in energy efficient equipment and technology, and fuel efficient, low-emission vehicles.
- Energy and Water Conservation and Efficiency. Encourage energy efficiency, water efficiency, and sustainable building practices in new and existing public, residential, and commercial buildings and facilities. This may include using the U.S. Green Building Council's LEED program or similar systems.
- Green Building Guidelines. Cal Cities encourages state agencies to provide leadership in developing voluntary, model statewide residential green building guidelines that will provide information to local jurisdictions on how to evaluate and use different green building strategies. Additionally, Cal Cities encourages cities to adopt voluntary residential green building guidelines as a reference guide, to evaluate available green building programs and adopt those best suited for their communities, and to explore incentives that encourage green building by private developers of residential construction projects.
- Increase the Use of Clean Alternative Energy. Promote the use and purchase of clean alternative energy through the development of renewable energy resources, recovery of landfill methane for energy production, and waste-to-energy technologies.
- Reduction of Vehicle Emissions in Public Agency Fleets: Support the reduction of vehicle emissions through increased fuel efficiency, use of appropriate alternative fueled vehicles, and/or low-emission vehicles in public agency fleets. Encourage the use of appropriate alternative fueled vehicles, and/or low-emission vehicles in private fleets.
- Climate Change Impacts. Encourage all levels of government to share information to prepare for climate change impacts.
- Coordinated Planning. State policy should encourage and provide incentive for cities to coordinate and share planning information with neighboring cities, counties, and other governmental entities so that there are agreed upon regional blueprints and strategies for dealing with greenhouse gas emissions.
- Water Supply for New Development. Encourage exchange of water supply information between state and local agencies, including information on the impacts of climate change on state and local water supplies.
- Recycled Content and Green Purchasing Policies. Encourage the adoption and implementation of recycled content and green procurement policies, if fitness and quality are equal, including the adoption of an Environmental Management System and authorization of local agencies to consider criteria other than only cost in awarding contracts for services.
- Environmental Standards. Cal Cities supports flexibility for state and local governments to enact environmental and other standards or mandates that are stronger than the federal standards. However, Cal Cities reserves the right to question or oppose stronger standards on the merits. Cal Cities also opposes legislation that prohibits state and local governments from enacting stricter standards.

Cal Cities supports efforts to encourage regional climate adaptation planning to reduce climate risk, foster collaboration among local, regional, and state entities, and develop guidance for potential state, federal, or private investment in regional adaptation projects.

Cal Cities believes that statewide climate bonds should be comprehensive and include funding for capital infrastructure projects.

Hazardous Materials

Cal Cities supports the ability of local governments to enact local standards or regulations that are stronger than those enacted at the state and federal level. To this end, where the city fire department is the lead agency for regulating and enforcing hazardous materials laws, Cal Cities supports the provisions of existing law that permit a local fire department to adopt stronger local requirements, as long as it complies with specified procedures to enact such stronger local standards. Cal Cities opposes legislation or regulations that restrict such authority.

Cal Cities supports efforts to streamline and coordinate hazardous materials regulation among various levels of government, including city fire and county environmental health departments. Cal Cities supports the ability of city fire departments to be administering agencies for any of the major hazardous materials laws or to be the lead agency (the Certified Unified Program Agency) under the SB 1082 program and opposes legislation or regulations to restrict such authority.

Cal Cities opposes any efforts to restrict the ability of cities to issue building or other permits they are now authorized to issue relative to hazardous materials laws.

Cal Cities opposes any proposals that would preempt the ability of a city to deny a land use permit or restrict its ability to issue a conditional use permit for the siting of a hazardous waste facility.

Cal Cities opposes legislation that mandates that cities post information on the Internet regarding adoption, amendment, or repeal of hazardous materials ordinances. However, Cal Cities does not object to legislation that makes such posting voluntary.

Cal Cities supports the following principles related to Brownfields Revitalization:

- Cal Cities supports state and federal legislation that would create additional fiscal resources and options to restore and develop urban and industrial brownfields contaminated by hazardous materials. Cal Cities also supports creative state and federal efforts to encourage revitalization and better use of abandoned urban and industrial brownfields, as long as local governments retain existing land use authority.
- Cities should have the ultimate say on whether a proposed brownfield remediation project is consistent with local land use policy. The proposed use of a project (i.e., parking garage, business park, residential development) should be consistent with a city's general plan and land use authority.
- The clean-up level of a project should be based on its proposed use (i.e., parking garage, as opposed to residential development).

- Mechanisms, such as restrictive covenants or deed restrictions, need to be in place to ensure that if a future use for a property is different than that which was proposed when the site was cleaned up, that the clean-up levels be re-evaluated and additional remediation be required before the new use can be approved.
- Local agencies do not have the desire or generally the expertise to do the technical evaluation for site assessment and remediation plans. Appropriate state agencies should have that responsibility.
- If a property owner plans to develop the site, then the owner should be required to do the necessary site assessment and clean up.

Solid Waste and Recycling

Cal Cities supports continued efforts by local agencies to meet the 25% and 50% recycling and diversion provisions of the Integrated Waste Management Act of 1989 (AB 939) and believes that decisions on how to achieve those requirements are best determined at the local level, rather than by state agencies. Cal Cities believes that those jurisdictions that have made a good faith effort to comply with the requirements of AB 939 should not be subject to enforcement penalties. Cal Cities opposes the repeal of AB 939, but supports continued efforts to streamline its provisions and to assist in compliance.

Cal Cities believes that green waste used as alternative daily cover (ADC) should be eligible for limited AB 939 credit, as long as the ADC meets performance and health and safety criteria established by the California Integrated Waste Management Board (CIWMB), now the California Department of Resources, Recovery & Recycling (Cal Recycle).

Cal Cities continues to support legislation to provide changes to AB 939 (the California Integrated Waste Management Act) that will:

- Place more emphasis on the implementation of waste diversion programs and less strict mathematical accounting;
- Require Cal Recycle to evaluate the level of accuracy of the existing system the board uses to measure jurisdictions' achievement of the waste diversion requirements of state law and develop appropriate policies, in consultation with local jurisdictions, to account for any inaccuracies in the system;
- Encourage the development of non-burn transformation technologies by providing full diversion credit for the waste that jurisdictions send to non-burn transformation facilities;
- Require the board to expand its market development activities, including providing more funding for research and development of markets for recyclable materials; and
- Require Cal Recycle to staff its existing regional offices with personnel that can assist jurisdictions in carrying out the requirements of the act.

Cal Cities supports legislation and other efforts to increase the markets for recycled materials, including advance disposal fees, minimum content laws, and recycling market development zones. Cal Cities opposes legislation that requires local governments to adopt refuse fees based upon variable can rates.

Cal Cities supports efforts to strengthen curbside recycling programs and opposes efforts to weaken such programs. Cal Cities supports legislation to expand the container types included in the AB 2020-bottle bill program.

Cal Cities supports the right of cities under existing law to be designated as Local Enforcement Agencies for solid waste facility permitting, inspection and enforcement, and opposes legislation to restrict this authority or transfer it to state agencies.

Cal Cities opposes legislation that would preempt local land use authority over solid waste facilities, would restrict the ability of a city to issue a land use permit for a solid waste facility or would restrict the ability of a city to condition such facilities through the conditional use permit process.

Cal Cities does not oppose legislation that assesses fees on solid waste that is disposed of out of state, as long as the fees reflect the pro-rata portion of in-state costs.

Cal Cities opposes legislation that would authorize the Director of Cal Recycle to consider landfill capacity as a reason for denying concurrence of a solid waste facility permit and also opposes legislation that would prohibit a public agency from being certified as a Local Enforcement Agency if the public agency is also an operator of a solid waste facility.

Cal Cities opposes legislation that would authorize the Director of Cal Recycle to consider environmental justice as a basis for concurring or denying a solid waste facility permit. Cal Cities has adopted the policy that issues of environmental justice are best addressed at the local level through the local land use and public hearing process and through existing federal and state policy.

While Cal Cities supports the retrofit of public and private diesel-fueled garbage trucks to reduce particulate matter air pollution (see Air Quality section), Cal Cities opposes funding such retrofits in a way that would either interfere with the existing franchise relationship between local governments and haulers or would impose a surcharge on landfills.

Cal Cities supports legislation and regulation that authorizes the land application of biosolids that meet specified statewide health and safety standards. Cal Cities supports legislation that permits enactment of stronger local ordinances only if they are based upon protecting public health and safety and good science. Cal Cities opposes legislation that preempts outright stronger local ordinances, regardless if they are based on protecting public health and safety and good science.

Electronic Waste

Cal Cities supports legislation implementing the concept of manufacturer responsibility for electronic waste (e-waste). This includes, but is not limited to, encouraging or providing incentives for e-waste recycling, requiring manufacturers of computer, cathode-ray tube (CRT), photovoltaic modules (solar panels), and other electronic products considered universal wastes, to operate or fund comprehensive, extended producer responsibility programs. Such programs should require products to be sustainably designed and labeled, offer financial incentives to consumers to properly dispose of e-wastes, encourage

recycling, reuse and collection programs by manufacturers, incentives to consumers to redeem or recycle e-waste, and fund a convenient collection infrastructure.

Cal Cities supports statewide and manufacturer education programs to educate consumers about e-waste and recycling efforts.

Cal Cities supports an advance disposal fee on computer and other electronic products in order to fund such manufacturer responsibility programs and local collection and recycling programs.

Cal Cities supports national efforts to address the e-waste problem.

Household Hazardous Waste

Cal Cities opposes legislation that requires local jurisdictions to collect household hazardous waste in a specific collection manner, including mandatory curbside collection.

Extended Producer Responsibility (EPR)

Cal Cities supports legislation implementing producer responsibility. This includes, but is not limited to, mandating or providing incentives including funding for comprehensive producer responsibility programs for hazardous and universal wastes and products and packaging for which disposal or recycling is problematic for local governments.

Single-Use Plastics

Cal Cities supports reducing the amount of single-use plastic packaging and products that enter the waste stream through methods such as source reduction and increases to the recyclability and composability of these items. This includes reducing the waste generated from single-use plastics, such as plastic straws.

- **Single-Use Carryout Bags:** Cal Cities supports in concept legislation that charges a fee for all consumers for single-use carryout bags at the point of sale; however, Cal Cities does not have a position on the amount of the fee except that it should be set to modify consumer behavior.

Cities should be eligible for moneys generated from any fee placed upon single-use carryout bags, provided those dollars are used by the city to mitigate the effects of single-use carryout bags on the stormwater, solid waste diversion, visitor education and awareness, and water quality in the city. Any application for funding provided to cities by single-use carryout bag fees should be streamlined, simple, and not overly burdensome.

Cal Cities supports CEQA exemptions for single-use carryout bag bans or a programmatic EIR.

Cal Cities opposes any bill that would preempt local governments from individually banning or placing a fee on single-use carryout bags distributed within the city.

Energy and Utilities

Cal Cities supports the constitutional right of municipal utilities to operate outside the jurisdiction of the California Public Utilities Commission (PUC) and opposes any legislation

that would erode the ability of municipal utilities to operate or place them under PUC control.

Cal Cities supports maintaining the standard of inverse condemnation for investor-owned utilities that require utilities to pay damages. Cal Cities opposes reducing the inverse condemnation standard for incidents caused by a utility, whether retroactive or otherwise, and supports ensuring local governments can recover applicable damages.

Cal Cities supports the prohibition of passing through the costs of fines and penalties incurred by electrical and gas corporations to ratepayers.

Cal Cities opposes legislation that dictates the mix of generating sources (i.e., hydro, coal, biomass, wind, etc.) used by municipal utilities.

Cal Cities opposes any legislation that interferes with local utility rate-setting authority and opposes any legislation that restricts the ability of a city to transfer revenue from a utility (or other enterprise activity) to the city's general fund.

Cal Cities is neutral on legislation requiring municipal electric utilities to include a "renewable portfolio standard" (RPS) in their mix of sources of electricity, as long as the requirement is the same as that which applies to investor-owned utilities. Cal Cities opposes legislation that requires municipal electric utilities to meet an RPS that is stronger than that applied to investor-owned utilities.

The following principles will guide Cal Cities' position regarding exit fees to avoid cost-shifting for newly formed municipal utilities or extensions of existing municipal utilities:

- A mechanism or venue other than the PUC should be used to determine and impose the exit fees in order to prevent PUC jurisdiction over municipal utilities. For example, exit fees might be best evaluated and incorporated by the courts as part of eminent domain and the condemnation proceeding used when a city wishes to take over the IOU's distribution system.
- Cal Cities does not object to fair exit fees to avoid cost-shifting for customers that were actually served by an investor-owned utility.
- Exit fees should consist of payments of a fair share of the DWR bond costs, a fair portion of the IOU under collections, and a fair share of the remaining amount of the CTC (competition transition charge, leftover from AB 1890).
- Exit fees should not be charged to newly annexed municipal utility territory that was never served by an IOU (so-called "greenfields").
- In addition, Cal Cities believes photovoltaic systems should be completely exempt from any type of exit fee.

Cal Cities supports efforts to reduce the number and frequency of utility-initiated power shutoffs, also called public safety power shutoffs, to maintain city electricity grid integrity and city operations.

Community Choice Aggregation

- **Local Energy Autonomy:** Cal Cities supports programs that increase local control over the purchase and development of renewable energy resources, as an effective means of increasing consumer access to renewable energy at stable, competitive rates, and decreasing statewide greenhouse gas emissions.

Cal Cities supports cities' exercise of the right to form or join existing Community Choice Aggregation (CCA) entities, as an effective method of increasing local control over power supply. Accordingly, Cal Cities supports legislation and regulatory policies that support CCA autonomy in policymaking and decision-making and opposes legislation and regulatory policies that unfairly disadvantage CCAs or CCA customers, or reduce or undermine local decision-making autonomy by the CCA or its governing board.

Cal Cities supports continuing development of local renewable energy resources and supply, including the protection of local autonomy to administer energy efficiency and install and utilize integrated distributed energy resources.

Consumer Protection: Cal Cities supports complete transparency of all energy procurement practices, stranded costs, and departing load charges. Cal Cities supports fair competition in statewide energy markets for CCAs and municipal or other publicly owned utilities. Cal Cities supports legislation and regulatory policies that protect CCA customers from improper cost allocation. Cal Cities opposes legislation that conflicts with or diminishes CCA procurement autonomy.

- **Energy Efficiency:** Cal Cities supports effective leveraging of energy efficiency programs tailored to address local needs and concerns.

Microgrids

Cal Cities supports the use and deployment of microgrids, especially as a tool to aid energy resiliency and disaster preparedness.

Electric Industry Restructuring

Cal Cities supports the restructuring of the electricity services industry, provided it meets the following criteria:

- **Support the Concept.** Cal Cities of California Cities supports the concept of electric industry restructuring if it results in lower electricity rates that continue permanently into the future. Cal Cities does not support or oppose any specific form of restructuring and believes the program ultimately implemented must satisfactorily address the adopted criteria listed below. Any new industry restructure should be based on a thorough economic analysis of the full costs and potential benefits of the alternatives under consideration.
- **Equitable Benefits.** Any restructuring program should result in all ratepayers directly sharing in the benefits equitably.
- **Municipal Utilities.** Any restructuring program should maintain the concept of municipal utilities. No restructuring proposal should abridge the existing authority of

municipal utilities to operate or abridge the ability of cities to form municipal utilities in the future.

- Franchise Authority. Cities should continue to have the authority to issue franchises and any program should be at least revenue neutral-relative to revenue currently received from franchises.
- Aggregation. Under any restructuring program agreed upon by the PUC or the Legislature, cities should have the opportunity to become aggregators for municipal operations or the community at large. As an aggregator, a city would be able to combine the electric loads of various users and negotiate the purchase of electricity for those users.
- Stranded Investments. The problem of stranded investments should be resolved in a way that keeps investors, ratepayers, and generators financially whole. Any policy to deal with stranded investments for large energy producers (i.e., nuclear power) should be applicable to all other producers (i.e., independent power producers).
- Wheeling. Any program should facilitate the wheeling of electricity between generators and users.
- Alternative Sources. Consistent with existing Cal Cities policy that supports the development of alternative energy sources, any restructuring program should incorporate support for alternative energy in order to enhance the mix of energy sources available in California, both for environmental and strategic energy security reasons.
- Biomass. The unique problems of the biomass industry, as they relate to California's solid waste infrastructure, should be fairly resolved in any deregulation program.
- Social and Environmental Impacts. Consistent with existing Cal Cities policy, California should not abandon its energy programs that provide social and environmental benefits.

In addition to those policy guidelines, Cal Cities agrees that cities that are aggregators should be required to follow the same consumer protection standards as other aggregators, that participation in aggregation by an electricity user should be voluntary, and that cities should have the opportunity to serve as aggregators for their municipal operations or for those residential or commercial customers who wish to participate in a city-sponsored aggregation program.

Finally, Cal Cities believes that any federal action in the area of electricity restructuring must not preempt legislation and actions in states that choose to restructure their utility industry if such federal action relates to state and local government home rule authority. This includes authority related to the regulation of rights-of-way, franchises, taxing utilities and services, or to aggregate.

In response to the energy crisis of 2001, Cal Cities adopted the following principles related to energy:

- Land Use Control. Local control over land use should be inviolate. Cal Cities will oppose legislation that restricts local land use control beyond that which is already in existing law.
- Municipal Utilities. The autonomy of municipal utilities should not be eroded. Cal Cities will oppose any legislation that harms municipal utilities.
- Energy Prices and Rates. Cal Cities is concerned about the impacts of escalating energy prices on the overall economic health of our state, including city budgets. Although at this time Cal Cities will not get involved in individual bills dealing with technical aspects of pricing, Cal Cities believes that any solution to address the short- and long-term energy price situation should meet several key criteria.
 - » Cal Cities believes energy prices should encourage conservation and reward those who reduce energy use (i.e., tiered rates).
 - » Cal Cities is concerned about the impacts of escalating energy prices on low-income residents and small businesses. Cal Cities supports energy pricing structures and other mechanisms to soften the impacts on this segment of our community.
 - » In designing rates, the state should be aware of the operational constraints of some businesses and thus their potential inability to take advantage of conservation pricing. Thus, the state should provide other incentives to conserve to businesses that cannot take advantage of other options.
- Conservation in City Facilities. Support legislation that provides direct funding for conservation and demand reduction projects in city facilities.
 - » Work to obtain the greatest level of funding for local governments, and work with all authors and the Administration in crafting legislation that will be most effective and beneficial to local governments.
- Siting Energy Facilities– Incentives to Local Governments. Funding should be available to cities to streamline the siting process at the local level.
 - » Eligible projects to receive incentive payments would not only cover new electricity generating facilities, but also projects to expand existing generation facilities, to replace them with more efficient facilities, or to build renewable projects, including photovoltaics, fuel cells, or cogeneration.
 - » In order to stimulate the development of these facilities, it will be necessary to provide additional long-term community benefits that the local government can demonstrate to its citizens.
 - » Any city or county that approves siting of a privately developed generating facility should receive 100% of the property tax of that facility. To stimulate the development of projects such as cogeneration facilities, the standby charges for the facility should be waived.
 - » The state should provide additional financial assistance to cities and counties for such projects, which could include the cost of transmission line extension.

- » Cal Cities will work to ensure that there are no negative impacts on municipal utilities from efforts to streamline energy facility siting.
- Power Plant Siting – Other Issues. Support legislation that increases the threshold at which a city is the lead permitting agency for an energy facility from 50 to 100 MW (or above). Oppose legislation that decreases this threshold.
 - » Take no position on proposals to streamline the facility approval process, except to suggest appropriate revisions to reflect technical comments from city experts on local government review and comment-related provisions.
 - » Explore exempting cities with municipal utilities completely from the Energy Commission review process for all power plants proposed within their jurisdiction, regardless of the size of the facility (i.e., the municipal utility city would have lead agency authority, regardless of the size of the facility).
- Environmental Regulation of Power Plants. Cal Cities should not get directly involved in legislative discussions and should not take a position on legislation to relax, suspend, or eliminate environmental regulation, with several exceptions.
 - » If environmental standards are relaxed, suspended, or eliminated, Cal Cities should seek legislation to ensure that cities do not bear the burden of meeting the shortfall in environmental protection. For example, suspended or reduced waste discharge requirements for a power plant may result in increased hot or salty cooling water discharged from a power plant into a bay or stream. Publicly owned treatment works should not be required to meet a higher discharge level to offset the power plant discharge or fined as an indirect result of the increased water pollution that would result. Similar arguments can be made for air pollution burdens. There should be some sunset included for environmental waivers for re-powering of existing facilities and all new plants should be required to meet the BACT (best available control technology) standard.
- Public Power Options. Support all bills that enhance the public power options available to cities and counties.
 - » Condition support and/or sponsorship upon the correct language being written. Work with municipal utilities and others to ensure the provisions are drafted properly.
 - » Cal Cities should not support legislation that would give up the existing, limited authority of cities to regulate cable and telecommunications companies as a trade-off to make it easier to form a municipal electric utility.
- Interruptible Rates. Cal Cities should take no position on legislation dealing with changes to interruptible rates but should watch the subject carefully.
 - » Cal Cities should comment on legislation, as appropriate, to express concern that resolution of the issue should seek equity in how it handles classes of ratepayers and communities. Legislation should take into consideration economic gains previously made by customers on interruptible rates and should provide assistance for those caught in extreme situations.

- Rotating Outages – Exemptions. Cal Cities should not get directly involved in bills dealing with which type of customers are exempt from rotating block outages and should not take a position on these bills. However, Cal Cities should work with police and fire chiefs to ensure that police and fire facilities are appropriately protected either legislatively or administratively, if proposals move ahead to expand the range of exempted facilities.
 - » Cal Cities should seek legislative or administrative resolution giving advance notification to those businesses, such as some agricultural businesses, that use hazardous materials that could pose a danger if the plant is not shut down properly.
 - » Cal Cities should seek grant or loan funding for essential services (i.e., police/fire, water/wastewater) to purchase new or replace existing backup generators that are more energy-efficient and less polluting.
- Wholesale Regional Price Caps – Federal Legislation. Cal Cities should not take a position on federal legislation to give the Secretary of Energy authority to impose regional wholesale price caps on electricity. This is a mixed bag and Cal Cities should stay out of the issue.
- Price Gouging by Electricity Suppliers. Cal Cities should send a letter to the Governor and Attorney General supporting their ongoing efforts to determine whether wholesale market abuse occurred and asking that appropriate action be taken to remedy the problem if illegal activity occurred.

California Environmental Protection Act (CEQA)

Procedures and Notices

- Fair Argument Test. Cal Cities strongly opposes the elimination of the fair argument test as the threshold for determining whether to prepare an Environmental Impact Report (EIR). There are a number of other reforms that will reduce CEQA's complexity while preserving the fair argument test's role as a planning tool. These include funding for Master EIRs and eliminating attorneys fees for petitioners.
- Master EIR Funding. Cal Cities strongly supports the development of a funding source for Master EIRs. Both of the proposals contained in the Little Hoover Commission report would meet the needs of cities.
- Exemption for Modified Project Renewals. Cal Cities opposes exempting the renewal or reissuance of a permit, license, or other entitlement where there is a change in the project.
- Centralized Responsible Agency Notification. Cal Cities opposes shifting the responsibility to notify responsible agencies from the lead agency to the State Clearing House. Cal Cities opposes making identification of Responsible Agencies at the Notice of Preparation stage by other than the Lead Agency (e.g., the Office of Planning and Research) conclusive so that agencies not identified would be barred from later commenting on projects.

- **Responsible Agency Documentation.** Cal Cities supports requiring that Responsible Agency comments be supported by specific referenced documentation.
- **Substitution of Environmental Impact Statements.** Cal Cities opposes allowing an Environmental Impact Statement to be substituted for an Environmental Impact Report in any situation other than military base closures because the National Environmental Policy Act does not contain CEQA's duty to mitigate.
- **Duty to Respond to Comments.** Cal Cities opposes shielding lead agencies from responding to comments received more than 30 days after a Notice of Preparation (NOP) or received verbally.
- **Timelines for CEQA Contracts.** Cal Cities supports eliminating subdivision (b) of Public Resources Code Section 21151.5, which mandates the timeline for entering into CEQA contracts.
- **Arbitration of Disputes.** Cal Cities supports adding an arbitration option to the requirement that each county over 200,000 designate a "CEQA judge." Among the issues that will need further refinement are whether an alternative dispute resolution process should be a condition precedent to litigation, whether the alternative dispute resolution process would be binding on participants, and how to limit the alternative dispute resolution process to CEQA adequacy issues rather than community mitigation issues.
- **Good Faith Settlements.** Cal Cities supports discouraging lawsuits that have little merit by (1) eliminating the application of a multiplier analysis to the amount of attorney's fees awarded in a lawsuit that is subject to a settlement agreement; and (2) by precluding the adoption of measures or project conditions as part of a settlement agreement that do not mitigate a significant effect on the environment.
- **Recirculation Standards.** Cal Cities supports raising the threshold for recirculation of EIRs so that only new "significant unavoidable impacts" would necessitate recirculation.
- **Basis for Statements of Overriding Considerations.** Cal Cities supports clarifying that the basis for Statements of Overriding Considerations is information contained in the record.
- **Compliance with Local Public Notice Requirements.** Cal Cities supports legislation to require all projects proposed by state or local public agencies, including universities, community colleges, schools, counties, cities, and special districts, to comply with the identical local public notice requirements that would be applicable to projects sponsored by private developers in the jurisdiction where the project is located.
- **Tolling Agreements.** Cal Cities supports tolling agreements, but acknowledges and relies on existing published case law that already allows for the use of tolling agreements in CEQA cases.
- **Concurrent Preparation of Administrative Record.** Cal Cities opposes legislation that would require concurrent preparation of the administrative record and the electronic posting of administrative record unless (1) the full costs of concurrent preparation and electronic posting as determined by the lead agency are paid for by the applicant or

other member of the public who requests these processes; and (2) a lead agency that is unable to comply with such a request because of either a lack of personnel or technological capability is not required to provide these processes.

- Court Remedies. Cal Cities supports legislation that would clarify a court's ability to fashion a remedy that is specific to the project and limited to only those aspects of the project held invalid under CEQA.

Definition of a Project

- Effect on the Environment. Cal Cities supports narrowing the definition of "project" to prevent CEQA lawsuits on non-environmental matters.
- School Operations Exemption. Cal Cities supports exempting any school closure or student transfers from CEQA.
- Categorical Exemption for Nonindustrial Infill Projects. Cal Cities supports expanding categorical exemptions to include development projects in urbanized areas that are consistent with general plans, zoning and cumulative impact projections analyzed in a Master EIR. Such projects should be limited to infill and nonindustrial.

Cal Cities supports legislation that exempts public works projects, within the existing right-of-way, from CEQA if approved by the city in which the project takes place.

Significant Environmental Effect

- **Significance Thresholds.** Cal Cities opposes the creation of a new mandate requiring each city to develop boilerplate significance thresholds. Cal Cities also opposes a single statewide set of standards for determining significance at the local level. Instead, Cal Cities supports requiring that each EIR contain significance thresholds formally adopted by the lead agency for the project.
- Safe Harbor. Cal Cities supports the concept of "safe harbor," which means that if a project complies with certain locally adopted standards, then a project could not be challenged in court based upon those impacts on the environment.
- Aesthetics. Cal Cities opposes any effort to limit a local agency's ability to challenge the aesthetic impact of a project under CEQA.
- Consideration of Socio-Economic Factors. Cal Cities opposes adding social, economic, recreational, or other factors to be considered when analyzing the significance of environmental impacts.
- Indirect Effects. Cal Cities opposes amending the definition of effects to eliminate the analysis of indirect and cumulative environmental effects.
- Cumulative Effects. Cal Cities supports the elimination of EIRs for projects with solely cumulatively significant impacts where the impact has been addressed by a comprehensive plan that identifies specific mitigation measures. Cal Cities opposes exempting projects that are subject to their own subsequent environmental review from consideration as a reasonably foreseeable future project when analyzing cumulative impacts.

- Statement of Overriding Considerations. Cal Cities supports transparency in CEQA decision-making but opposes a public comment period for the notice of draft Statement of Overriding Considerations.

Alternatives

- Alternative Site Requirement. Cal Cities supports eliminating the alternative site requirement for all private projects.
- Level of Detail. Cal Cities supports requiring that projects of statewide, regionwide, or area-wide significance describe at least two feasible project alternatives with a level of detail equal to the proposed project.
- No Project Alternative. Cal Cities opposes the elimination of the “no project alternative.”
- Environmental Impact Report (EIR). Cal Cities opposes the elimination of the fair argument test as the threshold for determining whether to prepare an Environmental Impact Report (EIR). Cal Cities strongly supports the development of a funding source for Master EIRs. Cal Cities supports adding an arbitration option to the requirement that each county over 200,000 population designate a “CEQA judge.”

Streamlining

Cal Cities supports expanding the definition of “emergency” under CEQA to include projects that mitigate a high threat to life and property as a result of a catastrophic wildfire.

Coastal Issues

Cal Cities opposes legislation that would permit the state to impose conditions on Local Coastal Plans developed by cities and counties.

Cal Cities supports efforts to curb frivolous appeals to local coastal decisions.

Cal Cities supports prohibiting the expansion of offshore oil and natural gas production along the California coast.

Cal Cities supports the Federal Coastal Protection Act, which prohibits additional offshore development through the year 2002. This position was based, in part, on concern about the impacts to onshore support facilities and services by offshore development activities.

Cal Cities opposes legislation that grants authority to the Coastal Commission that is inconsistent, duplicative, and overlapping with the authority of other regulatory agencies, such as regional water quality control boards or other agencies, or that grants the Coastal Commission authority outside the coastal zone.

Cal Cities affirms its commitment to local control by requesting the Coastal Commission to defer to the elected officials of a city with respect to choices in the implementation of a Local Coastal Plan that complies with the requirements of state law and regulation.

Cal Cities supports additional resources and tools to help cities plan for and address sea level rise. This includes efforts to better coordinate with the California Coastal Commission and Ocean Protection Council to combat sea level rise.

Miscellaneous

Mitigation Monitoring Program. Cal Cities supports efforts to ensure compliance with Mitigation Monitoring Programs but opposes any effort to require local agencies to report on compliance or add other procedures regarding the implementation of Mitigation Monitoring Programs.

Cal Cities supports the right of cities to serve as lead agencies for the purposes of the Surface Mining and Reclamation Act (SMARA).

Consistent with the policy adopted by the National League of Cities, Cal Cities believes the appropriate venue for addressing the issue of “regulatory takings” is within the evolving judicial interpretations of the Fifth Amendment of the U.S. Constitution.

- Cal Cities opposes any federal or state regulation, statute, or constitutional amendment which would place restrictions on federal, state, and local government actions regulating private property or requiring additional compensation beyond the continually evolving judicial interpretation of the Fifth Amendment of the U.S. Constitution.
- Cal Cities will oppose any legislation that includes such a provision, regardless of what else is included in the legislation (i.e., legislation that designates a listing of an endangered species as a “regulatory taking”).

Cal Cities supports the ability of local governments to voluntarily develop and approve species habitat plans for their communities, in conjunction with willing property owners. Cal Cities opposes requiring local governments to amend their general plans to include species habitat plans developed by others but not approved by the local government.

Cal Cities supports legislation that imposes “Sinclair”-type fees on products in order to fund the cost of prevention or mitigation of the pollution or environmental and health impacts of such products. Cal Cities opposes legislation that would restrict the imposition of such fees at the state or local levels.

Cal Cities supports partnering with the Legislature and the Governor to address the devastating environmental impacts of illegal marijuana grows on both private and public lands and the associated threats to public safety. Cal Cities supports the creation of responsive solutions with adequate funding support and effective State and federal government leadership to address this widespread problem.

Cal Cities supports the development of forest waste biomass utilization programs to align forest management and climate adaptation planning efforts.

Note: Cal Cities will review new legislation to determine how it relates to existing Cal Cities policies and guiding principles. In addition, because this document is updated every two years to include policies and guiding principles adopted by Cal Cities during the previous two years, there may be new, evolving policies under consideration or adopted by Cal Cities that are not reflected in the current version of this document. However, all policies adopted by Cal Cities Board of Directors or Cal Cities General Assembly become Cal Cities policy and are binding on Cal Cities, regardless of when they are adopted and whether they appear in the current version of “Summary of Existing Policies and Guiding Principles.”

LEAGUE OF CALIFORNIA CITIES

California Water Guidelines

FEBRUARY 2010

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NOTE: The League of California Cities most recently updated and revised the California Water Guidelines in 2010. The effort began in 2008 with the formation of the Water Task Force, which was comprised of members from Cal Cities 16 Regional Divisions and all interested city officials. After months of meetings and conference calls, the Water Task Force submitted the California Water Guidelines revisions to the Board of Directors. Upon formal adoption by the Board, the California Water Guidelines were incorporated in the Environmental Quality Policy Committee's scope of responsibility. For additional information, please see the California Water Guidelines introduction on the following page.

Introduction

The **California Water Guidelines** were first adopted by the League of California Cities (Cal Cities) in 1988. Cal Cities and the County Supervisors Association of California (CSAC) developed the guidelines. Together, at the time, the two organizations represented 58 counties and 449 cities.

Much has changed in the realm of water policy in the more than 20 years that have passed since the Guidelines were first adopted. The number of counties has remained at 58, but California has gained an additional 31 cities and the population of the state has increased to more than 38 million people, creating increased demands on water supply. There is growing recognition that there are better ways of managing the flow of water within California's many watersheds and through the Delta, to prevent harmful environmental impacts while still ensuring a reliable supply of water to its citizens. Climate change is seen as having an increasingly important impact on water supply and water quality. Water shortages place renewed emphasis on the importance of water reclamation, water recycling, and other means of nurturing and protecting an essential resource.

In 2003, Cal Cities Board created Cal Cities Water Quality Task Force to identify and evaluate wastewater and stormwater regulatory issues of concern to cities and to recommend steps that Cal Cities should take to address those concerns. The Task Force drafted new Cal Cities policy on water quality and the Cal Cities Board of Directors adopted their report on July 18, 2003.

In 2008, Cal Cities formed a new Water Task Force to consider updates and revisions to the Water Guidelines Cal Cities drafted and adopted 20 years earlier. Cal Cities 16 Regional Divisions designated voting members; but membership on the Task Force was open to all interested city officials, and meetings were open to all interested parties.

The Task Force first met in Sacramento in April 2009 and organized three working groups (Water Use, Water Supply, and Water Discharges). Members of the working groups held numerous meetings by conference call over the next two months. Subsequent meetings of the full Task Force were held in June and September 2009 before the revised Guidelines were submitted to Cal Cities policy committees in January 2010, for review and approval. The Guidelines were formally approved by the Cal Cities Board of Directors in February 2010.

The California Water Guidelines are designed to be used by policymakers at all levels of government in developing future water policy for the state of California. Cal Cities encourages city, county, and state officials, as well as representatives from other organizations, to review the guidelines as water policies and programs are developed.

I. CALIFORNIA WATER: GENERAL PRINCIPLES

1. Water needs are projected to increase significantly in the future. While water is a renewable resource, it is also a finite one.

2. Cal Cities supports the development of additional groundwater and surface water storage, including proposed surface storage projects now under study if they are determined to be feasible, including, but not limited to, environmentally, economically, and geographically relating to point of origin. Appropriate funding sources could include, but are not limited to, user fees, bonds, and federal funding.
3. Local, state, and federal agencies should prepare plans for short-term water emergencies as well as long-term cooperative water management plans and policies, such as the Integrated Regional Water Management Plan (IRWMP) process.
4. All water development projects must be economically, environmentally, and scientifically sound.
5. Critical California water issues cannot be solved without the cooperation of the state and federal governments. Communication and cooperation among policy groups with emphasis on finding statewide consensus is supported.
6. Adequate water quality requirements for wastewater discharge into surface water and groundwater to safeguard public health and protect beneficial uses should be supported. Beneficial water quality is fundamental to the health and welfare of California and all of its citizens.
7. The long-term viability of rivers and streams for instream uses such as fishery habitat, recreation and aesthetics must be protected.
8. Cal Cities encourages all cities to work with counties, water agencies, and special districts to facilitate water conservation, recycling, and reuse efforts.
9. Cal Cities supports state water policy that allows undertaking aggressive water conservation and water use efficiency while preserving, and not diminishing, public and constitutional water rights.
10. Cal Cities supports land use as an important strategy for water supply and water quality benefits.

II. WATER CONSERVATION

1. **Statewide Goal.** Cal Cities supports the development of a statewide goal to reduce water use by 20% by 2020 through the implementation of fair and equitable measures consistent with these principles.
2. **Statewide Effort.** Accomplishing water conservation and water use efficiency goals will require statewide action by all water users, including residential, commercial, industrial, and agricultural water users, local and regional planning agencies, state and federal agencies, chambers of commerce, and business, commercial and industrial professional and trade associations.
3. **Comprehensive Solutions.** Water conservation and water use efficiency must be part of a comprehensive solution that includes local resource development and infrastructure improvements, including storage and conveyance, as part of a statewide system that promotes economic and environmental sustainability.

4. Monitoring, Reporting, and Accountability. Cal Cities supports the implementation of programs to assure prudent measurement and monitoring of water use to provide accountability and transparency toward the accomplishment of water conservation and water use efficiency goals.
5. Protect Water Rights. Implementation of water conservation and water use efficiency programs must be consistent with existing state law in that the act of conservation cannot be allowed to undermine the water rights of the entities implementing the water conservation or water use efficiency program or interfere with existing water conservation or water use efficiency projects.
6. One Size Does Not Fit All. Water conservation and water use efficiency programs must have the flexibility to adjust to widely varying local circumstances recognizing that one size does not fit all. Cal Cities encourages each city to develop its own ordinance outlining its conservation plan.
7. Urban Water Conservation and Water Use Efficiency. In urban areas, Cal Cities advocates for the implementation of residential and commercial retrofit programs, innovative pricing strategies, water-efficient landscaping, including the implementation of urban Best Management Practices (BMPs).

Cal Cities encourages cities to consider the Ahwahnee Water Principles for Resource-Efficient Land Use when making future land use decisions.

[\(http://www.lgc.org/about/ahwahnee/h2o-principles/\)](http://www.lgc.org/about/ahwahnee/h2o-principles/)

8. Agricultural Water Use Efficiency. In agricultural areas, Cal Cities advocates for incentive-based programs.

II. WATER RECYCLING

1. Wherever feasible, water recycling should be practiced in urban, industrial, and agricultural sectors. This includes increasing the use of recycled water over 2002 levels by at least one million acre-feet/year (afy) by 2020 and by at least two million afy by 2030.
2. Potable water should include as much use of reclaimed water and water conservation by 2030 as possible.
3. Increased recycling, reuse, and other refinements in water management practices should be included in all water supply programs.

II. WATER QUALITY

1. General

- a) Cal Cities supports the development of objectives and standards to assure high-quality water throughout California. Surface and groundwater should be protected from contamination.
- b) Cal Cities supports efforts to provide safe and affordable drinking water across the state. However, Cal Cities opposes imposing a tax on water as a funding mechanism.

- c) Cal Cities supports the development of economic protocols and guidelines to assist local governments and water boards in determining reasonably achievable, cost-effective, and environmentally sound regulations.
- d) Cal Cities supports the ability of cities to enact discharge and water quality requirements or standards that are stricter than state or federal standards and opposes efforts to restrict such authority.
- e) When addressing contamination in a water body, water boards should place priority emphasis on clean-up strategies targeting sources of pollution, rather than in-stream or end-of-pipe treatment.
- f) Cal Cities encourages water boards to address cross-media pollution of water including, but not limited to, the problems of atmospheric deposition of water pollutants.
- g) Cal Cities encourages all state offices, departments, and boards to comply with state policy for water quality control, including compliance with the Basin Plans.
- h) Cal Cities encourages Federal and State Governments to ensure proper funding to the U.S-Mexico Border Water Infrastructure Program to address issues related to cross-border pollution.

2. Water Board Reforms

- a) Cal Cities generally supports the concept of water board reform.
- b) Any water board reforms should recognize the inherent differences between cities and regions in California.
- c) Water board reform should recognize the symbiotic relationship between regional water quality control boards and local governments.
- d) Cal Cities supports the retention of designated local government representatives on the regional boards and the inclusion of a designated local government representative on the State Water Board.
- e) Cal Cities supports streamlining the board process, including delegating permit authority to the executive officers, with rights of appeal, and giving greater authority to the State Water Board over regional board policies and decisions.

3. Basin Plan Updates

- a) Cal Cities supports the option of local agencies developing funding for basin plan updates.
- b) Cal Cities supports comprehensive updates to the basin plans that recognize the unique and varied nature of stormwater. Basin plans need to recognize the unique and varied nature of stormwater, both wet weather and dry weather runoff.

- c) Basin plan updates should comply with the Porter-Cologne requirements to recognize economic impacts, local drainage conditions, and scientific consensus, including source control and atmospheric deposition strategies.

4. National Pollutant Discharge Elimination System (NPDES) Permits

- a) Cal Cities supports reform of the State's Water Board's administration of the federal NPDES program.
- b) Cal Cities encourages the water boards to issue permits that are reasonably achievable, based on the unique conditions of a city or region.
- c) Cal Cities supports regulations and legislation that promotes watershed management, that appropriately spreads the responsibility for clean water beyond the requirements that apply to point-source dischargers, municipal storm drain systems and publicly-owned treatment works.
- d) Cal Cities generally opposes legislation that requires the use of numeric limits in waste discharge permits, especially in stormwater permits, because of the difficulties in meeting them, problems with exceeding them, and the cost and potential enforcement impacts.
- e) Cal Cities supports the development of a standard definition of "maximum extent practicable."

5. Total Maximum Daily Load (TMDL)

- a) Cal Cities supports the development of reasonably achievable, environmentally sound, and cost-effective TMDL's based on monitoring and sound science and addressing local water conditions.
- b) Although Cal Cities is supportive of local agency development of TMDL funding, greater emphasis needs to be given to state and federal funding of the TMDL program, including providing increased funding to local government for implementation.
- c) Cal Cities supports the implementation of TMDLs through alternatives to the NPDES permits, consistent with the Clean Water Act and policy, such as Memorandums of Agreement between local governments and the water boards.

6. Water Quality Recommended Legislation/Policies

- a) Ex-Parte Communication. Cal Cities supports public access to decision-makers, including during the time that new proposed permits and permit terms are being proposed. Cal Cities also supports access to pending permittees outside of the administrative process.
- b) Maximum Extent Practicable (MEP). Cal Cities supports legislation to define MEP.
- c) Safe Harbor. Cal Cities supports legislation that provides immunity from fines or third-party litigation for a local government that is in compliance with the

maximum extent practicable iterative best management practices requirements and NPDES stormwater permit conditions.

- d) Mandatory Minimum Penalty (MMP). Cal Cities supports legislation to modify the MMP provision of the existing law to make them fair and equitable for local governments. This would include eliminating the provisions relied upon to compound penalties for single violations and providing economic hardship exemption for small cities (50,000 in population or less) where there have been no significant adverse impacts on the public or the environment from the alleged violation.
- e) Economic Analysis. Cal Cities supports legislation to develop economic protocols and guidelines to assist local government and the water boards in determining reasonably achievable, cost-effective, and environmentally sound regulations, as outlined in Porter-Cologne Sections 13000 and 13241.
- f) Basin Plans. Cal Cities supports legislation allowing local agencies to participate in funding basin plan updates.
- g) Water Softeners. Cal Cities supports the right for cities to enact ordinances that restrict the use of water softeners.
- h) Local Discharge Prohibitions. Cal Cities supports legislation that would enable cities to adopt ordinances that limit or regulate industrial discharges into local sewers and storm drains, based on limits in municipal discharge permits.

7. General Water Quality Guidelines

- a) Protection and maintenance of objectives and standards to assure high-quality water throughout California is essential. Beneficial uses of surface and groundwater should be protected from contamination, even when treatment methods are available to meet drinking water standards.
- b) Local, state, and federal governments and the private sector should provide for the safe management of hazardous materials, including mining leachates, to avoid pollution and degradation of both surface water and groundwater.
- c) Adequate research funding to determine appropriate public health standards for water should be supported.
- d) Additional research and education in the application and use of herbicides and pesticides and alternatives to their usage as well as research to reduce industrial and household hazardous wastes should be supported.
- e) The importance of water quality of bays, estuaries, groundwater, and other bodies of water important to municipalities, including the problem of saltwater intrusion, should be recognized.

II. AREAS OF ORIGIN

- 1. Ultimate reasonable and beneficial water needs of all areas of origin should be assured. State law should continue to provide that only water surplus to the

reasonable and beneficial needs of the areas of origin may be exported. Cal Cities supports preserving the principle of protecting the water rights of areas of origin.

2. Areas of origin protections should apply to all water sources, including groundwater.
3. Reasonable and beneficial water needs of the areas of origin should include instream needs or uses, including recreation and sediment flushing.
4. Areas of origin should be afforded financial assistance, such as the Davis-Grunsky type bonds, in developing new water facilities.
5. Projects that export water from areas of origin should not increase the cost of new local water development projects.
6. Those features of new projects that are required by state and/or federal agencies to enhance area of origin recreation, fish, wildlife, and water quality should be the financial responsibility of the state and/or federal government.
7. New policies and programs should not undermine or alter the water rights of the entities implementing the policies or programs.

II. WATER STORAGE

1. Cal Cities believes that California needs to develop additional water storage and therefore believes that the construction and retention of economically feasible and environmentally sound flood control, storage and multi-use projects that will meet present and future needs should be supported.
2. The development of additional surface facilities and the use of groundwater basins to store surface water that is surplus to that needed to maintain State Water Resource Control Board (SWRCB) Bay-Delta estuary water quality standards should be supported.
3. Cal Cities encourages project developers to mitigate the negative impacts of water storage projects on fishery and wildlife resources, adjacent lands, water quality, and recreation.

II. CONVEYANCE SYSTEMS

1. Statewide

- a) Conveyance facilities including, but not limited to, the Sacramento River, whether man-made or natural, should be constructed and/or operated to minimize seepage and erosion problems and, where practicable, to restore or maintain river functions and to protect previously existing riparian habitats. They should be constructed to mitigate these problems and other adverse impacts on adjacent lands.
- b) The owner or purveyor of the water conveyance system should be responsible for correcting adverse impacts, i.e., erosion, seepage, and sediment problems upon waterways, either anthropogenic or natural.

- c) Environmentally-sound methods of erosion-control should be encouraged along river banks to protect adjacent lands from flood or other erosive flows provided any adverse impacts on fish and wildlife habitats are mitigated.
- d) Local distribution systems should be interconnected with regional systems, where feasible, to assist in maximizing the use of local ground and surface waters during droughts and emergencies.
- e) Solving the water quality, levee stability, and fishery problems in the Sacramento-San Joaquin Delta is a primary step in developing any plan to meet the state's water needs.
- f) Cal Cities acknowledges that the use of the Sacramento River as a conveyance system presents problems of erosion and seepage which must be addressed in the operation of existing projects and the design of future projects.

2. Delta

- a) Conveyance of water across the Delta should be through existing channels wherever possible. Delta transfer system improvements should be constructed and operated so as to minimize or, if possible, eliminate reverse flows in the lower San Joaquin River.
- b) Construction of Delta transfer facilities should not proceed until the Department of Fish and Game and the Department of Water Resources have entered into an agreement to implement measures to offset the State Water Project's impacts on the Delta fisheries and other ecological concerns in the Bay-Delta estuary, which are shown to be adversely affected by the proposed transfer facilities.
- c) Implementation of an integrated program of rehabilitation and maintenance of Delta levees involving federal, state, local, and user interests for the purposes of protecting the islands, waterways and other features including, but not limited to, highways, railways, water conduits, natural gas storage, etc., should be supported. Costs and responsibilities should be fairly allocated among beneficiaries of such a program.
- d) Until an integrated Delta levee program is initiated, the Delta levee maintenance program, (by former California Sen. Howard Way), California Water Code Sections 12980-12991, should be funded and implemented.
- e) Any Delta governance and/or water management structure should include local government representation from the Delta region.
- f) When assessing conveyance projects, Cal Cities encourages cities to consider the guidelines outlined in other areas of this document.
- g) Protection, as well as enhancement where practicable, of Delta water quality, while providing adequate future supplies for all segments of the state, should be required.

- h) Standards balancing the protection of all beneficial uses of Bay-Delta waters, including water flowing into or exported from the Delta, must be adopted by the SWRCB and enforced to protect the environmental health of the Bay-Delta system. Pollution from point and non-point sources into the Bay and Delta shall be controlled as stringently as practicable.
- i) Programs and facilities to assure safe drinking water for importing regions dependent on the Delta should be supported.
- j) The SWRCB should assure continued monitoring for contaminants in the Delta.

II. FLOOD MANAGEMENT

1. Cal Cities believes that our citizens have a reasonable expectation that their federal, state, and local governments will work to protect them from flooding.
2. Cal Cities believes that flood protection and management is a statewide issue, involving flood infrastructure issues related to levees, urban/suburban/rural creeks, streams and rivers, and alluvial fans.
3. Cal Cities believes that it is important to recognize that levee failures in the Sacramento-San Joaquin River Delta have water quality, water supply, and economic impacts that may have statewide effects beyond the local or regional levee break situation.
4. Flood control issues require cooperative planning, evaluation, and solutions that utilize a regional and statewide perspective, such as the state IRWMP process.
5. In assessing problems and proposing solutions, it is important to consider the differences between infill development and new, greenfield development.
6. The public safety and health of California citizens and the economic health of California communities and our state depend upon good flood protection. This includes the potentially devastating impacts of floods on homes and businesses.
7. Cal Cities supports efforts to improve communication, cooperation, and better-coordinated planning between different government agencies involved in flood management. Cal Cities believes that there must be a genuine partnership between state and local agencies in addressing flood control issues.
8. Cal Cities believes cities must ask the right questions and have the means to obtain accurate information prior to approving development in floodplains. This involves educating elected officials and staff about whether their city is located in a floodplain, the local flood control infrastructure, the agencies that are responsible for providing flood protection, the status of levees and other structures that provide flood protection, emergency response, and evacuation protocols, and how their city would be impacted by flooding.
9. Cal Cities believes that city officials should understand that a 100-year flood zone does not mean a low, once-in-100-years risk of flooding. The designation actually

means that there is a 1% chance of flooding in any given year. This translates to a 26% chance of flooding over the life of a typical 30-year mortgage.

10. Cal Cities supports a 200-year flood standard for cities in the Sacramento-San Joaquin and Central Valleys.
11. Cal Cities generally endorses the recommendations of the state's Flood Control Task Force, especially those recommendations involved in updating the CEQA Checklist and General Plan Guidelines and building codes.
12. The state, Army Corps of Engineers (ACOE), and Federal Emergency Management Agency (FEMA) should work collaboratively with state and local governments regarding flood issues.

II. GROUNDWATER

1. The SWRCB, through the regulatory process of its regional boards, should ensure the highest possible quality and safety of groundwater by preventing contamination from point and non-point sources, especially for usable water.
2. Local drilling, sealing and abandonment ordinances for water supply and monitoring wells for the protection of groundwater and public health should be supported.
3. The principle that local entities within groundwater basins (i.e., cities, counties, special districts, and the regional water quality control boards) working cooperatively should be responsible for and involved in developing and implementing basin-wide groundwater, basin management plans should be supported. The plans should include, but not be limited to: a) protecting groundwater quality; b) identifying means to correct groundwater overdraft; c) implementing better irrigation techniques; d) increasing water reclamation and reuse; and e) refining water conservation and other management practices.
4. An active state and federal role in cleaning up contaminated groundwater basins should be supported.
5. State and federal involvement, if requested, in developing groundwater management plans should include technical assistance for defining the characteristics of groundwater resources.
6. Financial assistance from state and federal governments should be made available to requesting local agencies to develop and implement their groundwater management plans.
7. Planned, joint use of surface and groundwater and the development of incentives for such conjunctive use for increased efficiency should be encouraged.
8. Early development of a cost-sharing formula among all beneficiaries to fund groundwater replenishment projects should be supported.

9. The importation of additional supplemental water, consistent with Section VI Conveyance Systems, as one means of eliminating groundwater overdraft in the critically overdrafted basins should be supported.

II. FISH AND WILDLIFE

1. Protection, maintenance, and restoration of fish and wildlife habitats, resources, and their beneficial uses, including recreational and commercial uses, should be supported. Where feasible, enhancement of fish and wildlife habitats should be provided.
2. Water projects shall mitigate adverse impacts on fish and wildlife resources. Mitigation measures shall be on-site, if feasible; otherwise, as close as practicable to the area of adverse impact. Where practicable, such projects should incorporate programs designed to eliminate unnecessary barriers or impediments to fish migration, stabilize areas of streambank erosion, increase spawning and rearing habitat for fish, and maintain riparian vegetation for cover and temperature control.
3. Protection and restoration of documented fish habitats should be supported.

II. DRAINAGE

1. Agricultural Drainage

1. Finding long-term, economically feasible, and environmentally sustainable solutions to agricultural drainage problems is essential and in the public interest. Solutions must be safe and environmentally acceptable in order to protect:
 - » Viability of agricultural lands;
 - » Rivers, estuaries, and groundwater from potential degradation from agricultural drainage; and
 - » Water quality for public consumption. Drainage of agricultural lands must be part of current and future agricultural water project planning and implementation.
2. Both state and federal funding should be provided to investigate: a) further improvement in irrigation and drainage management 'practices and conservation; b) evaporation ponds; c) deep-well injection; and d) desalination and other treatment technologies. An equitable cost-sharing formula for implementing solutions to existing and future drainage problems shall include state and federal governments and irrigation project beneficiaries.

3. Other (Run-Off)

- a) Finding safe and environmentally acceptable solutions to problems caused by run-off from non-point sources is essential and in the public interest.
- b) Similarly, finding safe and environmentally acceptable solutions to other drainage and run-off problems, such as those caused by mining, dairying, and forest practices, is essential and in the public interest.

- c) Equitable cost-sharing among appropriate public and private bodies for implementing solutions to urban and other run-off problems should occur.

II. RECREATION

1. Water development projects should minimize adverse impacts to existing recreational uses and provide new recreational opportunities where feasible.
2. The state and federal governments and the recreational users should bear the recreational development costs of water projects.
3. Operation and maintenance costs of recreational facilities developed in conjunction with water projects should be provided from on-site user fees and other applicable sources. Other costs incurred as a result of these recreational activities, such as law enforcement and emergency rescue, should receive appropriate assistance from state and federal sources.

II. NEW TECHNOLOGY

Development of new technology in water use, reuse, desalination, detoxification, and so forth is encouraged. This should be primarily funded by the federal and state governments. Public-private partnerships in this research also should be encouraged. A high priority should be given to the protection of public health. New technology should be evaluated based on sound science.

III. FINANCIAL CONSIDERATIONS

1. It is recognized that:
 1. The development and operation of water supply, water conveyance, flood control and stormwater management, water storage, and wastewater treatment facilities is frequently beyond the capability of local areas to finance;
 2. Since most facilities have widespread benefits, it has become traditional for federal, state, and local governments to share their costs; and
 3. It is necessary that such sharing be continued and that different institutional arrangements including cost-sharing formulas among all beneficiaries, public-private partnerships, and user fees should be explored.
4. The requiring agency (whether it be state, federal, or otherwise) should pay for the features of projects or programs that are required by that agency.
5. Cal Cities supports legislation to provide funding for stormwater, water, and wastewater programs, including a constitutional amendment or legislation which would place stormwater fees in the category of water and wastewater fees for the purposes of Proposition 218 compliance.
6. Any agency that regulates water with regard to local governments needs to be involved in the appropriate city with regard to how the city will pay for the new regulatory burden imposed by the agency.

Appendix A

State Water Resources Control Board Water Quality Improvement Initiative (2008)

- a) Water Quality Improvement Initiative Item #1 (WQI 1): Cal Cities supports applying the 10% rule “One Per Region Basis”
- b) WQI 2: Cal Cities supports staggering the regional water board terms
- c) WQI 3: Cal Cities has no recommendation on reducing the size of the regional water board from nine members to seven, with the exception that at least one person on the regional board should have local government experience.
- d) WQI 4: Cal Cities supports delegating permitting authority to the regional water board executive officer and that the executive officer should take his or her direction from the State Water Resources Control Board (SWRCB).
- e) WQI 5: Cal Cities is opposed to regional water board's having full-time chairs.
- f) WQI 6: Cal Cities is opposed to the creation of a statewide council of full-time regional water board chairs. (Note: Water Discharge Subcommittee members believe that it may be helpful to combine a number of regional boards into larger regional boards to address areas that are similar (e.g., Los Angeles and Orange County). A large regional board could bring more consistency to basin plan management. Any inconsistencies between the regional boards should be addressed by the state Board.)
- g) WQI 7: Cal Cities supports the implementation of biennial priority setting based on the Strategic Plan, with six-month updates by the regional water boards.
- h) WQI 8: Cal Cities is opposed to allowing the SWRCB to make the TMDL environmental process subject to NEPA instead of CEQA.
- i) WQI 9: Cal Cities supports requiring a TMDL to be affirmatively approved by the State Water Board or upon petition.
- j) WQI 10: Cal Cities supports requiring the regional water board to consider costs of TMDL compliance.
- k) WQI 11: Cal Cities supports authorizing the SWRCB to make changes to TMDLs, rather than remanding these decisions back to the regional water boards (Note: Subcommittee members believe that this policy should be tied into WQI#9).
- l) WQI 12: Cal Cities has no position on confirmation of regional water board conflict of interest rules with the Political Reform Act – (Note: the Subcommittee asked for a legal opinion. The question is: “What are the current conflict of interest rules pursuant to AB 1234?” Staff and members believe that this provision is similar to what already exists for other state boards [example: Waste Board].)
- m) WQI 13: Cal Cities has no position on the establishment of civil penalties for fraudulent information with regard to reporting by permittees.

- n) WQI 14: Cal Cities is generally opposed to any removal of notice and hearing requirements prior to the SWRCB referring a case to the State Attorney General for additional action.
- o) WQI 15: Cal Cities has no recommendation on the additional authorization of district and city attorneys to pursue civil violations (for cities over 750,000 in population).
- p) WQI 16: Cal Cities believes the state should limit the number of mandatory minimum penalties (MMP) to one violation, and the population limit to qualify under the MMP law as a small, disadvantaged community for a single missing report should move from 10,000 to 50,000 (in accordance with federal law).
- q) WQI 17: Cal Cities has no recommendation on early payment of MMP violations.
- r) WQI 18: Cal Cities supports the enhanced ability of the Regional Water Boards to administratively enforce state Underground Storage Tank (UST) Requirements.
- s) WQI 19: Cal Cities supports enhanced oversight of UST testers.
- t) WQI 20: Cal Cities supports moving the SWRCB Enforcement Report deadline to July 1.
- u) WQI 21: Cal Cities supports the SWRCB developing and implementing performance measures
- v) WQI 22: Cal Cities supports improved data management systems for the SWRCB.
- w) WQI 23: Cal Cities generally has no recommendation on the standardization of NPDES permits and believes that this issue should be worked out with the individual regional water boards.
- x) WQI 24: Cal Cities generally has no recommendation regarding the update of SWRCB Strategic Plan.
- y) WQI 25: Cal Cities supports SWRCB conducted training of regional water boards, provided the SWRCB both conducts the training and sets consistent standards statewide.

Appendix B

GLOSSARY

- **Affordable:** A word used increasingly to express concern whether recipients of water will be able to meet the cost. Whether people view water as affordable will depend on many factors.
- **Agricultural Drainage:** Usually refers to installed drains to permit removal of water which accumulates within a plant root zone. May be essential to maintain a favorable salt balance for plant growth. May contain selenium, salinity, pesticides, herbicides, etc.
- **Area and County of Origin Protections:** Refers to legislative provisions for protecting water rights of these areas.
- **Area of Origin Law:** Applies to a watershed or area wherein water originates, or an area immediately adjacent thereto which can be conveniently supplied with water therefrom. Because this law was enacted as part of the Central Valley Project Act, it applies to the Sacramento River watershed. The Burns-Porter Act subsequently defined the Sacramento-San Joaquin Delta to be part of the watershed of the Sacramento River. Gives area of origin preferential rights regarding operation of federal Central Valley Project and to contract for State Water Project water and to certain rights to construct projects or make diversions, provided use is reasonable and beneficial. (California Water Code Sections 11128, 11460-11463).
- **County of Origin Law:** Prohibits State Water Resources Control Board from the assignment of rights which will deprive a county in which the water originates of such water necessary for the development of the county. (California Water Code Section 10505).
- **Delta Protection Act:** Establishes that an adequate supply of water in the Delta is necessary to the peace, health, safety, and welfare of the people of the state, except that delivery of such water is subject to County of Origin and Area of Origin laws. (California Water Code Sections 12200-12220).
- **California Wild and Scenic Rivers Act and Federal Wild and Scenic Rivers Act:** Establish certain rivers or sections of rivers to be preserved in their free-flowing condition. The California law (California Public Resources Code Sections 5093.50-5093.65) allows domestic water diversion for residents of counties through which the river flows, provided there is no adverse effect upon the free-flowing character of the river. California law finds that the free-flowing state of such rivers is a reasonable and beneficial use within the meaning of the state constitution.
- **Atmospheric Deposition:** The transfer of pollutants suspended in the air to the earth's surface. Pollutants move directly from the atmosphere into water bodies through precipitation, falling particles, or the absorption of gases into water. They also may be deposited over land and transported to water bodies via runoff. Atmospheric deposition is believed to be a significant source of various pollutants to many water bodies.

- Basin Plan: The Regional Water Quality Control Plan adopted by a regional water quality control board for that board's area of responsibility in California. (See Cal. Water Code Section 13240). The basin plan establishes water quality standards, uses, and other criteria for surface and ground waters.
- Best Management Practices (BMPs): Methods, measures, or practices designed and selected to reduce or eliminate the discharge of pollutants to surface waters from point and nonpoint source discharges, including urban runoff. BMPs include structural and nonstructural controls, and operation and maintenance procedures, which can be applied before, during, and/or after pollution-producing activities.
- California Toxics Rule (CTR): A federal rule adopted by the U.S. EPA on May 19, 2000, which established numeric criteria for various priority pollutants for California. The rule can be found at 65 Federal Register 31682-31719, and was codified in the Code of Federal Regulations at 40 CFR 131.38.
- Characteristics of Groundwater Resource: Include quality, quantity, rate of renewal, and yield.
- Clean Water Act (CWA): A comprehensive water quality statute (33 USC 1241 et seq.). The CWA was first adopted by Congress in 1972 and later amended in 1987 to apply to stormwater/urban runoff. The CWA was designed to restore and maintain the chemical, physical, and biological integrity of the nation's waters to support "the protection and propagation of fish, shellfish, and wildlife and recreation in and on the water."
- Coliform: A group of related bacteria that are generally benign to humans. They are natural and common inhabitants of the soil and ambient waters (e.g., lakes, rivers, and estuaries), as well as the gastrointestinal tracts of animals.
- Compensation: Full replacement for unavoidable fish and wildlife resource losses in terms of habitat area and long-term renewability of the quality and quantity of such resources. In the interest of clarification, compensation does not mean monetary payment as a substitute for replacement of resources losses.'
- Conjunctive Use of Surface and Groundwater: Planned joint use of surface and groundwater. This usually involves maximizing the use of surface water in wet years (with minimum groundwater pumping) and using any surplus surface water to recharge groundwater, and in dry years augmenting surface supplies by drawing on the stored groundwater.
- Conservation: Fish and wildlife resource loss prevention, mitigation, and compensation.
- Conservation (of Water): Means efficient use of water. Also means reducing water losses or eliminating waste; storing water for water use; preserving water quality.
- Contamination: An impairment of the quality of the waters of the state by waste to a degree that creates a hazard to the public health through poisoning or through the spread of disease. (California Water Code Section 13050) (See "Pollution").
- Contamination Sources:
 - » Point Discharge: Source is identifiable, as from a pipe or drain ditch.

- » Non-Point Discharge: Sources are more diffuse and not easily identified with well-defined outlets; includes runoff from agricultural or forested land, general urban runoff, except where collected in identifiable drains.
- » Cross-Media Pollution: The contribution or “flux” of pollution from one environmental medium to another. (For instance, the transfer of pollutants from the atmosphere to water.)
- Davis-Grunskv Bond: This legislation established a bond fund to facilitate the financing of projects in counties with limited financial resources.
- Demand/Need: “Demand” usually refers to a statement of water requirements that may be projected on the basis of past water use practices. In contrast, “need” is intended to refer to water that is truly needed to satisfy a purpose if water is efficiently utilized.
- Delta: Refers to the Sacramento-San Joaquin Delta. 700,000 acres of islands, waterways, levees, and lands into which the natural runoff flows from the Sacramento, San Joaquin, Mokelumne, and Consumnes river systems before either being exported or entering the San Francisco Bay and then, the Pacific Ocean.
- Desalination: A process designed to treat brackish or seawater to make it useful for potable or non-potable use.
- Enhancement: Development or improvement of fish and wildlife resource values of the area affected by a project beyond that which would occur without the project.
- Enterococcus: A non-coliform bacteria group used as an indicator of the presence of fecal material in drinking and recreational waters. USEPA believes that enterococci have a better correlation with swimming-associated gastrointestinal illness in both marine and freshwaters than coliform organisms, and “die off” more slowly in saltwater.
- Environmentally Safe: Not a precise technical term but used to mean actions that have little or no adverse impact.
- Economically Sound/Feasible: Not a precise technical term, but one that refers to a balance of costs and benefits. Formerly emphasis was placed on calculating benefit-cost ratios. Uncertainties and possible abuses in such calculations have raised questions concerning the usefulness of such calculations. Problems include what types of benefits to involve, as well as what costs to involve. Many, including environmentally-related benefits and costs, cannot be adequately quantified.
- Fish and Wildlife Issues: See Compensation, Conservation, Enhancement, Fish and Wildlife resources, Instream uses, Loss prevention measures, Mitigation, Preservation, Protection, and Restoration.
- Fish and Wildlife Resources: Birds, mammals, fishes, amphibians, reptiles, invertebrate animals, endangered, threatened or rare native plants, their habitat area, and all types of aquatic and land vegetation and other factors of the environment upon which resources are dependent. (See Fish and Game Code Section 45 for the definition of fish).

- Flood Irrigation: Used to describe what is more appropriately called basin and border irrigation in which land prepared as basins or land bordered by small levees is irrigated with relatively large streams of water.
- Groundwater Management: The process of controlling the extraction of groundwater and/or planned recharge to manage the supply and/or quantity of groundwater. Objectives of groundwater management may include minimizing (or preventing) adverse effects such as groundwater overdraft or quality degradation. (Also see conjunctive use and water management practices).
- Groundwater Overdraft: Where, over a period of time, groundwater extraction exceeds natural or artificial recharge.
- Indicator Bacteria: Bacteria that are used to assess the microbiological quality of water because, although not typically disease-causing themselves, they may indicate the presence of several waterborne disease-causing organisms. The concentration of indicator bacteria is used as a measure of water safety for body contact and for consumption of water.
- In-stream Uses: Include fish, wildlife, recreation, aesthetics, hydropower production, dilution of contamination, waste discharge, and sediment transport.
- Local Entities: Includes cities, counties, water districts, joint powers, etc.
- Loss Prevention Measures: Designing and implementing measures to avoid immediate and long-term impacts to fish and wildlife resources.'
- Maximum Extent Practicable (MEP): The vaguely defined standard set forth in the CWA to be included in Municipal NPDES Permits to be complied with by municipal dischargers in order to reduce the discharge of pollutants from their municipal separate storm sewer systems. CWA Section 1342 (p)(3)(B)(iii) requires that permits for discharges from municipal storm sewers "shall require controls to reduce the discharge of pollutants to the maximum extent practicable, including management practices, control techniques and systems, design and engineering methods, and such other provisions as the Administrator or the State determines appropriate for the control of such pollutants."
- Mitigation: Measures to lessen or reduce adverse effects on fish and wildlife resources through the use of structural and non-structural loss prevention measures in project design and operations. (See CEQA Guidelines Section 15370)1 NEPA regulations have a functionally similar definition. NEPA definition includes restoration as a mitigation measure, however.
- National Pollutant Discharge Elimination System (NPDES): The program for issuing, modifying, revoking, and reissuing, terminating, monitoring, and enforcing wastewater and stormwater discharge permits, and imposing and enforcing pretreatment requirements under CWA.
- Non-Point Source Discharge: Pollution caused by rainfall or snowmelt moving over and through the ground. As the water moves, it picks up and conveys natural and human-

made pollutants, depositing them into water bodies and groundwater. Atmospheric deposition and hydromodification are also nonpoint sources of pollution.

- **Numeric Limits:** Numeric or numerically expressed narrative restrictions on the quantity, discharge rate, concentration, or toxicity units of a pollutant or pollutants that may be discharged from an NPDES permitted location or outfall.
- **Pathogens:** Disease-causing bacteria, viruses, and protozoans that are transmitted to people when they consume contaminated water.
- **Pollution:** An alteration of the quality of the waters of the state by waste to a degree which unreasonably affects: (1) such waters for beneficial uses, or (2) facilities that serve such beneficial uses. Pollution may include contamination. (California Water Code Section 13050: Please see "Contamination").
- **Porter-Cologne Water Quality Control Act (Porter-Cologne):** The California equivalent of the federal Clean Water Act. This legislation established that the State Water Resources Control Board (State Water Board) has the ultimate authority over state water rights, water quality policy, and the nine regional water quality control boards (regional water boards) which oversee water quality on a day-to-day basis in their geographic regions.
- **Preservation:** Maintenance and protection of fish and wildlife resources at levels that existed prior to the commencement of a (the current) project. Preservation is achieved through mitigation for avoidable resource losses and/or compensation for unavoidable resource losses and/or compensation for unavoidable resource losses. The term "preservation" is synonymous with "conservation" as used in the U.S. Fish and Wildlife Coordination Act. Preservation does not assume that restoration will occur, but it could.
- **Project Beneficiaries:** Those who gain value in some fashion from any of the following: water supply, flood control, power generation, recreation, salinity repulsion, wildlife.
- **Protection:** Department of Fish and Game appears to use this term when referring to legal enforcement by wardens. (See Preservation and Conservation).
- **Real Water Savings:** Simply means there is an "actual" savings of water that could be put to other use.
- **Reasonable and Beneficial:** Depends on the facts and circumstances of each case. What is a beneficial use at one time may, because of changed conditions, become a waste of water at a later time. (Tulare Irrigation District v. Lindsay-Strathmore Irrigation District). The courts have determined the law requires an evaluation of the ascertainable facts in view of the increasing need for water conservation within California.
- **Beneficial uses include:** storing water underground if thereafter to be applied to beneficial purposes; use of water for recreation and preservation and enhancement of fish and wildlife resources.
- **Reclaimed Water:** Wastewater that has been cleaned so that it can be used for most purposes except drinking.

- Recycled Water: Municipal and/or industrial wastewater that has been treated to a sufficiently high level that it can be reused usually for non-potable purposes such as irrigating landscape and refilling aquifers.
- Restoration: Means to return to “original” conditions. (Selection or “original” or base condition is often source of debate.)
- Reverse Flows: Where the direction of flow in a channel is reversed, as in the case of channels in South Delta which normally drain towards San Francisco Bay, but where pumping for export may cause flow reversal, drawing more saline water further into the Delta.
- Sediment Transport: Sediment of various particle sizes may be carried by moving water. The size of particles transported by water increases as velocity rises.
- Stormwater: Water that accumulates on land as a result of storms and can include runoff from urban areas such as roads and roofs.
- Surplus Water: When used as a technical term in water contracts, this is the water that is available after entitlement water has been delivered. The amount of surplus water varies from year to year, generally according to amount of runoff. Surplus water ordinarily is less expensive to the user than entitlement water. Reference is also made to water which is surplus to reasonable and beneficial uses of area of origin and Bay/Delta.
- System Expansion: Extension of existing infrastructure exclusively to serve new customers in presently unserved areas and/or increase in water supply exclusively for the same purpose.
- Total Maximum Daily Load (TMDL): A calculation of the maximum amount of a pollutant that an impaired water body can receive and still meet applicable water quality standards. A TMDL is to include allocations for the maximum load a particular source of a pollutant may discharge to the subject water body. TMDLs are required pursuant to Section 1313(d) of the CWA for water bodies that have first been listed as being impaired for the particular pollutant or pollutants at issue.
- Triennial Review: A review of water quality standards in basin plans that is required at least once every three years by Section 1313(c) (1) of the CWA and periodically under Section 13240 of the Porter-Cologne Water Quality Control Act.
- Ultimate: Imprecise meaning. Depends on time frame.
- Usable Groundwater: Refers to groundwater that can be pumped within the cost and technical constraints appropriate to the situation.
- Water Banking: Not a precise term. Generally refers to storing presently surplus water in groundwater basins or in surface storage facilities.
- Water Management Practices: Relate to the varied objectives of irrigation, municipal and industrial use. These objectives may not be compatible. In general, management practices are developed to maximize economic returns and/or to minimize (or prevent) adverse environmental impacts including water quality degradation. Conservation of supply, reuse, treatment for use and waste disposal, and the planned conjunction use of

surface and groundwater are all aspects of water management. (Also see Conjunctive use and Groundwater management).

- Water Quality Standards and Objectives: The regional water quality boards set “objectives” in their basin planning process which are equivalent to what EPA calls “standards.” The “standards” include numerical narrative criteria and plans to implement these criteria.
- Water Reclamation: Usually refers to removing contaminants in water so that the water can be discharged into a receiving water without creating problems for fish, wildlife, and other aspects of environment. Also, refers to water which has been treated to remove contaminants as required to permit its reuse, particularly for irrigation of landscaped or agricultural areas.
- Way Bill (Program): Delta Levee Maintenance Program. Declares the Sacramento-San Joaquin Delta, characterized by islands and meandering waterways, as a unique resource of major statewide significance. Reasons are stated. Declares the system of levees is the key to preserving the physical characteristics of the Delta. Finds there is an urgent need for a higher degree of levee maintenance and rehabilitation throughout the Delta and ‘that the state has an interest in providing technical and financial assistance. Establishes that local agencies maintaining non-project (private) levees shall be eligible for reimbursement from the General Fund. Reimbursement shall be at 50% of cost. (California Water Code Sections 12980-12991).
- 303(d) List of Impaired Waterbodies: The State is required to prepare a list of water bodies that are polluted, under Section 303(d) of the CWA. Inclusion of a water body on the 303(d) list generally leads to the development of a total maximum daily load (TMDL) for the water body.

Prepared by Robert M. Hagan, Extension Water Specialist, Marcia Kreith, Program Representative, University of California Cooperative Extension, July 1987 and Ken Farfsing, City Manager, City of Signal Hill, October 2009.

Sources:

Some of the preceding definitions were derived from the following sources:

- » California Wetlands Information System Website: Porter-Cologne Act
- » Los Angeles MS4 Permit: Basin plan, best management practices, maximum extent practicable, NPDES permit
- » RWA: Cross-media pollution
- » Southern California Coastal Waters Research Project (SCCWRP) Website: Atmospheric deposition
- » State Water Board Website: Numeric Limits, Triennial Review,
- » U.S. EPA Website: California Toxics Rule, Clean Water Act, coliform, enterococcus, TMDLs
- » U.S. Geological Service (USGS) Website: Indicator bacteria, pathogens