



## GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS POLICY COMMITTEE

January 18, 2024

9:30 a.m. - 12:30 p.m.

### Register for this meeting:

<https://us06web.zoom.us/meeting/register/tZlvc-6hpi4pHNKIHOOb7WvEojwbCsFi4uOu2>

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

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### AGENDA

#### I. Welcome and Introductions

Speakers: Chair Frank Aurelio Yokoyama, Council Member, Cerritos  
Vice Chair Jaime Patino, Council Member, Union City  
Cal Cities President Daniel Parra, Mayor, Fowler  
Cal Cities Executive Director and CEO Carolyn Coleman

#### II. Public Comment

#### III. General Briefing (Attachment A)

Informational

#### IV. Artificial Intelligence Update

Informational

Speaker: Jonathan Mehta Stein (he/him) Executive Director, California Common Cause

#### V. Update to Existing Policy and Guiding Principles (Attachment B)

Action

#### VI. Cal Cities 2024 Strategic Priorities (Attachment C)

Informational

#### VII. Adoption of 2024 Work Program (Handout)

Action

#### VIII. Suggested Restructuring of SB 252 (Attachment D)

Informational

Speaker: Mike Healy, Council Member, Petaluma

#### IX. Legislative Agenda (Attachment E)

Action

- SB 251 (Newman) Candidates' Statements: False Statements.

#### X. Legislative and Budget Update

Informational

#### XI. Adjourn

**Next Meeting: Thursday, March 21 (in person), 10:30 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](#).



# Governance, Transparency, and Labor Relations

## *Scope of Responsibility*

The Committee on Governance, Transparency and Labor Relations (GTLR) reviews state legislation as it relates to transparency, technology (open data), healthcare, elections and political reform. Additionally, the committee oversees pension and workers compensation reform as well as other labor (employer/employee) related issues.

## *Summary of Existing Policy and Guiding Principles*

### **Labor Relations**

Cal Cities supports legislation that specifically exempts local public agencies from the requirement to negotiate with any labor or special interest group about matters submitted to the voters of that jurisdiction as initiatives or Charter amendments.

Cal Cities supports efforts to promote, initiate and improve both public and private sector labor- management relations.

Cal Cities opposes any system of compulsory and binding interest arbitration, including state-mandates and the imposition of binding arbitration through the initiative process. No arbitrator board or other private person should have any control, direct or indirect, over local budgets, revenues or appropriations.

Cal Cities opposes any legislative action that requires the continuation of the terms of any Memorandum of Understanding (MOU) between a public agency and an employee organization until a successor MOU is agreed upon.

Cal Cities opposes any extension of the State Public Employment Relations Board jurisdiction over local public agency labor relations disputes and charges of unfair labor practices, and also opposes any interference or intervention in local collective bargaining by all labor-management relations councils or boards.

Cal Cities opposes state-mandated legislation related to employer/employee relations that are not mutually agreed upon by the local public agency and its employee organizations, except as provided by local law.

### **Public Sector Pensions, Compensation and Other Post-Employment Benefits**

## **(OPEBs)**

### Pension Sustainability Principles

Public compensation systems programs should be sustainable, fair to taxpayers and employees, and provide long-term financial stability.

Cal Cities believes that solutions towards realizing pension system sustainability should be the result of inclusive stakeholder collaboration at both the local and state level (retirees, employees, employers, CalPERS).

Cal Cities supports legal or legislative remedies that facilitate options to restore sustainability to CalPERS benefit plans. As appropriate to each city, such actions could include one or more of the following:

- A single benefit level for every employee.
- Converting all currently deemed "Classic" employees to the same provisions (benefits and employee contributions) currently in place for "PEPRA" employees for all future years of service.
- Temporary modifications to retiree Cost of Living Adjustments (COLA) that are automatically added to a retiree's pension benefit payment regardless of compensation level or CPI.

Cal Cities supports expanded flexibility for cities regarding their contract agreements with CalPERS, which could include additional mechanisms for exiting CalPERS and renegotiating UAL amortization terms.

Cal Cities supports a change in state law or judicial precedent to allow employers to negotiate plan changes with classic CalPERS members.

Cal Cities supports legislative solutions to address increasing costs associated with Industrial Disability Retirement (IDR).

### General Pension Principles

Cal Cities supports balanced measures that ensure sustainable retirement and health care benefits are offered to public agency employees while at the same time ensuring that public agencies have solid retirement benefits to attract and retain highly talented employees. Cal Cities supports locally negotiated retirement programs that are fiscally responsible, transparent, sustainable, affordable and equitable for employees and for taxpayers in the long term.

Cal Cities supports reasonable measures to ensure that retirement benefits are properly funded allowing flexibility to local agencies to negotiate equitable cost sharing with employees and smoothing the employers' costs during challenging economic times. Cal Cities supports the long-term sustainability of retiree health benefits by including their costs in employer/employee costs sharing formulas.

Cal Cities recognizes and supports the value of a dependable, sustainable, employer provided defined benefit plan for career employees; supplemented with other employee only funded retirement options including personal savings such as a 457 Plan. Cal Cities

supports further exploration of defined contribution options as part of future pension reform discussions.

Cal Cities supports pension portability across all public agencies to sustain a competent cadre of California public servants.

Cal Cities supports calculating benefits only on core components; special pays such as temporary upgrade of out of class pay should be eliminated from final compensation calculations.

Cal Cities supports meeting any retirement needs for part-time employees with alternatives to a defined benefit plan.

Cal Cities supports employee benefits (including but not limited to retirement and disability) and desires to ensure that income derived from such sources are non-duplicative.

Cal Cities opposes preemption of charter city authority over public pension systems.

Cal Cities supports reducing public retirement benefit fraud and increasing transparency of other post-employment benefits.

Cal Cities supports full participation in the PERS Coalition (PERS/PAC) and its purpose of monitoring legislation, policies and action necessary to maintain or further the interests of contracting agencies.

Cal Cities believes that cities with retirement programs must retain the ability to opt out of Social Security.

Cal Cities believes that the employee benefit structure within local government should be developed locally through the local government collective bargaining process and that process should be strictly honored by the state Legislature and the Governor.

### **CalPERS (California Public Employees' Retirement System)**

#### CalPERS Divestments Policy

Divestment in industries that may run contrary to environmental or other broad policy goals as an investment strategy can present challenging conflicts for CalPERS in balancing current affairs against its fiduciary duty to maximize retirement investments. Cal Cities supports CalPERS' priority to its members as stated in the State Constitution Article 16, Section 17, "[a] retirement board's duty to its participants and their beneficiaries shall take precedence over any other duty."

Cal Cities supports responsible investment strategies that balance the short and long-term ability of CalPERS to meet its financial commitments to its members.

Any divestment policy must be well vetted and must include the opportunity to identify alternative revenue sources consistent with the intended impact of the divestment and

CalPERS' fiduciary responsibilities outlined above.

Cal Cities supports CalPERS proxy access efforts to affect change from within businesses CalPERS has invested in to ensure they are well managed for sustained, responsible, long-term success.

Cal Cities supports an exemption for retired CalPERS employees, allowing them to work for CalPERS agency under contract or appointment by the local agency.

Cal Cities supports agencies having the maximum amount of flexibility when employing and compensating part-time, seasonal and temporary employees (ie. lifeguards, seasonal maintenance workers, recreation leaders, summer camp leaders, and other temporary hires, etc.) to include eliminating the mandate that CalPERS retirement benefits must be provided when the part-time, seasonal or temporary employee works 1,000 hours in a fiscal year given the costs associated with the CalPERS retirement plan.

Further, Cal Cities supports providing CalPERS with information regarding enrolled members while eliminating the requirement to provide information regarding employees who are not members of CalPERS. Cal Cities also encourages agencies to support long-term part-time/seasonal employees by providing proportional retirement benefits via appropriate mechanisms.

Cal Cities supports having CalPERS provide a broader range of formula choices classes with maximum local control and flexibility in negotiating all options.

Cal Cities supports having CalPERS provide a broader range of health plan choices with a variety of benefit options for all types of member classes with maximum local control and flexibility in negotiating all benefit options with active employees and for retirees.

Cal Cities supports legislation that allows agencies to offer a variety of different health care plans to retired employees that provides adequate, affordable coverage.

Cal Cities supports legislation permitting cities to establish their contributions toward retiree health premiums through the labor relations negotiating process, including: (a) multi-tiered contribution levels; (b) vesting eligibility other than PERS retirement eligibility; (c) prorated contribution based on age and/or length of service; and (d) different contributions for active and retired employees.

When discussing pension policy, the total cost of the pension benefit should be considered. In cost share arrangements, Cal Cities supports shared employee/employer costs based on the total cost of the pension benefit.

Cal Cities supports providing local governments with maximum flexibility and options. Local agencies must be able to decide on issues such as minimum retirement ages, pension caps, cost sharing, formulas and other options to meet local needs and promote ease of administration.

Cal Cities supports giving government agencies through the collective bargaining process

the option to extend retirement ages for miscellaneous employees up to social security retirement ages.

Cal Cities supports eliminating the requirement that any negotiated changes in pension benefits under the Public Employees' Retirement Law (PERL) are voted on twice by the affected employees.

Cal Cities supports a State Constitutional Amendment to allow employers to negotiate plan changes with classic CalPERS members.

Cal Cities supports restructuring the CalPERS Board of Administration to substantially increase in independent public members (preferably with financial expertise) to ensure greater representation of taxpayer interests with regard to public pension decisions.

Cal Cities supports setting uniform standards and definitions for disability benefits and evaluating the level of benefit that is considered as tax exempt. The tax exempt portion should either be eliminated or allowed on a proportional basis to the severity of the disability.

If the above reforms prove unfeasible or ineffective, Cal Cities supports considering a standard public employee pension system where one benefit level is offered to every employee as a further option to restore sustainability to CalPERS.

Cal Cities supports developing a program with the State to ensure that pension programs offered by localities are fully transparent, and that professional actuarial evaluations of unfunded components of other post-retirement benefits (OPEBs) and pension plans are completed.

#### Compensation Principles

Employee compensation should be based on each individual agency's overall philosophy on employee compensation as well as the agency's ability to pay and provide services to their community. Cal Cities recognizes that sound compensation practices are based on the complexity of the job and the community as well as the job requirements and the knowledge, skills and abilities needed to meet those requirements.

Cal Cities believes that employee compensation should be based on job requirements, complexity of both the makeup of the city organization and community, the leadership needed, labor market conditions, ethical considerations of what is just and fair, and the organization's ability to pay.

Public compensation systems programs should be sustainable, fair to taxpayers and employees, and provide long-term financial stability.

Transparency of compensation and other benefits ensures the public is informed about the fiscal realities local agencies face as they relate to fiscal obligations.

Cal Cities opposes legislation that would require employers to pay more than the regular pay for work on family holidays.

## **Workers' Compensation**

Cal Cities supports legislation and policy that controls escalating workers compensation costs to public agencies and taxpayers.

Cal Cities opposes legislation that would permit an employee to use more than one legal process in regard to disability claims (i.e., ADA, workers' compensation, DFEH), or any other erosion of the "exclusive remedy" principle as it relates to disability claims covered under workers' compensation.

Cal Cities supports reforming the workers compensation process to incentivize employees returning to work creating a penalty for those that do not return to available modified duty or alternate positions.

## **Other Employer and Employee Related Issues**

Cal Cities supports efforts to conform the California Family Care Leave Laws to the federal Family and Medical Leave Act (FMLA) laws.

Cal Cities supports the special protection of elected officials, county public defenders, public figures and public employees acting in their official capacity against threats of death or serious bodily injury.

Cal Cities opposes legislation making it a misdemeanor to disclose peace officer personnel records and citizen complaint records, as well as prohibiting the use of documents or information obtained in violation of this procedure in any administrative proceeding against a peace officer, and any measure that makes it more difficult to discipline the misconduct of police officers.

Cal Cities supports maintaining the confidentiality of personnel matters and protecting public safety personnel discipline records from public disclosure.

Cal Cities opposes the mandated inclusion of governmental entities for Occupational Safety and Health Agency (OSHA) violations without appropriate compensation for the mandates.

Cal Cities supports legislation to protect the authority of city employers to request that an applicant disclose information or use for hiring decisions information concern a felony conviction.

Cal Cities supports the establishment of a state program similar to that of the federal AmeriCorps program that would allow cities and other local agencies to host service members.

Cal Cities opposes legislation that would allow employment applicants to bring action against the agency for taking into consideration their status as a current or former public employee.

Cal Cities supports controlling the overall costs of healthcare through community-wide actions.

Cal Cities opposes requiring public agencies to continue employer contributions for health care coverage for employees who, during the duration of a strike, fall below the minimum hours worked to qualify for employee health care coverage.

Cal Cities opposes legislation that would interfere with a city's ability to maintain a safe workplace.

Cal Cities is committed to ensuring employees have access to, and are educated in, sexual harassment prevention training and supports the State of California's production of uniform training materials to be used to educate employees on the prevention of sexual harassment in the workplace. As employees move from agency to agency or between public and private employers, it is important that they have a uniform training standard related to sexual harassment prevention.

## **Transparency**

Public trust and confidence in government is essential to the vitality of a democratic system and is the reason ethics laws hold public officials to high standards.

Laws alone cannot foresee or prevent all actions that might diminish the public's trust in governmental institutions. Transparency laws impose the minimum standards of conduct; to preserve public trust, public officials should aspire to conduct that exceeds minimum standards.

State revisions to laws governing local agency transparency and ethics should address material and documented inadequacies in those laws and have a reasonable relationship to resolving those problems.

In order to encourage and facilitate compliance with new transparency and ethics requirements, State laws should be internally consistent, avoid redundancy and be mindful of the practical challenges associated with implementation.

State officials and agencies should aspire to conform to the same level of transparency and ethical behavior as is imposed on local officials and agencies.

## **Open Meeting Law (Ralph M. Brown Act) & Open Access to Public Records (California Public Records Act)**

Cal Cities supports legislation that recognizes the need to conduct the public's business in public. To this end, Cal Cities supported and was a co-sponsor of the original Ralph M. Brown Act and supports legislation that conforms to the intent of the Act. Cal Cities also supports the regulation of the state and other public agencies to ensure conformance to the principles of the open meetings provision in the Ralph M. Brown Act.



Cal Cities opposes legislation claiming to enhance open and public meetings that in practice unnecessarily complicates the ability of a local governing body to properly communicate with the public and that discourages communications among governing body members through unproductive restrictions and inappropriate activities.

Cal Cities opposes legislation that would impose further unnecessary restrictions on the action that a governing body can take in closed sessions.

Cal Cities supports legislation that recognizes the realities of other constraints under which a local governing body must operate that necessitates judicious use of closed sessions, including:

- The privacy rights granted to individuals under the U.S. and California constitutions.
- The personnel issues that have a potential impact on an individual's career and potential earning capacity and that raise serious liability questions for a local jurisdiction.
- The protection of the taxpayer's interests over property and other acquisitions by a public agency.
- The proper maintenance of the same attorney-client privilege enjoyed by the private sector.

Cal Cities supports legislation that includes less-than-a-quorum advisory committees within the definition of "legislative body" as defined in the Ralph M. Brown Act, if the committee is composed solely of members of the legislative body whose subject matter jurisdiction has cumulatively lasted two years or less.

Cal Cities supports alternative methods of meeting public notice requirements and enhancing them through the use of cost effective and innovative, technology friendly methods of communication.

### **Political Reform Act of 1974 (PRA)**

Cal Cities supports legislation and regulations that establish sound practices and principles related to political campaigns. Regulations and legislation that restrict or preempt local authority will be opposed.

Cal Cities should continue to explore opportunities to improve and streamline the Political Reform Act and its implementation through regulations.

Cal Cities supports an increase in the fee for the reproduction of statements required under the Political Reform Act from ten cents (\$0.10) per page to twenty-five cents (\$0.25) per page.

Cal Cities opposes legislation that would prohibit the use of public resources to commence an action to enjoin the operation of any law or constitutional amendment that was proposed by initiative petition and approved by the voters.

Cal Cities supports legislation providing the FPPC with authority to issue opinions to guide local officials in understanding conflict of interest laws, including Government Code

Section 1090.

### **Governance and Ethics**

Cal Cities supports legislation that strengthens the ethics laws related to the Board of Administration (Board) for the California Public Employees' Retirement System (CalPERS) including banning the ability for former Board members to do business with CalPERS.

Cal Cities believes that a statute of limitations for bribery should not begin until the act is discovered. Cal Cities also believes that in cases of conspiracy to commit a felony, the statute of limitations should be the same as the statute of limitations for the underlying crime.

### **Elections**

Cal Cities supports legislation that reduces any unnecessary and costly procedures for conducting a municipal election. Cal Cities opposes legislation that mandates costly and unnecessary procedures related to the election process.

Cal Cities opposes state-mandated consolidated elections as they lead to increased costs and move local elections further down on the ballot even though local outcomes have a direct impact on voters themselves.

Cal Cities supports providing city councils more flexibility to fill city council vacancies including extending the appointment period to fill a vacancy.

Cal Cities supports mail ballot elections.

Cal Cities supports the requirement that the intent and text of a local ballot measure is to be filed with the city clerk and published in a newspaper of general circulation with a filing fee. With regard to any land use measure, Cal Cities supports allowing the city council to refer it to the planning agency for a report on the measure's effects.

Cal Cities supports legislation that facilitates newly sworn citizen's voter registration.

Cal Cities supports permitting elections officials to administer voter information electronically so long as such a process remained voluntary to voters.

Cal Cities opposes any legislation or regulation that would prohibit legal action from being filed by any person(s) challenging the validity of the initiative petition or ordinance after the date of the election.

**Cal Cities supports legislation that puts before voters the question of whether general law cities should have the ability to create public campaign financing programs.**

### California Voting Rights Act (CVRA)

Cal Cities supports a process that would allow a city presented with an allegation of a violation of the California Voter Rights Act (CVRA) to address the allegation before any person may file a lawsuit related to the alleged violation.

Cal Cities supports authorizing cities to convert from an at-large to a by-district election system using an ordinance process, thus avoiding possible California Voting Rights (CVRA) lawsuits and costs associated with gaining voter approval at the ballot.

Cal Cities supports modifying the California Voting Rights Act (CVRA) to provide cities more flexibility to remedy a potential CVRA lawsuit by converting to a rank-choice voting (RCV) method.

## **Recall Elections**

Cal Cities supports legislation that maintains the integrity of the recall process.

Cal Cities supports legislation that reduces the amount of recall abuse while improving, streamlining and ensuring that the public has full knowledge of the issues.

## **Elected Officials**

Cal Cities recognizes that elected and appointed officials receive threats, and have become the target of violence at their homes. The unauthorized publication of home addresses or telephone numbers in newspapers or similar periodicals, like publications on the Internet, is a threat to the security of public officials in their homes. Cal Cities supports legislation to extend or provide protection to elected and appointed officials from the unauthorized publication of their home addresses or telephone numbers in newspapers or similar periodicals.

Cal Cities supports requiring both elected local and state officials to maintain their place of residence in the jurisdiction they were elected to represent.

Candidates running for elected office with young children often face the practical reality of paying for increased childcare to campaign and network when running for office. Cal Cities supports increasing diversity of elected officials at all levels and supports the use of campaign funds to pay for childcare expenses resulting from a candidate or officeholder engaging in campaign activities or performing official duties. **Cal Cities also supports legislation to increase flexibility and remove limitations on how campaign funds may be used for security expenses.**

## **Legal Issues**

### Attorney-Client Privilege

Cal Cities recognizes the special role of public agency attorneys in protecting the public interest, while at the same time maintaining appropriate and critical attorney-client confidentiality. The basis for this position is the belief that it is the public agency that is the public agency attorney's client, not an individual public official. Thus, Cal Cities supports legislation that permits public agency attorneys to breach attorney-client confidentiality to disclose only very serious wrongdoings where internal corrective measures have failed or are futile; the disclosure is made to narrowly circumscribe regulatory agencies and the public agency attorney follows specific procedures.

### Government Liability and Tort Reform

Cal Cities supports legislation that limits the exposure of local governments to lawsuits related to liability, including but not limited to such areas as unimproved natural conditions, design immunity, hazardous recreational activities, and injuries due to wild animals in public places. Cal Cities opposes legislation that would unduly expose cities to increased liability and cost.

Cal Cities supports modifications to the joint liability laws that require the responsible parties in a civil action to pay only their fair share of judgment based on their relative responsibility.

### Private Sector Liability

Cal Cities will work closely with private sector representatives to evaluate the potential for Cal Cities support of civil justice reform measures designed to improve the business climate in California. These measures should be evaluated on a case-by-case basis through Cal Cities policy process.

Cal Cities supports legislation that enables cities to better prosecute unfair competition cases (Business and Professions Code 17200) in order to protect consumers and their residents, and that removes the 750,000 population and District Attorney approval for city attorney action in this area. Cal Cities opposes legislation that restricts cities from pursuing unfair competition cases beyond the restrictions in current law (2003).

### Interest on Judgments

Cal Cities supports ensuring that pre-and post-judgment interest rates are fair to all parties, including taxpayers, recognizing the impact on public budgets.

## **Data and Privacy Protection**

Cal Cities encourages cities to do everything in their power to protect the privacy of employees and constituents. However, Cal Cities opposes mandates that would require, in the event of a security data breach, cities to provide identity theft prevention and mitigation services at no cost to the impacted persons.

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 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.

January 12, 2024

Senator Lena Gonzalez  
1021 O Street, Suite 7720  
Sacramento, CA 95814

Re.: Suggested Restructuring of S.B. 252 to Create Fossil Fuel Free CalPERS Option

Dear Senator Gonzalez:

We write to suggest a restructuring of your bill, S.B. 252. As currently written, S.B. 252 would require CalPERS and CalSTRS to divest themselves of investments in the 200 largest publicly traded fossil fuel companies by 2031. The proposed restructuring would delegate to individual cities, counties, special districts and school districts the decision on whether to have their CalPERS or CalSTRS portfolios be free of investments in fossil fuel companies.

The suggested restructuring could remove some of the most significant opposition to S.B. 252. For instance, the League of California Cities (“Cal Cities”) has a blanket policy of opposing all divestment bills, and so it has opposed S.B. 252. But there has never been an optional divestment bill before, and the restructured bill is consistent with the Cal Cities’ number one core value, which is local control. Similarly, the valid concerns of organized labor could be tempered by required findings that would need to be made by any local government agency electing an investment portfolio free of investments in fossil fuel companies (see below).

Two aspects of this proposal present novel issues:

### **1. Ability of Legislature to Delegate Authority Granted to it by the State Constitution to Local Government Agencies and School Districts**

California Constitution, Art. XVI, Sec. 17(g), enacted by California voters as part of Proposition 162 in 1992, authorizes the legislature to prohibit certain investments by CalPERS or CalSTRS “where it is in the public interest to do so.” The legislature has exercised this authority in the past, prohibiting investments in thermal coal and in companies doing business in Sudan.

The proposal to have the legislature delegate this authority to individual cities, counties, special districts and school districts, while novel, rests on strong legal ground. The delegation issue has been addressed repeatedly by the California Supreme Court, most recently in *Carson Mobilehome Park Owners’ Assoc. v. City of Carson*, 35 Cal.3d 184 (1983). In *Carson*, the court stated “An unconstitutional delegation of authority occurs only when a legislative body (1) leaves the resolution of a fundamental policy issue to others or (2) fails to provide adequate direction for the implementation of that policy.” *Carson*, 35 Cal.3d at 190 (emphasis added).

The *Carson* court proceeded to uphold a City of Carson ordinance delegating mobilehome rent controls to a city rental review board, where the ordinance specified that maximum rents were to be “just, fair and reasonable” but did not specify any particular methodology or formula. *Carson*, 35



Cal.3d at 190-91. This was held to constitute “sufficient standards” to constitute a constitutionally permissible delegation of legislative authority. *Carson*, 35 Cal.3d at 191.

Accordingly, the proposed amendment to S.B. 252 includes “adequate direction” within the meaning of *Carson* to support the legislature delegating to local government agencies the decision of whether or not to divest fossil fuel investments from their retirement investment portfolios. Specifically, any local jurisdiction choosing to specify an investment portfolio free of fossil fuel companies would be required to make the following four findings:

- (1) That the importance of having an investment portfolio free of investments in fossil fuel companies outweighs the investment risk of so doing to the local government agency or school district;
- (2) That the local government agency or school district acknowledges that the investment risk of said decision shall rest entirely with the local government agency or school district and not with CalPERS or CalSTRS or anyone else;
- (3) That the local government agency or school district reasonably believes it has the financial ability to assume any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, including employer contribution rates that may differ from what it would have paid had it not elected to have an investment portfolio free of investments in fossil fuel companies; and
- (4) That notwithstanding any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, the local government agency or school district reaffirms its commitment to fully fund all pension benefits earned by its employees and retirees.

The requirement of these four findings should constitute “sufficient standards” to constitute a constitutionally permissible delegation of legislative authority within the meaning of *Carson*.

## **2. Practical Ability of CalPERS and CalSTRS to Offer Option of Portfolio Free of Fossil Fuel Company Securities**

CalPERS has estimated that it has \$9.4 billion invested in fossil fuel companies subject to divestment under S.B. 252; the figure for CalSTRS is \$5.4 billion. (Senate Rules Committee Analysis of S.B. 252, at page 3.) CalPERS had \$439 billion in total investments as of June 30, 2023; CalSTRS had \$308 billion as of September 30, 2023.

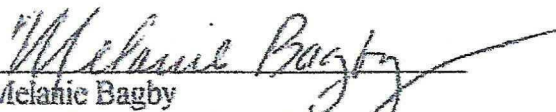
At least two options would seem feasible for CalPERS and CalSTRS to offer the option of a portfolio free of investments in fossil fuel companies. First, they could continue to keep all investments in a single pool, sell a proportional amount of fossil fuel securities on behalf of local government agencies opting for a fossil fuel free portfolio, add replacement investments, and allocate investment returns through an accounting true-up.





Second and alternatively, they could keep the 98% of their portfolios not invested in fossil fuel company securities in a single pool, and then create two separate pools for the remaining 2%, one with and one without fossil fuel company securities.

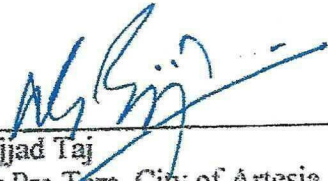
Thank you for your consideration of this matter. If there are any questions, please feel free to contact Mike Healy at [mhealy@cityofpetaluma.org](mailto:mhealy@cityofpetaluma.org) or (707)849-4663.


Sincerely,

  
Melanie Bagby  
Councilmember, City of Cloverdale  
& Cal Cities Board Member

  
Scott Bauer  
Councilmember, City of Eureka  
& Cal Cities Board Member

  
Mike Healy  
Councilmember, City of Petaluma  
& Cal Cities Board Member

  
Ali Sajjad Taj  
Mayor Pro Tem, City of Artesia  
& Cal Cities Board Member

  
Dan Wright  
Councilmember, City of Stockton  
& Cal Cities Board Member

Attachment

**Introduced by Senators Gonzalez, Stern, and Wiener  
(Coauthor: Senator Portantino)**

**January 30, 2023**

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An act to amend Section 16642 of, and to add Section 7513.76 to, the Government Code, relating to public retirement systems.

## LEGISLATIVE COUNSEL'S DIGEST

SB 252, as amended, Gonzalez. Public retirement systems: fossil fuels: divestment.

The California Constitution grants the retirement board of a public employee retirement system plenary authority and fiduciary responsibility for investment of moneys and administration of the retirement fund and system. These provisions qualify this grant of powers by reserving to the Legislature the authority to prohibit investments if it is in the public interest and the prohibition satisfies standards of fiduciary care and loyalty required of a retirement board.

Existing law prohibits the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of public employee retirement funds in a thermal coal company, as defined. Existing law requires the boards to liquidate investments in thermal coal companies on or before July 1, 2017, and requires the boards, in making a determination to liquidate investments, to constructively engage with thermal coal companies to establish whether the companies are transitioning their business models to adapt to clean energy generation. Existing law provides that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.

This bill would provide local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System with the option of specifying that their retirement investment portfolios be free of investments in fossil fuel companies.

~~This bill would prohibit the boards of the Public Employees' Retirement System and the State Teachers' Retirement System from making new investments or renewing existing investments of~~

~~public employee retirement funds in a fossil fuel company, as defined. The bill would require the boards to liquidate investments in a fossil fuel company on or before July 1, 2031. The bill would temporarily suspend the above-described liquidation provision upon a good faith determination by the board that certain conditions materially impact normal market mechanisms for pricing assets, as specified, and would make this suspension provision inoperative on January 1, 2035. The bill would provide that it does not require a board to take any action unless the board determines in good faith that the action is consistent with the board's fiduciary responsibilities established in the California Constitution.~~

~~This bill would require the boards, commencing February 1, 2025, and annually thereafter, to file a report with the Legislature and the Governor, containing specified information, including a list of fossil fuel companies of which the board has liquidated their investments. The bill would provide that board members and other officers and employees of the Public Employees' Retirement System and the State Teachers' Retirement System shall be held harmless and be eligible for indemnification in connection with actions taken pursuant to the bill's requirements, as specified.~~

## DIGEST KEY

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## BILL TEXT

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

### SECTION 1.

Section 7513.76 is added to the Government Code, to read:

#### **7513.76.**

(a) The Legislature finds and declares all of the following:

(1) The combustion of coal, oil, and natural gas, known as fossil fuels, is the single largest contributor to global climate change.

(2) Climate change affects all parts of the California economy and environment, and the Legislature has adopted numerous laws to mitigate greenhouse gas emissions and to adapt to a changing climate.

(3) Fossil fuel companies' plans to expand production, public relations campaigns, and efforts to obstruct climate stabilization policies are incompatible with California's climate goals, and our obligation to current and future generations.

(4) The production of fossil fuels and the effects of climate change resulting from the use of fossil fuels all lead to disproportionate adverse impacts on low-income communities and communities of color.

(5) A transition away from fossil fuels to clean energy will create greater employment, support the economy, and improve public health.

(6) The purpose of this section is to require the Public Employees' Retirement System and the State Teachers' Retirement System, consistent with, and not in violation of, their fiduciary responsibilities, to divest their holdings of fossil fuel company investments, on behalf of local government agencies



and school districts electing to have investment portfolio free of investments in fossil fuel companies, as one part of the state's broader efforts to decarbonize the California economy and to transition to clean, pollution-free energy resources.

(7) The California Constitution, Art. XVI, Sec. 17(g), provides that the Legislature may by statute prohibit retirement board investments where it is in the public interest to do so and providing that the prohibition satisfies specified fiduciary standards.

(8) Given the paramount importance of combating climate change, the Legislature finds and declares that it is in the public interest to give local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System the option of specifying that their retirement funds not be invested in common stock or other securities issued by fossil fuel companies.

(9) The Legislature acknowledges that not all local government agencies and school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System to manage their retirement investments, either wish to or have the financial ability to assume any additional risk of electing to have a retirement investment portfolio free of investments in fossil fuel companies.

(10) The Legislature acknowledges that divestment is a course of last resort that should be used sparingly and under extraordinary circumstances. This act is based on the extraordinary importance of combating climate change by reducing reliance on fossil fuels.

(b) As used in this section, the following definitions shall apply:

(1) "Board" means the Board of Administration of the Public Employees' Retirement System or the Teachers' Retirement Board of the State Teachers' Retirement System, as applicable.

(2) "Company" means a sole proprietorship, organization, association, corporation, partnership, venture, or other entity, or its subsidiary or affiliate, that exists for profitmaking purposes or to otherwise secure economic advantage.

(3) "Investment" means the purchase, ownership, or control of publicly issued stock, corporate bonds, or other debt instruments issued by a company. "Investments" also includes purchase, ownership, or control of mutual funds and exchange-traded funds, unless the board is satisfied on reasonable grounds that a mutual fund or exchange-traded fund is unlikely to have in excess of 2 percent of its assets, averaged annually, directly or indirectly invested in fossil fuel companies.

(4) "Public employee retirement funds" means the Public Employees' Retirement Fund described in Section 20062 of this code, and the Teachers' Retirement Fund described in Section 22167 of the Education Code.

(5) "Fossil fuel" means petroleum oil, natural gas, and thermal coal. Thermal coal is coal used to generate electricity, such as that which is burned to create steam to run turbines. Thermal coal does not mean metallurgical coal or coking coal used to produce steel.

(6) "Fossil fuel company" means one of the 200 largest publicly traded fossil fuel companies, as established by carbon content in the companies' proven oil, gas, and coal reserves.

(c) Pursuant to Section 1 of Article IV of the California Constitution and *Carson Mobilehome Park Owners' Assn. v. City of Carson*, 35 Cal.3d 184, 190-91 (1983), the Legislature hereby delegates its authority pursuant to Section 17(g) of Article XVI of the California Constitution, to



local government agencies or school districts that contract with the California Public Employees' Retirement System or the California State Teachers' Retirement System to manage their retirement investments, to elect that their the California Public Employees' Retirement System or the California State Teachers' Retirement System investment portfolios shall not include investments in fossil fuel companies. Local government agencies or school districts wishing to elect an investment portfolio free of investments in fossil fuel companies may do so only upon making all of the following findings:

(1) That the importance of having an investment portfolio free of investments in fossil fuel companies outweighs the investment risk of so doing to the local government agency or school district;

(2) That the local government agency or school district acknowledges that the investment risk of said decision shall rest entirely with the local government agency or school district and not with the California Public Employees' Retirement System or the California State Teachers' Retirement System or anyone else;

(3) That the local government agency or school district reasonably believes it has the financial ability to assume any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, including employer contribution rates that may differ from what it would have paid had it not elected to have an investment portfolio free of investments in fossil fuel companies; and

(4) That notwithstanding any additional risk of electing to have an investment portfolio free of investments in fossil fuel companies, the local government agency or school district reaffirms its commitment to fully fund all pension benefits earned by its employees and retirees.

~~(c) The board shall not make additional or new investments or renew existing investments of public employee retirement funds in a fossil fuel company.~~

~~(d) (1) The board shall liquidate investments in a fossil fuel company on or before July 1, 2031.~~

~~(2) Notwithstanding paragraph (1), this subdivision shall be suspended upon a good faith determination by the board that an act of God, war, or other unforeseeable event creates conditions that materially impact normal market mechanisms for pricing assets and shall only be reinstated upon a subsequent good faith finding of the board that market conditions have substantially returned to normal ex-ante. Upon such a finding, the board shall have six months to liquidate any remaining investments in a fossil fuel company.~~

~~(3) Paragraph (2) shall remain in effect only until January 1, 2035, and as of that date is inoperative.~~

~~(e) (1) Commencing February 1, 2025, and annually on February 1 thereafter, the board shall create a report that includes the following:~~

~~(A) A list of fossil fuel companies of which the board has liquidated its investments pursuant to subdivision (d).~~

~~(B) A list of fossil fuel companies with which the board still has not liquidated its investments.~~

~~(C) A list of fossil fuel companies of which the board has not liquidated its investments as a result of a determination made pursuant to subdivision (f) that a sale or transfer of investments is inconsistent with the fiduciary responsibilities of the board as described in Section 17 of Article XVI of the California Constitution and the board's findings adopted in support of that determination.~~

~~(D) An analysis of methods and opportunities to rapidly and effectively reduce dependence on fossil fuels and transition to alternative energy sources in a realistic timeframe that avoids negatively contributing to economic conditions particularly damaging to public employee retirement funds and to overall net employment earnings of the state's workforce.~~

~~(2) The board shall submit the report to the Legislature, in compliance with Section 9795, and to the Governor, and shall post the report on the board's internet website.~~

(d f) Nothing in this section shall require a board to take action as described in this section unless the board determines in good faith that the action described in this section is consistent with the fiduciary responsibilities of the board described in Section 17 of Article XVI of the California Constitution.

## **SEC. 2.**

Section 16642 of the Government Code, as amended by Section 3 of Chapter 459 of the Statutes of 2019, is amended to read:

### **16642.**

(a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, 7513.74, 7513.75, and 7513.76.

(b) This section shall remain in effect only until Section 7513.74 is repealed, and as of that date is repealed.

## **SEC. 3.**

Section 16642 of the Government Code, as added by Section 4 of Chapter 459 of the Statutes of 2019, is amended to read:

### **16642.**

(a) Present, future, and former board members of the Public Employees' Retirement System or the State Teachers' Retirement System, jointly and individually, state officers and employees, research firms described in subdivision (d) of Section 7513.6, and investment managers under contract with the Public Employees' Retirement System or the State Teachers' Retirement System shall be indemnified from the General Fund and held harmless by the State of California from all claims, demands, suits, actions, damages, judgments, costs, charges, and expenses, including court costs and attorney's fees, and against all liability, losses, and damages of any nature whatsoever that these present, future, or former board members, officers, employees, research firms as described in subdivision (d) of Section 7513.6, or contract investment managers shall or may at any time sustain by reason of any decision to restrict, reduce, or eliminate investments pursuant to Sections 7513.6, 7513.7, 7513.75, and 7513.76.

(b) This section shall become operative upon the repeal of Section 7513.74.





**GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS POLICY COMMITTEE  
Legislative Agenda  
January 2024**

**Staff:** Johnnie Pina, Legislative Affairs, Lobbyist (916) 658-8214  
Betsy Montiel, Policy and Legislative Analyst (916) 658-8261

**1. [SB 251 \(Newman\)](#) Candidates' Statements: False Statements.  
As Amended January 3, 2024**

**Overview:**

Under existing law, candidates in local elections are prohibited from knowingly falsifying statements of qualifications intended to mislead voters. Violations of this rule are punishable by a maximum fine amount of \$1,000. This bill seeks to increase the maximum fine amount to \$5,000.

**Bill Description:**

Existing law allows each candidate for nonpartisan elective office in a local agency to provide a brief statement to the elections official, outlining their education and qualifications. Statements must be made available for public review for 10 days following the filing deadline for submission.

During the 10-day public review period, any voter within the respective election's jurisdiction may seek a writ of mandate or an injunction requiring that a candidate's statements be revised or deleted. The bill provides those candidates in an election, or an incumbent in a recall election, who knowingly falsify statements of a material fact are subject to a higher maximum fine amount from \$1,000 to \$5,000 for breach of existing law relating to local elections.

**Background:**

Candidates in an election or incumbents in a recall election can provide a brief statement in campaign materials outlining experience, education, and qualifications for public office. The elections code provides that the elections official must make a copy of candidate statements available for public examination during a 10-day period, following the filing deadline for submission. Voters in a respective election's jurisdiction may seek revisions or removal by writ of mandate or an injunction, provided proof is evident that the statements in question are false or misleading.

AB 1021 (Rogers, Chapter 57, Statutes of 1982) provided that a candidate in an election, or an incumbent in a recall election, who knowingly makes a false statement of material fact in a candidate's statement, is punishable by a fine not to exceed \$1,000.

Previous efforts in AB 894 (Frazier, 2017) sought to increase the punishment by removing the \$1,000 maximum fine amount and instead requiring that a candidate or incumbent





forfeit the office for which the statement was provided. AB 894 was amended several times and ultimately amended to simply adjust the fee from \$1,000 to \$5,000.

Governor Brown vetoed AB 894. The governor's veto message stated. "I am not convinced this is a widespread problem in California elections or that this bill would be much of a deterrent." Additionally, the governor stated that "the conventional response to resume puffing is exposure by the press or political attack by the opposition."

According to the bill's author, Sen. Josh Newman, there are statutory guidelines for which a candidate seeking election for public office must abide by. Additionally, Sen. Newman gives grounds for why fines for false statements should be increased. "If a candidate intentionally falsifies information on their ballot statement with the intent to mislead voters, the candidate may be punished by a fine not to exceed \$1,000. This fine has not been adjusted since 1993."

#### **Support (As of 1/9/2023)**

The California State Association of Counties (CSAC)

#### **Opposition (As of 1/9/2023)**

None Received as of 01/09/2024.

#### **Fiscal Impact:**

Unknown.

#### **Existing Cal Cities Policy:**

##### *Transparency*

Public trust and confidence in government is essential to the vitality of a democratic system and is the reason ethics laws hold public officials to high standards.

Laws alone cannot foresee or prevent all actions that might diminish the public's trust in governmental institutions. Transparency laws impose the minimum standards of conduct; to preserve public trust, public officials should aspire to conduct that exceeds minimum standards.

State revisions to laws governing local agency transparency and ethics should address material and documented inadequacies in those laws and have a reasonable relationship to resolving those problems.

In order to encourage and facilitate compliance with new transparency and ethics requirements, State laws should be internally consistent, avoid redundancy and be mindful of the practical challenges associated with implementation.

State officials and agencies should aspire to conform to the same level of transparency and ethical behavior as is imposed on local officials and agencies.



*Political Reform Act of 1974 (PRA)*

Cal Cities supports legislation and regulations that establish sound practices and principles related to political campaigns. Regulations and legislation that restrict or preempt local authority will be opposed.

Cal Cities should continue to explore opportunities to improve and streamline the Political Reform Act and its implementation through regulations.

**Staff Recommendation:**

Cal Cities staff recommends the committee discuss and make a recommendation to the Board of Directors.

**Committee Recommendation:**

**Board Action:**



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Graham Knaus

January 5, 2024

The Honorable Steve Glazer  
Chair, Senate Committee on Elections and Constitutional Amendments  
State Capitol, Room 410  
Sacramento, CA 95814

**RE: SB 251 (Newman): Candidates' statements: false statements.  
As amended January 3, 2024 – SUPPORT  
Set for hearing January 9, 2024, Senate Committee on Elections and  
Constitutional Amendments**

Dear Senator Glazer,

The California State Association of Counties (CSAC), representing all 58 of the state's counties, writes in support of SB 251 (Newman), which raises the penalty for intentional false statements by candidates in elections from \$1,000 to \$5,000.

Intentional false statements by candidates undermine the will of voters and heighten the risk that unqualified candidates are elected to office, specifically the role of County Auditors. Local elected officials serve an essential and often unappreciated role in their communities. The role of a county auditor, for example, performs vital functions including budget control, financial reporting, and managing disbursements and receipts. Due to the importance of that role, CSAC was proud to support AB 910 (Wilson) in 2023, which provided much needed clarity for the qualifications for the office of county auditor and expanded the documentation that must be submitted to a county elections official to be a legal candidate for the office.

Further, the Elections Code Section that includes the fixed penalty amount of \$1,000 has not been updated since 1994 (Statutes of 1994, Chapter 920). The benefits of holding public office may simply outweigh the costs of the existing fine for an unscrupulous individual looking to advance their own interests at the expense of the communities they are intended to serve. While increasing the fine will not guarantee bad behavior will cease, it will help to ensure that our candidates for local office are qualified and properly vetted by their communities.

For these reasons, CSAC supports SB 251 and respectfully requests your AYE vote. Should you have any questions or concerns regarding our position, please do not hesitate to contact me at [elawyer@counties.org](mailto:elawyer@counties.org).

Sincerely,

Eric Lawyer  
Legislative Advocate

The Honorable Steve Glazer  
January 5, 2024  
Page 2 of 2

cc: The Honorable Josh Newman, California State Senate, District 29  
Members and Consultants, Senate Committee on Elections and Constitutional  
Amendments  
Cory Botts, Policy Consultant, Senate Republican Caucus