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**MCCMC LEGISLATIVE COMMITTEE MEETING
MONDAY, APRIL 23, 2018, 8:00 A.M.
SAN RAFAEL CITY HALL – 3RD FLOOR CONFERENCE ROOM
1400 FIFTH AVENUE, SAN RAFAEL, CA 94901**

AGENDA

A. WELCOME/INTRODUCTIONS

B. REPORTS

David Jones/Kyra Ross – Emanuels Jones, Sacramento
Carole Mills, District Representative – report from Senator Mike McGuire
Melissa Apuya, District Representative – report from Assembly member Marc Levine
Nancy Hall Bennett - League of California Cities

C. UPDATES

Status of Updated MCCMC Legislative Committee Draft Report: Increasing Housing Availability and Possible Meeting Date with Senator McGuire

D. COMMITTEE BUSINESS

1. Action Items

- a. AB 3162 (Friedman) Alcoholism or Drug Abuse Recovery or Treatment Facilities
- b. AB 1912 (Rodriguez) Joint Powers Agreements: Liability for Retirement Obligations
- c. AB 3121 (Kalra) Evidentiary Privileges: Union Agent-Represented Worker Privilege

2. Watch Items

- a. AB 2571 (Gonzales Fletcher) Public Employee Retirement Systems; Investments: Race and Gender Pay Equity
- b. AB 3037 (Chiu) Community Redevelopment Law of 2018.

E. CHAIRS REPORT

General Committee Update: Chair
Confirmation of May, 2018 Legislative Committee Meeting date.

F. CALENDAR

Upcoming General MCCMC Meetings:

- Wednesday, April 25, 2018, at 6 P.M. – Hosted by Larkspur
- Wednesday, May 23, 2018, at 6 P.M. – Hosted by Mill Valley

Upcoming MCCMC Legislative Committee Meetings:

- *Monday, May 28, 2018 – Memorial Day Holiday*
- Monday, June 25, 2018, at 8 A.M.

G. ADJOURN

ACTION ITEMS

[AB 3162, as introduced, Friedman. Alcoholism or drug abuse recovery or treatment facilities.](#)

Existing law provides for the licensure and regulation of alcoholism or drug abuse recovery or treatment facilities serving adults by the State Department of Health Care Services, as prescribed. Existing law makes a violation of these provisions punishable by a civil penalty of not less than \$25 or more than \$50 per day for each violation, with additional penalties for repeat violations, as specified.

This bill would require, for any licensing application submitted on or after January 1, 2019, the department to deny an application for a new facility license, if the proposed location is in proximity to an existing facility that would result in overconcentration, as defined. The bill would prohibit the expansion or intensification of licensed existing facilities, as defined. The bill would require the department, at least 45 days prior to approving any application for any new facility, to post on its Internet Web site the address of the proposed new facility.

This bill would additionally make initial licenses to providers provisional for one year and revokable for good cause, as defined. The bill would require all programs and medical services offered or provided by a licensed alcoholism or drug abuse recovery or treatment facility to be specified in the license application and provided exclusively within the licensed facility on the licensed property and for the benefit of the residents. The bill would increase the penalties for a violation of the licensing and regulatory provisions to not less than \$1,000 or more than \$15,000 per day for each violation, and increase the additional penalties for repeat violations, as specified. The bill would prohibit a person or entity found to be in violation of the licensing provisions described above from applying for initial licensure for 2 years, as specified. The bill would require the department to adopt regulations to implement these provisions on or before July 1, 2022, and would authorize the department to issue provider bulletins, written guidelines, or similar instructions until regulations are adopted, as specified.

- **League Position:** Support

[AB 1912 \(Rodriguez\) Public employees' retirement: joint powers agreements: liability.](#)

(1) Existing law establishes various public agency retirement systems, including, among others, the Public Employees' Retirement System, the State Teachers' Retirement System, the Judges' Retirement System II, and various county retirement systems pursuant to the County Employees Retirement Law of 1937. These systems provide defined pension benefits to public employees based on age, service credit, and amount of final compensation.

The Joint Exercise of Powers Act generally authorizes 2 or more public agencies, by agreement, to jointly exercise any common power. Under the act, if the agency is not one or more of the parties to the agreement but is a public entity, commission, or board constituted pursuant to the agreement, the debts, liabilities, and obligations of the agency are the debts, liabilities, and obligations of the parties to the agreement, unless the agreement specifies otherwise. Existing law also permits a party to an agreement to separately contract for, or assume responsibilities for, specific debts, liabilities, or obligations of the agency. Existing law, with respect to electrical loads, permits entities authorized to be community choice aggregators to participate as a group through a joint powers agency and to also specify in their joint powers agreement that the debts, liabilities, and obligations of the agency shall not be those of the members of the agency.

This bill would eliminate the above provisions within the Joint Exercise of Powers Act and those related provisions for community choice aggregators that permit an agreement between one or more parties to specify otherwise as to their debts, liabilities, and obligations and that permit a party to separately contract for those debts, liabilities, or obligations.

The bill would additionally specify that if an agency to a joint powers agreement participates in a public retirement system, all parties, both current and former to the agreement, would be jointly and severally liable for all obligations to the retirement system. The bill would also provide that if a judgment is rendered against an agency or a party to the agreement for a breach of its obligations to the retirement system, the time within which a claim for injury may be presented or an action commenced against the other party that is subject to the liability determined by the judgment begins to run when the judgment is rendered. The bill would specify that those provisions apply retroactively to all parties, both current and former, to the joint powers agreement.

(2) The Public Employees' Retirement Law (PERL) creates the Public Employees' Retirement System (PERS), which provides a defined benefit to members of the system, based on final compensation, credited service, and age at retirement, subject to certain variations. PERL vests management and control of PERS in its Board of Administration. Under PERL, the board may refuse to contract with, or to agree to an amendment proposed by, any public agency for any benefit provisions that are not specifically authorized by that law and that the board determines would adversely affect the administration of the retirement system.

This bill would prohibit the board from contracting with any public agency formed under the Joint Exercise of Powers Act unless all the parties to that agreement are jointly and severally liable for all of the public agency's obligation to the system. The bill would specify that those provisions apply retroactively to all parties, both current and former, to the agreement. The bill would also require any current agreement that does not meet these requirements to be reopened to include a provision holding all member agencies party to the agreement jointly and severally liable for all of the public agency's obligations to the system.

(3) Existing law authorizes the governing board of a contracting agency to terminate its membership with PERS, subject to specified criteria. Existing law requires the PERS board to enter into a specified agreement with the governing body of a terminating agency, upon request of that agency, to ensure that final compensation is calculated in the same manner as benefits of nonterminating agencies, and that related necessary adjustments in the employer's contribution rate are made and benefits adequately funded, including a lump-sum payment at termination, if agreed to by the terminating agency and the board. Existing law requires a terminating agency to notify the PERS board of its intention to enter into this agreement within a specified period of time. Existing law authorizes the PERS board to choose not to enter into an agreement to terminate if the board determines that it is not in the best interests of PERS. Existing law requires all plan assets and liabilities of a terminating agency to be deposited in a single pooled account, the terminated agency pool subaccount within the Public Employees' Retirement Fund, a continuously appropriated fund.

This bill would also require the PERS board to enter into the above-described agreement upon request of a member agency of a terminating agency formed under the Joint Exercise of Powers Act, and would require a member agency to notify the PERS board of its intention to enter into this agreement within a specified period of time. The bill would authorize the board, if it determines that it is not in the best interests of the retirement system, to choose not to enter into that agreement. To the extent that the bill would increase any lump-sum payments made by a terminating agency and deposited into a subaccount within the Public Employees' Retirement Fund, the bill would make an appropriation. The bill would also provide that if the governing body of a terminating agency or the governing bodies of its member agencies do not enter into an agreement, the member agencies would then assume the retirement obligations for their retirement systems, which the board would be required to apportion equitably among the member agencies.

(4) Existing law makes a terminated agency liable to the system for any deficit in funding for earned benefits, interest, and for reasonable and necessary costs of collection, including attorney's fees. Existing law provides that the board has a lien on the assets of a terminated contracting agency, as specified, and that assets shall also be available to pay actual costs, including attorney's fees necessarily expended for collection on the lien.

This bill would extend that liability and lien to all of the parties of a terminating agency that was formed under the Joint Exercise of Powers Act. The bill would specify that the liability of those parties is joint and several. To the extent that these changes would increase deposits in the Public Employees' Retirement Fund, the bill would make an appropriation.

(5) Existing law authorizes the board of PERS to elect not to impose a reduction, or to impose a lesser reduction, on a terminated plan if the board has made all reasonable efforts to collect the amount necessary to fully fund the liabilities of the plan and the board finds that not reducing the benefits, or imposing a lesser reduction, will not impact the actuarial soundness of the terminated agency pool.

This bill would eliminate that provision. The bill would require the board to bring a civil action against any member agencies to a terminated agency formed by an agreement under the Joint Exercise of Powers Act to compel payment of the terminated public agency's pension obligations. The bill would also specify that the board is entitled to reasonable attorney's fees in addition to other costs. The bill would also set forth related legislative findings.

- **League Position:** Oppose

[AB 3121, as amended, Kalra. Evidentiary privileges: union agent-represented worker privilege.](#)

Existing law governs the admissibility of evidence in court proceedings and generally provides a privilege as to communications made in the course of certain relations, including the attorney-client, physician-patient, and psychotherapist-patient relationship, as specified. Under existing law, the right of any person to claim those evidentiary privileges is waived with respect to a communication protected by the privilege if any holder of the privilege, without coercion, has disclosed a significant part of the communication or has consented to a disclosure made by anyone.

This bill would provide that a union agent, as defined, and a represented employee or represented former employee have a privilege to refuse to disclose any confidential communication between the employee or former employee and the union agent while the union agent was acting in his or her representative capacity, except as specified. The bill would provide that a represented employee or represented former employee also has a privilege to prevent another person from disclosing a privileged communication, except as specified. The bill would further provide that this privilege may be waived in accordance with existing law and does not apply in criminal proceedings.

- **League Position:** Oppose

WATCH ITEMS

[AB 2571, as amended, Gonzalez Fletcher. Public employee retirement systems: investments: race and gender pay equity.](#)

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. The California Constitution qualifies 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 requires every public investment fund, including any fund of any public pension or retirement system, to require each alternative investment vehicle in which it invests to make prescribed annual financial disclosures.

This bill, if consistent with fiduciary responsibilities of a public investment fund as determined by its board, would require a public investment fund to require an alternative investment vehicle to report at least annually certain information concerning specified hospitality employers relating to race and gender pay equity and sexual harassment. The bill would require a public investment fund to disclose race and gender pay equity and sexual harassment information provided to it pursuant to the bill at least once annually in a report presented at a meeting open to the public and would require the fund to provide the report upon request to a member of the Legislature. The bill would authorize the Department of Fair Employment and Housing to issue regulations for the implementation of these reporting requirements. The bill would define terms for purposes of the reporting provisions and repeal the reporting provisions on January 1, 2022.

Existing law provides that board members and other officers and employees of the Public Employees' Retirement System or the State Teachers' Retirement System, and certain other entities, shall be held harmless and be eligible for indemnification from the General Fund in connection with prescribed actions relating to prohibited investments.

The bill would additionally provide that board members of any public pension or retirement system, other officers and employees, and investment managers under contract with the system shall be held harmless and be eligible for indemnification from the General Fund in connection with actions taken pursuant to the bill.

Because this bill would impose new requirements on local entities, relating to the implementation of the bill, including the collection of information and its presentation at a meeting open to the public, it would impose a state-mandated local program.

The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

- **League Position:** Oppose

[AB 3037, as amended, Chiu. Community Redevelopment Law of 2018.](#)

(1) The California Constitution, with respect to any taxes levied on taxable property in a redevelopment project established under the Community Redevelopment Law, as it then read or may be amended, authorizes the Legislature to provide for the division of those taxes under a redevelopment plan between the taxing agencies and the redevelopment agency, as provided.

Existing law dissolved redevelopment agencies as of February 1, 2012, and designates successor agencies to act as successor entities to the dissolved redevelopment agencies.

This bill, the Community Redevelopment Law of 2018, would authorize a city or county to propose the formation of a redevelopment housing and infrastructure agency by adoption of a resolution of intention that meets specified requirements, and providing that resolution to each affected taxing entity. The bill would require the city or county that adopted that resolution to hold a public hearing on the proposal to consider all written and oral objections to the formation, as well as any recommendations of the affected taxing entities, and would authorize that city or county to adopt a resolution of formation at the conclusion of that hearing. The bill would then authorize that city or county to submit the resolution of formation (1) to the Strategic Growth Council for a determination as to whether the agency would promote statewide greenhouse gas reduction goals and (2) to the Department of Finance for approval, subject to certain standards, including that the department then determine an affected tax entity equity amount for affected taxing entities that are local agencies, and would impose a statewide cap on the amount of equity received by all local agencies within the state in any fiscal year. The bill would, alternatively, authorize the local agency forming the entity to include a passthrough provision under which the agency would make payments to affected taxing entities in an amount that is equivalent to the affected taxing entity equity amount, and would not be subject to the equity provisions. The bill would require the department to disapprove the resolution if the department determines that the creation of the agency will result in a state fiscal impact that exceeds a specified amount in any fiscal year. The bill would deem the agency to be in existence as of the date of the department's approval.

The bill would provide for a governing board of the agency consisting of one member appointed by the legislative body that adopted the resolution of intention, one member appointed by each affected taxing entity, and 2 public members. The bill would authorize an agency formed pursuant to these provisions to finance specified infrastructure and housing projects, and to carry out related powers, such as the power to purchase and lease property within the redevelopment project area, that are similar to the powers previously granted to redevelopment agencies. The bill would require an agency to maintain detailed records of every action taken by that agency for a specified period of time, and would provide that any person who violates this requirement be subject to a fine of \$10,000 per violation.

The bill would require the agency to submit an annual report, containing specified information, and a final report of any audit undertaken by any other local, state, or federal government entity to its governing body within specified time periods. The bill would also require the agency to submit a copy of the annual report with the Controller and a copy of any audit report with the Department of Housing and Community Development. The bill would establish procedures under which the Controller would identify major audit violations and the Attorney General would bring an action to compel compliance.

The bill would require the governing board of an agency to designate an appropriate official to prepare a proposed redevelopment project plan, in accordance with specified procedures. The bill would require the agency to hold a public hearing on the proposed redevelopment project plan, and would authorize the governing board to either adopt the redevelopment project plan or abandon proceedings, in which case the agency would cease to exist. The bill would authorize the redevelopment project plan to provide for the division of taxes levied upon taxable property, if any, between

an affected taxing entity and the agency, as provided. The bill would declare that this authorization fulfills the intent of constitutional redevelopment provisions. The bill would also require that not less than 30% of all taxes allocated to the agency from an affected taxing entity be deposited into a separate fund, established by the agency, and used for the purposes of increasing, improving, and preserving the community's supply of low- and moderate-income housing available at an affordable housing cost, as provided.

The bill would authorize the agency to issue bonds to finance redevelopment housing or infrastructure projects, in accordance with specified requirements and procedures, including that the resolution proposing the bonds include a description of the facilities or developments to be financed and the estimated cost of those facilities or developments, and that the resolution adopting the bonds provide for specified matters such as the principal amount of bonds. The bill would also authorize a city, county, or special district that contains territory within the boundaries of an agency to loan moneys to the agency to fund activities described in the redevelopment project plan. The bill would require the agency to contract for an independent financial and performance audit every 2 years after the issuance of debt.

(2) Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined.

Existing property tax law requires that, for purposes of determining property tax revenue allocations in each county for the 1992–93 and 1993–94 fiscal years, the amounts of property tax revenue deemed allocated in the prior fiscal year to the county, cities, and special districts be reduced in accordance with certain formulas. It requires that the revenues not allocated to the county, cities, and special districts as a result of these reductions be transferred to the Educational Revenue Augmentation Fund in that county for allocation to school districts, community college districts, and the county office of education.

This bill would modify these reduction and transfer provisions by requiring the auditor of a county in which a qualified local agency is located to increase the total amount of ad valorem property tax revenue otherwise required to be allocated to the qualified local agency by the affected tax entity equity amount, as defined, and to commensurately reduce the total amount of ad valorem property tax revenue otherwise required to be allocated to school entities in the county, as provided. The bill would define "qualified local agency" to mean an affected tax entity that the Department of Finance determines is to receive an affected tax entity equity amount at the time of the formation of a redevelopment housing and infrastructure agency, as described above. By imposing new duties in the annual allocation of ad valorem property tax revenue, this bill would impose a state-mandated local program.

(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

- **League Position:** Watch

LEGISLATIVE CALENDAR

- April 27, 2018 – Last day for policy committees to hear and report to fiscal committees fiscal bills introduced in their house (J.R. 61(b)(5))
- May 11, 2018 – Last Day for policy committees to hear and report to the floor nonfiscal bills introduced in their house (J.R. 61(b)(6))
- May 18, 2018 – Last day for policy committees to meet prior to June 4 (J.R. 61(b)(7))
- May 25, 2018 – Last day for fiscal committees to hear and report to the floor bills introduced in their house (J.R. 61(b)(8)). Last day for fiscal committees to meet prior to June 4 (J.R. 61(b)(9))
- May 28, 2018 - Memorial Day

- May 29, 2018 – June 1 Floor Session only. No committees, other than conference or Rules committee, may meet for any purpose (J.R. 61 (b)(10))
- June 1, 2018 – Last day for each house to pass bills introduced in that house (J.R. 61(b)(11))
- June 4, 2018 – Committee meetings may resume (J.R. 61(b)(12))
- June 15, 2018 – Budget Bill must be passed by midnight (Art. IV, Sec. 12©(3))
- June 28, 2018 – Last day for a legislative measure to qualify for the November 6, 2018 General Election Ballot (Elections Code Sec. 9040)
- June 29, 2018 – Last day for policy committees to hear and report fiscal bills to fiscal committees (J.R. 61(b)(13)).
- July 4, 2018 – Independence Day
- July 6, 2018 – Last Day for policy committees to meet and report bills (J.R. 61(b)(14)), Summer Recess begins upon adjournment provided Budget Bill has been passed (J.R. 51(b)(2)).
- August 6, 2018 - Legislature Reconvenes (J.R. 51(b)(2)).
- August 17, 2018 – Last Day for fiscal committees to meet and report bills (J.R. 61(b)(15)).
- August 20 – 31, 2018 – Floor Session only. No committees, other than Conference and Rules Committee, may meet for any purpose (J.R. 61(b)(16)).
- August 24, 2018 – Last day to amend on the floor (J.R. 61(b)(17)).
- August 31, 2018 – Last day for each house to pass bills, except bills that take effect immediately or bills in Extraordinary Session (Art.IV, Sec. 10(c), (J.R. 61(b)(18)), Final recess begins upon adjournment (J.R. 51z(b)(3)).

LEAGUE OF CALIFORNIA CITIES CALENDAR

- May 16, 2018 - City of Vacaville, Topic: California Legislative and Political Update from Dan Carrigg, Deputy Executive Director and Legislative Director for the League of CA Cities
- June 27 & 28, 2018 - Mayors and Council Members Executive Forum, Monterey
- June 29, 2018 - Mayors and Council Members Advanced Leadership Workshop, Monterey
- August 19, 2018 - Bocce in Yountville!
- September 12-14, 2018 - Annual Conference, Long Beach