

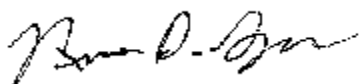
# City of Calistoga

## Staff Report

**TO:** Honorable Mayor and City Council  
**FROM:** Richard Spitler, City Manager  
**DATE:** August 7, 2012  
**SUBJECT:** Direction on the 2012 League of California Cities Conference Resolutions

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APPROVAL FOR FORWARDING:




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Richard Spitler, City Manager

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2 **ISSUE:** Discuss and provide direction to the City's voting delegate regarding the 2012 League  
 3 of California Cities Conference Resolutions to be considered at the League's 2012 Annual  
 4 Conference September 5 - 7 in San Diego.

5  
 6 **BACKGROUND:** At the City Council Meeting of July 17, 2012, the Council designated Mayor  
 7 Gingles as the City's voting delegate to represent the City of Calistoga at the League's 2012  
 8 Annual Conference September 5 - 7 in San Diego. An important part of the event is the Annual  
 9 Business Meeting. At this meeting, the League membership considers and takes action on  
 10 resolutions that establish League policy. There will be six resolutions considered at the meeting  
 11 as follows:

- 12 1. Desert Protection Act [the League staff recommends opposition];
- 13 2. Global Warming [ League staff recommends certain measures to address legal and
- 14 regulatory conflicts can be resolved];
- 15 3. Correct Inefficiencies in the audit system and formulas for court ordered arrest and
- 16 citation fines and fees [sponsored by the city of Glendora];
- 17 4. Internet crimes against children [sponsored by San Diego County];
- 18 5. Emergency Management mission for California Cities [Public Safety Committee];
- 19 6. Call for Governor and Legislature to enact legislation to correct Inefficiencies in the
- 20 audit system and formulas for court ordered arrest and citation fines and fees.
- 21
- 22

23 The resolutions being considered are outlined in the attached packet. Two were referred to the  
 24 Environmental Quality Policy Committee; three to the Public Safety Policy Committee; and one  
 25 to the Revenue and Taxation Policy Committee. These Policy Committees will be meeting on  
 26 Wednesday, September 5th, to consider the resolutions. Their recommendations are forwarded  
 27 to the General Resolutions Committee, who will then make a recommendation to the General  
 28 Assembly for the Business Meeting and vote on Friday, September 7, 2012.

30 It has been the practice of the City to support the League's recommendation, though if the  
31 Council feels differently they are not required to do so. Staff recommends that the Council  
32 provide direction to the voting delegate on the attached Resolutions.

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34 **FISCAL IMPACT:** None

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36 **ATTACHMENT:** Annual Conference Resolution Packet

**IV.  
KEY TO ACTIONS TAKEN ON RESOLUTIONS**

Resolutions have been grouped by policy committees to which they have been assigned. Please note that one resolution has been assigned to more than one committee. This resolution is noted by this sign (♦).

Number	Key Word Index	Reviewing Body Action		
		1	2	3

1 - Policy Committee Recommendation to General Resolutions Committee  
2 - General Resolutions Committee  
3 - General Assembly

**ENVIRONMENTAL QUALITY POLICY COMMITTEE**

		1	2	3
3	Desert Protection Act			
4	Global Warming			

**PUBLIC SAFETY POLICY COMMITTEE**

		1	2	3
♦1	Fines and Forfeitures			
2	Internet Crimes Against Children			
5	Emergency Management Mission for California Cities			

**REVENUE AND TAXATION POLICY COMMITTEE**

		1	2	3
♦1	Fine and Forfeitures			

**Please note:** These committees will ***NOT*** meet at the annual conference: Community Services; Housing, Community & Economic Development; and Transportation, Communication & Public Works

Information pertaining to the Annual Conference Resolutions will also be posted on each committee's page on the League website: [www.cacities.org](http://www.cacities.org). The entire Resolutions Packet will be posted at: [www.cacities.org/resolutions](http://www.cacities.org/resolutions).

League encourages California cities to adopt resolutions in opposition to the California Desert Protection Act of 2011.

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**League of California Cities Staff Analysis**

Staff: Kyra Ross, Legislative Representative, (916) 658-8252  
Committee: Environmental Quality Policy Committee

**Summary:**

This resolution encourages California cities to oppose the California Desert Protection Act of 2011.

**Background:**

The California Desert Protection Act of 2011 (S. 138) is legislation proposed by Senator Dianne Feinstein which would provide for conservation, enhanced recreation opportunities, and development of renewable energy in the California Desert Conservation Area. The Measure would:

- Create two new national monuments: the 941,000 acres Mojave Trails National Monument along Route 66 and the 134,000 acres Sand to Snow National Monument, which connects Joshua Tree National Park to the San Bernardino Mountains.
- Add adjacent lands to Joshua Tree National Park, Death Valley National Park and Mohave National Preserve;
- Protect nearly 76 miles of waterways;
- Designate five new wilderness areas;
- Designate approximately 250,000 acres of Bureau of Land Management wilderness areas near Fort Irwin;
- Enhance recreational opportunities; and,
- Designate four existing off-highway vehicle areas in the California Desert as permanent.

S. 138 is a re-introduction of S. 2921, the California Desert Protection Act of 2010 which is now dead. S. 138 was introduced in January 2011 and was referred to the Senate Committee on Energy and Natural Resources. The measure has not yet been set for hearing by the Committee.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

Specific to this Resolution, existing policy offers no specific policy on this issue.

The League's Strategic Priorities for 2012, as adopted by the League Board of Directors, include:

- 2) **Promote Local Control for Strong Cities:** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

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## League of California Cities Staff Analysis on Resolution No. 4

Staff: Kyra Ross, Legislative Representative, (916) 658-8252  
Committee: Environmental Quality Policy Committee

### **Summary:**

This resolution encourages California cities to:

- 1.) Adopt resolutions requesting the suspension of the implementation of some, if not all, the regulations promulgated under the California Global Warming Solutions Act (AB 32) until such time as the legal and regulatory inconsistencies can be resolved;
- 2.) Asks cities to request the California Air Resources Board (CARB) and other applicable state agencies examine the impact of the regulations promulgated pursuant to AB 32, and for potential conflict with other existing regulations at both the State and Federal level including, but not limited to, the potential for gains in one area to jeopardize progress in another; and,
- 3.) Asks cities to request the CARB and other applicable state agencies examine the overall economic impact of the regulations promulgated pursuant to AB 32 and their interaction with other existing regulations with emphasis upon the potential for job and other economic activity "flight" from California; and,
- 4.) Asks cities to request the State to encourage the resolution of internal conflicts between and among existing Federal programs by supporting items, including but not limited to:
  - a. Reopening the Federal Clean Air Act;
  - b. New Source Review Reform; and,
  - c. Efforts to regulate greenhouse gas emissions under a comprehensive federal program.

### **Background:**

AB 32 passed in 2006 and requires the State to reduce greenhouse gas emissions to 1990 levels by 2020. As the implementing agency, CARB developed and passed a Scoping Plan in 2008, outlining emission reduction measures to help the state meet its statutory reduction of greenhouse gas emissions. Since 2008, a number of measures outlined in the Scoping Plan have been implemented. Measures of interest to cities include: voluntary local government 15% reduction in greenhouse gas emissions; regional transportation-related greenhouse gas targets; landfill methane control; and green building codes.

At the same time, many of California's 15 air basins are facing ongoing challenges to meeting federal air quality standards. It's important to note that regulation of air quality in California is separated into two levels of regulation. CARB regulates air pollution from cars, trucks, buses and other sources, often referred to as "mobile sources". Local air districts regulate businesses and industrial facilities. Local air districts are the bodies that regulate ozone, PM 2.5 and PM 10. Ground level ozone (ozone), more commonly referred to as smog, is a pollutant that forms on hot summer days (not to be confused with the ozone that forms in the upper atmosphere or stratosphere). Ozone is not directly emitted by one source but comes from a combination of volatile organic compounds and nitrogen oxides. In the presence of sunlight, especially on hot summer days, this mixture forms ozone. Particulate Matter (PM) is made up of fine solid or liquid such as dust, fly ash, soot, smoke, aerosols, fumes, mists, and condensing vapors. US EPA has set health based standards for particles smaller than 10 microns (PM 10) and particles smaller than 2.5 microns (PM 2.5). When these particles become airborne, they can be suspended in the air for long periods of time. Both PM 10 and PM 2.5 have been determined to cause serious adverse health effects.

According to an April 2012 report by the California Air Pollution Control Officer's Association "California's Progress Toward Clean Air":

*Despite significant improvements, air quality remains a major source of public health concern in large metropolitan areas throughout California. The San Joaquin and South Coast Air Basin*

*continue to face significant challenges in meeting the federal health-based standards for ozone and fine particles, despite their regional and state-level controls on mobile and stationary sources that are the most stringent in the nation. In 2007, both regions sought extension for meeting the 1997 8-hour federal ambient air quality standard for ozone. A comparable challenge faces each region with respect to attainment of the 1997 PM<sub>2.5</sub> standard. Due to continued progress in health research, the federal EPA lowered the ambient concentration for the 8-hour ozone and 24-hour PM<sub>2.5</sub> standards in 2008 and 2006, respectively. The net effect of these stricter standards is to raise the performance bar for California air basins. This will extend the timeframe for attainment in highly polluted regions as well as increase the number of basins with non-attainment status. Challenges also exist for air districts across California who are in attainment with the federal standards, as they continue to strive for attainment of the State's health-based ozone and PM standards, which are more stringent than the standards adopted by the US EPA.*

According to the Sponsor, areas designated nonattainment are mandated under the provision of the federal Clean Air Act to require (pursuant to New Source Review Rules) Best Available Control Technology (BACT) and offsetting emissions reduction on major new or modified stationary sources of those nonattainment air pollutants and their precursors regardless of whether or not the area so designated has any control and not over the pollution causing the nonattainment finding.

The Sponsor also notes that there are a variety of other mandates and regulations at the state level that have the potential to conflict both directly and indirectly with the implementation of AB 32 measures being proposed and implemented by CARB. Two measures pointed out by the Sponsor are the existing mandate for local jurisdictions to divert 50% of solid waste from landfills (Public Resources Code 41780) and the state Renewable Portfolio Standard (RPS) that requires all retail sellers (Investor Owned Utilities, electric service providers, and community choice aggregators) and all publicly owned utilities to procure at least 33% of electricity delivered to their retail customers from renewable resources by 2020.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

Specific to this Resolution, existing policy states:

**Air Quality**

- The League believes cities should have the authority to establish local air quality standards and programs that are stricter than state and federal standards. The League opposes efforts to restrict such authority.
- The League opposes legislation redirecting the funds authorized by Health and Safety Code Section 44223, which are currently used by local governments for locally based air quality programs.
- The League opposes air quality legislation that restricts the land use authority of cities.

**Climate Change**

- The League recognizes that climate change is both immediate and long term, with the potential for profound environmental, social and economic impacts to the planet and to California.
- Through the Global Warming Solutions Act of 2006 (AB 32 (Nuñez) Chapter 488, Statutes of 2006) California has embarked on a plan that requires the reduction of greenhouse gas emissions to 1990 levels by 2020. Although uncertainty remains about the pace, distribution and magnitude of the effects of climate change, the League recognizes the need for immediate actions to mitigate the sources of greenhouse gas emissions and has adopted the following principles:

1. Action Plans for Mitigating Greenhouse Gas Emissions. Encourage local governments to complete

land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

3) **Build Strong Partnerships for a Stronger Golden State:** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.

an inventory of greenhouse gas emissions, set appropriate reduction targets, and create greenhouse gas emission reduction action plans.

2. **Smart Growth.** Consistent with the League's Smart Growth policies, encourage the adoption of land use policies designed to reduce sprawl, preserve open space, and create healthy, vibrant, and sustainable communities.
3. **Green Technology Investment Assistance.** Support tax credits, grants, loans and other incentives to assist the public, businesses, and local agencies that invest in energy efficient equipment and technology, and fuel efficient, low emission vehicles.
4. **Energy and Water Conservation and Efficiency.** Encourage energy efficiency, water efficiency, and sustainable building practices in new and existing public, residential and commercial buildings and facilities. This may include using the U.S. Green Building Council's LEED program or similar systems.
5. **Increase the Use of Clean Alternative Energy.** Promote the use and purchase of clean alternative energy through the development of renewable energy resources, recovery of landfill methane for energy production and waste-to-energy technologies.
6. **Reduction of Vehicle Emissions in Public Agency Fleets.** Support the reduction of vehicle emissions through increased fuel efficiency, use of appropriate alternative fueled vehicles, and/or low emission vehicles in public agency fleets. Encourage the use of appropriate alternative fueled vehicles, and/or low emission vehicles in private fleets.
7. **Climate Change Impacts.** Encourage all levels of government to share information to prepare for climate change impacts.
8. **Coordinated Planning.** State policy should encourage and provide incentive for cities to coordinate and share planning information with neighboring cities, counties, and other governmental entities so that there are agreed upon regional blueprints and strategies for dealing with greenhouse gas emissions.
9. **Water Supply for New Development.** Encourage exchange of water supply information between state and local agencies, including information on the impacts of climate change on state and local water supplies.
10. **Recycles Content and Green Purchasing Policies.** Encourage the adoption and implementation of recycled content and green procurement policies, if fitness and quality are equal, including the adoption of an Environmental Management System and authorization of local agencies to consider criteria other than only cost in awarding contracts for services.

Additionally, the League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

Finally, the League's Strategic Priorities for 2012, as adopted by the League Board of Directors, include:

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) **Support Sustainable and Secure Public Employee Pensions and Benefits:** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) **Promote Local Control for Strong Cities:** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

## Background Information on Resolution No. 1

Source: City of Glendora

### **Background:**

Court-ordered debt collection and revenue distribution is a complex system where there are few audits, if ever, done to determine if cities are receiving their fair share of disbursements. The current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities. Because of the complex system cities cannot determine if they are receiving their fair share of the fines collected.

Once a debt has been collected, in whole or in part, distributing the money is not simple as there are over 150 ways collection entities are required to distribute revenue collected from traffic and criminal court debts, depending on the fine, fee, surcharge or penalty assessment imposed by the court and California has more than 3,100 separate court fines, fees, surcharges, penalties and assessments levied on offenders that appear in statutes spanning 27 different government code.

County and state have statutory responsibility and power to conduct their audits, while cities do not currently have clear legal standing to demand access to court records for purposes of conducting audits in a thorough and transparent manner which further shrouds the understanding of when and how revenue is distributed.

At the request of the City of Glendora, in December 2011, the Los Angeles Superior Court conducted a sample audit of 15 Glendora Police Department-issued citations from 2010. The results of the sample audit revealed the Glendora received about 12% (\$253) of the \$2,063 in paid fines for the 12 of the 15 citations submitted. Three (3) of the citations in the audit had been sent to collection or warrants. Based on those results, the city received an average of \$21, while the state and county received an average of \$172 for each of the 12 citations. The percentage breakdown for the city was 12.25% as compared to the state and county's share of 86.75%.

Issuing a typical vehicle code violation citation can involve up to an hour of the issuing officer's time and the records clerk tasked with entering citations into the database costing approximately \$82 per hour. If the citation is challenged the cost increases another \$135 to cover the cost of court time and handling of the notices associated with such an appeal. Therefore, the cost incurred to issue a citation that is currently between \$82 about \$217, while the sample audit reveals the city is receiving about \$21 in cost recovery.

Officials with Superior Court openly admit that similar results would be expected for almost every jurisdiction in the state because when a court reduces a fine it triggers a process called "Priority Distribution." This process prohibits Judges from reducing penalty assessments imposed by the county and state and thus the only discretion that Judges have in reducing fines is to reduce the Base Fine (City Portion) of the total fine. This mandate has a significant impact on the amount of money cities issuing the citation receive. Rarely is the reduction in the fine taken from other stakeholders. Cities are one of the lowest priority on the distribution so often they find themselves receiving significantly less share-or no share after deducting state and county fees and surcharges.

The primary cost to implement enforcement falls upon local law enforcement agencies throughout the state. This Resolution calls upon the State Legislature and Governor to create an efficient system to provide cities with a clear authority to audit the distribution of fines, fees, assessments and administrative costs for criminal and traffic violations. In addition, legislation should be developed and passed that changes the "Priority Distribution" mandate so the cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations and that any reduction in fines, fees, assessments or costs should be equally distributed from the total fine imposed.

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## League of California Cities Staff Analysis on Resolution No. 1

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214  
Committee: Public Safety Policy Committee

Staff: Dan Carrigg, Legislative Representative, (916) 658-8222  
Committee: Revenue and Taxation Policy Committee

### **Summary:**

This Resolution urges the League of California Cities, through legislative or administrative means, to clarify the authority for cities to audit the distribution of court imposed fines, fees, penalty assessments and administrative costs for criminal and traffic violations.

It also urges the League to seek legislative changes to the "Priority Distribution" statutory formula so that cities receive the total cost of issuing, processing and testifying in court on criminal cases and traffic violations. The current statutory formula allows reductions to the base fine but maintains the same level of penalty assessments, based upon the full penalty charge.

Finally, any reductions that may occur in fines, fees, assessments or costs determinations should be equally distributed from the total fine imposed, not just from the city base fine.

This Resolution raises several policy questions:

- 1) Should cities have the authority to request audits and receive reports from a county or the state on the local share of revenue resulting from criminal and traffic violation penalties?
- 2) Should cost-recovery be a driving factor in setting monetary penalties for criminal or traffic violations?
- 3) Should reductions (as ordered by a judge) to the fines owed by violators be taken just out of the base fine, or should the base fine and related penalty assessments be reduced proportionately?

### **Background:**

In California, criminal offenders may have additional penalty assessments made to their base fines. These penalty assessments are based on the concept of an "abusers fee," in which those who break certain laws will help finance programs related to decreasing those violations. For example, drug and alcohol offenses and domestic violence offenses are enhanced by special assessments on fines that directly fund county programs designed to prevent the violations. All other criminal offenses and traffic violations are subject to penalty assessments that are used to fund specific state programs.

According to the Resolution sponsor, the City of Glendora, the court-ordered collection of penalty fines and additional assessments, as well as the subsequent revenue distribution, is a complex system where few audits are conducted to determine if cities are receiving their share of collections. The current system makes it practically impossible for cities to effectively administer and manage public funds that are generated by cities.

The League recently held in-depth policy discussions related to audit authority in light of the misconduct charges against the City of Bell in 2011. The League convened a technical working group to review audit legislation and administrative efforts by the State Controller's Office. Following the work of this group, the League Board adopted principles supporting transparent, accurate financial and performance information. (See "Existing Policy" section below.) However, these principles did not address expanding cities' audit authority over the state, counties, or other public agencies.

The sponsors state that there are over 150 ways collection entities are required to distribute revenue collected from traffic and criminal court debts. Depending on the fine, fee, surcharge or penalty assessment imposed, there are more than 3,100 separate court fines, fees, surcharges, penalties and assessments levied on offenders that appear in statutes spanning 27 different state code sections.

Generally, the base fines for criminal and traffic citations are significantly lower than the additional penalty assessments levied by the state and counties. In some instances, the penalty assessment for state and local programs can be three or four times the amount collected by the city or county agency that issued the citation through their local enforcement authority. The amount each program account receives is based on a statutory formula. For example, if a driving under the influence (DUI) fine is \$1000, specific dollar amounts proportionate to the base fine are added under six different code sections for a total price tag of \$3,320 for the offense.

Some examples of program accounts receiving penalty assessment revenues include Peace Officer Standards and Training (POST), victim witness protection and services, court security, court construction, forensic laboratories for DNA identification, and automated fingerprint identification. The impact of programs largely funded, if not solely funded, by penalty assessment revenue casts a wide net of stakeholders including counties, sheriffs, district attorneys, public defenders, fish and game wardens, victim advocates, and access to the judicial system advocates. Cities are also partial benefactors of penalty assessment funded programs related to law enforcement.

For the last three decades, this policy area has been under great scrutiny and study but with little reform taking place. The recommendations from past studies and reports to consolidate penalty assessment accounts or their collections efforts, which would require legislative action, have likely not gained traction because of the inevitable loss of revenue for the specific programs and the affected interest groups.

In 1986, the Legislature enacted Senate Concurrent Resolution 53, requiring the Legislative Analyst Office (LAO) to study the statutory penalty assessments that are levied by the courts on offenders and the state programs that the funds support. The completed 1988 study found a complicated system of collection and distribution of penalty funds. The LAO was unable to fully identify the source offenses that generated penalty revenues because of limitations in most county collection systems.

In 2005, the California Research Bureau issued a report for the Assembly Public Safety Committee on county penalty assessments that drew similar conclusions. They stated the complexity of the system means poor revenue collection, disproportionate justice for debtors, and undermines the usefulness of fines as a punishment or deterrent. They recommended efforts to streamline and consolidate collections, funding, and appropriations.

After some delay, the state created the Administrative Office of the Court's Court-Ordered Debt Task Force, which is charged with evaluating and exploring means to streamline the existing structure for imposing and distributing criminal and traffic fines and fees. This Task Force has been asked to present preliminary recommendations to the Legislature regarding the priority in which court-ordered debt should be satisfied and the use of comprehensive collection programs. Currently, the League of California Cities has two appointments to the Task Force. However, the Task Force has been put on hiatus and has not met for approximately 12 months due to significant state cuts to the court budget in recent years.

Currently, legislation was introduced this year to address the issue of cities not recouping the costs of issuing citations. The response has been to increase the base fine and not change penalty assessments. Assembly Bill 2366 (Eng) would increase the base fine of "fix-it" tickets from \$10 to \$25 dollars. This has largely been successful in the legislative fiscal committees because with every increase to the base fine for the issuing agency, so increases the state and county share of penalty assessments proportionately.

Lastly, in most instances when the legislature takes into consideration a fine increase, be it for manufacturer product responsibility or criminal acts, the legislature focuses on how the increased fine will alter behavior, not on recovering the costs of enforcing that violation.

**Fiscal Impact:**

Unknown. Potential additional revenue received by cities, if any, would vary based on total citations issued and collected.

**Existing League Policy:**

Related to this Resolution, existing policy offers:

- Cities and the League should continue to emphasize efficiency and effectiveness, encouraging and assisting cities to achieve the best possible use of city resources.
- The League supports efforts to preserve local authority and accountability for cities, state policies must ensure the integrity of existing city revenue sources for all cities, including the city share and situs allocation, where applicable, of property tax, sales tax, vehicle license fee, etc.

*Audit Principles Adopted by the League Board*

- Given the State already has substantial authority to examine local government financial practices, and recognizes the significant resources required by auditors and local governments to complete audits, additional authority should only be granted to a State agency when there are documented insufficiencies in its existing authority.
- Governmental financial audits and performance audits ensure financial integrity and promote efficient, effective and accountable local government.
- Transparent, accurate financial and performance information is necessary for citizens to have confidence that their interests are being served, and for decision makers to be accountable for ensuring that public funds are spent appropriately and effectively.
- Public trust is inspired when auditors perform their work with independence, objectivity and integrity, remaining free from personal, external and organizational impairments to that independence, both in fact and in appearance.
- Public confidence in government is maintained and strengthened when financial and performance information is collected, managed and reported in accordance with nationally recognized professional accounting and auditing standards.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

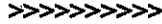
In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,

land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.

**3) Build Strong Partnerships for a Stronger Golden State:** Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.



## Background Information on Resolution No. 2

Source: San Diego County Division

### Background:

Technology has brought significant changes to our society over the past two decades. While most have had a positive effect on our quality of life, many have threatened the safety and well-being of our young children.

The internet has made victimization of children much easier than ever before. Today, pedophiles can network with one another online, encourage one another to commit crimes against children, and share tips on evading law enforcement. Worse yet, they often use the internet – social media sites, in particular – to find and prey on young children. Many times, these innocent children are lured away from their homes by these perpetrators and never seen again.

The internet has also significantly increased the availability of child pornography. More than 6.5 million child abuse images are being shared via the internet today. Before this technology was in place, the number of photos available numbered in the few hundreds.

While some see viewing child pornography as a “victimless crime,” nothing could be further from the truth. One study showed that 98 percent of convicted child pornographers had molested children before being captured (Butner Redux Study, 2006).

Additionally, these images can never be completely eradicated from the internet once they are placed online. Therefore, victims continue to suffer the irrevocable damage of knowing their horrific photos are being viewed over and over again for sexual gratification by pedophiles.

Many believe these horrendous crimes happen mostly in other countries. Sadly, the United States is the number one producer and consumer of child pornography in the world, and American children are the primary victims. More than 624,000 child pornography users have been identified nationwide and thousands of these reside in San Diego County.

While the internet is exploited by these predators to harm children, it ironically is the same tool used by law enforcement to track down and arrest these criminals.

Your help is urgently needed to secure resources for this effort, increase public awareness, work to support tougher laws and educate others on this critical issue. While San Diego has one of the nation's 61 ICAC task forces, its six trained investigators are overwhelmed with cases due to funding shortfalls.

With your help, these predators can be taken off the street and our children will be safer. Here is what needs to be done:

**Change state law.** The current “wobbler” (misdemeanor and felony) wording should be eliminated. All child pornography charges should be made a straight felony.

**Strengthen sentencing.** State sentencing on child pornography cases needs to be more in line with

federal sentencing.

**Toughen discovery statutes.** State discovery statutes should be amended to comply with the Adam Walsh Act. Child pornography is contraband that is easily reproduced and should be treated as such.

**Change pornography evidence rules.** Stop the practice of giving copies of child pornography evidence to the defense. Instead, provide the defense a secure area where they can view the evidence but not take possession of it.

**Strike current law about possession/distribution of child pornography.** Currently, state law allows for a defendant's conviction for possession and distribution of child pornography to be set aside if he/she has complied with all probation conditions, pursuant to Penal Code Section 1203.4.

**Strengthen disclosure laws.** If applying for any job other than public office, licensure by any state or local agency, or for contracting with the state lottery, a convicted possessor of child pornography does not need to disclose their prior conviction. That allows people who have been convicted of possessing or dealing in photos of child exploitation to get closer to children. PC

1203.4 already has exceptions for convictions of PC 286(c), 288, 288a(c), 2813.5, 289m, felony 261.5(d) and 42001(b) of the Vehicle Code. These convictions may not be set aside per PC 1203.4 and must always be disclosed. PC 311.1, 311.2, 311.3, 311.4, 311.10 and 311.11 should be added to the list of charges to which this type of relief does not apply.

**Update reporting laws.** The existing mandatory reporting law should be updated to include librarians and computer technicians.

**Provide permanent funding for ICAC.** Significantly more permanent funding is needed for Internet Crimes Against Children Task Forces (ICAC's). They are tasked with investigating crimes against children involving electronic devices. The crimes include child pornography, child molestation and peer-to-peer bullying. ICAC task force's are severely undersized and underfunded to keep up with the magnitude of the growing problem.

**Increase public awareness.** Public awareness of the issue needs be heightened particularly to parents and children as well as all public officials and the community in order to protect our children against these unspeakable crimes.

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## **League of California Cities Staff Analysis on Resolution No. 2**

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214  
Committee: Public Safety Policy Committee

### **Summary:**

This Resolution seeks to increase public awareness of the prevalence of internet crimes against children. To help promote this goal, the Resolution requests the League of California Cities advocate for legislation that creates tougher laws for child pornographers and provides additional, more permanent funding for Internet Crimes Against Children (ICAC) Task Forces.

### **Background:**

According to the Resolution sponsors, the U.S. Census Bureau (2005) estimates that there are over 24.5 million internet users in the United States between the ages of 10 and 17. They cite that the rapid growth of internet accessibility has brought forth helpful tools for our children and youth. Unfortunately, it has also brought with it the increased potential for online victimization including unwanted exposure to sexual material, unwanted sexual solicitations, and online harassment.

The Internet Crimes Against Children (ICAC) Program was created to help federal, state and local law enforcement agencies enhance their investigative responses to offenders who use the internet, online communication systems, or computer technology to sexually exploit children. The program is funded by the United States Department of Justice, Office of Juvenile Justice and Delinquency Prevention. The program is a national network of 61 coordinated task forces representing over 3,000 federal, state, and local law enforcement and prosecutorial agencies. These agencies are engaged in proactive investigations, forensic investigations, and criminal prosecutions.

In FY 2009, ICAC Program received \$25 million under the Omnibus Appropriation Act to support ICAC task forces, training, and technical assistance. The ICAC Program received an additional \$50 million through the American Reinvestment and Recovery Act to support ICAC task forces, training, technical assistance, and research. In each of the past two fiscal years, the program received \$30 million nationally.

Existing California law addresses the policy area extensively in the areas of solicitation, pornography, and harassment with additional penalties often levied when the victim is a minor less than 14 years of age. Internet-based crimes against minors have been a popular topic in recent legislative proposals especially as new web-based technology is brought into the market. Legislation has included both increased penalties and greater protections or remedies for victims.

**Fiscal Impact:**

Unknown. No direct fiscal impact to city general funds.

**Existing League Policy:**

Related to this Resolution, existing policy offers:

The League believes that the children of California must be recognized as our state's most valuable resource. Their development, education, and well-being are key to our state's future. Further, it is essential that each child have the support needed to become a productive citizen in the world of the 21<sup>st</sup> Century.

The League supports the promotion of public safety through stiffer penalties for violent offenders.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

- 1) Support Sustainable and Secure Public Employee Pensions and Benefits: Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.
- 2) Promote Local Control for Strong Cities: Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues, land use, redevelopment and other private activities to advance the public health, safety and welfare of city residents.
- 3) Build Strong Partnerships for a Stronger Golden State: Collaborate with other public and private groups and leaders to reform the structure and governance, and promote transparency, fiscal integrity, and responsiveness of our state government and intergovernmental system.



## League of California Cities Staff Analysis on Resolution No. 5

Staff: Dorothy Holzem, Assoc. Legislative Representative, (916) 658-8214  
Committee: Public Safety Policy Committee

### **Summary:**

This Resolution seeks to create a clear statement of support for emergency preparedness in the League of California Cities existing policy and guiding principles. Specifically, it requests that the League encourages cities to actively pursue employee and resident emergency preparedness and to engage residents in

emergency preparedness programs that promote creating a family plan, that includes provisions for supplies of food and water, in the promotion of self-reliance, with the ultimate goal of creating "disaster resilient" cities.

### **Background:**

This resolution was brought to the Public Safety Policy Committee by that committee's Emergency and Disaster Preparedness Subcommittee to create a clear statement of support for emergency response, management, and recovery efforts as a community. While the League has extensive policy that supports related activities, there is no explicit statement of support in the existing policy or guiding principles.

In addition, numerous articles in *Western City Magazine*, the League's monthly publication, have featured case studies and best practices about emergency response and disaster preparedness. This topic has been a key component of the Public Safety Committee's work program for the last five years.

### **Fiscal Impact:**

Unknown. This Resolution does not seek to create new requirements for the League or cities. Possible costs to cities that take steps to educate community members about disaster preparedness could be off-set by future limited damage and loss of life or injury due to those preparedness efforts.

### **Existing League Policy:**

Related to this Resolution, existing policy provides:

The League supports the 2-1-1 California telephone service as a non-emergency, human and community services and disaster information resource.

The League supports "Good Samaritan" protections that include both medical and non-medical care when applicable to volunteer emergency, law enforcement, and disaster recovery personnel. The League also supports providing "Good Samaritan" protections to businesses that voluntarily place automated external defibrillators (AEDs) on their premises to reduce barriers to AED accessibility

The League supports activities to develop and implement statewide integrated public safety communication systems that facilitate interoperability and other shared uses of public safety spectrum with local state and federal law enforcement, fire, emergency medical and other public safety agencies.

The League supports a single, efficient, performance-based state department (the California Emergency Management Agency) to be responsible for overseeing and coordinating emergency preparedness, response, recovery and homeland security activities.

The League supports disaster recovery legislation that includes mitigation for losses experienced by local government.

The League's Mission Statement is "to expand and protect local control for cities through education and advocacy to enhance the quality of life for all Californians."

In addition, the Strategic Priorities for 2012, as adopted by the League Board of Directors, are to:

1) **Support Sustainable and Secure Public Employee Pensions and Benefits:** Work in partnership with state leaders and other stakeholders to promote sustainable and secure public pensions and other post-employment benefits (OPEBs) to help ensure responsive and affordable public services for the people of our state and cities.

2) **Promote Local Control for Strong Cities:** Support or oppose legislation and proposed constitutional amendments based on whether they advance maximum local control by city governments over city revenues,



