



COUNCIL DIRECTION TO VOTING DELEGATE FOR LEAGUE OF CALIFORNIA CITIES 2021 ANNUAL CONFERENCE

City Council Meeting
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Background

- Policy development is a vital and ongoing process within the League of California Cities.
- Each member city has one Voting Delegate at the General Assembly, which will be held in Sacramento on September 22-24, 2021.
- This year, two resolutions has been introduced for consideration by the General Assembly.

Proposed Cal Cities Resolution #1

A resolution of Cal Cities calling on the state legislature to pass legislation that provides for a fair and equitable distribution of the Bradley Burns 1% Local Sales Tax from in-state online purchases, based on data where products are shipped to, and that rightfully takes into consideration the impacts that fulfillment centers have on host cities but also provides a fair share to California cities that do not and/or cannot have a fulfillment center within their jurisdiction.

Analysis (Cal Cities Reso #1)

- The City of Rancho Cucamonga is sponsoring this resolution due to concerns over the concentration of sales tax revenue from in-state online sales being directed to cities that are home to fulfillment centers. The agency explains that:
 - The system deprives neighboring jurisdictions of much needed revenue yet subjects them to the impacts of these warehouses (traffic, pollution, road damages) without providing funds to address the concerns.
 - Some municipalities are “built out” without the commercial space or option to host a fulfillment center and are at a disadvantage to benefit from tax proceeds of in-state online sales.

Analysis (Cal Cities Reso #1)

The LOCC provided analysis of the proposed resolution, stating:

- Since the 1950's, cities have traditionally received 1 cent on every dollar of a sale made at a store, restaurant, etc. within a jurisdiction's boundaries.
- This structure has evolved into a complex structure of how sales and use tax allocation is managed in California, both have the 1% value, but are applied depending on where the transaction starts, where the goods are located, and how the customer receives the goods.
- Growth of online sales coupled with the decline of in-store shopping has resulted in some cities seeing most of their sales tax growth coming from the countywide sales tax pools to which much of the revenue from out of state sales are allocated.

Analysis (Cal Cities Reso #1)

- The ownership structure of one of the world's largest retailer's fulfillment centers changed in 2020 resulting in the sales tax this retailer generates from in-state sales now being entirely allocated to the specific city in which the warehouse fulfillment center is located instead of going into the countywide pool that is shared by all jurisdictions in that County.
- The change has resulted in more than 90% of California cities experiencing a decrease in sales tax revenue that began in the fourth quarter of calendar year 2020.
- The fluctuations in sales tax following the pandemic shutdowns have masked the issue but it will have long-term impacts on revenues for all California cities.

Analysis (Cal Cities Reso #1)

- Entities without fulfillment centers also experience impacts from ecommerce and increased deliveries including traffic, air quality and compromised safety as well as the negative impact on brick-and-mortar businesses struggling to compete with the sharp increase in online shopping.
- These cities are entitled to compensation in an equitable share of sales and use tax that balances the impacts to each jurisdiction involved in the distribution of products purchased online.

Analysis (Cal Cities Reso #1)

The City's consultant, *Avenue Analytics and Insights*, had the following to say regarding the resolution:

- Incorporating such a stance into Cal Cities' policy goals could allow Cal Cities to more effectively advocate for an assessment of the existing tax structure, a re-evaluation of the allocation formula, and a more equitable distribution of sales tax revenues that may ultimately benefit the City of Santa Rosa.
- Santa Rosa likely could see some benefits that were not present previously, but full data is not yet available and will completely depend on what is ultimately negotiated in any legislation that could be proposed for advancement by Cal Cities and depending on what 'fair and equitable' translates to in terms of any policy ultimately passed by the Legislature.

Proposed Cal Cities Resolution #2

A resolution calling upon the Governor and the legislature to provide necessary funding for CPUC to fulfill its obligation to inspect railroad lines to ensure that operators are removing illegal dumping, graffiti and homeless encampments that degrade the quality of life and results in increased public safety concerns for communities and neighborhoods that abut the railroad right-of-way.

Analysis (Cal Cities Reso #2)

- The City of South Gate is sponsoring this resolution to call attention to the:
 - Lack of regulatory authority that local governments possess to conduct abatements along the railroad right-of-way.
 - Lack of oversight to require railroad operators to conduct maintenance and cleanups on a regular basis or in a timely manner.

(State oversight of rail operations falls under the California Public Utilities Commission, CPUC. The CPUC has 41 inspectors covering over 6,000 miles of railroad lines to ensure equipment, bridges and lines are operationally safe.)

Analysis (Cal Cities Reso #2)

- The right-of-way areas are open and, in some communities, have been inviting to individuals to conduct illegal dumping and to graffiti structures.
- Many metro areas lack an adequate supply of affordable housing which has also contributed to an increase in homelessness that has spread to railroad right-of way posing an increased safety risk to these individuals and unsafe work environments for railroad and agency personnel.
- While the CPUC cannot compel those experiencing homelessness to vacate railroad rights-of-way or create shelter for homeless individuals, it has the regulatory authority to enforce measures that can reduce some safety issues created by encampments.

Analysis (Cal Cities Reso #2)

The LOCC provided analysis of the proposed resolution, stating:

- As private property, cities must arrange for staff to access the site or wait weeks for the rail operator to schedule a cleanup.
- A city may elect to declare the encampment as a public nuisance, allowing the city to clean the area at the railroad company's expense.
- Some cities have negotiated Memoranda of Understandings with railroad companies to provide graffiti abatement, trash, and debris removal located in the right-of-way and clean-ups of homeless encampments.
- Absent an MOU, cities do not have the authority to unilaterally address the public safety, environmental quality, and health impacts on the local community.

Analysis (Cal Cities Reso #2)

- Locally, SRPD reports the areas of 9th and Wilson streets, Carrillo St and Central Ave, and south of Hearn Ave as areas near SMART railroad right-of-way where encampments frequently establish.
- In most cases, the encampments are on city or private property just past the railroad rights-of-way as SMART has installed fencing at their property line.
- SMART has a crew which actively patrols the railroad lines in Santa Rosa and is very proactive in calling dispatch whenever they find an encampment or subject trespassing on their property, and they coordinate with SRPD's Downtown Enforcement Team.
- Annually, SMART provides written authorization to SRPD to enforce California Penal Code § 369i (Trespassing on the railway), as well as any other criminal statutes which occur within its rights-of-way.

Analysis (Cal Cities Reso #2)

- The public safety concern of increased pedestrian foot traffic in the area of the railroad lines exists in Santa Rosa as individuals frequently cross back and forth from their encampments.
- However, the proposed resolution as written, does not appear to address the root of the issue here in Santa Rosa – a lack of overall shelter and housing options across the region for our unsheltered community members.

Fiscal Impact

Providing direction for these resolutions will not have a fiscal impact on the City's General Fund.

Recommendation

It is recommended that the Council, by motion:

- (a) Consider taking a position on the two proposed League of California Cities resolutions – first, a resolution calling for a fair and equitable distribution of the Bradley Burns 1% local sales tax from in-state online purchases; and second, a resolution calling upon the governor and the legislature to provide necessary funding for CUPC to fulfill its obligation to inspect railroad lines; and
- (b) Provide associated direction to its Voting Delegate for the upcoming meeting of the League General Assembly

The Council may recommend that the Council's Voting Delegate support, oppose or take no position on the resolution.

QUESTIONS