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February 7, 2019

RULES & LEGISLATION COMMITTEE
OAKLAND CITY COUNCIL
Oakland, California 94612

**Re: 2018 Legislative Report (Selected Laws) from the City
Attorney's Office, Item No. 6 on the February 7, 2019, Rules
Committee Agenda**

Dear Chairperson Thao and Members of the Committee:

The City Attorney's Office prepared the attached list and synopses of selected new California laws of interest and relevance to municipalities (Attachment A). This report is listed on the February 7, 2019, Rules Committee agenda.

The compilation of laws in the attached list is based on the League of California Cities Legislative Report of 2018 Statutes.

Respectfully submitted,

A handwritten signature in cursive script that reads "Barbara J. Parker".

BARBARA J. PARKER
City Attorney

Assigned Attorney:
Doryanna Moreno, Assistant City Attorney

Attachment

cc: Mayor Libby Schaaf
Members of the City Council
Sabrina Landreth, City Administrator

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ITEM NO. 6
RULES AND LEGISLATION COMMITTEE
2/7/2019

ATTACHMENT A

Report of Selected Legislation Enacted in 2018

Based on the California League of Cities' Annual Legislative Summary, which can be viewed at <http://www.cacities.org/Resources-Documents/Policy-Advocacy-Section/Legislative-Resources/Legislative-Reports/2018-Legislative-Report>

The full text of bills can be found at <https://leginfo.legislature.ca.gov/faces/billSearchClient.xhtml>

I. COMMUNITY SERVICE

B. *Animals (p. 17)*

AB 2774 (Limón) Animal Shelters. Adoption Application. Crimes. Chapter 877, Statutes of 2018

This measure authorizes an animal shelter, humane society, society for the prevention of cruelty to animals, animal rescue, or animal adoption organization to ask an individual who is attempting to adopt an animal if they are prohibited from owning or possessing an animal due to animal abuse related misdemeanor or felony violations.

C. *Child Care (p.18)*

AB 2370 (Holden) Lead Exposure. Child Day Care Facilities. Family Day Care Homes. Chapter 676, Statutes of 2018

This measure requires licensed child day care facilities to, upon enrolling any child, provide parents or guardians with written information related to the risks and effects of lead exposure and blood lead testing recommendations and requirements. This bill also requires licensed child day care centers to test lead water levels, including testing drinking water for lead contamination after January 1, 2020 and before January 1, 2023, and every five years thereafter.

D. *Children (p.19)*

SB 1041 (Leyva) Childhood Lead Poisoning Prevention. Chapter 690, Statutes of 2018

This measure requires the California Department of Public Health (DPH) to annually notify health care providers who perform periodic health assessments for children about the risks and effects of childhood lead exposure, and the requirement that children enrolled in Medi-Cal receive blood screening tests. This measure also requires those health care providers to inform parents and guardians about the requirement to test

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children on Medi-Cal for lead exposure. Lastly, this bill requires DPH to include additional publicly releasable information about the number of children enrolled in Medi-Cal who have and have not received blood lead screening tests.

II. ENVIRONMENTAL QUALITY

B. Air Quality (p.31)

SB 1014 (Skinner) California Clean Miles Standard and Incentive Program. Zero-Emission Vehicles.

Chapter 369, Statutes of 2018

This measure requires The California Air Resources Board (CARB) to establish a baseline for emissions of greenhouse gases for transportation network company (TNC) and charter party carrier vehicles on a per passenger-mile basis by January 1, 2020 and require CARB to establish annual reduction targets and goals under that baseline for emissions of greenhouse

C. California Environmental Quality Act (CEQA) (p.33)

AB 734 (Bonta) California Environmental Quality Act. Oakland Sports and Mixed-Use Project.

Chapter 959, Statutes of 2018

This measure establishes special procedures for California Environmental Quality Act (CEQA) review, additional conditions for certification, and expedited (270 day) judicial review for the proposed Oakland baseball park and mixed-use development.

E. Solid Waste and Recycling (p.38)

AB 1884 (Calderon) Food Facilities. Single-Use Plastic Straws.

Chapter 576, Statutes of 2018

This measure prohibits a full-service restaurant from providing single-use plastic straws to consumers unless requested by the consumer. The bill specifies that the first and second violations of these provisions would result in a notice of violation and any subsequent violation would result in a fine of \$25 for each day the full-service restaurant is in violation.

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III. GOVERNANCE, TRANSPARENCY AND LABOR RELATIONS

A. *California Public Records Act (CPRA) (p.57)*

***SB 1244 (Wieckowski) Public Records Disclosure.**

Chapter 463, Statutes of 2018

This measure places the term "plaintiff" with the term "requester" in the California Public Records Act (CPRA) to clarify that the court shall award court costs and reasonable attorney's fees to the requester should the requester prevail in litigation. Additionally, this measure clarifies that the court shall award court costs and reasonable attorney fees to the public agency if the court finds that the requester's case is clearly frivolous. Attorney fees and cost awards in reverse-CPRA actions are not impacted by this measure.

B. *Elections*

AB 216 (Gonzales Fletcher) Vote by Mail Ballots. Identification Envelopes. Prepaid Postage.

Chapter 120, Statutes of 2018

This measure requires the postage on return envelopes for vote by mail (VBM) ballots to be prepaid. This measure adds an elections-related mandate by requiring local election officials to prepay the return postage for VBM ballots.

D. *Personnel and Labor Relations (p.64)*

AB 2282 (Eggman) Salary History Information.

Chapter 127, Statutes of 2018

This measure clarifies changes to provisions regarding the use of a job applicant's prior salary to prohibit use of prior salary to justify any disparity in compensation. Specifically, this measure:

- Clarifies that an employer may make a compensation decision based on a current employee's existing salary, if the wage differential resulting from that compensation decision is justified; and
- Specifies that the prohibition on asking a job applicant about prior salary does not forbid an employer from asking the applicant about his or her salary expectations.

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E. *Privacy, Technology and Transparency (p.69)*

***SB 1421 (Skinner) Peace Officers. Release of Records. Chapter 988, Statutes of 2018**

This measure provides for the release of police personnel files in three general categories: job-related dishonesty, sexual assault against a member of the public, and specified use-of-force incidents via the CPRA. The first two – dishonesty and sexual assault – SB 1421 only allows the release of information when there is a “sustained finding,” meaning that it was determined through an internal or criminal investigation that the incident not only occurred, but that the officer was found to have violated department policy or statute. This measure also states that a public agency may redact or delay a record disclosure if the public interest served by not disclosing the information clearly outweighs the public interest

VI. HOUSING, COMMUNITY AND ECONOMIC DEVELOPMENT

B. *Homelessness (p.90)*

AB 3139 (Bonta) State Highways. Property Leases. Chapter 443, Statutes of 2018

This measure requires any airspace under a freeway, or real property acquired for highway purposes, in the City of Oakland, that is not excess property, to be offered by Caltrans for lease on a right of first refusal to the city, or to a political subdivision of the city, for purposes of an emergency shelter or feeding program. This measure also requires, for up to 10 parcels, the lease amount for emergency shelter or feeding programs to be \$1 per month.

C. *Land Use and Planning (p.98)*

***AB 2923 (Chiu) San Francisco Bay Area Rapid Transit District. Transit-Oriented Development. Chapter 1000, Statutes of 2018**

This measure gives the San Francisco Bay Area Rapid Transit (BART) land use authority over BART owned land within one-half mile of an existing or planned BART station. Where local zoning is inconsistent with the BART Transit Oriented Development (TOD) zoning standards for a station, this measure requires the local jurisdiction to adopt a local zoning ordinance that conforms to the BART TOD zoning standards within two years of the date that the BART TOD zoning standards are adopted by the board for a station, or by July 1, 2022, if the board has not adopted TOD zoning standards for the station. This measure will sunset on January 1,

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2029. *(The League has prepared a comprehensive summary on this measure in Appendix A of its annual summary.)*

***SB 946 (Lara) Sidewalk Vendors.**

Chapter 459, Statutes of 2018

This measure decriminalizes sidewalk vending and establishes various requirements for local regulation of sidewalk vendors. This measure prohibits a city, county, or city and county from regulating sidewalk vendors, except in accordance with the provisions of the bill. This measure applies to a charter or general law city, county, or city and county. *(The League has prepared a comprehensive summary on this measure in Appendix A of its annual summary.)*

F. Disability Access (p. 105)

AB 3002 (Grayson) Disability Access Requirements. Information.

Chapter 680, Statutes of 2018

This measure promotes disability access at commercial businesses and places of public accommodation by requiring local government agencies to provide building permit applicants with an advisory about federal and state disability access laws, encouragement to obtain an inspection from a Certified Access Specialist (CASp), information about how to contact a CASp, and notice regarding the availability of state and federal programs to assist small businesses with disability access expenditures. Specifically, this measure requires each city, county, or city and county to provide all of the following information to commercial building permit and business license applicants:

- General information on the compliance requirements pursuant to the Americans with Disabilities Act (ADA) and Unruh Act;
- An advisory that encourages commercial building permit applicants to consult with a CASp prior to alteration or construction to ensure that the property will be in compliance with the laws after the work is performed, and that encourages commercial building permit applicants to obtain a CASp inspection after alteration or construction in order to obtain the legal benefits associated with such an inspection;
- An advisory that encourages business license applicants to consult with a CASp prior to engaging in business on the premises to ensure compliance with disability access laws, and that encourage business license applicants to obtain a CASp inspection after beginning to engage in business in order to obtain the legal benefits associated with such an inspection;
- Information about how to locate a CASp, including a link to the Division of the State Architect (DSA) Web site where information

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about CASps doing business in specific areas, and how to obtain their services;

- A notice about specified federal and state programs that are available to assist small businesses with disability compliance and access expenditures; and
- A link to the home page and the resource page of the California Commission on Disability Access.

This measure applies to all cities, including charter cities, and makes the following legislative findings and declarations: promoting uniform statewide compliance with construction-related accessibility requirements set forth in the ADA (Title 42 United States Code Section 12101 et seq.) and state disability law is a matter of statewide concern and is not a municipal affair as that term is used in the California Constitution, Article XI, Section 5.

H. *Landlord/Tenant*

AB 2343 (Chiu) Real Property. Possession. Unlawful Detainer. Chapter 260, Statutes of 2018

This measure enacts various procedural changes to landlord-tenant law, including specified extensions of time for tenants to respond to notices and eviction papers. Specifically, this measure clarifies that the three-day notice period for unlawful detainer for a tenant to address curable breaches of the lease, including nonpayment of rent and failure to perform certain duties under the lease, shall be counted so as to exclude weekends and judicial holidays; clarifies that the five-day period in which the defendant may file his or her answer in response to a notice of summons in an unlawful detainer case shall be counted so as to exclude weekends and judicial holidays; and establishes a delayed operative date of September 1, 2019 for these provisions.

V. PUBLIC SAFETY

B. Cannabis (p.115)

***AB 2020 (Quirk) Cannabis. Local Jurisdiction Licensees. Temporary Event License.**

Chapter 749, Statutes of 2018

This measure authorizes the Bureau of Cannabis Control (BCC) to issue a temporary state event license for a venue that has been expressly approved by a local jurisdiction. In addition, this measure:

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- Clarifies that those engaged in onsite retail sales must be licensed and in compliance with applicable regulations;
- Requires an application for a temporary event license to be submitted to BCC at least 60 days prior to an event and include a listing of all participating licensees. BCC is required to be notified of any changes to the listing, and those not listed cannot participate;
- Authorizes the BCC to impose civil penalties of up to three times the license fee for each violation;
- Authorizes BCC or local law enforcement to require the event and all participants to cease operations without delay if deemed necessary to protect the immediate public health and safety of the people; and
- Clarifies that existing state protections for workers from impacts of secondhand smoking in the workplace continue to apply for cannabis.

***AB 2164 (Cooley) Local Ordinances. Fines and Penalties. Cannabis. Chapter 316, Statutes of 2018**

This measure allows a city or county by local ordinance to impose immediate administrative fines or penalties for violations of building, plumbing, electrical, or other similar health and safety, or zoning requirements if the violation exists as a result of, or to facilitate, the illegal cultivation of cannabis.

***SB 1294 (Bradford) Cannabis. State and Local Equity Programs. Chapter 794, Statutes of 2018**

This measure seeks to create opportunities and assistance to enter California's cannabis industry for those who have been most negatively affected by its criminalization. Named the California Cannabis Equity Act of 2018, the measure does the following:

- Authorizes BCC to provide technical assistance to local equity applicants or local equity licensees;
- Authorizes local jurisdictions to apply for grants to assist equity applicants and licensees through that local jurisdiction's equity program;
- Requires an eligible local jurisdiction that receives grant funds pursuant to these provisions to submit an annual report to the bureau that contains specified information on the use of the grant funds and specified demographic data; and
- Requires, on or before July 1, 2019, the bureau to, among other things, publish approved local equity ordinances and model equity ordinances created by advocacy groups and experts, as specified.

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E. *Firearms and Other Weapons (p.128)*

AB 2930 (Santiago) Unlawful Detainer. Nuisance. Unlawful Weapons and Ammunition.

Chapter 880, Statutes of 2018

This measure extends authority, until January 1, 2024, for two nuisance-eviction pilot programs that conditionally allows city attorneys and prosecutors in authorized cities (Los Angeles, Long Beach, Sacramento and Oakland) to bring eviction proceedings against tenants for committing nuisance violations involving unlawful weapons or controlled substances.

SB 1382 (Vidak) Firearms. Vehicle storage.

Chapter 94, Statutes of 2018

This measure authorizes the storage of a firearm in an unattended vehicle if the firearm is locked in a tool or utility box, as specified.

K. *Public Safety Professionals (p.137)*

AB 748 (Ting) Peace officers. Video and Audio Recordings. Disclosure.

Chapter 960, Statutes of 2018

This measure, commencing July 1, 2019, would authorize a law enforcement agency to withhold an audio or video recording that relates to a critical incident, as defined, for 45 calendar days if disclosure would substantially interfere with an active investigation, as specified. The measure essentially creates a standard for the release of body-worn camera footage captured by law enforcement agencies by balancing privacy interests with the public's interest in the footage. If the public interest in withholding the video or audio recording clearly outweighs the public interest in disclosure, because the release would violate one's reasonable expectation of privacy, the measure allows for the recording to be redacted to protect that person's privacy interest. If the agency demonstrates that a person's reasonable expectation of privacy cannot adequately be protected through redaction, the measure requires that the recording be promptly disclosed to the person, his or her parent, guardian, or representative, or his or her heir, beneficiary, immediate family member, or authorized legal representative, if deceased.

AB 2327 (Quirk) Peace Officers. Misconduct. Employment. Chapter 966, Statutes of 2018

This measure requires peace officers seeking employment with a law enforcement agency to give written permission for the hiring law enforcement agency to view his or her general personnel file and any

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separate disciplinary file. The measure also requires each law enforcement agency to make a record of any investigations of misconduct involving a peace officer in his or her general personnel file or a separate file designated by the department or agency.

O. *Miscellaneous*

***AB 1755 (Steinorth) Bicycle Operation.**

Chapter 139, Statutes of 2018

This measure subjects bicyclists on a Class I bikeway, a completely separate pathway used exclusively by pedestrians and bicyclists, to all of the rights, responsibilities, requirements, and accident-related Vehicle Code provisions that apply to highway drivers in the event an accident causes injury or death, creating a new crime.

AB 2876 (Jones-Sawyer) Vehicles. Removal and Impound Authority.

Chapter 592, Statutes of 2018

This measure allows for the warrantless vehicle removal for the purposes of officer seizure, community caretaking, safe flow of traffic, protection from theft or vandalism, if constitutionally reasonable under the Fourth Amendment and the California Constitution. The measure further provides that any removal and/or subsequent storage of a vehicle that is based on community caretaking is only reasonable if an individual's substantial interest in possessing their vehicle is outweighed by one or more of the following community caretaking justifications:

- Preventing a hazard to other drivers;
- Protecting the public from an unsafe driver; or
- Preventing theft or vandalism.

AB 2986 (Cunningham) Transportation Network Companies.

Disclosure of Participating Drivers Information.

Chapter 286, Statutes of 2018

This measure requires transportation network companies (TNCs) to provide all of the following information to passengers through its online-enabled application or platform when passengers and drivers are matched:

- The driver's first name and a picture of the driver;
- An image of the make and model of the driver's vehicle; and
- The license plate number of the driver's vehicle.

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VII. TRANSPORTATION, COMMUNICATION, AND PUBLIC WORKS

C. *Active Transportation (p.175)*

***AB 2989 (Flora) Motorized Scooter. Use of Helmet. Maximum Speed. Chapter 552, Statutes of 2018**

This measure imposes a 15 mile per hour speed limit for motorized scooters on all roadways and requires anyone under 18 years old to wear a helmet when operating a motorized scooter. The measure also authorizes local agencies to allow motorized scooters on roads with speed limits up to 35 miles per hour outside of a Class II or Class IV bikeway, bikeways that share the road but are separated through either lane striping or a physical barrier (i.e. parked cars), respectively.

D. *Taxis, Ridesharing, and Autonomous Vehicles (p.175)*

***AB 939 (Low) Local Government. Taxicab Transportation Services. Chapter 472, Statutes of 2018**

This measure revises, alters, and clarifies changes related to the local regulation of taxicab services made from recently enacted statutes, AB 1069 (Low, Chapter 753, 2017), such as:

- Revising the basis for determining where a taxicab is substantially located to either of the following;
 - ♦ Where it has its primary business address within a city or county's jurisdiction; or
 - ♦ The total number of trips originate within a city or county's jurisdiction account for the largest share of the taxicab company's total trips within each county where operations occurred over the previous calendar year and the primary business address when a taxicab company is in its first year of operation for companies that begin operations after January 1, 2019; or
 - ♦ After their first year, when starting post 2019, meet the same tests for establishing where it is substantially located as other taxicab companies.
 - ♦ Requiring taxicab companies to collect trip data and documentation to determine where they are substantially located annually and to furnish that information to the appropriate jurisdiction;
- Requiring taxicab companies to be subject to annual inspection by the city or county in which it is substantially located at a facility

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- certified by the National Institute for Automotive Service Excellence or facilities registered with the Bureau of Automotive Repair; and
- Revising and clarifying the authority of joint powers authorities (JPAs) and transit agencies for regulating taxicab companies that are substantially located within their jurisdictional boundaries, including the ability for JPAs to enter into agreements with cities or counties for the purpose of regulating this industry.

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