



FREMONT, NEWARK & UNION CITY

NOVEMBER 2012

DECEMBER HOLIDAY PARTY and PROGRAM PLANNING FOR LWV CALIFORNIA CONVENTION IN MAY 2013 in SAN JOSE

> December 10th, 6:30 P.M. 4677 Sterling Ct, Fremont

Where should the League's time, talent, money & reputation be focused for membership retention & growth?

Where will LWVC be most effective & have the most impact on a state level?

In the process we will review current positions, choose to either retain, delete, or emphasize some for advocacy or education of members or the public, or suggest a new study or update or restudy of an existing position.

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November Meeting

Health Care in Alameda County

Guest Speaker – Alex Briscoe

Monday, November 19th

6:30 Networking 7:00 Program

Fremont Main Library 2400 Stevenson Blvd, Fremont

What is the state of Health Care in Alameda County?

How does the Federal Health Care Act affect Alameda County's services?

What does the future hold for health care locally and in the state?

President's Message



Please take the time to vote on Nov. 6 if you haven't already done so by mail.

Then join us on November 19th when we hear from Alex Briscoe, Alameda County Director of Health Services about health care in Alameda County. The possible implications from the General Election on the county's health care system will be covered.

And be sure you come to our holiday party and program planning for State issues we need to address next year. Further information about that in this issue and on oour calendar.

Looking back we need to thank all of our Leaguers who took part and contributed to our candidate forums, our pro/cons on the initiative talks, our informative Voter Information Booklet, our registration drives, and our candidates on Smart Voter. Each and every person's endeavors were needed and appreciated. Let's put our thinking caps on and come up with ideas to make the next election activities even better.

Look for new ways to inform others about our activities on the Patches for Newark, Union City and Fremont. If you haven't signed up for their emails yet, do so now. Have you visited Facebook and "liked" us or left a message? Do so now! Look for us also in the Fremont Bulletin and the Tri-City Voice, If you know of other local newsletters or web sites where we can notify the public of our meetings, please let us know.

Board Briefs - At the Sept. 23 meeting Heard plans for candidate forums, speakers' bureau talks on the initiatives, registration drives, the Easy Voter Guide and Smart Voter Heard about collaboration with the Cupertino League to produce 30 minute video on the initiatives Gave a round of applause to our Communications Director, Isabelle McAndrews for trying new ways to get our information to the voters

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From the Bay Area Monitor

Number Crunch: Housing Allocation 'Hot Potato' Continues By Vivien Kim Thorp

Since early 2011, the Association of Bay Area Governments (ABAG) has been working on the plan that, beginning in 2014, will govern the next eight years of housing development throughout the region. The state-mandated Regional Housing Need Allocation (RHNA), still in the draft phase, will pick up where the current plan leaves off, determining how many housing units, including affordable housing, a community must plan to accommodate by 2022. The newest RHNA will assign responsibility for 187,990 housing units around the Bay Area's nine counties. By state law, a RHNA must consider myriad factors — sewer and water service, protected lands, special community needs such as housing for university students or farm workers, and market demand — all while making the most out of existing infrastructure. There are no penalties if RHNA numbers are not transformed into brick and mortar by the end of a term. But cities must, in good faith, provide zoning that adequately addresses the numbers. "The process is a delicate balance between where growth should go and how much growth each jurisdiction can accommodate," said Hing Wong, a senior ABAG planner. "For this RHNA, the methodology is a lot more involved, and there are many more variables in terms of calculating how many units each jurisdiction gets."

One reason for this increased complexity is the Sustainable Communities and Climate Protection Act (Senate Bill 375). Passed in 2008, SB 375 requires California's 18 regions to adopt Sustainable Communities Strategies collaborative plans to reduce greenhouse gas emissions and lessen urban sprawl. Regional housing and transportation planning agencies are now required to work in tandem. In the Bay Area, this means that the Metropolitan Transportation Commission's 25year regional transportation plan must correlate with the RHNA and vice-versa. "We're trying to do it in an iterative fashion," said Doug Johnson, an MTC planner. "This means concentrating development efforts in places where more growth and the most transportation investment are expected." Since the draft RHNA was released in July, city planners, advocacy groups, and other stakeholders have played "hot potato" with the assigned numbers, requesting changes based on inadequate terrain, lack of subsidies, overrepresentation, and more. Wong allowed that cities rarely ask for more units. "They would prefer lower numbers, not because they don't want to meet this requirement, but they face many local challenges in trying to zone for their given allotment."

The RHNA assigns housing units in four categories: very low income-, low income-, moderate income-, and above moderate incomehousing. These are calculated using the household median income. For the Bay Area, which includes some of the state's wealthiest counties, the figure stands at \$75,921. Households earning less than \$1 percent of the median, or less than \$60,000 a year, are considered low income.

It's the equitable division of this end of the spectrum that is often the most contentious. For instance, communities may take advantage of low-wage commuters from outside their jurisdiction, without addressing their housing needs. In addition, the recent introduction of "Priority Development Areas" to the Bay Area's RHNA process has troubled many housing advocacy organizations.

PDAs are designated by city councils or counties for concentrated development. By placing housing, amenities, services, and public transportation in close proximity, PDAs aim to lessen pollution and help the region meet sustainability goals. Up to 70 percent of the RHNA allocations can now be distributed within these target zones. But because the creation of these areas is voluntary, some argue they are also inherently unfair.

"Priority Development Areas are used as a source of grant funding," said Evelyn Stivers, field director for the Non-Profit Housing Association of Northern California. "Communities with budget problems that are struggling to keep their planning departments intact often volunteer to create PDA." Wealthier communities, she said, don't need funding and can easily opt out.

Mike Rawson of the Affordable Housing Law Project agreed. "ABAG has allowed areas that have BART stations that would be considered Priority Development Areas under most planning scenarios not to volunteer," he said. "Not only is this inconsistent, but it fails to ensure that a fair share of housing needs are allocated objectively."

Now in its revision phase, major changes to the RHNA are unlikely, though the appeals process, which ends in February, will bring small

adjustments. As the draft stands, Santa Clara County, at 59,134, received the largest allocation, followed by Alameda (43,965) and San Francisco (28,745) counties. Marin and Napa counties, with 2,292 and 1,482 housing units respectively, rounded out the bottom of the nine.

ABAG will officially respond to revision requests by November 15. A public hearing on appeals is slated for late February. Final allocations are to be issued for state approval on April 12, 2013.

A Fresh Look at the Initiative and Referendum Process

Depending on your point of view, California is blessed or cursed with its version of direct democracy – our initiative and referendum process. After wrestling with 11 state ballot measures on the November ballot, we hope that League members will want to take a fresh look at California's initiative process. These statewide ballot measures are, of course, in addition to county and local measures on this November's ballot.

At the LWVC Convention in May 2011, members voted to adopt a study to update the League's position on the Initiative and Referendum Process, which may be used to influence public policy. League members asked for an update because the public pays significant attention to the initiative and referendum process in California, both because there seem to be more petitions than ever and because there are an increased number of proposals to change the system itself.

From November 2012 through February 2013, Leagues around the state will review and discuss the study materials posted on the LWVC members' only website. Reports of consensus are due to LWVC by March 31, 2013. Your VOTER will contain additional materials for study and review.

After the November 6th election our League's study group will be led by Judy Keller, who in turn will be mentored by Miriam Keller. If you are interested in this timely topic and would like to participate, please contact Miriam at <u>miriamkel@comcast.net</u>. Follow this link to the Initiative and Referendum study materials: http://ca.lwv.org/lwvonly/studies/2011- initiative-and-referendum/index.html .

Alameda County Leagues Invite Speaker on Initiative and Referendum

As an introduction to the LWVC's study of Initiative and Referendum, the Leagues in Alameda County have invited Professor Michael Salerno from UC Hastings School of Law to speak to us on the Initiative and Referendum Process in California.

Professor Salerno is a former legislative staff member, with a special interest in drafting legislation. As such, he is often seen as a critic of the initiative process. We look forward to hearing from him about the reforms and changes he would like to see occur.

He will be speaking on Thursday, November 29, in Alameda. Time and Location to be announced.

Current LWVC Position on Initiative & Referendum

The portions of the position that are considered vertical are italicized.

Position In Brief:

Support citizens' right of direct legislation through the initiative and referendum process.

Positions

California should retain the referendum and direct initiative.

California should adopt an indirect initiative procedure, preferably as an optional alternative to the direct initiative.

Drafting:

initiative sponsors should be required to submit draft proposals to an official authority for an opinion on clarity/language, constitutionality/legality, or single subject;

initiative proposals should be limited to a single subject and written in language which is precise, clear, and understandable;

initiatives dealing with timely subjects should include a "sunset clause," providing for an automatic expiration of the measure.

Qualification:

requirements should be retained for: 1) direct initiative statute--valid signatures numbering 5 percent of the total vote for all candidates for governor in the last gubernatorial election, 150 days to collect signatures; 2) direct initiative constitutional amendment--valid signatures numbering 8 percent of the total vote for all candidates for governor in the last gubernatorial election, 150 days to collect signatures; 3) referendum on a legislative statute-- valid signatures numbering 5 percent of the total vote for all candidates for governor in the last gubernatorial election, 90 days to collect signatures;

the filing fee should reflect costs of processing initiative and referendum proposals;

no requirement for geographic distribution should be imposed;

solicitation of signatures and campaign funds in the same mailing should be allowed.

Campaign:

realistic limits should be imposed on contributions by individuals and groups to initiative and referendum campaigns;

realistic limits should be imposed on expenditures by individuals and groups to initiative and referendum campaigns;

there should be provision for free time for radio and TV information programs for initiative campaigns;

no public financing should be provided for initiative and referendum campaigns;

the legislature should conduct public hearings on initiative and referendum proposals around the state, with adequate public notice; ballot pamphlet analyses of initiative and referendum measures should be written for the reading level of the average citizen;

The ballot label and ballot pamphlet should clearly indicate the effect of a yes vote and a no vote.

Disclosure:

sponsors of an initiative or referendum and organizations which form a committee to support or oppose a measure should be required to be listed by name in the ballot pamphlet, in mailings, and in advertisements;

principal contributors to an initiative or referendum campaign should be required to be listed by name in the ballot pamphlet, in mailings, and in advertisements;

initiative and referendum committees should be required to use names that reflect their true economic or special interest.

Election:

voting on initiatives should take place at primary and general elections but not at special elections;

an initiative statute or constitutional amendment, or a legislative statute appearing on the ballot as a referendum, should be approved by a simple majority of those voting on the measure to take effect;

an initiative statute or constitutional amendment which requires a super-majority vote for passage of future related issues should be required to receive the same super-majority vote approval for its passage;

state initiative measures should apply to the entire state, not only to those political sub-divisions in which they are approved;

an initiative should not be allowed to provide for different outcomes depending upon the percentage of votes cast in its favor.

Post-Election:

approval by the voters should be required for any changes made by the legislature in a statute adopted by initiative, unless the statute permits amendment without the approval of voters

initiative proposals which do not win voter approval should be allowed to appear on subsequent ballots without restriction, if they again meet qualification requirements.

Legal Aspects:

the definition of "single subject" pertaining to initiatives should be redefined to ensure stricter interpretation and stricter enforcement;

constitutional challenges to voter-approved initiatives being reviewed in the state courts should be heard by a threejudge panel rather than a single judge.

Position History: As Adopted at LWVC Convention '99; Readopted at last convention

Questions to consider when thinking about Initiative and Referendum

These following comments and questions will assist you in "jump starting" your consideration of the issues involved. These are not the consensus questions, but will give you some ideas about what the process is now and what you may think needs to be changed.

1. What is the purpose of having an initiative process? A referendum process? Do the processes in California fulfill these intentions?

2. What role should discussion and compromise have in making the laws for California? Are these a requirement or just something nice to have?

3. Does the possibility of using the Internet to gather signatures give less well-funded groups the ability to mobilize voter support as an alternative to paying petition circulators?

4. Is increased democratization of the initiative process worth the increased risks that technology brings with it?

5. It has been suggested that along with gathering signatures online, there might be an ability to withdraw one's signature, and in addition to sign negatively – essentially say that you do **not** want this measure to appear on the ballot. How would this affect the initiative process?

6. Measures passed by the voters are regularly challenged in the courts. Over the past sixteen years, six measures have been overturned. Does this constitute a real issue, or is this simply a part of the system that we have to live with?

7. Do you agree with the following statement? If so, is there a way to control these issues?

Voter-approved propositions that take services or rights away from any group often end in long, costly court battles. Judicial decisions sometimes strike the entire or parts of proposition as unconstitutional. Either way, majority rule that harms minority interests costs Californians in taxes, time, and legitimacy three things the electorate cannot afford. The process of voting on these issues may seem "democratic", but begins to impinge on rights 8. Are proponents of initiatives required to submit a reasonable number of signatures to dissuade frivolous filings?

9. How much should practices in other states influence what we do in California?

10. What is the appropriate balance between having the will of the people enacted exactly as it is voted on and allowing the legislature to have some ability to modify laws enacted by initiative in response to changing circumstances?

11. About half of the states have some form of direct initiative, mostly located in the western part of the country (see Study Guide appendix). From what you know about them, how do you think they are managing their affairs compared to those states that do not allow for direct citizen involvement in creating legislation or repealing acts of their legislatures?

12. What would California be like today if citizens had not been allowed direct input into creating its laws? Give examples.

13. California has used the initiative and referendum system for more than 100 years. As we have discussed today, the process has been tweaked now and then. If we were to propose a way today to augment the work of the legislature, how might it differ from our present approach?

Hitching a Ride

Looking for a ride to a League meeting? Willing to offer a member a ride to a meeting? Let Miriam or Alex know if you need a ride or can give a ride.

We have had a few requests from members who do not drive at night and want to remain active. Let us know and we'll make a match. Miriam, 683-9377 or Alex 656-6877 or email one of us.

AFTER CITIZENS UNITED DECISION -

Democracy in the Balance

From the League of Women Voters of Concord-Carlisle Amherst Sudbury

Corporate Rights in America: A Growth Industry

The conflict between corporations and government has existed since the birth of our nation. As early as 1791 James Madison expressed concern about the "spirit of speculation and fraud" evident across the land. In 1816 Thomas Jefferson warned Americans "to beware of the political ambitions" of a newly minted financial system created by Alexander Hamilton.ii Thus, the 2010 Citizens United v FEC decision was not the start, but rather the latest and most radical step in the corporate march toward securing constitutionally protected rights.iii In 1832, President Andrew Jackson vetoed the re-chartering of the Second Bank of the United States, concerned that the imbalance in ownership between government (20%) and private investors (80%) would give the bank unfair advantage over local competition.iv In 1907, Congress – at the urging of President Theodore Roosevelt - enacted statutes limiting and regulating corporate campaign expenditures and calling for transparency.v

The century-old firewall between corporations and special interest money has been crumbling steadily over the past 30 years. It came tumbling down with the blow of the Citizens United decision. This didn't happen by accident. Until fairly recently, the steady accretion of corporate rights were pursued on a piecemeal basis. That approach changed dramatically in the 1970's when an organized, collective corporate approach to influence political outcomes began in earnest.

The passage of major environmental, civil rights and campaign finance reform in the late 1960's and early 1970's sounded alarm bells in the corporate world. The response of business to this wave of public-spirited political activity was to develop and fund a sustained and united effort as a countervailing political force. A memo written by Virginia corporate attorney and soon-to-be Supreme Court Justice Lewis Powell is credited by many as a primary catalyst for this paradigm shift in corporate strategy. Written in 1971 at the request of his client, the US Chamber of Commerce, Powell wrote a memo (known as the Powell Memo) advising the Chamber that corporations needed to organize to stop what he referred to as an "attack on the American free enterprise system".vi

The Powell memo further urged corporations to jointly fund a sustained and coordinated plan. Of equal or greater significance, Powell identified working through the judicial system and an "activist-minded Supreme Court" as essential to shaping "social, economic and political change" for corporate benefit.vii Since that time,

the US Chamber of Commerce has become an increasingly well-funded and powerful voice on behalf of corporate interests in Washington and on the campaign trail.

In 1972 Lewis Powell was appointed to the Supreme Court by Richard Nixon. Powell's rulings reveal a clear corporate tilt. Justice William Rehnquist, a well-known conservative, was also a Nixon Supreme Court appointee. While some also describe Justice Powell as a conservative, Justice Rehnquist rendered dissents to many of Powell's decisions. The difference in the judicial opinions of these two Supreme Court Justices reveals a clear contrast between "corporatist" versus "conservative" philosophies.viii

During this period, corporations also began to organize in the private sphere, most notably by funding numerous non-profit legal foundations in the 1970's to drive the demand for corporate rights.ix For the past 30 to 40 years, these foundations, funded by wealthy corporatists (the "1%"), have persistently challenged the constitutionality of campaign finance legislation at all levels of government. Human characteristics such as "voice", "corporate speech" and the "rights of corporate speakers" were consistently used in their briefs when referring to corporations, thus blurring the functional distinction between people and statecreated business entities through usage and time.

Preparing model legislation for passage in receptive states to further ideological as well as corporate goals of a super-wealthy few was the focus of some of these groups.x xi More detailed information about one of the most secretive of these groups can be found in the related hand out: ALEC: Modeling Legislation for Corporate and Personal Wealth.

Recently, the US Chamber of Commerce has begun stretching beyond its membership to build a non-member, grassroots effort to further its corporate agenda. With vast sums of money from secret donors, the Chamber is enlisting non-Chamber members to lobby on behalf of legislation and help in getting out the vote in elections.xii

The primary difference between today and the 1970s, when corporate resistance to the perceived threat of publicly-minded regulatory legislation and agencies began, is the boundless sums of money from undisclosed sources available to fund this effort.

As described in a 2009 LA Times article. wealthy donors and corporate leaders can now operate in the comfort of protected anonymity: Using trade associations such as the Chamber as the vehicle for spending corporate money on politics has an extra appeal: These groups can take large contributions from companies and wealthy individuals in ways that will probably avoid public disclosure requirements. The Chamber has developed that into something of a specialty: Under a system pioneered by Donohue {Tom Donohue, Chamber President, 1997-present}, corporations have contributed money to the chamber, which then produced issue ads targeting individual candidates without revealing the names of the businesses underwriting the ads.xiii

Without disclosure there can be no public scrutiny. "Sunlight is said to be the best of disinfectants," as Supreme Court Justice Louis Brandeis so memorably wrote.xiv

Money has bought influence since the start of our nation and will continue to be a factor in our politics and our representative form of government unless there is a major overhaul of campaign finance reform and guidelines for lobbying, at a minimum. The Citizens United decision has unleashed a torrent of cash into the system that deepens the crisis. Spending unlimited amounts of corporate money to help elect or defeat candidates and promote a legislative agenda is now a constitutionally protected free-speech right for the first time in our history.

Of course, these rights apply to everyone not just corporations and the wealthy. What concerns so many Americans is the gross imbalance between the vast amounts of money at the disposal of the wealthy elite as compared with the 99%.

In a world where money equals speech, the more money the louder the speech and the greater the chance that smaller voices will be completely drowned out. While the system is more entrenched and entangled than ever, citizens have faced and overcome similar hurdles before. Many believe that, once again, only the loud, clear collective voice of the people will tamp down the rise of special interest money percolating throughout our political system.

i <u>http://www.familytales.org</u> /dbDisplay.php?id=ltr_mad1691

ii JD Clements, Corporations are Not People, Berrett-Koehler Publishers, Inc.,San Francisco, 2012,, foreward by Bill Moyers, p. xii

iii http://www.law.cornell.edu/supct/html/08-205.ZX.html

iv Ibid, p. xiii: "This act seems to be predicated on the erroneous idea that the present stockholders have a prescriptive right not only to the favor but to the bounty of GovernmentIt is to be regretted that the rich and powerful too often bend the acts of government to their selfish purposes."

v http://www.fec.gov/pages/brochures/fecfeca.shtml

vi ibid, Memo, aka Powell Manifesto: Attack of American Free Enterprise System: http://www.webcitation.org/64jAmJkKB:

vii ibid

viii Corporations are Not People, Berrett-Koehler Publishers, Inc.,San Francisco, 2012, p. 74

ix While these foundations are staffed by lawyers, they are fully funded by corporations and donors for one reason and for a specific purpose: using the judicial system to secure legally protected rights for their donors. Recent information about the activity of these foundations has raised serious questions about their 'legality'. Some of these foundations generic names (e.g., American Legislative Exchange Council (ALEC), US Chamber of Commerce National Chamber Litigation Center, National Legal Center for the Public Interest, etc.) but many foundation names indicate the national breadth and scope of this effort: Pacific Legal Foundation, Mid-Atlantic Legal Foundation, Mid-America Legal Foundation, New England Legal Center, etc.

x Information about one such group, The American Legislative Exchange Council (ALEC), became public through documents leaked to the press in 2011. While watch dog groups such as Common Cause were aware of the 40 year existence of ALEC as an organization, the inner workings and funding of the group were secret prior to this recent exposure

xi The similarity between Voter ID, abortion, right to work and immigration legislation that hit state Legislatures in a tidal wave after the 2010 elections is remarkable. Leaked documents from the American Legislative Exchange Council (ALEC) reveal this organization as the source of the legislation.

xii Information about The American Legislative Exchange Council (ALEC) became public through documents leaked to the press in 2011. While watch dog groups (e.g., Common Cause, Center for Media and Democracy) were aware of the 40 year existence of ALEC as an organization, the inner workings and funding of the group were secret prior to this recent exposure.

xiii http://articles.latimes.com/2010/mar/08/nation/la-nachamber9-2010mar09 xiv ibid xv Louis Brandeis, 1912: http://sunlightfoundation.com/blog/2009/05/26/bran deis-and-the-history-of-transparency/

LWV Exhibit at Fremont Main Library

February 2013 will mark the 93rd anniversary of the founding of the League of Women Voters in Chicago, Illinois. To commemorate this anniversary, the LWV will host a display in the children's section of the Fremont Main Library in February of 2013. Every weekday thousands of readers visit the main library in Fremont. On average about 55,000 people visit the Fremont Main Library each month. It would be wonderful to inform these readers of the mission and achievements of our LWV organization.

Together we can transform this empty Display Room with photos, testimonies and posters. Please provide Isabelle McAndrews with any ideas or artifacts that you may have to ensure that our library exhibit will be attractive and relevant. It will be exciting to hear about the public's response to the LWV exhibit in the year ahead.

Party Planner???

We need some help planning our Holiday Party. Looking for someone who can dive in and sort out ideas for making our party fun for all. Please contact Ellen Culver, our Program V.P. She will be sorting out the other half of the evening – the Program Planning portion.

Future Meeting Topics in 2013

"Student Success Initiative" – learn what the new goals are for community colleges Initiative & Referendum Study & Consensus

"Realignment" – what does that mean for Alameda County?

Nov. 6	Election Day	Take a friend to Vote!
Nov. 7	Great Decisions – State of the Oceans	Call Miriam for location
Nov. 9	Education Committee	9:30 A.M. Miriam's home
Nov. 15	Action Committee	12 Noon at Kay's home
Nov. 19	New Ways to Deliver Health Care	6:30 Networking, 7:00PM Program – Fremont Main Library, 2400 Stevenson Blvd, Fremont
Nov. 22	Thanksgiving	Give thanks the election is over
Nov. 27	Board Meeting	6:45 P.M. League office

ALL MEETINGS ARE FREE, OPEN TO THE PUBLIC AND WHEEL CHAIR ACCESSIBLE

Mission

The League of Women Voters of Fremont, Newark, and Union City, a nonpartisan political organization, encourages the informed and active participation in government, works to increase understanding of major public policy issues, and influences public policy through education and advocacy.

Diversity Policy

LWVFNUC affirms its commitment to reflect the diversity of our communities in our membership and actions. We believe diverse views are important for responsible decision making and seek to work with all people and groups who reflect our community diversity.

Join the LEAGUE OF WOMEN VOTERS today!

Any person, man or woman, who subscribes to the purpose and policy of the League may join. To be a voting member, one must be at least 18 years of age and a U.S. citizen. Members under 18, or non-citizens, are welcome as non-voting Associate Members. Dues include membership in LWVFNUC, Bay Area League, and the California and National Leagues. Financial support for dues is available through our scholarship program. Contact Andrea Schacter, Membership Chair, for information.

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