



COUNCIL AGENDA: 05-31-11
ITEM: 2.2

Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Dennis Hawkins, CMC
City Clerk

SUBJECT: SEE BELOW

DATE: 05-25-11

**SUBJECT: AB 506 (WIECKOWSKI) – LOCAL GOVERNMENT: BANKRUPTCY:
MEDIATION**

RECOMMENDATION

As recommended by the Rules and Open Government Committee on May 25, 2011 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve an oppose position for AB 506 (Wieckowski) – Local Government: Bankruptcy: Mediation.



Subject: AB 506 (Wieckowski)
Local Government; bankruptcy; mediation

Recommend Position: Oppose

CITY COUNCIL ACTION REQUEST

Department: Finance/CMO	CEQA: N/A	Coordination: City Mgr/ City Atty/ Legis. Rep in Sacramento	CMO Approval:  Dept. Approval: /s/ Scott Johnson 05-9-11
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RECOMMENDED ACTION:

1. Pursuant to the City's streamlined bill process for responding quickly to legislative proposals, approve opposition to AB 506 (Wieckowski).
2. Recommend a one-week turnaround to the City Council so that the Council can re-affirm the City's opposition to AB 506.

BILL SYNOPSIS:

AB 506 is an attempt to prevent any local government from filing Chapter 9 Federal Bankruptcy protection without first receiving permission from a "mediator" who, according to the League's analysis, should more accurately be called a "state-controlled non-governmental arbitrator." Current bankruptcy proceedings are managed by expert bankruptcy judges who have no stake in the outcome. Under AB 506, the proposed State Commission which would manage the new process is comprised of elected officials who will face special interest and political pressures. Furthermore, the use of an outside "mediator" with all the powers of an arbitrator has far larger implications that will threaten local control.

IMPACTS TO CITY OF SAN JOSE:

Bankruptcy is not an attractive alternative for local communities, nor is it an easy process. As it is an option of last resort, only two California cities have declared bankruptcy in the past 60 years. Nevertheless, if passed, AB 506 would take a local government's fiscal decision out of its control. AB 506 would also set a troubling precedent for state intervention into local financial matters.

POLICY ALIGNMENT:

Included in the Council approved 2011 Legislative Guiding Principles and Priorities is language supporting the protection of local control. In addition, the City has previously opposed similar municipal bankruptcy bills, AB 155 in 2010, and SB 88 in 2009.

SUPPORTERS/OPPONENTS:

Support: California Labor Federation, California Nurses Association, and California Professional Firefighters.

Opposed: (Partial listing) CA Chamber of Commerce, League of CA Cities, CA State Association of Counties, CA Special Districts Association, Urban Counties Caucus.

STATUS OF BILL:

Passed the Assembly Local Government Committee on May 4. Will be heard next in the Assembly Appropriations Committee.

FOR QUESTIONS CONTACT: Scott Johnson 535-7001, Betsy Shotwell (408) 535-8270