



COUNCIL AGENDA: 08-09-11  
ITEM: 2.12

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Dennis Hawkins, CMC  
City Clerk

**SUBJECT:** SEE BELOW

**DATE:** 08-03-11

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**SUBJECT: CITY-SPONSORED STATE LEGISLATION – “TIED HOUSE”  
CHANGES**

## RECOMMENDATION

As recommended by the Rules and Open Government Committee on August 3, 2011 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, authorize the introduction of state legislation amending tied-house state law to allow the City or at the City's options the City's operator of the San José McEnery Convention Center and San José Civic to receive payments for alcohol advertising and sponsorship within these facilities.



# Memorandum

**TO:** RULES COMMITTEE

**FROM:** Betsy Shotwell

**SUBJECT:** Approval of City - Sponsored  
State Legislation – Tied-House Changes

**DATE:** July 15, 2011

Approved

Date

7/15/11

**COUNCIL DISTRICT: #3**

## RECOMMENDATION

Authorize the introduction of state legislation amending tied-house state law to allow the City or at the City's option the City's operator of the San Jose McEnery Convention Center and San Jose Civic to receive payments for alcohol advertising and sponsorship within these facilities.

## OUTCOME

City Council approval will direct City Staff to seek introduction of state legislation to amend tied-house state law and allow the City or at the City's option, the City's operator of the San Jose McEnery Convention Center and San Jose Civic to receive payments for alcohol advertising and sponsorship within these facilities.

## BACKGROUND

The San Jose McEnery Convention Center hosts trade shows, conventions, corporate meetings, fundraisers, black-tie dinners and consumer shows. Located downtown, the Convention Center encompasses over 425,000 square meet of meeting space and is currently underway with a \$120 million renovation and expansion which will expand the overall square footage to 550,000 and increase the number of events to San Jose.

Built in 1936, the San Jose Civic hosts a variety of events including concerts, performing arts and other ticketed events, general assembly events for conventions and conferences to San Jose, speaker series and community events. It features 3,060 seats and four meeting rooms. Lastly, the San Jose Civic is nearly finished with a \$15 million renovation which will support the activation of this venue for concerts, more conference general assembly and special events.

Following the repeal of the Eighteenth Amendment, the vast majority of states, including California, enacted alcoholic beverage control laws, this came to be known as "Tied house". In

California the state enacted the Alcoholic Beverages Control Act (ABC). "Tied-house" laws regulate how alcoholic beverages are marketed and how the three tiers (suppliers, wholesalers and retailers) of our industry interact. In an attempt to prevent the vertical integration of ownership which supported intemperate consumption, tied house legislation was enacted. The most fundamental purpose of tied house laws was the creation and preservation of the three tier system.

### ANALYSIS

As a way to position the San Jose Convention Center and the San Jose Civic to ensure the maximum return on investment back to the City of San Jose, staff is recommending approval to seek introduction of state legislation to amend state law to increase advertising and sponsorship revenue to these venues. A priority of the City Council is to increase revenue to city venues and this legislation supports this economic goal. With regard to promoting concerts, ticket revenue is not enough to support a successful concert. Revenues from advertising, sponsorships, food and beverage, amenities, parking and ticketing are all critical aspects to activate the venues and successfully host concerts and events. Not having this revenue opportunity, puts these venues at a disadvantage to compete for concerts, events and conferences.

The State of California grants exclusive authority to administer the provisions of the Alcoholic Beverages Control Act (Act) to the Department of Alcoholic Beverage Control (ABC). The Act states that a manufacturer of alcohol shall not give or lend money to any person engaged in the business of selling alcohol. The legislation is to prevent a manufacturer from "buying favors" with the retail sellers to promote their product. As a result, a manufacturer cannot "pay" a retail seller of alcohol for advertising the manufacturer's product, without gaining the needed exemption by the state to do so.

As a result of the legislation, any retail seller of alcohol, including the City of San Jose, and contractors like Team San Jose, must first gain an exemption from the Tied House Rules to accept advertising or sponsorship dollars from a manufacturer. [Discussed below]

In 2006, the Silicon Valley Sports and Entertainment LLC (SVS&E) sponsored the AB 3046 (Chapter 587) to amend the Act to allow SVS&E to receive payments for alcohol advertising in HP Pavilion described in the legislation as "in a fully enclosed arena with a fixed seating capacity in excess of 15,000 seats located in Santa Clara County."

The purpose of this legislation would allow the City and/or at the City's option, the City's current operator, Team San Jose, of the Convention Center and San Jose Civic the same exemption, that is enjoyed by numerous other entertainment venues throughout the state (e.g., ARCO Arena, Raley Field, Grizzly Stadium, California Speedway Oakland Coliseum, Disneyland, Universal Studios, the Home Depot Center and others).

The proposed legislation would not alter existing policies established by the City with respect to the sales, service and advertising of alcoholic beverages at the Convention Center and San Jose Civic. All advertisements from alcohol manufactures would be permitted only within the interior of the Convention Center and San Jose Civic. All other restrictions and limitations associated

with tied-house exemptions previously granted to other arenas, stadiums, and entertainment venues would continue to apply.

If this legislation is not pursued, the City of San Jose could ultimately limit the performance of both the San Jose Convention Center and the San Jose Civic with regards to revenue growth. Not having this revenue, puts these venues at a disadvantage to compete for concerts, events and conferences.

### EVALUATION AND FOLLOW-UP

The City Council will be informed as to the status of this effort as part of the regular Intergovernmental Relations legislative updates and the City Manager's Weekly Reports.

### PUBLIC OUTREACH/INTEREST

- Criterion 1:** Requires Council action on the use of public funds equal to \$1 million or greater. **(Required: Website Posting)**
- Criterion 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**
- Criterion 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

### COORDINATION

This memorandum was coordinated with the Office of Economic Development, City Attorney's Office, The City's Legislative Advocate in Sacramento and Team San Jose.

RULES COMMITTEE

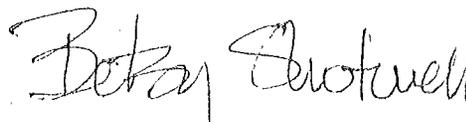
July 15, 2011

Subject: City Sponsored State Legislation

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CEQA

Not a Project, File No.PP10-069 (a), Staff Reports.

A handwritten signature in black ink that reads "Betsy Shotwell". The signature is written in a cursive, flowing style.

BETSY SHOTWELL

Director of Intergovernmental Relations

For questions please contact Lee Wilcox, Downtown Manager, at 408-535-8172.