

COUNCIL AGENDA: 05-15-12  
ITEM: 2.16

## Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

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

**SUBJECT:** SEE BELOW

**DATE:** 5-9-12

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**SUBJECT: AB 1692 (WIECKOWSKI) MUNICIPAL BANKRUPTCY**

### RECOMMENDATION

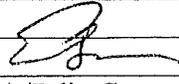
As recommended by the Rules and Open Government Committee on May 9, 2012 and outlined in the attached memo previously submitted to the Rules and Open Government Committee, approve an opposition position for AB 1692 (Wieckowski) Municipal Bankruptcy.



**Subject:** AB 1692 (Wieckowski)  
 Municipal Bankruptcy

**Recommend Position:** Oppose

**CITY COUNCIL ACTION REQUEST**

Department: Finance/CMO	May 3, 2012	Coordination: City Mgr/City Atty/ Legis. Rep in Sacramento	CMO Approval:  Dept. Approval: /s/Julia Cooper
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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 1692 (Wieckowski).
2. Recommend a one-week turnaround to the City Council so that the City's Legislative Advocate in Sacramento can indicate the City's opposition to AB 1692.

**BILL SYNOPSIS:**

AB 1692 revises recently enacted language relating to the neutral evaluation process contained in AB 506 (Wieckowski), Chapter 675, Statutes of 2011. AB 1692 would remove provisions of AB 506 related to the mediation process including giving the "neutral evaluator" independent decision-making authority and making mediation mandatory for cities. Late last legislative session the League and other local government organizations agreed to amendments to AB 506, which put into place the pre-bankruptcy mediation provisions that exist in statute today. When the amendments were placed into the bill all opposition to the measure was removed.

The cities of Stockton and Mammoth Lakes are currently engaging in a good faith effort—using the provisions of AB 506—to address issues with their creditors and hopefully will avoid a bankruptcy filing. The analysis prepared for the Assembly Local Government Committee asks whether the "*Committee may wish to consider, in light of the fact that parties engaged in the AB 506 process are under confidentiality agreements, whether this bill is premature. If the goal of the bill is to clarify the process based on what is currently happening in Stockton, it may be best to wait until proceedings are finished in order to draw from that experience prior to making changes to the AB 506 process.*"

From the League's analysis: "*It's imperative for the state and local governments to be able to work together effectively. Seeking to undo key parts of AB 506 just months after it was passed does not foster a culture of trust. The agreement on AB 506 was a notable compromise in the Legislature, because it had been preceded by three years of intense legislative battles. How can local governments be expected to effectively work with a legislature that can treat recent agreements and negotiation with such disregard?*"

*The recent amendments in AB 1692 revert to concepts that were advanced in earlier versions of AB 506 which local governments strongly opposed. Such changes include:*

- *The removal of the reference to mandatory mediation and "mediator" as terms that describe the neutral party. This issue was pivotal to addressing concerns and was included in the final agreement on AB 506.*
- *The effort to empower the neutral evaluator with independent decision-making authority. This was a cornerstone of the original versions of the proposal which was removed in the final agreement on AB 506.*
- *Changing the circumstances in which the parties agreed to continue in mediation, by removing the required concurrence by the affected public entity. The ability for parties to trigger delays was a major concern with earlier versions of AB 506."*



**IMPACTS TO CITY OF SAN JOSE:**

Bankruptcy is not an attractive alternative for local communities, nor is it an easy process. It is an option of last resort. Nevertheless, if passed, AB 1692 would revert to concepts that were advanced in earlier versions of AB 506 and were strongly opposed by local governments including the City of San José as a major State intervention into local financial matters. AB 1692 would also impose a troubling unraveling of legislation negotiated between the State and local governments that was eventually signed into law.

**POLICY ALIGNMENT:**

Included in the Council approved 2012 Legislative Guiding Principles and Priorities is language supporting the protection of local control. In addition, the City has previously opposed municipal bankruptcy bills including the initial version of AB 506 in 2011, AB 155 in 2010, and SB 88 in 2009.

**SUPPORTERS/OPPONENTS:**

Support: California Professional Firefighters, California Dispute Resolution Council.

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

**STATUS OF BILL:**

Passed the Assembly Local Government Committee on April 25, 2012. Will be heard next in the Assembly Appropriations Committee.

**FOR QUESTIONS CONTACT: Julia Cooper 535-7011, Betsy Shotwell (408) 535-8270**