



Memorandum

TO: RULES COMMITTEE

FROM: Roxanne Miller

**SUBJECT: 2004 STATE LEGISLATIVE
SUMMARY**

DATE: December 3, 2004

Approved

Date

RECOMMENDATION

Acceptance of San Jose's Legislative Representative's Report on the 2004 State Legislative Session.

BACKGROUND

The State Legislature adjourned the second-half of the 2003-2004 Legislative Session on August 28 ahead of the August 31 deadline. During the 2004 Legislative Session, a total of 2,461 bills were introduced, including bills and constitutional amendments introduced during three Extraordinary Sessions. The Governor took action on 1,269 bills, signing 954 bills into law while vetoing 310 measures. Legislation enacted into law on or before October 2 will take effect January 1, 2005 unless otherwise indicated in the statute or if adopted as an urgency measure, bills go into effect immediately upon signature.

Within weeks of winning the recall election, Governor Schwarzenegger called three extraordinary legislative sessions to address priority issues. The extraordinary legislative sessions ran concurrently with the regular legislative session until they were adjourned. The Third Extraordinary Session (3X) relating to repeal of SB 60 (Chapter 326, 2003 Statutes) relating to driver's eligibility: undocumented immigrants was convened on November 18, 2003 and adjourned on January 16, 2004. The Fourth Extraordinary Session (4X) relating to reform of state workers' compensation system was convened on November 18, 2003 and adjourned on November 30, 2003. The Fifth Extraordinary Session (5X) relating to reform of the State Budget was convened on November 18, 2003 and adjourned on November 30, 2004. Legislation enacted into law during an extraordinary session goes into effect 90 days after adjournment of the extraordinary session while urgency bills go into effect immediately upon signature.

During the 2004 regular Legislative Session and the Third, Fourth and Fifth Extraordinary Sessions, the Office of Intergovernmental Relations reviewed and referred introduced bills and amendments to City departments and the City Attorney's Office to determine their potential impact on the City. Bill analyses and recommendations were prepared with the highest priority

given to those bills addressing the City's Legislative Priorities. Positions taken on legislation by the Rules Committee and the City Council established the City's Legislative Program throughout the Legislative session.

The Final Legislative Bill Matrix for the second-half of the 2003-04 Legislative session identifies legislation of particular interest to the City including Extraordinary Sessions (See Attachment A). The Matrix is divided into subject areas based on the City's defined City Service Areas with bills listed identifying authors, subjects, final status and City positions. The Matrix includes legislation monitored by the Office of Intergovernmental Relations and those bills having potential impact on the City's legislation priorities. A Final Status of Legislation has also been prepared listing all legislation passed by the legislature in both the regular and extraordinary sessions, 3X, 4X and 5X, with the final action taken by the Governor as indicated (See Attachment B). City officials are encouraged to review particularly those bills, which were chaptered into law to determine potential impact on the City's current authority and potential changes impacting programs and service delivery.

OVERVIEW

The 2004 Legislative Session was marked by political gridlock, which tested both Governor Arnold Schwarzenegger, elected with the recall of Governor Gray Davis, and the legislature's ability to overcome partisanship and reach agreements on legislative initiatives and adoption of the new state budget. During the month's long state budget impasse, Governor Schwarzenegger and lawmakers battled over budget alternatives, reduce spending and/or increase revenues, to address the state's on-going structural budget deficit. The budget stalemate was broken when there was legislative agreement to support the Governor's agreement with local governments to support the placement of a constitutional amendment on the November ballot protecting local revenues from future state raids. The Governor signed the state budget on July 31 in the historic Capitol rotunda surrounded by representatives of cities, counties, special districts, and law enforcement and fire safety.

The Governor's partnership with local governments led to the adoption of the state budget with local governments agreeing to contribute \$1.3 billion from local governments in FY 2004-05 and in F2005-06 as savings to the state budgets in exchange for constitutional protections of cities', counties' and special districts' revenues from such fund shifts in the future. Representatives of cities, counties, special districts, Big Ten Mayors and the LOCAL Coalition joined forces with the Governor to gain legislative approval of Senate Constitutional Amendment 4, which passed the Legislature with the required 2/3 votes on July 30. Senate Constitutional Amendment 4 appeared on the November 2 General Election Ballot as Proposition 1A. The Governor, local elected officials and a coalition of supporters joined in the statewide campaign resulting in the voters overwhelmingly approving Proposition.1A -- 84 to 16 percent.

Proposition 1A protects local funding for public safety, health, libraries, parks and other locally delivered services. It prohibits the state from reducing local governments' property tax proceeds and requires local sales tax revenues to remain with local government and be spent for local purposes. Proposition 1A is also intended to protect local government by prohibiting the deferral of mandated reimbursements and will instead require the state to either fully fund each mandate or suspend the mandate's requirements for the fiscal year. This mandate provision does not apply to mandates relating to schools or to those mandates relating to employee rights. It also expands the circumstances and defines as a mandate state actions that transfer to local governments financial responsibility for a required program for which the state previously had complete or partial financial responsibility. Proposition 1A allows provisions of the constitutional amendment to be suspended only if the Governor declares a fiscal necessity and two-thirds of the Legislature approve the suspension. Such a reduction could only be taken in the form of a loan. The loan could only be for a period of one year and must be repaid within three years with interest. A second loan could not be taken unless any other outstanding loans had been fully repaid. Loans may not be taken more than twice in any ten year period and cannot exceed eight percent of the local property tax.

Voter approval of Proposition 1A is recognized as an historic and critical first step towards much-needed reform of the state and local public financing system.

STATE BUDGET

Governor Schwarzenegger signed the \$105.4 billion FY 2004-05 State Budget (**SB 1113**) on July 31, 2004. Overall, the Governor's first state budget was balanced substantially with a spending plan including: short-term fixes, expenditure reductions and refinancing of the debt. The Governor sought and secured voter approval of both Propositions 57 and 58 on the March Primary Ballot. Proposition 57 authorized up to \$15 million in bond financing as a portion of the total state debt and averted a cash crisis in June. Provisions of Proposition 57, the Economic Recovery Bond Act, only became effective if voters also approved Proposition 58, which requires a balanced budget, budget reserves and grants the governor new powers to maintain balanced state spending.

The voters' approval of Propositions 57 and 58 on the March 2 Primary Election Ballot allowed borrowing to substantially close the \$17 billion budget deficit. The passage of Propositions 57 and 58, in combination with local government "contributions" of \$1.3 billion for two years as state budget savings were key to reaching agreement on the FY 2004-05 State Budget. Along with the earlier passage of SB 899 providing comprehensive reforms to the state's workers' compensation system, the Governor claimed substantial progress towards achieving the Economic Recovery Plan he had announced when he had originally proposed the FY 2004-5 State Budget in January.

The voters' approval of Proposition 1A on the November 2, provides completion to the intent of the provisions of the adopted FY 2004-05 State Budget including legislative budget trailer bills, **SB 1096, AB 2115, SB 1102, SCA 4 (Prop. 1A), AB 687, SB 1057, SB 1099, AB 2851, AB 2853, and 2856** relate to state/local government budget agreements for cities, counties, special districts and redevelopment agencies.

SB 1096 requires \$1.3 billion as a local contribution to balancing the state budget with -\$350 million cities, -\$350 million counties; -\$350 special districts ERAF and -\$250 million ERAF from redevelopment agencies in both FY 2004-05 and 2005-06. The bill also implements statutory provisions of the cities and counties portions of the FY 2004-05 State Budget including changes in the vehicle license fee (VLF).

- Replaces VLF backfill payments to cities and counties with \$4.1 billion in FY 2004-05 providing a dollar-for dollar replacement with property tax revenues.
- Requires VLF "gap" loan in FY 2003-04 to be repaid in FY 2006-07.
- Reduces by \$700 million annually in VLF property tax replacement revenues to cities and counties in FY 2004-05 and 2005-06. For cities, the formula is based on a city's share of sales tax, property tax and VLF revenues in FY 2002-03 with 2 percent minimum and not to exceed 4 percent cap of general fund revenues. For San Jose: -\$11.1 million in FY 2004-05 and 2005-06.
- Provides \$250 million ERAF shift from redevelopment agencies in FY 2004-05 and 2005-06. Formula based on 50 percent gross and 50 percent net tax increment. Provides year extension for each year of ERAF for project areas with 11 to 20 years left in a project area plan if an agency is in compliance with its' housing requirements. These provisions were supported/sponsored by San Jose to provide greater flexibility and reduce the Agency's obligation under ERAF. For San Jose Redevelopment Agency: -\$18.7 million in FY 2004-05 and 2005-06.

AB 2115 is the "trailer bill" to SB 1096. AB 2115 adds amendments to the redevelopment agency ERAF shift for FY 2004-05 and 2005-06.

- Allows the base year calculation to be determined using the most recently published financial information. Requires FY 2002-03 to be base year for FY 2004-05 ERAF but allows FY 2003-04 to be used in FY 2005-06.
- Permits agencies to borrow the amount required for the ERAF payment from an authorized issuer.

These amendments were supported/sponsored by San Jose to provide greater flexibility and to reduce the Agency's obligation under ERAF.

SB 1057 relates to vehicle license fees. Clarifies the vehicle license fee backfill payment due to cities and counties for the gap period in 2004 to included offsets not paid for in the initial trigger period June 20 through June 30, 2004.

SB 1102 relates to public safety funding: booking fees and COPS program.

- Provides \$100 million statewide for state COPS program including \$1.4 million for San Jose.
- Provides \$38.2 million statewide to continue funding booking fee reimbursements to cities and special districts through FY 2004-05, but will elapse on July 1, 2005. For San Jose in FY 2004-05 \$2.53 million.
- Maintains counties' authority to charge a booking fee for FY 2004-05 but locks in fee at level in place on January 1, 2004.
- Permits counties to charge 50 percent of their actual administrative costs associated with booking and processing of arrestees in FY 2004-05.

The July 1, 2005 sunset on booking fee reimbursements will require new legislation to continue reimbursements to cities.

Senate Constitutional Amendment 4 relating to protection of local revenues was approved by voters as Proposition 1A on the November 2 General Election Ballot.

- Protects local property tax revenues of cities, counties and special districts. For redevelopment agencies, no further protections beyond existing provisions of Article 16, Sec.16 of State Constitution.
- Suspension of property tax protections - Beginning in FY 2008-9, requires 2/3 vote of legislature to suspend and only if Governor declares a fiscal necessity can provisions be suspended.
- Limits state shifts to property tax as "loans" for no more than two times in 10 years with no loan until VLF "gap" loan and previous suspension loans are repaid. Loan capped at 8 percent of local share of property taxes statewide (\$1.3 billion today). Loans to be repaid within three fiscal years.
- Guarantees repayment of property tax backfill for Prop. 57 sales tax ¼ cent suspension and return of ¼ cent sales tax when Prop. 57 bonds retired.
- Protects local sales tax – Both the rate and method of distribution of local 1 cent Bradley-Burns sales tax and transactions and use tax.
- State Mandates – Suspends mandate if no state funding except for specified employee rights and benefits mandates. Suspension provisions only apply to city, county and special district mandates.
- Voluntary Property /Sales Tax Exchanges – Property tax and sales tax exchanges authorized with local agreement and legislative approval.

AB 687 relating to transportation funding: Tribal-State Gaming Compacts. This bill authorizes the issuance of bonds, secured by Indian gaming revenue for an amount up to \$1.5 billion dedicated for transportation improvements if Prop. 68 and 70 are defeated on November 2 General Election Ballot. Authorizes the sale of bonds for transportation purposes and requires payment of \$97 million annually from five Indian Gaming Tribes to finance a \$1.214 billion

bond for 2004-05 transportation projects to be repaid over 18 years and to be allocated as follows:

- \$457 million to the State Highway Account;
- \$290 million to the 141 Traffic Congestion Relief Projects (TCRP) for projects.
- \$192 million to cities and counties for local street and road projects as advance payment for the loan due in FY 2008-09 from Proposition 42 suspension for the FY 2003-04 budget year;
- Additional \$83 million for the Public Transportation Account for project expenditures;
- Advance funding of the State Transit Assistance loans due for funding in FY 2008-09.

SB 1099 relates to transportation: Suspends the transfer of motor vehicle fuel sales tax revenues from the General Fund to the Transportation Investment Fund for the 2004-05 fiscal year.

SB 1507 relating to GARVEE bonds for financing transportation projects. Codifies the California Transportation Commission's adopted policy and guidelines for the issuance of federal Grant Anticipation Revenue Vehicles (GARVEE) bonds or notes for financing state transportation projects. Revises the definition of "eligibility" projects and limits the ability of the Treasurer to authorize the issuance of notes, as specified.

AB 2851 relating to state mandates. Suspends specified mandates and deletes references to state mandated local programs. **AB 2853 related to state mandates: local costs.** Makes various state mandated requirements optional. **AB 2856 relating to state mandates: Commission on State Mandates.** Revises procedures for Commission on State Mandates to receive and hear claims from local agencies.

Other provisions in SB 1113 relating to the state budget:

Housing -

Emergency Housing and Assistance Fund (EHAP) SB 1113 – Appropriates \$4 million for grants to local agencies that provide homeless shelter beds and related services.

Regional Housing Needs Allocation (RHNA) SB 1113 – Shifts the responsibility for funding RHNA from the state's General Fund to fees charged by Council of Governments (COGs). Under the new authority, COGs will impose fees on their member local governments who already are permitted to pass the fees through to developers. If the Legislature had simply not opted to not fund the RHNA process the suspension of a state funding responsibility could have rendered it impossible for cities to prepare their housing elements.

Library Grant Funding –

Public Library Foundation – SB 1113 - Appropriates \$14,360,000 for the Public Library Foundation which provides funding grants to local libraries. Reflects 3 percent reduction taken as part of May Revision.

Resources and Parks –

(SB 1107 and SB 1113) – Appropriates funding for resources and parks. Includes establishing guidelines for River Parkways Program with \$7.9 million appropriated from Proposition 40 funds and \$30.5 million from Proposition 50 funds for parkway and land acquisition. Also, transfers the California Mainstreet Program from Business, Transportation and Housing Agency to Department of Parks and Recreation.

STATE BUDGET FORECAST

When the FY 2004-05 State Budget was approved fiscal experts across partisan lines cautioned that the budget was only postponing tough decisions and would make tax increases inevitable within the next two years unless the economy experiences substantial unanticipated growth.

The Legislative Analyst’s Office (LAO), California’s Fiscal Outlook for 2004-05 through 2009-10, projects that the state is facing a year-end shortfall of \$6.7 billion in FY 2005-06 with the shortfall increasing to nearly \$10 billion in FY2006-07. The LAO cautions that “state policymakers face a deceptively difficult challenge in crafting the next budget for FY 2005-06 beginning July 1, 2005.” The combination of “strengthening revenue and availability of the remaining \$3.5 billion in the authorized, but not yet used, deficit-financing bonds would enable the Legislature to balance the 2005-06 budget by making a relatively modest amount of hard choices to reduce spending and /or augment revenues.”

“This is because the 2005-06 budget will be helped by a carry-over balance and various limited-term solutions enacted in the 2004-05 budget which are not available in subsequent years. As a result, these solutions cannot be counted on to address the state’s large and persistent ongoing structural budget shortfall. It is unlikely that California will be able to simply ‘grow its way out’ of this shortfall,” the LAO report says.

CALIFORNIA PERFORMANCE REVIEW

Governor Schwarzenegger issued an Executive Order to establish the California Performance Review (CPR) to conduct a focused examination of California State Government. The CPR was directed to formulate and recommend practical changes to government

agencies, programs and operations to reduce total costs of government operations, increase productivity, improve services and make government more responsive and accountable to the public.

Areas of examination were: Statewide Information Technology; Performance-Based Budgeting and Revenue Maximization; Personnel Management; Acquisition and Procurement; Customer Services; Health and Human Services; Education, Training and Volunteerism; Public Safety; Infrastructure (including transportation, housing, energy and water); Resources and Environmental Protection; California Business Climate; General Government (including agency reorganization and consolidation); Intergovernmental Relations; and Job Retention and Business Development.

On August 3, 2004, the California Performance Review released its report to the Governor. The report states that it “lays out a framework for reorganizing and consolidating state entities contains 278 issue areas and 1,200 individual recommendations aimed at making state government more modern, efficient, accountable, and responsive to its citizens.” intended to make government more efficient. While the report suggests the changes can save the state \$32 billion over five years, the Legislative Analyst’s Office has estimated the savings would be \$10 to \$15 billion over five years. The California Performance Review Commission has completed its’ charge reviewing recommendations and receiving public comment on the plan through eight statewide hearings. The Commission has been able to agree to an outline of goals for restructuring state government but not many specifics.

The Governor may now include some of the recommendations in his proposed state budget to be introduced in January or introduce legislation or act on proposals administratively or sponsor an initiative to implement CPR’s recommendations next year.

PRIORITY LEGISLATION

The City’s highest legislative priorities continue to be legislation to protect or expand local revenue generating authority; transportation planning and funds; land use and governance authority; economic development and job creation; expand the supply of housing and job location. Legislation sponsored/supported, opposed or amendments consistent with the City’s adopted legislative priorities are identified as having potentially significant impact on the City and are included in the Legislative Matrix (See - Attachment A).

The following summary is a listing (partial) of legislation with City positions taken which reflect the City's Legislative Priorities as adopted by the City Council. In some cases as noted the policy direction of the bill however was not supportable in its current form and required a position of amend, oppose or oppose unless amended or support if amended.

SB 744 (Dunn) relating to housing planning. Would have authorized State Housing and Community Development Department to overrule local planning decisions if local decision(s) deemed to be unreasonable or inconsistent with local housing needs.

City Position: OPPOSE. **Status:** Held in Assembly Local Government Committee.

AB 2702 (Steinberg) relating to housing: second units. Would have limited the authority of a local agency to preclude second units unless the local agency makes findings based on substantial evidence. Prohibits deed restrictions requiring one of the units to be owner occupied.

City Position: OPPOSE **Status:** Vetoed by Governor.

AB 2980 (Salinas) relating to housing elements. Would have authorized procedure whereby a city or county could elect to participate in an alternative production based self-certification of its housing element and made funding available in the same manner as other jurisdictions.

City Position: SPONSOR/SUPPORT **Status:** In Assembly Appropriations Committee, Suspense

AB 2290 (Chavez) relating to local agency fees: solid waste collection services. Would have authorized a solid waste hauler who provides services to a state agency to deduct the sum of local fees from the amount the hauler pays the public agency.

City Position: OPPOSE **Status:** Failed passage, Senate Environmental Quality Committee

AB 488 (Parra) relating to sex offenders. Requires, on or before July 1, 2005, the Department of Justice to make specified information about certain sex offenders available to the public via the Internet Web site and to update that information on an ongoing basis.

City Position: SUPPORT **Status:** Signed by the Governor, Chapter 745, 2004 Stats.

AB 493 (Salinas) relating to sexually violent predators. Requires a non-parolee who is conditionally released under specified circumstances to be placed in the county of domicile, unless the court finds extraordinary circumstances apply.

City Position: NO POSITION **Status:** Signed by the Governor, Chapter 222, 2004 Stats.

AB 2450 (Canciamilla) relating to sexually violent predators. Requires specific notice to be given to local law enforcement when the Department of Mental Health makes a recommendation regarding the state-operated forensic conditional release program or proposes placement location without making recommendation in subsequent or change of community placement, or proposes placement location to the court and the department is aware of the proposal relating to a sexually violent predator.

City Position: SUPPORT **Status:** Signed by the Governor, Chapter 425, 2004 Stats.

AB 2466 (Yee) relating to local sales and use tax: jet fuel. Would have applied a local sales tax to any sale of jet fuel, that the point of sale of that fuel is the point of delivery of that fuel to the aircraft, if the principal negotiations for the sale are conducted in the state and would have deleted requirement that the retailer of the fuel has more than one place of business in the state. Also requires audit of state sales and use tax system.

City Position: SUPPORT **Status:** Vetoed by Governor

SCA 9 (Torlakson) relating to local government finance. Would have proposed “constitutional protection” of local revenues but inadequate protection of revenue base and allowed for redistribution of base and growth in property tax, sales tax or VLF revenues. Local revenues could have been distributed using “aggregation” method amongst local agencies or shifted to the state for state general fund purposes. This measure was a legislative alternative to the agreement locals negotiated with the Governor which was amended into SCA 4 and became Proposition 1A on November 2004 General Ballot.

City Position: OPPOSE **Status:** Held in Assembly

AB 2690 (Hancock) relating to public works. Exempts from provisions of existing law that governs public works any work that is performed by a volunteer, volunteer coordinator, or members of the California Conservation Corps or certified Community Conservation Corps.

City Position: SUPPORT **Status:** Signed by Governor, Chapter 330, 2004 Stats.

AB 2741 (Salinas) relating to Metropolitan Transportation Commission. Would have increased the membership of the Metropolitan Transportation Commission to 21 by increasing the number of members from the counties of Alameda and Santa Clara to three each.

City Position: SPONSOR/SUPPORT **Status:** In Assembly Local Government

ACA 7 (Dutra) relating to transportation funding: sales and use tax. If approved by the voters, this constitutional amendment would have authorized a local transportation agency and a regional transportation agency to impose an additional sales and use tax for a specified period, at a rate of .05% only for transportation purposes if the additional tax is approved by 55% of the voters of the jurisdiction affected by the tax imposition.

City Position: SUPPORT **Status:** On Assembly Floor, To Inactive File

ACA 24 (Dutra) relating to Transportation Investment Fund: Loans. If approved by the voters, this constitutional amendment would have authorized the Legislature to loan funds in the Transportation Investment Fund to the State General Fund or other state fund or account for local agencies with similar conditions applicable to loans of revenue already in the Constitution.
City Position: SUPPORT **Status:** In Assembly Appropriations Committee. To Suspend

SB 849 (Torlakson) relating to Metropolitan Transportation Commission and ABAG. Expresses legislative finding that MTC collaborate with ABAG to form a joint policy committee. Requires the committee to oversee specified actions regarding housing, land use, air quality and transportation planning including reporting to the Legislature on the feasibility of consolidating functions currently performed separately by the two entities.
City Position: OPPOSE **Status:** Signed by the Governor. Chapter 791, 2004 Stats.

SB 1087 (Soto) relating to highways: Safe Routes to School Construction. Extends January 1, 2005 repeal date for the "Safe Routes to School Construction program until January 1, 2008. Also requires Caltrans to conduct a study as to the effectiveness of the program and report back to the Legislature by March 1, 2007.
City Position: SUPPORT **Status:** Signed by Governor, Chapter 392, 2004 Stats.

SCA 2 (Torlakson) relating to local government: sales taxes: transportation. If approved by the voters, this constitutional amendment would have authorized a city, county or city and county or regional transportation agency, with approval of a majority of its voters voting, to impose a special sales tax to be used exclusively to fund transportation projects and services and smart growth planning. At least 25 % of the funds must be used for smart growth planning.
City Position: SUPPORT IF AMENDED **Status:** Senate Constitution Amendments Committee

SUMMARY

The adopted FY 2004-05 State Budget represents an historic achievement for local government, not only in the ultimate outcome but for the dynamics of the negotiations. Local governments having already qualified Proposition 65 as an initiative for the statewide ballot, entered into negotiations and a partnership with the Governor that lead to the successful negotiations with the Legislature to place Proposition 1A on the 2004 General Election Ballot. The voters of California overwhelmingly voted for Proposition 1A, to provide constitutional protection of local revenues.

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During the 2004 Legislative Session, San Jose realized success through the collective efforts of the City Council and City departments. The City was active in forming coalitions to successfully influence the ultimate outcome of legislative debate. The City's legislative priorities were achieved not only through supporting legislation but in containing or defeating legislation which would have negatively impacted the City's revenue sources or limited its' ability to deliver municipal services.

Of particular importance to the City's legislative efforts are the members of our State Legislative Delegation who have continued to provide support and leadership when representing San Jose. We appreciate their exemplary contributions to our community and the State.

ROXANNE L. MILLER
Legislative Representative
Sacramento Office

Attachment A – Final Legislative Bill Matrix
(Includes Extraordinary Sessions)
Attachment B – Final Status of Legislation