The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items. Any writings or documents given to a majority of the City Council regarding any matter on this agenda that the City received after issuing the agenda packet, are available for public inspection in the City Clerk’s office during normal business hours. Such Documents may also be posted on the City’s website at www.elsegundo.org and additional copies will be available at the City Council meeting.

Unless otherwise noted in the Agenda, the Public can only comment on City-related business that is within the jurisdiction of the City Council and/or items listed on the Agenda during the Public Communications portions of the Meeting. Additionally, the Public can comment on any Public Hearing item on the Agenda during the Public Hearing portion of such item. The time limit for comments is five (5) minutes per person.

Before speaking to the City Council, please come to the podium and state: Your name and residence and the organization you represent, if desired. Please respect the time limits.

Members of the Public may place items on the Agenda by submitting a Written Request to the City Clerk or City Manager’s Office at least six days prior to the City Council Meeting (by 2:00 p.m. the prior Tuesday). The request must include a brief general description of the business to be transacted or discussed at the meeting. Playing of video tapes or use of visual aids may be permitted during meetings if they are submitted to the City Clerk two (2) working days prior to the meeting and they do not exceed five (5) minutes in length.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, 524-2305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, MAY 5, 2009 – 5:00 P.M.

5:00 P.M. SESSION

CALL TO ORDER

ROLL CALL

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.
SPECIAL ORDER OF BUSINESS:

None

CLOSED SESSION:
The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seq.) for the purposes of conferring with the City's Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City's Labor Negotiators; as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a) -1- matter
1. Pulido v. City of El Segundo, et al, LASC No. 06-55539/06-55798

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -1- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -1- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov’t Code §54957): - 0- matter

CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov’t Code §54957.6): - 0- matters

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov’t Code §54956.8): - 0- matter

SPECIAL MATTERS: - 0- matter
AGENDA
EL SEGUNDO CITY COUNCIL
COUNCIL CHAMBERS - 350 Main Street

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REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, MAY 5, 2009 - 7:00 P.M.

7:00 P.M. SESSION

CALL TO ORDER

INVOCATION – Pastor Roger Kinsey, Pacific Baptist Church

PLEDGE OF ALLEGIANCE – Council Member Don Brann

Next Resolution # 4596
Next Ordinance # 1429
PRESENTATIONS

a. Proclamation announcing May 16, 2009, as Kids Day American/International and urge families to participate in activities that reinforce positive, healthy life choices among children.

b. Proclamation announcing May 9, 2009, as El Segundo Public Safety Services Day and invite the community to participate in the joint Open House.

c. Proclamation announcing the month of May, 2009, as Older American month and inviting the community to participate in the Elderfest Celebration on May 16, 2009.

d. Proclamation announcing May 30, 2009, as Super CPR Saturday and encouraging participation in CPR training.

e. Proclamation announcing May 17-23, 2009, as National Public Works Week.

f. Proclamation announcing May 11-15 as California Bike Commute Week.

ROLL CALL

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed.

1. Pursuant to the procedure set forth on the first page of this Agenda, Ms. Daphine Moote, an El Segundo Unified School District teacher and President of the El Segundo Teachers Association, has requested that the following item be placed on the City Council Agenda for possible discussion and action by the Council. The Council is not required to discuss or take action on these items.

   1. Consideration and possible action regarding a request by Daphine Moote, an El Segundo Unified School District teacher, to consider adoption of a Resolution in support of Propositions 1A-1F on the May 19th Special Election ballot. (Fiscal Impact: None)

2. Pursuant to the procedure set forth on the first page of this Agenda, Mr. Geoff Yantz, Superintendent, El Segundo Unified School District, has requested that the following item be placed on the City Council Agenda for possible discussion and action by the Council. The Council is not required to discuss or take action on these items.

   1. Consideration and possible action regarding correspondence from Superintendent Geoff Yantz, dated April 29, 2009, concerning filming at El Segundo High School. (Fiscal Impact: None)
A. PROCEDURAL MOTIONS

Consideration of a motion to read all ordinances and resolutions on the Agenda by title only.
Recommendation – Approval.

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

3. Consideration and possible action to conduct a continued Public Hearing regarding the adoption of a resolution increasing the civil penalties for parking violations regulated by Title 8 of the El Segundo Municipal Code by $5.00 due to changes in the Government Code. (Fiscal Impact: $55,630.00)
Recommendation – (1) Continued Public Hearing to consider increasing the parking violation penalties; (2) Adopt Resolution approving the $5.00 increase related to parking in accordance with the Government Code; (3) Alternatively discuss and take other action related to this item.

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

E. CONSENT AGENDA

All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.

4. Warrant Numbers 2571296 to 2571531 on Register No. 14 in the total amount of $1,117,980.38 and Wire Transfers from 04/10/2009 through 04/23/2009 in the total amount of $1,600,735.18.
Recommendation – Approve Warrant Demand Register and authorize staff to release. Ratify: Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.

5. Regular City Council Meeting Minutes of April 21, 2009.
Recommendation – Approval.
6. Consideration and possible action regarding the acceptance of $182,875 in grant funding from the U.S. Department of Homeland Security (DHS), Buffer Zone Protection Plan (BZPP) for protection of critical City facilities under the Infrastructure Protection Activities (IPA) for Federal Fiscal 2007. (Fiscal Impact: $182,875)

Recommendation – (1) Authorize the acceptance of $182,875 in grant funds from the FY2007 BZPP grant program; (2) Authorize the City Manager to sign the Subrecipient Agreement (SA) with the County of Los Angeles; (3) Alternatively discuss and take other action related to this item.

7. Consideration and possible action to accept a cash contribution from Chevron Products Company, donated to the El Segundo Fire Department in support of Super CPR Saturday (Cardio-Pulmonary Resuscitation Instruction). (Fiscal Impact: $1,000)

Recommendation – (1) Accept donation and authorize the City Manager to transfer the monies into the CPR General Fund account; (2) Alternatively, discuss and take other action related to this item.

8. Consideration and possible action regarding approval of an amendment to the Agreement No. 3874 with AKM Consulting Engineers to prepare a Water Rate Study for the City water utility. (Fiscal Impact: $28,404.00)

Recommendation – (1) Authorize the City Manager to execute an amendment with AKM Consulting Engineers for an amount not to exceed $28,404.00; (2) Alternatively, discuss and take other action related to this item.

9. Consideration and possible action regarding approval of the American Cancer Society's Relay for Life 2009 event request for a waiver of City-related fees per municipal code section 8-8-7 D 1 and use of the City logo artwork per municipal code 1-3-1 to 1-3-5 (Fiscal Impact: $6,500)

Recommendation – (1) Approve the waiver of City-related fees per El Segundo Municipal Code § 8-8-7(D)(1); (2) approve use of the City Seal for the public purpose of promoting public health and safety per ESMC § 1-3-3 to 1-3-5; (3) Alternatively, discuss and take other action related to this item.

10. Consideration and possible action regarding approval of the Annual Kids Day International event request for a waiver of City-related Special Event fees. (Fiscal Impact: $745)

Recommendation – (1) Approve the waiver of City-related fees; (2) Alternatively, discuss and take other action related to this item.
CALL ITEMS FROM CONSENT AGENDA

F. NEW BUSINESS

G. REPORTS – CITY MANAGER

H. REPORTS – CITY ATTORNEY

I. REPORTS – CITY CLERK

J. REPORTS – CITY TREASURER

K. REPORTS – CITY COUNCIL MEMBERS

Council Member Brann –

Council Member Fisher –

Council Member Jacobson –

Mayor Pro Tem Busch –

Mayor McDowell –

11. Consideration and possible action to adopt a resolution opposing AB 155 (Mendoza), a bill imposing an unnecessary procedure burden upon local governments in managing their fiscal affairs by requiring local entities to first obtain approval of the California Debt and Investment Advisory Commission before filing for Chapter 9 bankruptcy protection. (Fiscal Impact: None)

Recommendations – (1) Adopt the attached resolution opposing AB 155; (2) Authorize legislative advocacy efforts to oppose passage of the bill; (3) Alternatively, discuss and take other action related to this item.
PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have receive value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed.

MEMORIALS –

CLOSED SESSION

The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seg.) for the purposes of conferring with the City's Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City's Labor Negotiators.

REPORT OF ACTION TAKEN IN CLOSED SESSION (if required)

ADJOURNMENT

POSTED:

DATE: April 29, 2009
TIME: 2.30 p.m.
NAME: [Signature]
WHEREAS, the health and well being of children today is fundamental to the future progress and welfare of our community; and

WHEREAS, the safety of our children is a significant concern for parents, community leaders and health care givers; and

WHEREAS, the environmental welfare is of universal concern and deserves the utmost attention; and

WHEREAS, if started in childhood, proper health, safety and environmental habits can be maintained for a lifetime, producing a valued member of society, and enhancing our community overall.

NOW, THEREFORE, the Mayor and members of the City Council of the City of El Segundo, California, do hereby proclaim May 16, 2009 as Kids Day American/International and urge all families to participate in activities that reinforce positive, healthy life choices among children.

Mayor Kelly McDowell
Mayor Pro Tem Eva H. Bruch
Council Member Carl Jacobson
Council Member Don Brann
WHEREAS, The El Segundo Fire and Police Departments have provided public safety services for over 80 years to the citizens of El Segundo, including fire suppression, criminal investigation, fire and crime prevention efforts through public awareness, as well as a commitment to our core values of respect, integrity, service and excellence; and

WHEREAS, The El Segundo Fire and Police Departments also administer life-saving paramedic services to victims of illness and injury, respond to incidents of violence as well as other threats to the safety and security of the public; and

WHEREAS, The El Segundo Fire and Police Departments have set aside Saturday, May 9, 2009, from 10:00 a.m. to 2:00 p.m., to hold open house for the public to observe the many functions of their respective personnel, equipment, and facilities, observe a SWAT demonstration, and learn of their readiness to protect the lives and property of the citizens they serve; and

WHEREAS, The Fire Department Open House will take place at Fire Station No. 1, 314 Main Street. The Police Department Open House will take place at the Police Station, 348 Main Street.

NOW, THEREFORE, the Mayor and Members of the City Council of the City of El Segundo do hereby proclaim Saturday, May 9, 2009, as EL SEGUNDO PUBLIC SAFETY SERVICE DAY and invite the community to participate in the joint Open House from 10:00 a.m. to 2:00 p.m.

Mayor Kelley McDowell
Mayor Pro Tem Eric K. Busch
Council Member Carl Jacobson
Council Member Bill Fisher
Council Member Don Brown
Proclamation

City of El Segundo, California

WHEREAS, May is National Older Americans Month, a time to celebrate and pay tribute to the Senior Citizen Volunteers of El Segundo; and

WHEREAS, Older Americans possess and share a wealth of experience, background and history, making them one of the City's most enduring resources and an important part of the ties that bind both family and community; and

WHEREAS, Individuals provide volunteer services contributing to a coordinated community-based system of care that facilitates the well-being of all Americans in the 21st century; and

WHEREAS, Chris Sherrill was elected by her peers as the El Segundo 2009 Senior Citizen of the Year, a recognition which inspires, promotes and garnishes community spirit by giving back through volunteerism

NOW, THEREFORE, on this 5th day of May, 2009, the Mayor and Members of the City Council of the City of El Segundo, California, do hereby proclaim the month of May, 2009,

OLDER AMERICANS MONTH
and
Chris Sherrill
the
2009 El Segundo Senior Citizen of the Year

And hereby invite the community to participate in the Elderfest Celebration on Saturday, May 16, 2009, from 11:00 a.m. to 2:00 p.m., at the Joslyn Center in Recreation Park honoring CHRIS SHERRILL and other senior citizens who have given generously of their time and talent to improve the quality of life for all.

Mayor Kelly McDowell
Mayor Pro Tem Eric H. Busch
Council Member Carl Jacobson
Council Member Don Brann
WHEREAS, Over sixty million Americans have cardiovascular disease and over one million people die from the disease annually, and each year three hundred thousand Americans have cardiovascular emergencies.

WHEREAS, Ninety-five percent of Americans who suffer cardiovascular emergencies die before reaching an emergency room, and the rate of survival increases dramatically when a family member, friend or bystander can immediately start Cardio-Pulmonary Resuscitation ("CPR").

WHEREAS, The El Segundo Fire Department and the American Red Cross have historically provided exemplary emergency medical care and training, and continue this tradition of excellence with SUPER CPR SATURDAY.

WHEREAS, The SUPER CPR SATURDAY event has trained over 3,500 people in the greater South Bay Area over the past 13 years, to be better prepared for cardiovascular emergencies, and to mitigate the life-threatening impacts of sudden cardiac arrest.

WHEREAS, El Segundo High School provides a critical element of success for the event by allowing use of the school's facilities to accommodate the training of over 300 people.

WHEREAS, SUPER CPR SATURDAY receives generous financial and in-kind support from our corporate and service club sponsors (Chevron, DIRECTV, Raytheon, Mattel, McDonalds) that enables this valuable community event to be held.

NOW, THEREFORE, the Mayor and Members of the City Council of the City of El Segundo, California hereby encourage participation in CPR training and proclaim Saturday, May 30, 2009, from 8:00 a.m. to 2:00 p.m. as SUPER CPR SATURDAY.

[Signature]
Mayor Kelly McDowell

[Signature]
Council Member Carl Jacobson

[Signature]
Council Member Don Brann
Proclamation  
City of El Segundo, California

WHEREAS, public works services provided in our community are an integral part of our citizen’s everyday lives; and

WHEREAS, the support of an understanding and informed citizenry is vital to the efficient operation of public works systems and programs such as water, sewers, streets, public buildings and solid waste collection; and

WHEREAS, the health, safety and comfort of this community greatly depends on these facilities and services; and

WHEREAS, the efficiency of the qualified and dedicated personnel who staff public works departments is materially influenced by the people’s attitude and understanding of the work they perform.

NOW THEREFORE, on this 5th day of May 2009, the Mayor and Members of the City Council of the City of El Segundo do hereby proclaim May 17-23, 2009, as “National Public Works Week” and I call upon all citizens to acquaint themselves with the issues involved in providing our public works and to recognize the contributions which public works officials make every day to our health, safety, comfort, and quality of life.

Mayor Kelly McDowell
Mayor Pro Tem Eric H. Ansche
Council Member Bill Fisher
Council Member Carl Jackson
Council Member Dan Brann
Proclamation
City of El Segundo, California

WHEREAS, Bicycle commuting is an effective means to reduce air pollution; and
WHEREAS, Bicycle commuting is an effective means to conserve energy; and
WHEREAS, Bicycle commuting helps improve the “livability” of communities by reducing traffic noise and congestion; and
WHEREAS, Bicycle transportation is an integral part of the “multi-model” transportation system planned for by federal, state, regional, and local transportation government agencies; and
WHEREAS, The month of May is National Bike Month to promote bicycle as a means of transportation and recreation; and

NOW, THEREFORE, on this 5th day of May, 2009, the Mayor and Members of the City Council of the City of El Segundo, California do hereby proclaim the week of May 11-15, 2009 as California Bike Commute Week.

Mayor Kelly McDowell
Mayor Tim Era H. Busch
Council Member Carl Jacobsen
Council Member Bill Fisher
Council Member Don Brann
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: May 5, 2009
AGENDA HEADING: Public Communications

AGENDA DESCRIPTION:

Consideration and possible action regarding a request by Daphine Moote, an El Segundo Unified School District teacher, to consider adoption of a Resolution in support of Propositions 1A-1F on the May 19th Special Election ballot. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1. Staff has no recommendation on this item.
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Copy of sample school board resolution in support of Propositions 1A-1F
2. Copy of California Teachers Association Vote Yes on Propositions 1A-1F handout
3. Copy of Budget Reform Now handout
4. Copy of Secretary of State's Title, Summary, Analysis of Propositions 1A-1F

FISCAL IMPACT: Included in Adopted Budget

Amount Budgeted: $  
Additional Appropriation: N/A
Account Number(s):

ORIGINATED BY: Daphine Moote
REVIEWED BY: Bill Crowe, Assistant City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

Ms. Daphine Moote, an El Segundo Unified School District teacher and President of the El Segundo Teachers Association, appeared before the City Council at the April 21st meeting and requested that this item be placed on the May 5th City Council Agenda for possible discussion and action by the City Council. She has requested that the City Council consider introduction of a Resolution in support of Propositions 1A-1F on the May 19th Special Election ballot.

The City Council is not required to discuss or take action on this item.
Vote YES on Propositions 1A-1F

Overview

California public schools and community colleges have lost more than $11 billion in state funding over the past two years due to the budget crisis. Our schools are currently ranked 47th in per-pupil spending. We have some of the largest classes in the country, and more than 27,000 teachers and education support professionals received layoff notices in March. Art, music, PE and career technical education programs are being eliminated all over the state. We can't let things get worse.

Passing Propositions 1A-1F in the May 19 special election will begin repaying some of the funding cut from public education, will help protect our schools and colleges from even deeper cuts, and will establish long-term budget reforms to stabilize state spending. Failing to pass these measures will cost California $23 billion over the next four years and will result in even deeper cuts to education, children's health care, public safety, and programs for seniors and the disabled.

Talking Points

Yes on 1A-1F Protects Against More Devastating Cuts to Schools, Colleges and other Services

- California public schools and community colleges have been cut by more than $11 billion over the past two years. More than 27,000 teachers received layoff notices in March, which means overcrowded classrooms will increase again and critical student programs will be eliminated. We can't let things get worse.

- California already ranks 47th in the nation in school funding and is racing toward the bottom. Unless we pass these initiatives, our schools will face even more cuts. More teachers will be laid off, class sizes will increase, and it will become harder for teachers to teach and students to learn.

- If Props. 1A-1F fail, we are back to where we started, with no state budget and a $23 billion deficit, which could lead to more teacher layoffs and more cuts to vital services like education, health care and public safety. If education continues to take 50 percent of the state budget cuts, it would be the equivalent of laying off an additional 164,000 teachers.
Yes on 1A-1F Begins to Reverse the Damage Made by the Recent Budget Cuts

• Propositions 1A and 1B work together to start repaying some of the cuts politicians made to education. Prop. 1B corrects the attempted unlawful manipulation of the state’s minimum school funding law and repays $9.3 billion that is owed to education. 1B sets up a repayment plan starting in 2011 to ensure schools and community colleges are paid back as the state’s economic conditions improve.

• Proposition 1A raises the revenues to repay education. Both 1A and 1B must pass in order for schools to receive the $9.3 billion. This money will help local school districts rehire teachers, reduce class sizes, buy up-to-date textbooks and restore critical student programs.

• Prop. 1B also protects our state’s minimum school funding law — Proposition 98 — which voters approved more than 20 years ago to guarantee minimum funding to our schools and community colleges.

Yes on 1A-1F Helps Stop California’s Economic Decline

• The future of our state depends on the investment we make in our students, public schools and colleges. Yes on 1A-1F establishes long-term budget reforms to stabilize state spending and create a reserve fund to save money in good economic years so we have it in bad ones to protect schools and other vital services against future cuts.

• California business leaders agree that California’s economic recovery and stability depend upon a well-educated workforce. We must educate our children to be productive members of the state’s workforce.

• Californians have long recognized that high-quality education leads to more prosperous and healthy communities for us all.

Yes on 1A-1F Holds Politicians Accountable

• Proposition 1F prohibits state legislators, the governor and other state politicians from getting pay raises whenever the state budget is running a deficit. By stopping legislative pay raises during state budget deficits, we can save California taxpayers millions of dollars when they are needed most and bring accountability to the Legislature and the Governor’s office.
SAMPLE SCHOOL BOARD RESOLUTION IN SUPPORT OF PROPOSITIONS 1A-1F

WHEREAS, California’s public schools, colleges and universities are facing more than $11 billion in state budget cuts; and

WHEREAS, with the recently passed budget package, California’s students, who already live in a state that ranks 47th in the nation in per-pupil spending, will be forced to endure an additional cut of nearly $2,000 per student; and

WHEREAS, these cuts are causing the elimination of art, music, physical education, career and technical education programs and threaten the education of an entire generation of children; and

WHEREAS, these cuts are leading to the layoffs of teachers, counselors, librarians, principals, bus drivers, custodians, safety officers and other school personnel who provide services to students; and

WHEREAS, California has to reform its dysfunctional budget system to provide stability and to protect funding for our schools; and

WHEREAS, Propositions 1A, 1B, 1C, 1D, 1E and 1F on California’s May 19 Special Election Ballot will generate short-term revenues to help us get out of this unprecedented fiscal crisis, establish long-term budget reforms to stabilize and lay out a responsible timeline for repaying school districts the massive cuts they have incurred; and

WHEREAS, Proposition 1A will stabilize future state spending and create an enhanced rainy day reserve fund that will help protect funding for vital programs like education, public safety and health care; and

WHEREAS, Proposition 1B starts the process of paying back our schools and community colleges more than $9 billion they were cut, and are owed under the minimum school funding law. The payments to schools would come out of the newly-created rainy day fund established by Prop. 1A and are dependent on the passage of Prop. 1A; and

WHEREAS, Prop 1C will modernize the State Lottery and allow our state to immediately raise $5 billion in new revenues to help with this year’s budget deficit and billions more in future years. It also guarantees that public schools will receive the same amount of funds they currently receive from the lottery; and

WHEREAS, Prop. 1D temporarily redirects a portion of excess funds from the voter-approved tobacco tax to pay for children’s health and social services over the next two years; and

WHEREAS, Prop. 1E would temporarily redirect a portion of the funds from the Mental Health Services Trust Fund, approved by voters in 2004, to fund children’s health and other General Fund programs that are at risk of elimination due to the state budget crisis; and

WHEREAS, Prop. 1F prohibits legislators, the governor and other state politicians from getting pay raises whenever our state budget is running a deficit, saving California millions of dollars and bringing accountability to the Legislature and Governor’s office; and

WHEREAS, If Propositions 1A-1F do not pass, California will lose more than $22 billion in revenues over the next four years that will put tremendous pressure to make even more cuts to vital services.

THEREFORE, BE IT RESOLVED that <El Segundo City Council > formally endorses Propositions 1A-1F on the California May 2009 Special Election ballot.

BE IT FURTHER RESOLVED that we hereby authorize the listing of <El Segundo City Council > in support of Propositions 1A, 1B, 1C, 1D, 1E and 1F and direct staff to fax this resolution to the Budget Reform Now Coalition at 916.442.3510.

PASSED AND ADOPTED this ___ day of ______________, 2009 by the following vote:
WHAT HAPPENS WITHOUT PROPS 1A-1B-1C-1D-1E-1F?

Even More Massive Cuts to Critical Services and Unmanageable Deficits That Will Threaten California’s Fiscal Solvency

Propositions 1A, 1B, 1C, 1D, 1E and 1F on California’s May 19 special election ballot are absolutely vital to provide the short-term revenues we need to help California get through the most significant economic downturn since the Great Depression. The measures also provide the long-term reforms we need to fix our dysfunctional budget process and to stabilize funding for education, healthcare, public safety and other services.

Unless Props 1A-1F all pass, California will lose more than $23 billion during the next four fiscal years. This gap would come on top of the multi-billion dollar deficits recently predicted by the Legislative Analyst’s Office for the next few fiscal years – forcing billions upon billions in deeper program cuts.

Unless Props 1A-1F pass, California will face:

- **$6 billion in lost revenue for the coming fiscal year.** Props 1C, 1D and 1E will provide about $6 billion in critically needed revenues for Fiscal Year 2009-10, plus another $1.3 billion in the fiscal years that follow. Losing $6 billion in the coming budget is the equivalent of funding:
  - 40% of annual state General Fund spending on Medi-Cal services.
  - Three times the annual state General Fund spending for the Department of Mental Health.
  - More than the annual state General Fund spending for all welfare programs run by the Department of Social Services – including CalWORKS, Foster Care, Food Stamps and SSI/SSP.
  - About one-third of the annual budget of the Los Angeles Unified School District.

- **$23 billion in lost revenues during the next four fiscal years.** Unless Proposition 1A passes, California will lose a total of about $16 billion in revenue during Fiscal Years 2011-12 and 2012-13. That $16 billion, coupled with the overall lost funding from Props 1C, 1D and 1E, will mean that California loses more than $23 billion in funding during the next four fiscal years. Losing $23 billion is the equivalent of funding:
  - Nearly 60% of annual state General Fund spending on K-12 education.
  - More than 50% of the total amount of state and federal money spent annually on Medi-Cal services.
  - More than double annual state General Fund spending for the UC, CSU and community college systems.
  - More than four times the total annual funding for In Home Supportive Services.

- **Financial Insolvency.** California will be pushed back to the brink of insolvency which threatens every state program and service, as well as our state’s economic recovery.

- **No Long-Term Budget Reform.** Without the critical reform provided by Prop 1A, the state will continue to overspend in good years, leaving us without a rainy day fund to get through bad years (like the current year). Priority programs will continue to face the “boom and bust” budgets that result in deep cuts every time our state faces an economic downturn.

Paid for by Budget Reform Now, a coalition of taxpayers, business, labor, public safety, seniors, Henry T. Segerstrom Properties LLC, and Governor Schwarzenegger’s California Dream Team, a ballot measure committee - Yes on 1A, 1B, 1C, 1D, 1E and 1F
STATE BUDGET. CHANGES CALIFORNIA BUDGET PROCESS.
LIMITS STATE SPENDING. INCREASES “RAINY DAY” BUDGET STABILIZATION FUND.

- Increases size of state “rainy day” fund from 5% to 12.5% of the General Fund.
- A portion of the annual deposits into that fund would be dedicated to savings for future economic downturns, and the remainder would be available to fund education, infrastructure, and debt repayment, or for use in a declared emergency.
- Requires additional revenue above historic trends to be deposited into state “rainy day” fund, limiting spending.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:
- Higher state tax revenues of roughly $16 billion from 2010–11 through 2012–13 to help balance the state budget.
- In many years, increased amounts of money in state “rainy day” reserve fund.
- Potentially less ups and downs in state spending over time.
- Possible greater state spending on repaying budgetary borrowing and debt, infrastructure projects, and temporary tax relief. In some cases, this would mean less money available for ongoing spending.

ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW OF THE PROPOSAL

Measure Changes the State’s Budgeting. This measure would make major changes to the way in which the state sets aside money in one of its “rainy day” reserve accounts and how this money is spent. As a result, Proposition 1A could have significant impacts on the state’s budgeting practices in the future. The measure would tend to increase the amount of money set aside in the state’s rainy day account by increasing how much money is put into this account and restricting the withdrawal of these funds.

Measure Results in Tax Increases. If this measure is approved, several tax increases passed as part of the February 2009 budget package would be extended by one to two years. State tax revenues would increase by about $16 billion from 2010–11 through 2012–13.

BACKGROUND

Restrictions on Annual State Budget

Currently, the State Constitution has two main provisions related to the state’s overall level of spending:
ANALYSIS BY THE LEGISLATIVE ANALYST

- **Spending Limit.** There is a limit on the amount of tax revenues that the state can spend each year. In recent years, however, the limit has been well above the state’s level of spending and has not been a factor in budgeting decisions.
- **Balanced Budget.** In March 2004, the state’s voters passed Proposition 58. Among other changes, the measure requires that the Legislature pass a balanced budget each year. Outside of these requirements, the Legislature and Governor are generally able to decide how much General Fund money to spend in a given year.

**Rainy Day Reserve Funds**

When the state passes its annual budget, it estimates the amount of revenues that it expects to receive in the upcoming year. Typically, the state sets aside a portion of these revenues into one of two rainy day reserve funds. Money in these reserves is set aside to pay for unexpected expenses, cover any drops in tax receipts, or save for future years. The two funds are described below.

- **Special Fund for Economic Uncertainties (SFEU).** The SFEU is the state’s traditional reserve fund. Funds can be spent for any purpose with approval by the Legislature. Any unexpected monies received during a year are automatically deposited into the SFEU.
- **Budget Stabilization Account/Budget Stabilization Fund (BSA/BSF).** The state’s voters created the BSA/BSF through the passage of Proposition 58 in 2004. (Under current law, this reserve is known as the BSA. Proposition 1A would rename it the BSF. For simplicity, we refer to the reserve as the BSF throughout this analysis.) Each year, 3 percent of estimated General Fund state revenues are transferred into the BSF. The Governor, however, can stop the transfer in any year by issuing an executive order. For instance, the transfer this year was stopped due to the state’s budget problems. Similarly, it is expected that the transfers will be suspended over the next few years as the state continues to face budget problems. In addition, the annual transfers are not made once the balance of the BSF reaches a specified “target”—the higher amount of $8 billion or 5 percent of revenues (currently about $5 billion). By passing a law, the state can transfer funds out of the BSF and use the funds for any purpose. (Currently, this is accomplished through the annual budget act, which allows transfers out of the BSF each year.)

**Economic Recovery Bonds (ERBs).** In 2004, the state’s voters passed Proposition 57, which allowed the state to issue $15 billion in ERBs. These bonds were used to pay off budgetary debt that had accumulated in the early part of this decade. A portion of the sales and use tax (SUT) is the primary mechanism to pay off the ERBs. However, one-half of the funds deposited into the BSF—up to a total of $5 billion—are used to make extra payments on the ERBs to pay them off faster. To date, $1.5 billion in BSF funds have been used in this manner.

**Authority to Reduce Spending**

Once the annual budget has been approved by the Legislature and the Governor, the Governor has only limited authority to reduce spending during the year without legislative approval.

**Recent Tax Increases**

As discussed in the “Overview of the State Budget” section of this guide, the Legislature and Governor passed a plan in February 2009 to balance the state’s 2008–09 and 2009–10 budgets. The plan included a number of tax increases that are scheduled to remain in effect for about two years (unless the voters approve this measure). Specifically:

- **Sales and Use Tax.** The SUT is charged on the purchase of goods. The budget package raised the tax by one cent for every dollar of goods purchased. This raised the average SUT rate in the state from about 8 percent to 9 percent through 2010–11.
ANALYSIS BY THE LEGISLATIVE ANALYST

• **Vehicle License Fee (VLF).** The VLF is based on the value of a vehicle and is paid annually as part of an owner's registration. The budget package raised the tax rate from 0.65 percent to 1.15 percent of a vehicle's value through 2010–11.

• **Personal Income Tax (PIT).** The PIT is based on an individual's income. Tax rates range from 1 percent to 10.3 percent depending on a taxpayer's income. Higher tax rates are charged as income increases. Numerous exemptions and credits may be applied to an individual's income to lower the amount of the tax owed. The budget package raised each tax rate by a 0.25 percentage point. (This rate increase will be reduced by one-half if it is determined by April 1, 2009 that the state will receive a certain level of federal funds to help balance the state budget.) For instance, the 9.3 percent tax rate was raised to 9.55 percent. The package also reduces the value of the credit for having a dependent (such as a child) by about $210. These changes would affect the 2009 and 2010 tax years.

PROPOSAL

This measure amends the Constitution to change the state's budgeting practices. Based on other components of the 2009–10 budget package, passage of this measure would also give the Governor more authority to cut spending and would extend recent tax increases by up to two years.

**Use of Extra Revenues in Certain Years**

Proposition 1A establishes a process to determine which revenues are “unanticipated.” The measure generally defines unanticipated revenues to mean those that exceed the amount expected based on the revenues received by the state over the past ten years. The ten-year trend would be adjusted to exclude the impact of shorter-term tax changes. (In other cases, unanticipated revenues could be defined as any revenues above the amount needed to pay for spending equal to the prior year's level of spending grown for changes in population and inflation.) Beginning in 2010–11, any extra revenues would be directed to the following purposes (in priority order):

• Meet funding obligations under the Constitution for K–14 education not already paid. (An existing formula established by Proposition 98 determines how much of higher revenues go to education.)

• Transfer to the BSF to fill the reserve up to its target.

• Pay off any budgetary borrowing and debt, such as certain loans and ERBs.

Once all of these types of payments were made, any other extra revenues could be spent on a variety of purposes, including further building up of the BSF, paying for infrastructure (such as constructing roads, schools, or state buildings), providing one-time tax relief, or paying off unfunded health care liabilities for state employees.

**Revenues Into the BSF**

**Increased Reserve Target.** This measure increases the amount of the BSF reserve target to 12.5 percent of state revenues. This percentage is currently equal to about $12 billion, but would grow over time. This compares to the existing target of the higher of $8 billion or 5 percent of revenues.

**Suspension of Transfers More Restricted.**

Under the measure, the circumstances in which the Governor may stop a transfer to the BSF would be limited. Beginning in the 2011–12 fiscal year, the Governor could only stop the BSF transfer in years when the state did not have enough revenues to pay for state spending equal to the prior year’s level of spending grown for changes in population and inflation.

**Extra Revenues to Reserve in Certain Years.** As noted above, one of the priorities for extra revenues would be to build up the BSF.

**Spending Out of the BSF**

**New Spending Requirements.** As described above, funds in the BSF currently can be transferred out of the fund to the General Fund for spending for any purpose through the passage of a law. Under this measure, some revenues in the BSF would be spent on particular purposes:

• **Increased Education Spending, if Proposition 1B Passes.** If both Proposition 1A and Proposition 1B on this ballot pass,
the state would be required to pay K–12 schools and community colleges $9.3 billion in supplemental funds to address recent funding reductions. This measure establishes the way in which these payments would be made. Each year beginning in 2011–12, 1.5 percent of state revenues (currently about $1.5 billion) would be taken from the BSF and paid to schools and colleges until the entire $9.3 billion was paid. Regardless of the state’s financial situation, these payments could not be suspended by the Governor. As a result, at least 1.5 percent of General Fund revenues would be transferred into the BSF every year until the entire amount was paid.

- **Spending on Infrastructure and State Bond Debt.** After the $9.3 billion in educational payments were made (or if Proposition 1B does not pass), 1.5 percent of state revenues each year would be dedicated to paying for infrastructure or state bond debt. These payments could be used to reduce obligations that would otherwise fall on the General Fund.

- **Smaller Payments to Pay Off ERBs.** Under current law, one-half of transfers into the BSF—up to $5 billion total—is used to make extra ERB payments. This measure excludes the supplemental education funding transfers from this calculation. In years when transfers are made into the BSF (assuming Proposition 1B passes), therefore, the extra ERB payments would be smaller than otherwise.

- **Limits on Other Withdrawals.** The ability of the state to transfer funds out of the BSF for other purposes would be significantly limited under the measure. Specifically, transfers out of the BSF would be limited to the following two situations:
  - Funds in the BSF could be used to cover any costs associated with an emergency, such as a fire, earthquake, or flood.
  - If revenues were not high enough to cover state spending equal to the prior year’s level of expenses (growing for population and inflation), then BSF funds could be used to meet that level of spending.

**Governor’s Authority to Reduce Spending**

If Proposition 1A passes, the Governor would be given new authority to reduce certain types of spending during a fiscal year without additional legislative approval. (This authority is included in a part of a new law that will only go into effect if Proposition 1A passes.) Specifically, the Governor could reduce:

- Many types of spending for general state operations (such as equipment purchases) or capital outlay by up to 7 percent.
- Cost-of-living adjustments (COLAs)—provided to account for inflation—for any programs specified in the annual budget. This would not apply to any increases for most state employees’ salaries.

**Tax Increases Extended**

If Proposition 1A passes, the tax increases included in the February 2009 budget package would be extended for one or two additional years. (The extensions of the tax increases are included in a part of a law that will only go into effect if Proposition 1A passes.) The SUT increase of 1 cent would be extended for one year through 2011–12. The VLF tax increase would be extended for two years through 2012–13. The PIT-related tax increases would also be extended for two more years, through the 2012 tax year.

**FISCAL EFFECTS**

**Uncertainty About the Effect of the Measure**

The fiscal effects of Proposition 1A are particularly difficult to assess. This is because the measure's effects would depend on a variety of factors that will change over time and cannot be accurately predicted. Consequently, the measure's effects may be very different from one year to the next. The key factors determining the impact of Proposition 1A in any given year are:

- **Future Budget Decisions by the Legislature and Governor.** Key decisions made on the annual budget include the total level of
spending and the mix of spending between one-time and ongoing purposes. These decisions would affect the state's fiscal condition and how much money is deposited or withdrawn from the BSF in a given year.

- **Revenue Trends and Volatility.** The level of revenues available for spending in a given year would depend on the previous ten years of revenue growth. The state's revenues are very volatile and can have big swings from year to year. Using the trend from ten years of revenues would reduce—but not eliminate—year-to-year changes.

Despite this uncertainty, we describe the more likely outcomes of the measure below—focusing first on nearer-term effects and then on a longer-term outlook.

**Nearer-Term Budgets**

Proposition 1A would have major effects on the state budget over the next few years. Although Proposition 1A was passed as part of the package to balance the 2009–10 budget, it would not significantly affect this year's budget. Most of its provisions go into effect starting with the 2010–11 budget or later, as described below.

**Increased Tax Revenues.** If Proposition 1A is approved, tax increases adopted as part of the 2009–10 budget package would be extended by one to two years. In total, this extension of higher taxes is projected to increase revenues by a total of roughly $16 billion from 2010–11 through 2012–13. (This total would be about $2.5 billion lower if a certain level of federal stimulus funds is available to the state.)

**Governor's Ability to Reduce Some Spending.** Effective upon passage of this measure, the Governor would have new authority to unilaterally reduce some spending for state operations and capital outlay and eliminate some COLAs. This authority could potentially be used to reduce spending within a fiscal year if the budget goes out of balance after it is passed.

**Higher Payments to Education.** If Proposition 1B also passes, the state would divert 1.5 percent of annual General Fund revenues beginning in 2011–12 to make supplemental payments for education. These payments would be made until a total of $9.3 billion had been spent, likely in five or six years. These payments could not be suspended. The fiscal effect of these payments is discussed in more detail in the analysis of Proposition 1B.

**Altered Pay Off of ERBs.** As described above, this measure could alter the speed at which the state pays off its outstanding ERBs (bonds related to prior budgetary debt). In years when the only transfers made into the BSF were the base 3 percent of revenues (and assuming Proposition 1B also passes), the measure would reduce the amount of the extra ERB payments made from the BSF by one-half (reducing state costs in that year by more than $700 million). On the other hand, to the extent that additional transfers to the BSF were made related to unanticipated revenues, extra BSF payments to ERBs could be made compared to current law. These changes would affect the timing of the final payoff of the ERBs. Once the ERBs are paid off, the state would experience reduced General Fund costs on an annual basis.

**Limited Ability to Suspend BSF Transfers.** Under current law, the Governor may suspend BSF transfers in any year and, therefore, allow 3 percent of revenues to be available to help balance a budget immediately. In contrast, beginning in 2011–12 (if Proposition 1B also passes), this measure would eliminate the ability to suspend one-half of the transfer related to supplemental educational payments. For the remaining amount of the transfer, the transfer could only be suspended in more restricted cases.

**Transfer of Extra Revenues to BSF.** Beginning in 2010–11, this measure would require transfers of General Fund revenues into the BSF of amounts that exceed the ten-year revenue trend. It is difficult to predict what this calculation would require in future years. It is possible, however, that this provision would require billions of dollars in the next few years to be transferred to the BSF.

**Net Result of These Factors.** Some of these factors—such as the higher tax revenues—would make it easier to balance the state budget in the coming years. Other factors—such as the limited ability to suspend the annual transfers to the BSF—could make it more difficult. The net result of these factors is difficult to determine in any particular year. In 2011–12, the size of the tax increases
connected to this measure would likely make that year’s budget easier to balance. In other years, however, the effect of the measure on the ability of the state to balance the budget is unknown.

Longer-Term Outlook

As described above, this measure has a number of effects that would last for less than a decade—including higher taxes, supplemental payments to education, and altered payoff of the ERBs. Once these effects have run their course, Proposition 1A could continue to have a substantial effect on the state’s budgeting practices. In this section, we describe the possible long-term effects of this measure.

Restrictions on Revenues and Spending. In any given year, Proposition 1A does not strictly limit the amount of revenues that could be collected by the state or the amount of spending that could occur. The measure does not restrict the ability of the Legislature and the Governor to approve tax increases to collect on top of existing revenues. Regarding spending, while the measure could make it harder to approve spending increases in some years by restricting the access to revenues, it would not cap the total level of spending that could be authorized in any year if alternative revenues were approved.

More Money in the BSF. In some years, the measure could lower the amount of money in the BSF rainy day reserve by allowing 1.5 percent of General Fund revenues to be spent on infrastructure. In many other cases, however, the measure would increase the amount of money in the state’s BSF rainy day reserve by:

- Restricting the ability of the Governor to stop the annual transfer into the reserve.
- Restricting the purposes for which funds can be taken out.
- Requiring revenues above a decade-long trend to be deposited into the fund.
- Raising the target cap on funds in the BSF (from 5 percent or $8 billion) to 12.5 percent of revenues.

On net, we expect that the balance of the BSF would be greater than under current law in many future years. The net amount of additional money in the BSF would depend on a number of factors, including future budgeting decisions by the Legislature and Governor and the rate and volatility of revenue growth.

Effect on State Budgeting. The precise effect of having more rainy day funds is unknown. However, it could lead to the following primary types of results:

- **Revenues Determined by Prior Ten Years.** Currently, the state’s revenues available for spending in a year is determined by the state’s economic condition at that point in time. A poor economy means less revenues, and a booming economy means extra revenues. Under the measure, however, revenues available generally would be based on the past decade. As a result, the amount of revenues available may no longer reflect the state’s economy at that time.

- **Smotherer State Spending.** The level of state spending would be reduced to the extent the BSF was built up to a higher level than would exist under current law. These funds would then be available in later years when revenues fell short. This could help cushion the level of spending reductions in lower-revenue years. Over time, this measure could help limit the ups and downs of state spending and smooth out spending from year to year.

- **Changes in Types of Spending.** The state would spend money on different types of programs than otherwise would be the case. The measure, for example, could increase spending on a variety of one-time activities—such as repaying budgetary borrowing and debt, infrastructure projects, and temporary tax relief. In some cases, this would mean less money was available to spend on ongoing spending increases.
EDUCATION FUNDING. PAYMENT PLAN.

- Requires supplemental payments to local school districts and community colleges to address recent budget cuts.
- Annual payments begin in 2011–12.
- Payments are funded from the state’s Budget Stabilization Fund until the total amount has been paid.
- Payments to local school districts will be allocated in proportion to average daily attendance and may be used for classroom instruction, textbooks and other local educational programs.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:

- Fiscal impact would depend on how current constitutional provisions would otherwise be interpreted.
- Potential state savings of up to several billion dollars in 2009–10 and 2010–11.
- Potential state costs of billions of dollars annually thereafter.

FINAL VOTES CAST BY THE LEGISLATURE ON ACA 2 (PROPOSITION 1B)

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<th>Senate:</th>
<th>Ayes 28</th>
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<td>Assembly:</td>
<td>Ayes 68</td>
<td>Noes 11</td>
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ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

This measure contains provisions relating to Proposition 98 “tests,” the “maintenance factor,” and K–12 “revenue limits.” We provide basic information on each of these issues below.

Proposition 98 Tests

Proposition 98 Establishes Minimum Funding Level. Proposition 98, passed by voters in 1988 and modified in 1990, requires the state to provide a minimum level of funding each year for kindergarten through twelfth grade (K–12) education and community colleges. Together, these schools and colleges are commonly referred to as K–14 education. The Proposition 98 requirement is met using both state General Fund and local property tax revenues. In 2008–09, the state budget includes $51 billion in Proposition 98 funding. Of this total, about $35 billion is from the state’s General Fund, with the other $16 billion from local property tax revenues.

“Minimum Guarantee” Determined by One of Three Tests. The minimum funding level—commonly known as the minimum guarantee—is determined by one of three funding formulas. The first formula, known as “Test 1,” requires the state to provide roughly 40 percent of General Fund revenues for K–14 education. This test has been applied only once (1988–89). To date, the most common funding formula has been “Test 2” (applied 13 of the last 20 years). Under Test 2, the prior-year Proposition 98 funding level is adjusted based on changes in school attendance and the state’s economy (as measured by per capita personal income). The final formula, known as “Test 3,” adjusts prior-year Proposition 98 funding based on changes in attendance and the state’s tax revenues. It has been applied in 6 of the last 20 years—generally in years when the state is experiencing slow growth or a decline in revenues. Test 3 permits the state to provide less Proposition 98 funding than required under Test 2.
Legislature Can Override Tests. The test that applies in any particular year depends upon a number of factors. The Legislature and the Governor, however, can override these tests and provide less than otherwise required. They can do so by suspending Proposition 98, which requires a two-thirds vote of each house of the Legislature and the approval of the Governor. As part of the regular state budget process, the Legislature and the Governor also can provide more than otherwise required.

Maintenance Factor

A Future Funding Obligation Is Created in Certain Proposition 98 Situations. Historically, Proposition 98 has created a future funding obligation—commonly called a maintenance factor—in two specific situations. It has created a maintenance factor when (1) the minimum guarantee is determined under Test 3 or (2) Proposition 98 has been suspended. In both cases, the state keeps track of the difference between the higher Proposition 98 amount that otherwise could have been required and the amount of funding actually provided to K–14 education in that year. As of the end of 2007–08, the state has an outstanding maintenance factor obligation of $1.4 billion.

Maintenance Factor Payments Based on Growth in General Fund Revenues. Proposition 98 requires the state to provide additional payments in future years until the maintenance factor (or funding gap) has been closed. Historically, education funding has been built up in future years to the level it would have otherwise reached (absent the previous decisions to spend below the Test 2 level or suspend). The minimum amount of maintenance factor that must be paid in one year depends on how quickly state revenues grow. When state revenues grow quickly, larger payments are made, and the obligation is paid off in a shorter period of time. These maintenance factor payments become part of the base for calculating the next year’s Proposition 98 minimum guarantee.

Different Interpretations of Test 1 Years. Based on revenue estimates at the time this analysis was prepared, the minimum guarantee would be determined by Test 1 in 2008–09 and 2009–10. Other than the first year under Proposition 98 (1988–89), the state has always calculated the minimum guarantee using either Test 2 or Test 3. Two issues have arisen over how the maintenance factor is supposed to work under Test 1 years. These issues are described in more detail in the nearby box. Much disagreement exists over these issues, with different interpretations potentially resulting in very different Proposition 98 funding requirements.

K–12 Revenue Limits

Revenue Limits Provide Per-Pupil Funding for General Education Purposes. Approximately two-thirds of Proposition 98 funding for school districts is used for K–12 revenue limits. Revenue limits provide funding for general education purposes—that is, few requirements are attached to this funding. Districts decide how specifically to use the funds. School districts receive a funding amount per student (as measured by average daily attendance). Revenue limit amounts were initially based on each district’s per-pupil funding level in the 1970s, which varied significantly among districts. Since then, the Legislature has provided additional revenue limit funding specifically for the purpose of “equalization.” This funding has gone to those districts with the lowest per-pupil revenue limit amounts in order to reduce funding differences among school districts.

PROPOSAL

Proposition 1B amends the California Constitution related to Proposition 98, as described below.

Creates $9.3 Billion “Supplemental Education” Obligation. This measure requires the state to make a total of $9.3 billion in supplemental payments to K–14 education. The payments would be made in annual installments, beginning in 2011–12. They would become part of the base budget when calculating the following year’s Proposition 98 minimum guarantee.
**Supplemental Payments in Place of Maintenance Factor Payments.** These payments would replace any payments that the state would otherwise be required to make under current law for maintenance factor obligations created in 2007–08 and 2008–09. The measure, however, does not clarify the uncertainty regarding maintenance factor in Test 1 years for the future.

**Distribution of Funds.** The measure gives discretion to the Legislature and the Governor regarding how these payments would be distributed between K–12 education and community colleges. For any funds provided to K–12 education, the measure requires that the payments be made for revenue limits. Of the 2011–12 payment, up to $200 million can be provided to school districts with low per-pupil revenue limit amounts to equalize revenue limit payments among districts. All other K–12 payments would be distributed based on districts’ per-pupil revenue limit rates. The measure makes no specific requirements on how any money provided to community colleges is to be used.

**Measure Linked to Proposition 1A.** The funding mechanism for making the supplemental payments established in this measure is provided in Proposition 1A, also on this ballot. That measure establishes a Supplemental Education Payment Account and requires the state to annually deposit 1.5 percent of General Fund revenues into the account, beginning in 2011–12. These funds would be put into the account annually until the entire $9.3 billion in supplemental payments had been provided. If Proposition 1A is not approved by the voters, the provisions of this measure would not go into effect, and there would be no obligation to make $9.3 billion in supplemental payments.

**Unclear How the Constitution Would Be Interpreted**

Two issues have arisen over how the maintenance factor is supposed to work in Test 1 years—how it is created and how it is paid back.

**Maintenance Factor Obligation in 2008–09 Is Unknown.** The first issue relates to whether the state creates a maintenance factor obligation in a year when Test 1 is applied. Historically, a maintenance factor obligation generally has been created when Test 3 applies. It is unclear whether a maintenance factor is created when Test 1 applies and is lower than Test 2. Some believe a maintenance factor is created in this situation. If so, this could result in an additional maintenance factor obligation of $7.9 billion being created in 2008–09 (for a total outstanding maintenance factor obligation of $9.3 billion). Others believe that no maintenance factor is generated under this situation.

**Method of Paying Maintenance Factor Also Unclear.** The second issue relates to how the maintenance factor (from previous years) is paid in a Test 1 year. One interpretation is that maintenance factor payments are to be made on top of the Test 1 level. A second interpretation is that maintenance factor payments are to be made on top of the Test 2 level. Because the Test 1 level is expected to be significantly higher than the Test 2 level in 2009–10, the first interpretation could result in a significantly higher minimum guarantee in 2009–10.
FISCAL EFFECTS

This measure's fiscal effect would depend on a number of key factors, including:

- **Interpretation of Current Law.** Because there is uncertainty over how the Constitution would be interpreted in its current form, it is unknown how Proposition 98 funding would work in the future under current law. As a result, it is difficult to know how this measure would change the state's finances.

- **Economic and Revenue Outlook.** The Proposition 98 minimum guarantee changes each year in large part due to changes in the state's economy and revenues. Thus, shifts in the economy and revenues can change the minimum guarantee by billions of dollars.

- **Passage of Proposition 1A.** If Proposition 1A is not approved by the state's voters, this measure would have no fiscal effect. Funding for Proposition 98 would be determined by interpreting the Constitution in its current form.

While these factors are uncertain, we describe below the likely effects of this measure for both the near- and the longer-term, assuming that Proposition 1A also passes.

**Savings in Near Term.** In 2009–10 and 2010–11, the measure could result in annual savings. This is because the measure could postpone maintenance factor payments that otherwise would have been made in these years. Any such savings could be up to several billion dollars each year. Under other interpretations of current law, however, this measure would result in no savings in 2009–10 and/or 2010–11.

**Costs in Long Term.** In 2011–12, the state would begin making supplemental payments. The $9.3 billion in payments likely would be paid over a five-to-six year period. As noted above, the long-term effect of these payments is subject to considerable uncertainty. Under most situations, however, costs for K–14 education likely would be higher than under current law—potentially by billions of dollars each year.
LOTTERY MODERNIZATION ACT.

- Allows the state lottery to be modernized to improve its performance with increased payouts, improved marketing, and effective management.
- Requires the state to maintain ownership of the lottery and authorizes additional accountability measures.
- Protects funding levels for schools currently provided by lottery revenues.
- Increased lottery revenues will be used to address current budget deficit and reduce the need for additional tax increases and cuts to state programs.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- Impact on 2009-10 State Budget: Allows $5 billion of borrowing from future lottery profits to help balance the 2009-10 state budget.
- Impact on Future State Budgets: Debt-service payments on the lottery borrowing and higher payments to education would likely make it more difficult to balance future state budgets. This impact would be lessened by potentially higher lottery profits. Additional lottery borrowing would be allowed.

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ANALYSIS BY THE LEGISLATIVE ANALYST

OVERVIEW OF THE PROPOSAL

**Measure Allows State to Borrow From Lottery Profits.** As discussed in the “Overview of the State Budget” section, this measure is one of the major components of the plan approved by the Legislature and the Governor in February 2009 to balance the state budget. The measure makes major changes to the 1984 voter initiative that created the California Lottery. These changes could increase lottery ticket sales and allow the state to borrow $5 billion in the 2009-10 fiscal year from future lottery profits. In addition, to borrowing this $5 billion, the state also could borrow more from lottery profits in future years. Under the measure, lottery profits now dedicated to schools and colleges would be used to pay back the borrowing. The measure would increase state payments to education from the state General Fund to make up for the loss of these lottery payments. (See the nearby box for definitions of terms used in this analysis.)

BACKGROUND

**Existing Lottery Laws**

**Lottery Created by a Voter-Approved Measure.** California voters approved Proposition 37 in 1984. Proposition 37 authorized creation of the lottery and dedicated lottery profits to education. It created the California State Lottery Commission (commission), which consists of five persons appointed by the Governor and confirmed by the State Senate. The commission oversees the approximately 600-person state department that administers the lottery.

**Laws Governing Use of Lottery Funds.** Proposition 37 directs the use of funds generated from sales of lottery tickets. It requires that 50 percent of these funds be returned to lottery players as prizes. (This means that, on average, a lottery player in California claims about 50 cents in prizes for every dollar spent...
on tickets.) Currently, the lottery may spend no more than 16 percent of its ticket sales on lottery operating expenses. The law deducts lottery profits—the funds remaining after payment of prizes and lottery operating expenses—to educational institutions. These payments to educational institutions must equal at least 34 percent of the funds generated from lottery ticket sales each year.

**Under Current Law, Lottery Funds Benefit Education.** Currently, state officials have no ability to use lottery funds to help balance the General Fund budget. As described below, lottery profits currently benefit educational institutions and are paid directly to schools, community colleges, and universities. The state now has no ability to borrow from future lottery profits.

**Current Lottery Funding for Education**

**Lottery Payments Are a Small Part of Education Funding.** In the 2007–08 fiscal year, the lottery sold over $3 billion of tickets, paid out $1.6 billion in prizes, and spent $380 million on operating expenses. This left about $1.1 billion in lottery profits, which were distributed to public educational entities based on their number of students. This amount represents only a small part of the overall budget of California's public educational institutions. For kindergarten through twelfth grade (K–12) schools, for example, lottery funds made up just over 1 percent of all revenues in 2007–08. In recent years, lottery payments to education have grown slowly. Between 1997–98 and 2007–08, these payments grew at an average rate of 2.8 percent per year—slightly less than the rate of inflation. In addition, as shown in Figure 1, lottery payments to education have gone up and down over time, including drops in each of the last two fiscal years. By contrast, funding provided under Proposition 98—which makes up about three-fourths of K–12 education budgets—grew at an average rate of 5.6 percent per year between 1997–98 and 2007–08. Prior to the current fiscal year, Proposition 98 funding had increased every year during the last decade.

**PROPOSAL**

This measure modifies both the State Constitution and other state laws. It makes major changes in lottery operations and the allowed uses of lottery funds. These changes also would allow the state to borrow from future lottery profits. These changes also would affect both the funding of educational institutions and the state General Fund. Figure 2 summarizes key parts of this measure and how they compare with existing law.

**Changes to Lottery Operations**

**More Flexibility for Lottery in Its Prize Payouts.** This measure gives the lottery the flexibility to increase the percentage of lottery funds returned to players as prizes. Higher prize payouts can attract more spending for lottery tickets and increase lottery profits. Under this measure, the lottery commission could set prize payouts above 50 percent of lottery sales—at the level it determines will produce the maximum amount of lottery profits each year.

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**Selected Terms Used in This Analysis**

**Borrowing.** The type of state borrowing allowed under this measure involves selling an asset to investors through a bond transaction. The asset—in this case, future lottery profits—then pays back the investors, with interest, over time. Through this borrowing, the state can receive benefit from future lottery profits "upfront"—by converting a stream of future annual payments into a large, "lump sum" amount realized now. This type of borrowing—referred to as securitization—is somewhat different from most other types of state borrowing in that it involves no legal commitment to use General Fund tax revenues to pay investors.

**Educational Institutions.** These are the public educational entities that now receive payments from the lottery, including kindergarten through twelfth grade (K–12) school districts, community college districts, the California State University system, and the University of California system.

**General Fund.** The state government's main operating account, the General Fund, now receives over $90 billion per year in taxes and other revenues. Its funds can be used by the Legislature for any purpose.

**Lottery Operating Expenses.** These are the costs to run the lottery. Currently, most of these expenses are sales commissions, bonuses, and other payments to retailers that sell lottery tickets—such as convenience stores, liquor stores, and supermarkets.

**Lottery Profits.** These are the lottery revenues that remain after payment of (1) prizes and (2) lottery operating expenses. They are currently about one-third of total sales.

**Proposition 98.** Approved by voters in 1988, Proposition 98 provides a minimum level of guaranteed funding each year to K–12 school districts and community college districts. This funding level, which is supported by the state General Fund and local property taxes, makes up about three-quarters of total revenues for these districts.

For text of Proposition 1C, see page 48.

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More Flexibility for Lottery Operating Expenses. Existing laws give the lottery more flexibility than most other state departments to spend funds for operating expenses, including contracts with private entities. Proposition 1C expands this flexibility in some ways. For instance, the measure further limits the number of contracts with private entities that the commission must submit for competitive bidding. The measure also reduces the maximum amount of lottery operating expenses from 16 percent of lottery funds each year to 13 percent of these funds. (Since the lottery currently spends under 15 percent of lottery funds—less than the maximum now allowed—on its expenses, this change probably would have no immediate effect on lottery operations.) The measure, however, gives the lottery new flexibility to carry over unused operating funds to a future year.

No Changes to Laws on Lottery Games and Devices or State Operation of the Lottery. This measure includes no changes to existing laws about the types of technologies the lottery may use in its games or the machines it may use to dispense lottery tickets. In addition, this measure continues to require the lottery to be conducted by the state and not by a private company.

Use of Lottery Profits

Profits Would No Longer Be Dedicated to Education. Under Proposition 1C, lottery profits no longer would be paid to educational institutions beginning in 2009–10. Instead, as described below, payments to educational institutions from the state General Fund would increase to make up for the loss of the lottery payments.

Borrowing From Future Lottery Profits. If voters approve this measure, the state would be able to borrow from future lottery profits and receive a large payment or payments now from investors. The state budget plan for 2009–10—approved by the Legislature and the Governor in February 2009—relies on the state receiving $5 billion from such a borrowing. Future lottery profits would be used to repay the investors—with interest—over time. There is no limit in the measure on how much state officials may borrow in 2009–10 and future years.

Profits Would Be Available for State Debt Payments or Budget Obligations. Under this measure, lottery profits not needed to pay off lottery borrowing would be transferred to a new state government account called the Debt Retirement Fund (DRF). Funds in the DRF could be used by the Legislature to pay the following state expenses:

- Debt-service costs on bonds issued by the state to fund roads, schools, prisons, and other infrastructure projects.
- Debt-service costs on Economic Recovery Bonds (ERBs). (The ERBs were approved by voters in Proposition 57 in 2004 to address state budget deficits from earlier in this decade.)
- Other debts incurred by the General Fund (such as amounts borrowed from other state funds) to help address budgetary shortfalls, as well as other General Fund budgetary obligations.

Payments for Problem Gambling Programs. The measure requires the lottery to direct $1 million of its funds each year to the state’s existing Office of Problem Gambling for its awareness and treatment programs. Currently, the lottery commits about $250,000 per year to this office to help pay for the state’s 1-800-GAMBLER problem gambling telephone line.
ANALYSIS BY THE LEGISLATIVE ANALYST

Funding for Educational Institutions

Increased State General Fund Payments. This measure requires the state to increase payments to educational institutions from the General Fund beginning in 2009–10. This would make up for the loss of lottery payments to education. Specifically, the measure requires the General Fund to make payments to educational institutions in 2009–10 equal to (1) the amount of lottery profits paid to these institutions in 2008–09 plus (2) an adjustment for growth in the number of students and the cost of living. For K–12 schools and community colleges, the measure states that these General Fund payments in 2009–10 are in addition to those already required under the Proposition 98 funding guarantee. In future years, the new General Fund payments for K–12 schools and community colleges would become part of their annual Proposition 98 funding. Future General Fund payments to educational institutions would continue to be adjusted each year for growth in the number of students, as well as cost of living. Like the payments under the existing lottery law, these General Fund payments would be distributed to educational institutions based on their number of students.

Future Amendments

Legislature Would Have More Flexibility to Amend the Law Later. Currently, two-thirds of Members in each house of the Legislature can vote to amend the lottery law to further the purposes of Proposition 37, the original lottery law passed in 1984. This measure gives the Legislature (with a two-thirds vote) more flexibility to amend the lottery law in the future. For example, such amendments could authorize new operating rules, games, or devices that increase the lottery’s ability to generate profits for public purposes.

The Legislature, however, would not be able to amend the parts of this measure that increase state General Fund payments to educational institutions without approval of the voters.

FISCAL EFFECTS

This measure would affect the finances of (1) the state General Fund, (2) the lottery, and (3) educational institutions.

Fiscal Effects on the General Fund

Lottery Borrowing Is a Key Part of the State’s 2009–10 Budget Plan. In February 2009, the Legislature and the Governor approved major spending reductions and revenue increases to address the state General Fund shortfall. This budget plan assumed that the state would receive $5 billion from future lottery profits in 2009–10. Under current revenue forecasts, the $5 billion is necessary in order for the 2009–10 budget to be in balance. Therefore, if voters reject Proposition 1C, the Legislature and the Governor probably will have to agree to billions of dollars of additional spending cuts, tax increases, and/or other solutions in order to balance the 2009–10 state budget.

Lottery Profits Would Pay Off the Borrowing and Cover Some General Fund Costs. If the state successfully borrows about $5 billion from future lottery profits in 2009–10, annual debt-service payments to investors could total between $350 million and $450 million each year for 20 to 30 years. Lottery profits first would go to make these debt-service payments. Any remaining lottery profits then would be deposited to the DRF for use in paying various General Fund expenses. Accordingly, lottery profits not needed to pay debt-service costs would benefit the General Fund.

### Figure 2

<table>
<thead>
<tr>
<th>Key Parts of Proposition 1C and How They Compare With Current Law</th>
<th>Current Law</th>
<th>Proposition 1C</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lottery prize payouts</td>
<td>Fixed at 50 percent of lottery sales.</td>
<td>Flexibility given to California State Lottery Commission to set prizes at a level above 50 percent that generates the most profits.</td>
</tr>
<tr>
<td>Use of lottery profits</td>
<td>Paid to public schools, community colleges, and universities.</td>
<td>Not paid to educational institutions. Proceeds instead are used first to repay state borrowing described above. Remaining profits would be available to benefit the state General Fund by paying state debts and budgetary obligations.</td>
</tr>
<tr>
<td>School and community college district funding</td>
<td>Annual minimum funding guarantee established by Proposition 98.</td>
<td>An increased Proposition 98 guarantee to make up for districts' loss of payments from lottery profits.</td>
</tr>
</tbody>
</table>
ANALYSIS BY THE LEGISLATIVE ANALYST

**Future Strain on the General Fund.** Proposition 1C requires increased General Fund payments to education. As described below, this measure's changes to lottery operations probably would allow the lottery to grow its sales and profits above what they would be under existing law. Nevertheless, after the increased lottery profits are used to make debt-service payments to investors, the remaining profits probably would not be enough to cover the General Fund's higher payments to education for most of the next 20 to 30 years. In the years after the $5 billion borrowing, the Legislature would probably have to identify hundreds of millions of dollars per year in revenue increases or spending decreases to cover these costs.

**Future Lottery Borrowing Also Could Affect the General Fund.** While the Legislature and the Governor have assumed the state will borrow $5 billion in 2009–10, the measure allows the state to borrow more from future lottery profits at any time in the future. If officials decided to do this, the state General Fund would benefit from the borrowing in a future year—just as the General Fund would benefit from the $5 billion borrowing in 2009–10. Additional borrowings, however, would increase debt-service costs even more. These increased costs would reduce further the portion of lottery profits available to cover the General Fund's higher payments to education. Accordingly, if state officials decide to borrow more than $5 billion from future lottery profits, budgetary decisions of the Legislature could be more difficult in the years after that borrowing.

**Financial Crisis Creates Near-Term Uncertainty About the $5 Billion Borrowing.** In 2008, the steep fall of the housing market led to insolvency or other fiscal troubles for many major financial institutions. This led to a global “credit crunch” that reduced the ability and willingness of investors to lend money to many individuals, companies, and governments, including the state. The credit crunch has eased in recent months. At the time this analysis was prepared, however, there remained a possibility that California would not be able to achieve all of the planned $5 billion lottery borrowing in 2009–10.

**Fiscal Effects if State Never Borrows From Lottery Profits.** While the state budget plan assumes $5 billion of lottery borrowing in 2009–10, this measure does not require the state to undertake such a borrowing. In the event no lottery borrowing ever takes place, voter approval of Proposition 1C would allow the other changes to lottery operations, the uses of lottery funds, and funding for educational institutions discussed in this analysis to go into effect. In other words, if voters approve Proposition 1C and the state never borrows from future lottery profits, all lottery profits would flow to the DRF and be available to cover General Fund costs, including the required payments to education under this measure. In this case, it is possible that increased lottery profits under this measure would roughly offset the General Fund's increased payments to education over the long term.

**Fiscal Effects on the Lottery**

**Increased Prize Payouts Are Likely to Increase Lottery Sales and Profits.** Each Californian currently spends an average of $83 each year on lottery tickets—considerably less than the average resident of other states with a lottery, as shown in Figure 3. There are probably many reasons why this is so, including the other entertainment and gambling options available for residents here. California’s relatively low lottery prize

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**Figure 3**

2007–08 Lottery Sales Per Resident in Selected States

<table>
<thead>
<tr>
<th>State</th>
<th>Average Sales per Resident</th>
</tr>
</thead>
<tbody>
<tr>
<td>All States</td>
<td>$105</td>
</tr>
<tr>
<td>All Lottery States</td>
<td>$190</td>
</tr>
<tr>
<td>Arizona</td>
<td>$200</td>
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<tr>
<td>Washington</td>
<td>$300</td>
</tr>
<tr>
<td>California</td>
<td>$400</td>
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<tr>
<td>Oregon</td>
<td>$500</td>
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<tr>
<td>Colorado</td>
<td>$600</td>
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<tr>
<td>Texas</td>
<td>$700</td>
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<tr>
<td>Ohio</td>
<td>$800</td>
</tr>
<tr>
<td>Florida</td>
<td>$900</td>
</tr>
<tr>
<td>Pennsylvania</td>
<td>$1,000</td>
</tr>
<tr>
<td>New York</td>
<td>$1,100</td>
</tr>
<tr>
<td>Massachusetts</td>
<td>$1,200</td>
</tr>
</tbody>
</table>

Excludes video lottery terminal sales.
payouts (about 50 cents in prizes for every dollar spent on lottery tickets) also contribute to the lottery's relatively weak sales. Higher prize payouts appear to attract more players and greater spending for lottery tickets. For example, the Massachusetts State Lottery—one of the leading lotteries in sales per resident—returns over 70 percent of its funds to players as prizes. In 2002, the Florida Legislature authorized that state's lottery to grow its prize payouts. Within five years, Florida Lottery sales grew substantially. Based on the evidence from other states, we conclude that if voters approve this measure, sales and profits of the California Lottery could grow significantly compared to how much they would grow under existing law. This growth could result in future lottery sales being somewhere between 30 percent and 80 percent higher. Because a greater share of lottery funds would be given back to players as prizes, lottery profits would grow by a smaller percentage. We estimate that lottery profits would increase by hundreds of millions of dollars per year compared to what they would be under current law.

**Choices by Consumers, Lottery Officials, and Legislators Would Affect Growth.** While lottery sales and profits could grow substantially if this proposal is approved, the precise effects of this measure cannot be predicted. The amount of sales and profit growth would depend on how California consumers react to the products offered by the lottery in the future. In addition, the lottery's financial performance would depend on many decisions made by the commission and lottery staff. They would decide, among other things, the level of lottery prize payouts, how lottery games will be marketed to the public, and how lottery retailers throughout California will be encouraged to sell lottery tickets. The Legislature also would be able to pass additional changes to the lottery law to further increase lottery profits.

**Fiscal Effects for Educational Institutions**

- **State General Fund Payments to Make Up for Loss of Lottery Funds.** Currently, educational institutions are the only entities that receive lottery profits. These profits totaled $1.1 billion in 2007–08 and appear likely to be somewhat lower in 2008–09 based on recent lottery sales trends in California and other states (due in part to the recession). Under this measure, the lottery payments to schools, community colleges, and universities would stop at the end of the 2008–09 fiscal year. Beginning in 2009–10, payments from the state General Fund would increase to make up for the loss of lottery payments. These payments would grow each year in line with the growth of students and the cost of living. For K-12 schools and community college districts, the payments would become a part of their Proposition 98 funding. Over the long term, these General Fund payments to educational institutions likely would grow faster and more consistently than the payments that the schools now receive from the lottery.

**Other Fiscal Effects**

**Effects on Other Governmental Revenues and Expenditures.** Under this measure, it is likely that California consumers would spend more of their income on the lottery. This means that Californians would spend less on other goods and services, including, perhaps, other gambling activities. State and local governments receive revenues as a result of consumer spending in these areas. Increases in lottery sales, therefore, would be partially offset by declines in other state and local revenues. The projected increase in lottery gambling activity also may contribute to more Californians having gambling problems. This could result in increased demands for services from publicly funded health and social services programs.

**Summary of Fiscal Effects**

This measure would affect finances of the state General Fund, the lottery, and educational institutions:

- **State General Fund.** This measure would allow the state to borrow $5 billion from future lottery profits in 2009–10 to help balance the 2009–10 state budget. The measure also would allow more borrowing from lottery profits in the future. While the General Fund would benefit in the future from lottery profits not needed to pay off the borrowing, these lottery profits probably would not be enough to cover higher payments to education required by this proposition. This means the state would have to identify new revenues or spending reductions to make these higher payments to education in the future.

- **Lottery.** If voters approve this measure, lottery profits probably would increase by hundreds of millions of dollars per year compared to what they would be under current law.

- **Educational Institutions.** Schools, community colleges, and universities would no longer receive payments from the lottery. Instead, these institutions would receive higher payments from the state General Fund. These payments would grow over time—likely faster and in a more consistent way than the schools' existing lottery payments.
PROPOSITION 1D

**PROTECTS CHILDREN'S SERVICES FUNDING. HELPS BALANCE STATE BUDGET.**

OFFICIAL TITLE AND SUMMARY

PROTECTS CHILDREN'S SERVICES FUNDING. HELPS BALANCE STATE BUDGET.

- Provides more than $600 million to protect children's programs in difficult economic times.
- Redirects existing tobacco tax money to protect health and human services for children, including services for at-risk families, services for children with disabilities, and services for foster children.
- Temporarily allows the redirection of existing money to fund health and human service programs for children 5 years old and under.
- Ensures counties retain funding for local priorities.
- Helps balance state budget.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:

- State General Fund savings of up to $608 million in 2009-10 and $268 million annually from 2010-11 through 2013-14, from temporarily redirecting a portion of funds from the California Children and Families Program in place of state General Fund support of health and human services programs for children up to age five.
- Corresponding reductions in funding for early childhood development programs provided by the California Children and Families Program.

FINAL VOTES CAST BY THE LEGISLATURE ON AB 17 (PROPOSITION 1D)

<table>
<thead>
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<th>Senate:</th>
<th>Ayes 37</th>
<th>Noes 0</th>
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<tr>
<td>Assembly:</td>
<td>Ayes 75</td>
<td>Noes 3</td>
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ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

First 5 Programs

Proposition 10, otherwise known as the California Children and Families Act, was enacted by the voters of California in the November 1998 election. The initiative created the California Children and Families Program (now commonly known as the First 5 program) to expand early development programs for children up to age five.

**First 5 Programs Funded With Tobacco Taxes.**

The First 5 program is funded by revenues from a state excise tax on cigarettes (50 cents per pack) and other tobacco products. (An additional 37 cents per pack in state excise taxes is imposed for other state purposes unrelated to First 5.)

Revenues generated by the First 5 tax are deposited into the California Children and Families Trust Fund and are appropriated on an ongoing basis for First 5 programs. Thus, none of these funds are subject to appropriation by the Legislature. Proposition 10 requires that these funds be added to, rather than replace, the funding for existing programs.

We estimate that Proposition 10 revenues in 2009-10 will be about $500 million. Based on our analysis of trends in tobacco consumption, we estimate Proposition 10 revenues will decrease by about 3 percent annually in the future.
State Commission. Proposition 10 established a state commission—the California Children and Families Commission—that is responsible for state-level administration of the early childhood development program. Twenty percent of available Proposition 10 revenues is allocated to the state commission, to be spent for the purposes detailed in Figure 1. The state commission funds many programs, including:

- **School Readiness**, which targets children up to age five and their families in schools with a low academic performance score.
- **Health Access**, which provides outreach and enrollment services for existing state-supported health programs, as well as expanded coverage for those children who lack health insurance but do not qualify for state-supported health programs.
- **Information Kit for New Parents**, which provides expecting and new parents with a resource kit to improve their parenting skills.

County Commissions. The remaining 80 percent of Proposition 10 revenues is allocated annually to 58 county commissions (consisting of five to nine members appointed by the county board of supervisors). The local commissions implement programs in accordance with local plans to support and improve early childhood development in their county. While the programs vary from county to county, each local commission provides services in the following three areas:

- **Family Functioning**, including adult education for parents; behavioral, substance abuse, and mental health services; and the provision of basic family needs (food, clothing, and housing).

<table>
<thead>
<tr>
<th>Figure 1</th>
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</thead>
<tbody>
<tr>
<td>Allocation of Proposition 10</td>
</tr>
<tr>
<td>Revenues to the State Commission</td>
</tr>
<tr>
<td>Purpose</td>
</tr>
<tr>
<td>Allocation</td>
</tr>
<tr>
<td>Mass media communications</td>
</tr>
<tr>
<td>Education</td>
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<tr>
<td>Child care</td>
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<tr>
<td>Research</td>
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<tr>
<td>Administration</td>
</tr>
<tr>
<td>General program purposes</td>
</tr>
<tr>
<td>Total Allocation</td>
</tr>
</tbody>
</table>

- **Child Development**, including preschool for three- and four-year-olds, kindergarten transition services, and targeted intensive intervention for children identified with special needs.
- **Child Health**, including health coverage and access services, home visitations for newborns, and prenatal care.

Unspent Fund Balances. Proposition 10 provides that any revenues to the state and local commissions not spent during a fiscal year are carried over for use in subsequent fiscal years. As of June 30, 2008, the local commissions had a total of about $2.1 billion in unspent funds, and the state commission had about $400 million in unspent funds.

Auditing and Reporting Requirements. The state and local commissions conduct independent annual audits of their expenditures and issue reports on these audits. Local commissions must submit these financial reports to the state commission, while the state commission must...
submit its reports to the Governor, the Legislature, and each county commission.

Other State Health and Human Services Programs for Children

The state currently administers a variety of health and human services programs that serve children, many of whom are age five or younger. Examples of these state-supported health and human services programs include foster care, health coverage services like Medi-Cal and Healthy Families, state preschool, and child care. These programs currently are largely operated separately of the First 5 programs and are supported by the state General Fund.

PROPOSAL

This measure temporarily redirects a significant portion of Proposition 10 funds to achieve budgetary savings and makes permanent changes to state and local commission operations, as discussed below.

Temporary Redirections of Funding to State Programs for Children. This measure amends the California Children and Families Act to temporarily allow Proposition 10 revenues to be used to fund other state health and human services programs for children up to age five. In effect, these Proposition 10 revenues would be used to offset existing state General Fund costs, thereby achieving savings to help address the state's current budgetary problem. The measure achieves these state General Fund savings in two ways:

- By redirecting up to $340 million of available unspent reserves held by the state commission as of July 1, 2009.
- By temporarily redirecting a portion of future Proposition 10 revenues. Specifically, from 2009–10 through 2013–14, this measure would divert annually $268 million in Proposition 10 funds. Of the redirected funds, $54 million would come from state commission funds and $214 million from local commission funds. During these five years, the redirected funds would be subject to appropriation by the Legislature.

Permanent Changes. This measure makes various other changes:

- New Requirements for Distribution of Audits and Reports. The measure requires that the county commissions also submit their annual audits and reports of their expenditures to the county board of supervisors and the county auditor. In addition, it requires that each county auditor serve on the local First 5 commission.
- Changes in Allocation of State Commission Funds. This measure also amends the allocation requirements for the state commission's 20 percent of Proposition 10 revenues. Specifically, it deletes the allocation now provided for mass media communications (now 6 percent) and increases the allocation for general program purposes (from 2 percent to 8 percent). Under the measure, the state commission must also ensure that every county commission receives at least $400,000 each year.
- County Borrowing of First 5 Funds. Finally, it allows a county controller to borrow local commission funds for that county's general fund, unless the transfer would interfere with local commission activities. Any borrowed funds must be repaid with interest.
FISCAL EFFECTS

The measure would have the following fiscal effects on state and local governments.

Reduction in Funding Available for Existing State and Local Commission Programs. This measure would reduce state commission funding by up to $340 million on a one-time basis in 2009–10 by redirecting the state commission’s reserve funds. In addition, this measure would reduce funding for the state and local commissions by $268 million annually from 2009–10 through 2013–14.

State General Fund Savings. This measure would achieve state savings of up to $608 million in 2009–10 and $268 million annually from 2010–11 through 2013–14. This results from using a portion of Proposition 10 funds in place of state General Fund for state-supported health and human services programs for children up to age five.

Other Potential Fiscal Effects. The reduction in state and local First 5 commission funding could result in other costs to the state and local agencies (primarily counties and schools). This would occur to the extent that some children and families rely on other health and human services programs instead of those now provided under First 5. However, absent this measure, other budget reductions or revenue increases would be needed to address the state’s severe fiscal problems. The fiscal effects of these alternative budget-balancing solutions on state and local programs and state revenues are unknown.
MENTAL HEALTH SERVICES FUNDING. TEMPORARY REALLOCATION. HELPS BALANCE STATE BUDGET.

- Amends Mental Health Services Act (Proposition 63 of 2004) to transfer funds, for a two-year period, from mental health programs under that act to pay for mental health services for children and young adults provided through the Early and Periodic Screening, Diagnosis, and Treatment Program.
- Provides more than $225 million in flexible funding for mental health programs.
- Helps balance state budget during this difficult economic time.

Summary of Legislative Analyst’s Estimate of Net State and Local Government Fiscal Impact:
- State General Fund savings of about $230 million annually for two years (2009–10 and 2010–11) from redirecting a portion of Proposition 63 funds to an existing state program in place of state General Fund support.
- Corresponding reduction in funding available for Proposition 63 community mental health programs.

FINAL VOTES CAST BY THE LEGISLATURE ON SB 10 (PROPOSITION 1E)

<table>
<thead>
<tr>
<th>Senate:</th>
<th>Ayes 36</th>
<th>Noes 2</th>
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</thead>
<tbody>
<tr>
<td>Assembly:</td>
<td>Ayes 76</td>
<td>Noes 4</td>
</tr>
</tbody>
</table>

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

County Mental Health Services

Counties are the primary providers of mental health care in California communities for persons who lack private coverage for such care. Both children and adults are eligible to receive such assistance. Counties provide a range of psychiatric, counseling, hospitalization, and other treatment services to patients. These services are intended to help improve the health and functionality of individuals with mental illness while also minimizing their potential for disability, homelessness, criminal activity, and hospitalization.

County mental health programs are paid for with a mix of state, local, and federal funds. Counties spend about $5 billion annually from these sources on these programs. Some support for county mental health programs is provided through the state budget act and thus is subject to annual actions by the Legislature and Governor. Some state revenues, however, are automatically set aside for the support of these programs.

Proposition 63

Mental Health Programs Funded With Personal Income Tax Surcharge. In November 2004, California voters approved Proposition 63, also known as the Mental Health Services Act. Proposition 63 provides state funding for certain new or expanded mental health programs through a personal income tax surcharge of 1 percent on the portion of a taxpayer’s taxable income in excess of $1 million. Revenues generated by the surcharge are dedicated to the support of specified mental health programs and, with some exceptions, are not appropriated by the Legislature through the annual budget act. Full-year annual Proposition 63 revenues to date have ranged from about $900 million to $1.5 billion, and could vary significantly in the future.

Program Activities Supported From Proposition 63.

Proposition 63 funding is generally provided for five major purposes: (1) expanding community services, (2) providing workforce education and training, (3) building capital facilities and addressing technological needs, (4) expanding prevention and early intervention programs, and (5) establishing innovative programs. Figure 1 provides additional detail on these major program activities, which are currently at different stages of planning and implementation.

How Proposition 63 Programs Are Administered.

The state Department of Mental Health (DMH), in coordination with certain other agencies, has the lead role at the state level in implementing most of the programs specified in the measure—generally through contracts with the counties. Counties draft and submit for state review and approval their plans for the delivery of certain mental health services funded under Proposition 63. Some Proposition 63 funds are used in combination with matching federal funding to provide mental health services for persons eligible under the Medi-Cal health care program. (Medi-Cal provides health care services to qualified low-income persons, primarily consisting of families with children and the aged or disabled.)
Figure 1
Major Program ActivitiesSupported
With Proposition 63 Funding

- **Community Services.** Expansion of "systems of care" for seriously emotionally disturbed children and adults with a serious mental illness, including both mental health treatment and services such as housing to assist patients.

- **Mental Health Workforce Education and Training.** Stipends, loan forgiveness, scholarship programs, and other incentives to address existing shortages of mental health staffing in community programs and ensure a sufficient workforce to meet future demand.

- **Capital Facilities and Technology.** New programs to allocate funding to counties for technology improvements and capital facilities for the provision of mental health services.

- **Prevention and Early Intervention.** State and local prevention and early intervention programs to identify persons showing early signs of mental illness and place them into treatment quickly before their illness becomes more severe.

- **Innovation Programs.** New programs to experiment with ways to improve access to mental health services (including underserved groups), to improve program quality, or to promote interagency collaboration in the delivery of services to clients.

Restrictions on Use of Proposition 63 Funds.
Proposition 63 imposes various restrictions on the state and counties regarding spending on mental health programs. For example, Proposition 63 revenues must be used to expand mental health services and cannot be used for other purposes. The state is specifically barred from reducing General Fund support for mental health services below the levels provided in 2003–04.

Early and Periodic Screening, Diagnosis, and Treatment (EPSDT) Program

The EPSDT is a federally mandated program that requires states to provide a broad range of screening, diagnosis, and medically necessary treatment services—including mental health services—to Medi-Cal beneficiaries under age 21. The DMH administers the mental health services required under the EPSDT program generally through county contracts. These services include group and individual counseling and assistance in stabilizing children and young adults who experience a mental health crisis.

Total expenditures for EPSDT specialty mental health services now exceed $1 billion annually. The federal government provides about one-half of the funding, with most of the remaining cost borne by the state and a small portion borne by the counties.

PROPOSAL

This measure allows for the temporary redirection of some Proposition 63 funds to support EPSDT mental health services. Specifically, $226.7 million in Proposition 63 funds would be redirected in 2009–10, and between $226.7 million and $234 million would be redirected in 2010–11, to support EPSDT. In effect, these Proposition 63 revenues would be used to offset state costs that would otherwise be borne by the General Fund, thereby achieving savings to help address the state's current budgetary problem.

FISCAL EFFECTS

Funding Redirection From Proposition 63 Programs to EPSDT

This measure would result in state General Fund savings of about $230 million a year for two years (2009–10 and 2010–11) from redirecting a portion of Proposition 63 funds to state-supported EPSDT mental health services. It would result in an equivalent reduction in Proposition 63 funding.

Other Potential Fiscal Effects

Additional Potential Fiscal Effects Due to Redirection of Proposition 63 Funds

The proposed temporary redirection in Proposition 63 funding would make less money available for mental health programs. To the extent that such programs are reduced, state and local governments could incur added costs for homeless shelters, social services programs, medical care, law enforcement, and county jail and state prison operations. The extent of these potential costs is unknown and would depend upon the specific programmatic changes that resulted from the redirection of Proposition 63 funding.

Potential Decrease in Federal Funds

As noted earlier, some Proposition 63 funds are used to draw down federal matching funds through the Medi-Cal Program. Thus, the redirection of Proposition 63 funds proposed in this measure could result in a decrease in federal financial support. The amount of any reduction is unknown, and would depend on how the state and counties choose to adjust their programs in response to this redirection.

Impact of Alternative Budget Actions

Absent this measure, other budget reductions or revenue increases might need to be adopted to address the state's severe fiscal problems. The fiscal effects of these alternative budget-balancing solutions on state and local programs and state revenues are unknown.

For text of Proposition 1E, see page 55.
PROPOSITION

ELECTED OFFICIALS' SALARIES.
PREVENTS PAY INCREASES DURING BUDGET DEFICIT YEARS.

OFFICIAL TITLE AND SUMMARY

ELECTED OFFICIALS' SALARIES.
PREVENTS PAY INCREASES DURING BUDGET DEFICIT YEARS.

- Encourages balanced state budgets by preventing elected Members of the Legislature and statewide constitutional officers, including the Governor, from receiving pay raises in years when the state is running a deficit.
- Directs the Director of Finance to determine whether a given year is a deficit year.
- Prevents the Citizens Compensation Commission from increasing elected officials' salaries in years when the state Special Fund for Economic Uncertainties is in the negative by an amount equal to or greater than one percent of the General Fund.

Summary of Legislative Analyst's Estimate of Net State and Local Government Fiscal Impact:
- Minor state savings related to elected state officials' salaries in some cases when the state is expected to end the year with a budget deficit.

FINAL VOTES CAST BY THE LEGISLATURE ON SCA 8 (PROPOSITION 1F)

<table>
<thead>
<tr>
<th></th>
<th>Senate:</th>
<th>Ayes 39</th>
<th>Noes 0</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assembly:</td>
<td></td>
<td>Ayes 80</td>
<td>Noes 0</td>
</tr>
</tbody>
</table>

ANALYSIS BY THE LEGISLATIVE ANALYST

BACKGROUND

Voter-Created Commission Sets State Official Pay and Benefits. Proposition 112—approved by voters in June 1990—amended the State Constitution to create the California Citizens Compensation Commission. The commission includes seven members appointed by the Governor, none of whom can be a current or former state officer or state employee. The commission establishes the annual salary, as well as medical insurance and other benefits, for the following elected state officials:
- The Legislature (120 Members).
- The Governor.
- The Lieutenant Governor.
- The Attorney General.
- The Controller.
- The Insurance Commissioner.
- The Secretary of State.
- The Superintendent of Public Instruction.
- The Treasurer.
- The Board of Equalization (4 Members).

While the commission has control over most pay and benefits received by these state officials, there are certain exceptions. For example, Members of the Legislature are eligible to receive per diem payments to cover lodging, meals, and other expenses for each day of attendance at legislative sessions. The level of per diem payments is set by another state board and not by the commission. In addition, under Proposition 140 (approved by voters in November 1990), Members of the Legislature have been prohibited from earning state retirement benefits since November 1990. Accordingly, the commission has no control over these retirement benefits.

Factors the Commission Considers When Setting State Officials' Pay and Benefits. Proposition 112 requires the commission to consider the following factors when it adjusts the annual salary and benefits of state officials:
- How much time is required to perform official duties, functions, and services.
- The annual salary and benefits for other elected and appointed officials in California with similar responsibilities, including judicial and private-sector officials.
ELECTED OFFICIALS’ SALARIES
PREVENTS PAY INCREASES DURING BUDGET DEFICIT YEARS.

ANALYSIS BY THE LEGISLATIVE ANALYST

- The responsibility and scope of authority of the state official.

Currently, the Constitution does not list the financial condition of the state as a factor the commission must consider when setting the pay and benefits of these officials. In addition, Proposition 6—approved by voters in November 1972—prohibits the reduction of elected state officials’ salaries during their terms of office.

**Current Salaries of Elected State Officials.** Based on past commission decisions, elected state officials are currently eligible to receive annual salaries ranging from $116,000 (for legislators) to $212,000 (for the Governor).

PROPOSAL

This proposition amends the Constitution to prevent the commission from approving increases in the annual salary of elected state officials in certain cases when the state General Fund is expected to end the year with a deficit.

**Official Certification of a Deficit Would Be Required.** On or before June 1 of each year, the state Director of Finance (who is appointed by the Governor) would be required to notify the commission in certain cases when the state’s finances have weakened. Specifically, the Director would notify the commission if the Special Fund for Economic Uncertainties (SFEU) is expected to have a negative balance equal to or greater than 1 percent of the annual revenues of the state General Fund on June 30 (the last day of the state’s fiscal year). As described in the analysis of Proposition 1A (also on this ballot), the SFEU is the state’s traditional rainy day reserve fund. Currently, 1 percent of General Fund revenues is almost $1 billion.

**Certification of the Deficit Would Prevent Raises for Elected State Officials.** In years when the commission chooses to adjust state officers’ pay and benefits, it already is required to pass a resolution to do this before June 30. These pay and benefit adjustments take effect beginning in December. Under this measure, if the Director of Finance certifies that the SFEU will end the month of June with a deficit of 1 percent or more of General Fund revenues, state officials will not be eligible to receive a salary increase to take effect in December of that year.

**FISCAL EFFECTS**

**Cost Savings From State Officials’ Salaries During Certain Deficit Years.** This measure would prevent the commission from approving pay increases for state officials in certain cases when the state General Fund is expected to end the year with a deficit. Under current practice, the commission might have otherwise approved pay increases in those years. The commission does not grant pay increases every year, and the level of pay increases granted by the commission is not always the same. Since January 2000, the commission has raised the pay of elected officials four times. Over this period, the total pay increases for each official have been equal to or less than the rate of inflation. Currently, a 1 percent raise for the elected state officials costs the state about $160,000 per year. If, for example, the commission were inclined to grant the officials a 3 percent raise but were prevented from doing so under this measure, the state would save less than $500,000 that year. Consequently, savings in any year would be minor.

**May Contribute to Different Budget Decisions by the Legislature and Governor.** The Constitution already requires the Legislature and the Governor to adopt a balanced budget each year. When the budget falls substantially out of balance during the course of a fiscal year, the Constitution allows the Governor to declare a fiscal emergency and call the Legislature into a special session to address the emergency. The Constitution, however, does not require the budget to end the year in balance. This measure may have the effect of influencing the Legislature and the Governor to make different budgetary decisions—decisions, for example, that reduce a projected state deficit or make it less likely a deficit emerges in the first place. These impacts, however, are not possible to estimate.

For text of Proposition 1F, see page 56.
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

MEETING DATE: May 5, 2009

AGENDA HEADING: Public Communications

AGENDA DESCRIPTION:
Consideration and possible action regarding correspondence from Superintendent Geoff Yantz, dated April 29, 2009, concerning filming at El Segundo High School. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:
1. Staff has no recommendation on this item.
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
1. Letter from Superintendent Geoff Yantz, El Segundo Unified School District
2. Spreadsheet regarding filming days
3. Correspondence from Councilmember Brann regarding letter

FISCAL IMPACT: None

Amount Budgeted: $  
Additional Appropriation: N/A
Account Number(s):

ORIGINATED BY: Geoff Yantz, Superintendent, El Segundo Unified School District
REVIEWED BY: Bill Crowe, Assistant City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

El Segundo Unified School District Superintendent Yantz asked that this item be placed on the City Council Agenda.

The City Council is not required to discuss or take action on this item.
Wayt, Jack

From: Geoff Yantz [gyantz@esusd.k12.ca.us]
Sent: Wednesday, April 29, 2009 9:58 AM
To: Wayt, Jack
Cc: McDowell, Kelly (Mayor); Busch, Eric (Mayor Pro Tem); Jacobson, Carl (Council Member); Bill Fisher; Brann, Don (Council Member); Jim Garza

Subject: Request
Attachments: JackWayt - Filming Ordinance.docx

April 28, 2009

Mr. Wayt,

As I know you are well aware, El Segundo Unified School District greatly values the relationship we have forged over the years with the City of El Segundo. We have many times pooled our resources, talents, and visions to ensure that the students of this community enjoy a rigorous education with an eye toward preparing them to be successful 21st Century citizens.

The City ordinance allows El Segundo High School to serve as a film location for different TV shows and movies for twenty days during the course of a calendar year. Unfortunately, the allotted days have been utilized. Therefore, no additional revenue for the high school can be generated through November 2009.

As we know, the arts are the linchpin of the Los Angeles economy with tentacles into many neighboring communities, including El Segundo. With the debilitating cuts enacted upon education by the State budget, and potentially many more to befall us after the May/June Governor's revision, we cannot afford to leave any stone unturned that will help us fund the excellent curriculum all stakeholders - teachers, administrators, community members, and students themselves - have worked so hard to develop.

I am asking the City Council to see its way clear to consenting to an additional ten days of filming to help keep our programs afloat. Please pass an emergency ordinance or any other avenue of civic recourse that would expedite this request.

As Superintendent, working closely with the School Board and all members of the community, we are ever vigilant about every dollar that flows out of this district with the mandate that it has to be carefully and responsibility spent. To have dollars flow into the high school from these film crews that have been such a windfall to our school district, especially in this time of harsh budget deficits, would be one bright ray of light on the horizon.

I hope you can consider this request on behalf of all the students of El Segundo Unified School District.

Sincerely,

Geoff Yantz, Ed.D.
Superintendent
Cc: City Council
    Board of Education
    Jim Garza, ESHS Principal

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I hope you can consider this request on behalf of all the students of El Segundo Unified School District.

Sincerely,

Geoff Yantz, Ed.D.
Superintendent

Cc: City Council
    Board of Education
    Jim Garza, ESHS Principal
<table>
<thead>
<tr>
<th>Name of School</th>
<th>Address</th>
<th>City</th>
<th>County</th>
<th>State</th>
<th>URL</th>
<th>Phone</th>
<th>Contact Name</th>
<th>Phone Ext.</th>
<th>Notes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Example School</td>
<td>123 Main St</td>
<td>Portland</td>
<td>Multnomah</td>
<td>OR</td>
<td><a href="http://www.example.com">www.example.com</a></td>
<td>555-1234</td>
<td>John Doe</td>
<td>123</td>
<td>Public School</td>
</tr>
</tbody>
</table>

**Production Company**

Total Prep: 3 Days
Film Prep: 5 Days
Strike Prep: 2 Days

**Total Days:** 10
**Days in bracket:** 0
**Days in parentheses:** 0
**Days in square brackets:** 0

---

11/8/2016

**Production Company:**

Kevin Pons suicidio

415 Main St

**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

4/22/2009

**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

4/22/2009

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

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Dr. Street Succ

10/1/2009

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**School Staff:**

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Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ

10/1/2009

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**School Staff:**

**Loc. loc. loc. Name**

Dr. Street Succ
Wayt, Jack

From: Don Brann [dsbrann@sbcglobal.net]
Sent: Wednesday, April 29, 2009 11:05 AM
To: 'Geoff Yantz'; Wayt, Jack
Cc: McDowell, Kelly (Mayor); Busch, Eric (Mayor Pro Tem); Jacobson, Carl (Council Member); Bill Fisher; Brann, Don (Council Member); 'Jim Garza'
Subject: RE: Request

Hi Geoff:

Based on past year's history of incoming filming revenue, can you estimate what the District's/high school's loss will be if the current ordinance is enforced?

Dr. Don

From: Geoff Yantz [mailto:gyantz@esusd.k12.ca.us]
Sent: Wednesday, April 29, 2009 9:58 AM
To: 'JWayt@elsegundo.org'
Cc: 'kmcdowell@elsegundo.org'; 'ebusch@elsegundo.org'; 'cjacobson@elsegundo.org'; 'bfisher@elsegundo.org'; 'dbrann@elsegundo.org'; Jim Garza
Subject: Request

April 28, 2009

Mr. Wayt,

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I am asking the City Council to see its way clear to consenting to an additional ten days of filming to help keep our programs afloat. Please pass an emergency ordinance or any other avenue of civic recourse that would expedite this request.

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I hope you can consider this request on behalf of all the students of El Segundo Unified School District.

Sincerely,

Geoff Yantz, Ed.D.  
Superintendent

Cc: City Council  
    Board of Education  
    Jim Garza, ESHS Principal

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AGENDA DESCRIPTION:

Consideration and possible action to conduct a Public Hearing regarding the adoption of a resolution increasing the civil penalties for parking violations regulated by Title 8 of the El Segundo Municipal Code by $5.00 due to changes in the Government Code. (Fiscal Impact: $55,630.00)

RECOMMENDED COUNCIL ACTION:
1. Continue Public Hearing to consider increasing the parking violation penalties;
2. Adopt Resolution approving the $5.00 increase related to parking in accordance with the Government Code;
3. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Resolution- Exhibit A

FISCAL IMPACT: Potential
Amount Budgeted: $
Additional Appropriation: N/A
Account Number(s):

ORIGINATED BY: Bob Turnbull, Police Captain
REVIEWED BY: David Cummings, Chief of Police
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

An amendment in 2008 to Government Code section 70372(b) increased the parking penalty surcharge due to the State of California from El Segundo to $4.50. As of January 1, 2009, the City must remit $9.50 to the County of Los Angeles for disbursement to the County and the State for every parking citation written in El Segundo. Parking penalties must be rounded to whole dollar amounts to communicate citation hold records to the California Department of Motor Vehicles. It is the recommendation that City Council adopts a $5.00 increase to all parking penalties.

Government Codes 76000(b), 76100, 76101 and 70372(b) and Vehicle Code 40203.5 regulate parking penalties and surcharges that are assessed by the County of Los Angeles and the State of California on all parking tickets written in El Segundo. In 2008, Senate Bill 1407, Chapter 311 of the Statutes of 2008, amended subdivision (b) of Government Code 70372 to increase the parking penalty surcharge assessed by the State in cities, districts, or other issuing agencies.
which elect to accept parking penalties. This increased the parking penalty surcharge paid to the State from $1.50 to $4.50 for the State Court Construction penalty fund as of January 1, 2009.

Like many other cities in California, El Segundo was not aware of the increase to the parking penalty surcharges imposed by the State until late December 2008. The Police Department contacted the California Public Parking Association and the Los Angeles Superior Court to determine the actual required increases and the division of funds. The City received a letter from the Los Angeles Superior Court dated February 17, 2009. See the attachment to this report, Parking Fines, Fees and Penalties. The letter itemized the amount and distribution of revenue for each parking citation written in the City of El Segundo. The following table identifies the distribution of surcharges:

<table>
<thead>
<tr>
<th>DESCRIPTION</th>
<th>AMOUNT</th>
<th>CODE SECTIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Existing - County Courthouse Construction Fund</strong></td>
<td>$2.50</td>
<td>G.C. 76100, G.C. 76000(b)</td>
</tr>
<tr>
<td><strong>Existing - County Criminal Justice Facilities Construction Fund</strong></td>
<td>$2.50</td>
<td>G.C. 76101, G.C. 76000(b)</td>
</tr>
<tr>
<td><strong>New - State Court Facilities Construction Fund (SB 1407)</strong></td>
<td>$1.50</td>
<td>G.C. 70372(b)</td>
</tr>
<tr>
<td><strong>New - State Critical Needs Facilities Construction Fund (SB 1407)</strong></td>
<td>$3.00</td>
<td>G.C. 70372(b)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$9.50</td>
<td></td>
</tr>
</tbody>
</table>

As shown in the table above, the County of Los Angeles currently receives, and will continue to receive, $5.00 from every citation (First two items on chart). The recently amended Government Code section adds two increases totaling $4.50 (Third and fourth items on chart). The total amount that must now be paid to the County of Los Angeles and State of California combined is $9.50 from every citation issued in El Segundo.

The California Public Parking Association advised its members that parking penalty amounts communicated to the California Department of Motor Vehicles must be rounded to a whole dollar amount to process hold records and collections. The parking penalty collected for El Segundo citations is $25 for vehicles obstructing crosswalks, driveways and sidewalks. Expired registration tab violations are $65; disabled space parking violations is $330; and most other parking penalties are $35. Each of these costs already includes the five dollar parking penalty surcharge imposed by the County. The handicapped parking violations are subject to an additional surcharge of two dollars for every ten dollars collected. The Police Department recommends a $5.00 increase to each parking penalty amount to provide for the $4.50 increase and to allow the recovery of fines by the DMV during the vehicle registration process by rounding to the whole dollar amount.
FISCAL IMPACT

If the City Council approves this resolution, the City will realize a revenue increase of approximately $5,500 (using 11,000 citation, the number written in 2008 as an estimate). If the City Council does not approve this resolution, staff will likely impose an increase of $4.00 per citation and the city would see a revenue reduction of approximately $5,500 per year.
RESOLUTION NO. _____

A RESOLUTION ADOPTING A FINE SCHEDULE PURSUANT TO CALIFORNIA VEHICLE CODE § 40203.5.

The City Council of the city of El Segundo does resolve as follows:

SECTION 1: This Resolution is adopted pursuant to Vehicle Code §§ 22507.6 (street sweeping), 40000.1(violations as infraction), 40000.28 (misdemeanor upon three or more convictions), 40200 (parking violations subject to civil penalty), and 40203.5 (establishing penalty amounts). The fine amounts (collectively, "fines") attached as Exhibit "A" to this Resolution are adopted as the City's fine schedule for purposes of imposing fines pursuant to Title 8 of the ESMC.

SECTION 2: To the extent any provision of this Resolution is incompatible with or at variance with any prior adopted resolution, the provisions of this Resolution take precedence, and all previous resolutions will be interpreted to harmonize with and not change the provisions of this Resolution.

SECTION 3: This Resolution is effective immediately upon adoption.

PASSED AND ADOPTED this _____ day of __________, 2009.

______________________________
Kelly McDowell, Mayor

ATTEST:

______________________________
Cindy Mortesen, City Clerk

APPROVED AS TO FORM:
MARK D. HENSLEY, City Attorney

By: __________________________
Karl H. Berger, Assistant City Attorney
EXHIBIT A

FINE SCHEDULE FOR ADMINISTRATIVE CITATIONS ORDINANCE

A. Unless otherwise provided, all violations of Title 8 to the ESMC, including, without limitation, violations of ESMC § 8-5-3 related to street sweeping, will have fines imposed as follows:

1. A fine not exceeding forty dollars ($40) for the first violation;

2. A fine not exceeding seventy dollars ($75) for a second violation of the same provision within one year;

3. A fine not exceeding one hundred five dollars ($110) for each additional violation of the same provision within one year of the first violation.

B. Violations of the following sections will have fines imposed as indicated:

### CALIFORNIA VEHICLE CODE VIOLATIONS

<table>
<thead>
<tr>
<th>SECTION CITED</th>
<th>AMOUNT OF PENALTY</th>
</tr>
</thead>
<tbody>
<tr>
<td>21113(a)</td>
<td>VEHICLE ON PUBLIC GROUNDS $30.00</td>
</tr>
<tr>
<td>22500 A-K</td>
<td>PROHIBITED STOPPING, STANDING OR PARKING $30.00</td>
</tr>
<tr>
<td>22500.1</td>
<td>FIRE LANE $60.00</td>
</tr>
<tr>
<td>22502 A-E</td>
<td>CURB PARKING $30.00</td>
</tr>
<tr>
<td>22505</td>
<td>PARKING ON STATE HIGHWAY $20.00</td>
</tr>
<tr>
<td>22507.8(a)(b)</td>
<td>HANDICAPPED ZONE $335.00</td>
</tr>
<tr>
<td>22514</td>
<td>BY FIRE HYDRANT – NO OPERATION $35.00</td>
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<tr>
<td>22515</td>
<td>UNATTENDED VEHICLE $30.00</td>
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<tr>
<td>22521</td>
<td>PARKING NEAR RAILROAD TRACK $30.00</td>
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<tr>
<td>22522</td>
<td>PARKING WITHIN 3' OF HANDICAP RAMP $285.00</td>
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<td>27155</td>
<td>NO VEHICLE GAS CAP $35.00</td>
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<td>5200</td>
<td>NO FRONT/REAR LICENSE PLATE $35.00</td>
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<td>5204(a)</td>
<td>NO CURRENT LICENSE TAB $70.00</td>
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### EL SEGUNDO MUNICIPAL CODE PARKING VIOLATIONS

<table>
<thead>
<tr>
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<tr>
<td>8-5-3G</td>
<td>NO. PKG – STREET SWEEPING $40.00</td>
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<td>8-5-3C</td>
<td>NO PKG – SPECIFIED TIME $40.00</td>
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<td>8-5b-7</td>
<td>COMM. VEHICLES 5 HOUR LIMIT $40.00</td>
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<td>13-10-2</td>
<td>FIRE LANE $60.00</td>
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<td>ACCOUNT NUMBER</td>
<td>DESCRIPTION</td>
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<tr>
<td>001</td>
<td>GENERAL FUND</td>
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<tr>
<td>104</td>
<td>TRAFFIC SAFETY FUND</td>
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<td>106</td>
<td>STATE GAS TAX FUND</td>
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<td>108</td>
<td>ASSOCIATED RECREATION ACTIVITIES FUND</td>
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<td>ASSET FORFEITURE FUND</td>
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<td>111</td>
<td>COMM. DEV. BLOCK GRANT</td>
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<td>112</td>
<td>PROP &quot;A&quot; TRANSPORTATION</td>
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<td>114</td>
<td>PROP &quot;C&quot; TRANSPORTATION</td>
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<tr>
<td>115</td>
<td>AIR QUALITY INVESTMENT PROGRAM</td>
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<td>116</td>
<td>HOME SOUND INSTALLATION FUND</td>
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<td>117</td>
<td>HYPERION MITIGATION FUND</td>
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<td>118</td>
<td>TDA ARTICLE 3 - 59-921 BREKWAY FUND</td>
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<td>122</td>
<td>L.A.W.A. FUND</td>
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<td>301</td>
<td>CAPITAL IMPROVEMENT FUND</td>
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<td>INFRASTRUCTURE REPLACEMENT FUND</td>
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<td>WORKERS COMP. RESERVE INSURANCE</td>
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<td>RETIRED EMP. INSURANCE</td>
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<td>702</td>
<td>EXPENDABLE TRUST FUND - DEVELOPER FEES</td>
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<td>EXPENDABLE TRUST FUND - OTHER</td>
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<td>708</td>
<td>OUTSIDE SERVICES TRUST</td>
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**TOTAL WARRANTS**

$1,117,980.38

---

**VOID CHECKS DUE TO ALIGNMENT:**

N/A

**VOID CHECKS DUE TO INCORRECT CHECK DATE:**

N/A

**VOID CHECKS DUE TO COMPUTER SOFTWARE ERROR:**

N/A

**NOTES**

Handwritten Early Release disbursements and/or adjustments approved by the City Manager.

**FINANCE DIRECTOR**

Date: 4/28/09

**CITY MANAGER**

Date: 4/28/09
### CITY OF EL SEGUNDO
### PAYMENTS BY WIRE TRANSFER
### 04/10/09 THROUGH 04/23/09

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<tr>
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<th>Amount</th>
<th>Description</th>
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<td>812,310.90</td>
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<td>4/11/09</td>
<td>Health Comp</td>
<td>2,852.84</td>
<td>Weekly claims</td>
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<td>4/16/09</td>
<td>Employment Development</td>
<td>56,516.23</td>
<td>State Taxes</td>
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<td>4/16/09</td>
<td>IRS</td>
<td>247,760.18</td>
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<td>4/17/09</td>
<td>Federal Reserve</td>
<td>350.00</td>
<td>Employee Savings Bond</td>
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<td>4/17/09</td>
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<td>Child support withholdings</td>
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<td>4/17/09</td>
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<td>4/17/09</td>
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<td>4,525.98</td>
<td>PARS payment</td>
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<td>4/17/09</td>
<td>Manufacturers &amp; Traders</td>
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<td>4/20/09</td>
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<td>La Salle</td>
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<td>4/22/09</td>
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<td>4/23/09</td>
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<td>4/10-4/23/09</td>
<td>Workers Comp Activity</td>
<td>37,211.87</td>
<td>SCRMA checks issued</td>
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**DATE OF RATIFICATION: 5/05/09**
**TOTAL PAYMENTS BY WIRE:**

1,600,735.18

Certified as to the accuracy of the wire transfers by:

**Deputy City Treasurer**

**Director of Finance**

**City Manager**

Information on actual expenditures is available in the City Treasurer's Office of the City of El Segundo.
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL  
TUESDAY, APRIL 21, 2009 – 6:00 P.M.

6:00 P.M. SESSION

CALL TO ORDER – Mayor McDowell at 6:00 p.m.

ROLL CALL

Mayor McDowell - Present  
Mayor Pro Tem Busch - Present  
Council Member Brann - Present  
Council Member Fisher - Present  
Council Member Jacobson - Present

PUBLIC COMMUNICATION – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250.

SPECIAL ORDER OF BUSINESS:

None

CLOSED SESSION:
The City Council may move into a closed session pursuant to applicable law, including the Brown Act (Government Code Section §54960, et seq.) for the purposes of conferring with the City’s Real Property Negotiator; and/or conferring with the City Attorney on potential and/or existing litigation; and/or discussing matters covered under Government Code Section §54957 (Personnel); and/or conferring with the City’s Labor Negotiators; as follows:

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION (Gov’t Code §54956.9(a) -1- matter 

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code §54956.9(b): -1- potential case (no further public statement is required at this time); Initiation of litigation pursuant to Government Code §54956.9(c): -1- matter.

DISCUSSION OF PERSONNEL MATTERS (Gov’t Code §54957): - 0- matter
CONFERENCE WITH CITY'S LABOR NEGOTIATOR (Gov't Code §54957.6): - 0- matters

CONFERENCE WITH REAL PROPERTY NEGOTIATOR (Gov't Code §54956.8): - 0- matter

SPECIAL MATTERS: - 0- matter

Council recessed at 6:50 p.m.
REGULAR MEETING OF THE EL SEGUNDO CITY COUNCIL
TUESDAY, APRIL 21, 2009 - 7:00 P.M.

7:00 P.M. SESSION – Mayor McDowell at 7:00 p.m.

CALL TO ORDER

INVOCATION – Pastor Brandon Cash, Oceanside Christian Fellowship

PLEDGE OF ALLEGIANCE – Mayor Pro Tem Eric Busch

PRESENTATIONS

a. Mayor McDowell presented a proclamation declaring the second week of April as National Public Safety Telecommunications Week. Max Phipps, Police Captain, spoke and introduced two City of El Segundo Dispatchers, Jennifer Malone and Rhonda Zeck.

b. Presentation from Beach Cities Transit Update, Line 109 – Fiona Diaz, Beach Cities Transit Representative. Canceled

ROLL CALL

Mayor McDowell - Present
Mayor Pro Tem Busch - Present
Council Member Brann - Present
Council Member Fisher - Present
Council Member Jacobson - Present

PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed.

Dr. Vince Marcel and wife Diane Marcel announced that May 16th is dedicated as Children’s safety and medical awareness day. All proceeds going to ESSF. Requested that Council consider waiving the permit fee.

Daphine Moote, teacher ESUSD and President El Segundo Teachers Association, wished to speak about the upcoming State Special Election. Assistant City Attorney Karl Berger stated that an item would need to be placed on the agenda in order for
Council to consider the item. Ms. Moote requested Council agendize an item to introduce a Resolution in support of the Ballot measures. She also, wanted to thank the Council for their support of the El Segundo Unified School District.

A. PROCEDURAL MOTIONS

Consideration of a motion to read all ordinances and resolutions on the Agenda by title only.

MOTION by Council Member Jacobson SECONDED by Council Member Fisher read all ordinances and resolutions on the Agenda by title only. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

B. SPECIAL ORDERS OF BUSINESS (PUBLIC HEARING)

1. Consideration and possible action to conduct a Public Hearing regarding the adoption of a resolution increasing the civil penalties for parking violations regulated by Title 8 of the El Segundo Municipal Code by $5.00 due to changes in the Government Code. (Fiscal Impact: $55,630.00)

Mitch Tavera, Police Captain, requested the Public Hearing be continued until the next Council Meeting on May 5, 2009.

MOTION by Council Member Jacobson, SECONDED by Council Member Fisher to continue the Public Hearing until the next Council Meeting on May 5, 2009. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

C. UNFINISHED BUSINESS

D. REPORTS OF COMMITTEES, COMMISSIONS AND BOARDS

E. CONSENT AGENDA
All items listed are to be adopted by one motion without discussion and passed unanimously. If a call for discussion of an item is made, the item(s) will be considered individually under the next heading of business.

2. Approved Warrant Numbers 2571064 to 2571295 on Register No. 13 in the total amount of $1,116,149.07 and Wire Transfers from 03/27/2009 through 04/09/2009 in the total amount of $1,401,297.12. Authorized staff to release. Ratified: Payroll and Employee Benefit checks; checks released early due to contracts or agreement; emergency disbursements and/or adjustments; and wire transfers.

3. Approved Regular City Council Meeting Minutes of April 7, 2009.
4. Adopted Plans and Specifications and authorized staff to advertise for bid the construction of a retaining wall at the Softball Field in Recreation Park at 339 Sheldon Street – Project No. PW 09-03. (Fiscal Impact: $226,119.00)

5. Authorized the Director of Public Works to execute Change Order No. 1 to the existing Standard Public Works Contract No. 3897 with HP Builder's, Inc. in the total amount of $26,514.79; Authorized the City Manager to execute an amendment to the existing Professional Services Agreement No. 3582 with BOA Architects in the amount of $4,800.00 in conjunction with the City Hall Improvements - HR Remodel Project PW 08-13.

6. Received and filed report without objecting to a new Alcoholic Beverage Control (ABC) license for on-site sale and on-site consumption of alcohol (Type 41 - On-Sale Beer and Wine) at an existing restaurant located at 450 Main Street (Main Street Café), EA No. 816 and AUP No. 08-06. Applicant: Ariel Garcia (Fiscal Impact: None)

7. Received and filed report without objecting to a new Alcoholic Beverage Control (ABC) license for on-site sale and on-site consumption of alcohol (Type 41 - On-Sale Beer and Wine) at an existing restaurant located at 827-829 N. Douglas Street (Zpizza), EA No. 815 and AUP No. 08-05. Applicant: Saro Enterprises, Inc./Zpizza (Fiscal Impact: None)

8. Approved Mattel’s request to maintain two temporary oversized five hundred four (504) square-foot banners classified as “Special Event Signs” for a period of two [2] months beginning April 22, 2009 and ending June 22, 2009 on the south side of the parking structure located at 333 Continental Boulevard. (Fiscal Impact: None)

9. Adopted Plans and Specifications for Replacement of Water Main on Lairport Street from Mariposa Avenue to Maple Avenue. Project No.: PW 09-04 (Fiscal Impact: $225,000) Authorized staff to advertise the project for receipt of construction bids.

MOTION by Council Member Brann, SECONDED by Mayor ProTem Busch to approve Consent Agenda Items 2, 3, 4, 5, 6, 7, 8 and 9. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

CALL ITEMS FROM CONSENT AGENDA

None.

F. NEW BUSINESS

Consideration and possible action to introduce an Ordinance amending Title 10; Chapter 2 of the El Segundo Municipal Code, Water Conservation in Landscaping, to
incorporate Metropolitan Water District's Conservation Requirements, Water Use Regulations and Restrictions. (Fiscal Impact: None)

Dana Greenwood, Director Public Works, gave a report.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF EL SEGUNDO, CALIFORNIA, AMENDING CHAPTER 2.10 TO THE CITY OF EL SEGUNDO MUNICIPAL CODE REGARDING POLICIES FOR WATER CONSERVATION

MOTION to by Mayor McDowell, SECONDED by Council Member Fisher to have City Attorney's Office review Ordinance and see how it affects existing municipal code and consistency, Council also requested the City Attorney's Office take into consideration a letter written by Toni Reina, Planning Manager, Continental Development Corporation and any other written responses received. MOTION PASSED BY UNANIMOUS VOICE VOTE. 5/0

REPORTS – CITY MANAGER - None

REPORTS – CITY ATTORNEY - None

REPORTS – CITY CLERK - None

REPORTS – CITY TREASURER - None

REPORTS – CITY COUNCIL MEMBERS

Council Member Brann – Signed up to go on Study to Diamond Valley Lake in Temecula. Attended grand opening of new Aerospace building.

Council Member Fisher – Attended grand opening of new Aerospace building and attended Karl's Stores opening. Announced Tree Musketeers has a new office on Grand Ave.

Council Member Jacobson – Attended the grand opening of the new Aerospace building and Karl's Stores. Mentioned America's Most Wanted Website to vote for Lt. Garcia; can vote everyday until May 4th; website is amw.com.

Mayor Pro Tem Busch – Announced West Basin's Free Smart Landscape Expo from 9am to 1pm May 2nd at West Basin location in El Segundo.

Mayor McDowell – Announced that he was requested by Supervisor Don Knabe to testify before the Board this morning on SB 696.
PUBLIC COMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have receive value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed. - NONE

MEMORIALS – NONE

CLOSED SESSION – NONE

ADJOURNMENT at 7:35p.m.

Mona Shilling, Clerk Pro Tem
AGENDA DESCRIPTION:

Consideration and possible action regarding the acceptance of $182,875 in grant funding from the U.S. Department of Homeland Security (DHS), Buffer Zone Protection Plan (BZPP) for protection of critical City facilities under the Infrastructure Protection Activities (IPA) for Federal Fiscal 2007. (Fiscal Impact: $182,875)

RECOMMENDED COUNCIL ACTION:

1. Authorize the acceptance of $182,875 in grant funds from the FY2007 BZPP grant program.

2. Authorize the City Manager to sign the Subrecipient Agreement (SA) with the County of Los Angeles.

3. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

Resolution authorizing the City Manager and the Chief of Police to enter into an agreement with Los Angeles County to receive funding from a DHS grant to enhance critical infrastructure facilities within the City.

FISCAL IMPACT: Budget Adjustment Required

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<td>Account Number(s):</td>
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ORIGINATED BY: W. G. Krumbach, Police Lieutenant
REVIEWED BY: David Cummings, Chief of Police
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

In July 2007, members of the El Segundo Police Department and DHS completed a risk-management analysis of identified critical infrastructure facilities within the City. This assessment measured the security capabilities of state and local entities to prevent, protect against, respond to and recover from terrorist attacks, major disasters and other emergencies.

In June of 2008, the State of California Office of Homeland Security (OHS) informed Los Angeles County that the El Segundo grant had been approved. In February 2009 the resolution between the State and the County was finalized and the Police Department was notified of the grant approval. The State and County act as grant managers for this funding.
The DHS BZPP grant will fund the hiring of a consultant for the acquisition, installation and implementation of a customized open platform software/hardware system to integrate disparate video surveillance systems in the City of El Segundo. This includes integrating analogue, digital and Internet based systems currently in place in both the private and public sector. The open platform system will also be capable of incorporating future camera projects.

City staff members from the Information Services Division, Norm Thorn and David Gray, have been involved in discussing and developing this project with members of the Police Department.

The County of Los Angeles has provided a Subrecipient Agreement (SA) to the City of El Segundo. On February 4, 2009, El Segundo Assistant City Attorney completed his review and approval as to form of the SA to be signed.

Due to the voluminous nature of the SA, a copy was not included with the agenda item. A copy of the Agreement is available for review in the City Clerk's Office.
RESOLUTION NO. ____

A RESOLUTION AUTHORIZING THE CITY MANAGER AND POLICE CHIEF TO APPLY FOR, RECEIVE, AND APPROPRIATE GRANT FUNDS FOR ACQUISITION OF SECURITY DEVICES REQUIRED TO PROTECT PUBLIC HEALTH AND SAFETY.

The City Council of the city of El Segundo does resolve as follows:

SECTION 1: The City Council finds and declares as follows: The City of El Segundo has been approved by Department of Homeland Security to receive grant funding from the Fiscal Year 2007/2008 Buffer Zone Protection Plan (BZPP) and Vulnerability Reduction Purchase Plan (VRPP) to address security concerns at critical infrastructures within the City.

SECTION 2: The City Manager and Police Chief are authorized to apply for a grant of $182,875 from the Department of Homeland Security to be used for acquiring and installing security devices needed to protect public services and facilities.

SECTION 3: The City Manager, or designee, is authorized to execute any required documents to receive the grant for the purposes identified herein.

SECTION 4: The City Manager, or designee, is authorized to accept and spend the grant monies identified in this Resolution for the purposes set forth herein.

SECTION 5: The City Council hereby amends or supplements the City's Budget for fiscal year 2008/2009 to appropriate the monies identified herein to pay for the security devices proposed by the City in support of its grant application. The City Manager, or designee, is authorized to implement the purpose of this section.

SECTION 6: This Resolution will become effective immediately upon adoption.

PASSED AND ADOPTED this 5th day of May, 2009.

__________________________
Kelly McDowell, Mayor
ATTEST:

STATE OF CALIFORNIA)       
COUNTY OF LOS ANGELES )     SS
CITY OF EL SEGUNDO )        

I, Cindy Mortesen, City Clerk of the City of El Segundo, California, do hereby certify that the whole number of members of the City Council of said City is five; that the foregoing Resolution No. ____ was duly passed and adopted by said City Council, approved and signed by the Mayor, and attested to by the City Clerk, all at a regular meeting of said Council held on the 5th day of May, 2009, and the same was so passed and adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

__________________________
Cindy Mortesen, City Clerk

APPROVED AS TO FORM:

MARK D. HEMLEY, CITY ATTORNEY

By:

Karl H. Berger, Assistant City Attorney
EL SEGUNDO CITY COUNCIL
AGENDA STATEMENT

MEETING DATE: May 5, 2009
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action to accept a cash contribution from Chevron Products Company, donated to the El Segundo Fire Department in support of Super CPR Saturday (Cardio-Pulmonary Resuscitation instruction) (Fiscal Impact: $1,000)

RECOMMENDED COUNCIL ACTION:
1. Accept donation and authorize the City Manager to transfer the monies into the CPR General Fund account,
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
None

FISCAL IMPACT: Included in Adopted Budget

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ORIGINATED BY: Jeffrey Robinson, Emergency Management Coordinator
REVIEWED BY: Kevin S. Smith, Fire Chief
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
Since 1996, the El Segundo Fire Department, in conjunction with the American Red Cross, has sponsored an annual Super CPR Saturday event. This event offers FREE Adult CPR training to the community at large and traditionally trains approximately 350 citizens in one day. Over the past thirteen years, the event has trained several thousand people from all over the South Bay in the necessary skills to perform CPR and perhaps save a life. This event cannot be conducted without the generous support and contributions from community groups and local business and industry. Chevron has been an annual contributor to Super CPR Saturday since its inception. The funds will go to maintain their annual support of Super CPR Saturday ($1,000).
EL SEGUNDO CITY COUNCIL

AGENDA STATEMENT

AGENDA DESCRIPTION:
Consideration and possible action regarding approval of an amendment to the Agreement No. 3874 with AKM Consulting Engineers to prepare a Water Rate Study for the City water utility.
(Fiscal Impact: $28,404.00)

RECOMMENDED COUNCIL ACTION:
1. Authorize the City Manager to execute an amendment with AKM Consulting Engineers for an amount not to exceed $28,404.00
2. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
AKM Proposal

FISCAL IMPACT: Included in Adopted Budget
Amount Requested: $28,404.00
Additional Appropriation: No
Account Number(s): 501-400-7102-6206

ORIGINATED BY: Maryam M. Jonas, Principal Civil Engineer
REVIEWED BY: Dana Greenwood, Public Works Director
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
The City owns and operates a water system consisting of water reservoirs, a tank and piping servicing approximately 4,800 customers. Over the past four (4) years, the City Council has approved four (4) separate water rate increases, a 1.87% increase was approved in April 2005, a 5.18% increase in April 2006, a 4.32% increase in October 2007 and a 4.35% increase in October 2008. Even with these rate increases, the cash revenues and retained earnings of the Water Enterprise Fund have been depleted by increases in the water rate charges by Metropolitan Water District of Southern California (MWDSC).

The MWDSC rate increases have been as follow:

- January 2005  5.98%
- January 2006  2.26%
- January 2007  5.52%
- January 2008  6.28%
- January 2009  13.98%
Furthermore, the MWDSC is proposing a 19.7% increase in September 2009, rather than scheduled increase on January 1, 2010 with yet another rate increase in January of 2011.

The proposed water rate study will review the current City's water rate structure including the proposed increases in the MWDSC water rate, to determine the cash revenue needs of the water system, and assist in developing policies, which will place the Water Enterprise Fund on a sound financial basis.

AKM Consulting Engineers can provide this service to the City more economically than other firms because they have the City's database of the water system when they developed the City's water rate study in 2005. AKM Consulting Engineers is presently preparing the plans for the improvement of the City's wastewater collection system at pump stations number 1 and 7. The Funding for this service is provided through the water enterprise fund.
April 6, 2009

City of El Segundo
350 Main Street
El Segundo, California 90245

Attention: Ms. Maryam Jonas

Subject: Proposal to Prepare a Water Rate Update Study

Dear Ms. Jonas:

AKM Consulting Engineers is pleased to submit this proposal to prepare an update to the rate study for the City's water utility. The purpose of the study is to update the existing financial model with the most current information, including the increases in the Metropolitan Water District of Southern California's imported water rates, and develop new rates that will provide adequate and stable revenues for operating the municipal water utility as a self sufficient enterprise.

The City currently provides water service to approximately 4,500 customers within its service area. The existing source of supply consists solely of imported water from the Metropolitan Water District of Southern California. Four classes of Recycled water produced by the West Basin Municipal Water District is provided to various customers in El Segundo.

Scope of Work

The scope of work for the study will consist of:

1. Analysis of operating expenses between FY 2003-2004 and 2007-2008. This will include water purchases, power, operation and maintenance, staff costs, supplies, equipment, administrative costs.
2. Review of the existing and planned charges from the Metropolitan Water District of Southern California for imported water, and evaluation of its impact on the water rates
3. Analysis of the existing capital improvement and facility replacement program for the next ten (10) years
4. Review of existing reserves in the water fund, and developing recommendations for future reserves (Water Fund Balances)
5. Update the existing financial model with the most up-to-date fund balance, expenditure, and revenue information.
6. Conduct financial analyses to develop rates for the next five years. The recommended rates will stabilize the revenues for fixed operation and maintenance, and capital improvements
7. Hold meetings with City's Public Works and Administrative Services Department staff to obtain information, provide status reports, and review the submittals
8. Prepare a draft report of the rate study, and submit ten (10) copies to the City of El Segundo

9. Review the comments with City staff, incorporate them into the report and prepare final Rate Study Report. Include twenty (20) hard copies, and one electronic copy that can be utilized for additional reproductions. The submittal will include the financial model, and instructions on the use of the model.

10. Prepare presentations and participate in staff and public workshops, including two (2) meetings with the City Council.

The City will provide:

1. Annual Financial Reports (audited) from FY 03-04 through FY 07-08 from which the water utility's annual revenues and expenses can be clearly developed.
2. FY 08-09 and FY 09-10 budgets.
3. Ten-year capital improvement plan, including anticipated facility replacements.
4. One year of billing data by meter and billing period for all meters in Excel.
5. Water purchase reports by month from FY 03-04 through present.
6. Water sales reports by billing period from FY 03-04 through present.
7. Other information as available from existing files.

Schedule

We propose to complete this scope of work within 16 weeks of obtaining all needed information from the City.

Workhour and Cost Estimate

The workhours needed to complete the work tasks and associated costs are presented in the table below:

<table>
<thead>
<tr>
<th>Task</th>
<th>Description</th>
<th>Hours</th>
<th>Cost</th>
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<td>2</td>
<td>Review of MWD Rates</td>
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<td>Review 10-yr CIP &amp; Replacement Program</td>
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<td>Review Reserve Requirements/Policies</td>
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<td>5</td>
<td>Update Financial Model</td>
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<td>6</td>
<td>Conduct Financial Analyses</td>
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<td>10</td>
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</table>

AKM Prop. 09-3060-04-06
City of El Segundo
Ms. Maryam Jonas
April 6, 2009
Page 3

We appreciate the opportunity to submit this proposal and look forward to being of continued service to the City of El Segundo. Should you have any questions or require additional information, please do not hesitate in contacting the undersigned.

Very truly yours,

AKM Consulting Engineers

[Signature]
Zeki Kayiran, P.E.
Principal
AGENDA DESCRIPTION:
Consideration and possible action regarding approval of the American Cancer Society’s Relay for Life 2009 event request for a waiver of City-related fees per municipal code section 8-8-7 D 1 and use of the City logo artwork per municipal code 1-3-1 to 1-3-5 (Fiscal Impact: $6,500)

RECOMMENDED COUNCIL ACTION:
(1) Approve the waiver of City-related fees per El Segundo Municipal Code § 8-8-7(D)(1); (2) approve use of the City Seal for the public purpose of promoting public health and safety per ESMC § 1-3-3 to 1-3-5; (3) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Attachment 1: Letter of Request from the American Cancer Society “Relay for Life”

FISCAL IMPACT: Included in Adopted Budget
Amount Budgeted: $6,500
Additional Appropriation: No
Account Number(s): 001-400-3102-4103 and 001-400-5210-4103 and 001-400-5210-5204

ORIGINATED BY: Bob Cummings, Recreation and Parks Director
REVIEWED BY: Jack Wayt, City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
The American Cancer Society’s Relay for Life City has requested the City of El Segundo and El Segundo Unified School District approve the 3rd annual 24-hour overnight fundraising event, held on El Segundo High School’s track and football field from 9 a.m., Saturday, June 11 to 9 a.m., Sunday, June 12, 2009.

The Relay for Life celebrates cancer survivorship and raises money for American Cancer Society research and programs. At events in communities internationally, teams who have secured sponsorships gather on designated areas at schools, fairgrounds, or parks and take turns walking or running laps for 24 hours overnight. Each team keeps one member walking or running the track at all times, while entertainment and food is provided by local business sponsorships and community groups.
Representatives of the ACS's *Relay for Life* have met with El Segundo School District and City representatives to obtain necessary approvals and permits in order to hold the event and to request fee waivers. The American Cancer Society is a 501 (c)(3) corporation.

El Segundo High School Principal, Jim Garza has approved the high school use on the proposed event dates of June 11-12, 2009.

The American Cancer Society's *Relay for Life* has requested the following from the City:

(1) Permission to use the City logo for promotional items; (2) Use of the City's portable stage, available City tables, chairs, pop-up canopies, and sand for luminaries; (3) A Relay for Life proclamation at the June 2nd City Council meeting; (4) Allow live and recorded amplified music from the stage until 10pm on Saturday, June 11 and movies with a reduced sound level be allowed to be shown till 6am on Sunday morning, June 12; (5) Police Department to provide any necessary officers on-site during the 24 hr period; (6) Fire Department for support and use of their portable grill; (7) that lights on the high school track and football field be allowed to remain on overnight; (8) A "Paint Our Town Purple" National Cancer Awareness Week proclamation at the July 7 Council meeting and that Relay volunteers be allowed to decorate Main, Grand, and Mariposa with purple ribbons, balloons, streamers, and flyers on Sunday, June 28, taking them down by Mon. July 6; (9) That event participants be allowed to remain on-site and camp overnight at the high school on the football field inside the track; (10) A booth at the City's "Hometown Fair" and "4th of July special events; (11) Use of the City shuttle service for transporting participants from the Chevron lot to the High School during the Relay event set up and break down; (12) Use of the City parking lot on Mariposa and Main Street during the event; (13) that the City waive fees associated with the above requests.

The event is proposed to be held on school district grounds and not on a City facility. With City-support and associated fee-waivers being requested, overnight lighting with portable lights on the football field to safely illuminate the track and event area, and amplified sound, a City Special Event Permit and Amplified Sound Permit and supporting documents will be completed and filed no later than one month prior to the event. The Cancer Society anticipates approximately 1000 participants throughout the 24-hour period. Due to the nature of the event, participation numbers on-site at any given time will vary throughout the event. Parking on the high school and additional parking for the event is requested at the corner of Main and Mariposa Streets. Insurance naming the School District and City as additionally insured will be provided by the American Cancer Society. A minimum of 2 weeks prior to the event, the American Cancer Society will be required to notify residents within 200 feet of the high school's football field and track area of the event.

As this event appears to have become an annual City-wide community special event, it can be anticipated and included in the budget process for approval of the event in future years.
March 2, 2009

City of El Segundo
350 Main Street
El Segundo, CA 90245

To the City of El Segundo,

On behalf of the American Cancer Society California Division Inc and the 2009 Relay For Life of El Segundo committee, we would like to request the use of a few City of El Segundo services for our 3rd Annual Relay For Life of El Segundo.

Relay For Life is a very special community event that honors cancer survivors and families that have lost loved ones to cancer. It is a 24-hour event where the community comes together and shows their support for this cause for the full 24 hours, because cancer never sleeps. The event will take place on July 11th-12th 2009 at the El Segundo High School field. The El Segundo High School principle, Jim Garza, has agreed to host our event. The committee will pass out letters to the neighbors on all four sides of the high school 1 week prior to the event to notify and invite them to the event. Prior to the Relay, the Relay For Life of El Segundo committee solicits donations as well as plans entertainment and food for the full 24 hours. The following services are being requested from the City of El Segundo:

City Supplies and Support:

City Logo Permission - we would like permission to use the City of El Segundo logo to put on the back of all participant t-shirts and thank you banners to recognize the City for their support and sponsorship of our event.

City Stage - we are requesting the use of the city stage for the entertainment including DJ, choir singers, and dance routines.

Relay For Life of El Segundo Proclamation - we are requesting a proclamation from the City of El Segundo on the July 7th City Council Agenda for the Relay For Life of El Segundo on July 11th-12th 2009.

Amplified Sound - we ask that a permit be issued for the amplified noise from 9am to 10pm as well as movies to be shown from midnight to 6am.

Police Dept - voluntary support to help provide a safe and enjoyable community event as well as add to the community support of this event.

Fire Dept - voluntary support to help provide a safe and enjoyable community event as well as add to the community support of this event. We would also like to request the use of their portable grill.
Lights- the approval from the city to have the lights stay on for the full 24 hours to provide extra safety to the walkers at night. The lights will also need to be turned off for a brief hour for the luminaria ceremony from (8:45pm-9:45pm).

Paint Our Town Purple support- We would like to make the week of June 28th our El Segundo Cancer Awareness week and “Paint our town purple.” We are requesting support of the City of El Segundo by providing a proclamation as well as permission to decorate the main streets of El Segundo (Main, Grand, and Mariposa) with purple ribbons, balloons, streamers, and flyers. The decorations would be taken down by the following Sunday, July 5th.

Special Events Permit and Fees Waived- we would like to request that the special events permit be approved by the city and any associated fees be waived so that the money being raised by the community will go directly to the cause.

Hometown Fair Booth- we are requesting a booth at the Hometown Fair on May 2nd 2009 to help publicize our event to the community.

Tables, chairs, canopies, and Sand- we would like to request the use of tables, chairs, canopies, and sand from the El Segundo Recreation and Parks department so the money being raised by the community will go directly to the cause.

Shuttle Service- We would also like to request the same shuttle service the Recreation and Parks of El Segundo was able to provide last year to help maintain smooth parking on July 11th-12th.

Thank you to the City of El Segundo for your amazing support in our 2007 and 2008 Relay For Life of El Segundo, helping to celebrate the lives of our El Segundo cancer survivors, remember those we have lost in our community, and fight back against the disease that has taken so much!

Relay For Life of El Segundo is coordinated by a group of very dedicated volunteers who are anxious to get things up and running. The Event Chair for the 2009 Relay For Life of El Segundo is Cathy Ibrahim (310) 487-5655. Your support in providing the services listed above for the 2009 Relay For Life of El Segundo will help to support the community effort in fighting this disease and further the mission of the American Cancer Society. Your support will also help us reach our 2009 goals for the Relay For Life of El Segundo: 75 survivors, 50 teams, 45 committee members, and $200,000.

If you have any questions, or need additional information, please do not hesitate to call me at (310)256-0582.

Sincerely,

Katie Holmes
Community Development Manager
American Cancer Society
Katie.Holmes@cancer.org
EL SEGUNDO CITY COUNCIL
MEETING DATE: May 5, 2009
AGENDA STATEMENT
AGENDA HEADING: Consent Agenda

AGENDA DESCRIPTION:
Consideration and possible action regarding approval of the Annual Kids Day International event request for a waiver of City-related Special Event fees. (Fiscal Impact: $745)

RECOMMENDED COUNCIL ACTION:
(1) Approve the waiver of City-related fees; (2) Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:
Letter of Request from Dr. Vincent Marcel, D.C. of the Body Doc Healing Center

FISCAL IMPACT:
Amount Budgeted: $745.00
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Greg Carpenter, Director, Planning and Building Safety Department
REVIEWED BY: Jack Wayt, City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:
Dr. Vincent Marcel, D.C. of the Body Doc Healing Center has requested the City of El Segundo approve the 15th Annual Kids Day International fundraising event for the El Segundo Educational Foundation. The event being held at 1924 maple Avenue from 12 p.m. to 3 p.m. on Saturday, May 16, 2009 is similar to events for which fees may be waived.

According to the applicant, the Annual Kids Day International is an event dedicated to children’s health, safety, and environmental awareness held in communities throughout the world. There will be hundreds of communities participating in the fifteenth year of this event. The Body Doc Healing Center will be the local sponsor of the event in El Segundo. The sponsor will provide essential information to all attendees on crime prevention, child safety, and environmental issues, free health screenings and information on disease prevention and health promotion. Free fingerprinting will be provided to all children who attend, courtesy of the El Segundo Police Department and fire safety information will be provided by the El Segundo Fire Department. In addition, electronic waste recycling will be available for attendees.
Mayor Kelly McDowell
And Council Members
City of El Segundo

Dear Mayor McDowell,

On Saturday, May 16th, 2009, communities worldwide will be participating in "Kids Day International™." This is a special day dedicated to children's health, safety, and environmental awareness in our community. There will be hundreds of communities participating in the fifteenth year of this historic event, in which 3,000,000 children have benefited in 2,000 cities. We at Body Doc Healing Center will be hosting this event here in El Segundo. The proceeds will be benefiting the El Segundo Educational Foundation. We thank you for your support in this event and ask that you help us to get the permit fees waived.

As a local Chiropractor, I spend a lot of time both inside and outside of my practice helping children. It is for this reason that I chose to sponsor this monumental event in El Segundo. We will provide essential information to all attendees on crime prevention, child safety, and environmental issues. We also will provide free fingerprinting to all children who attend, courtesy of our local police department. Our local fire department plans to support the event by providing fire safety tips.

My staff and I are inviting all of our friends and neighbors to join us at this event. We expect appearances from Councilmen Bill Fisher, other dignitaries and a representative from the local papers. Our office will perform free health screenings, and we will distribute information on disease prevention and health promotion. We have an electronic recycling truck on location. There will be special appearances by the El Segundo K-9 unit, a Fire Truck, jumpies for the kids and much more. We will also provide balloons, snacks, and give-aways along with prize drawings every half-hour!

We would greatly appreciate it if the city could waive the Temporary Use Permit fee of $745.00. As mentioned, the proceeds will be benefiting the children of the community as the fund raiser is for the El Segundo Educational Foundation. We look forward to your response.

Yours in health,

Dr. Vincent Marcel, D.C. and Staff
Event Coordinator, Kids Day International™

Body Doc Healing Center
310-546-8863
AGENDA DESCRIPTION:

Consideration and possible action to adopt a resolution opposing AB 155 (Mendoza), a bill imposing an unnecessary procedure burden upon local governments in managing their fiscal affairs by requiring local entities to first obtain approval of the California Debt and Investment Advisory Commission before filing for Chapter 9 bankruptcy protection. (Fiscal Impact: None)

RECOMMENDED COUNCIL ACTION:

1. Adopt the attached resolution opposing AB 155;
2. Authorize legislative advocacy efforts to oppose passage of the bill;
3. Alternatively, discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

1. Resolution of City Council opposing AB 155 (Mendoza)
2. Copies of AB 155, Current Bill Status, History and Committee

FISCAL IMPACT: None

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<td>Additional Appropriation:</td>
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<td>Account Number(s):</td>
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ORIGINATED BY: Kelly McDowell, Mayor
REVIEWED BY: Bill Crowe, Assistant City Manager
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

Under current law, any taxing agency or instrumentality of the State may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States. This bill would provide that a local public entity may only file under federal bankruptcy law after the consent of the California Debt and Investment Advisory Commission. Accordingly, this bill would impose a new unnecessary procedural burden by requiring a local government entity to obtain approval from a State Commission before filing for Chapter 9 bankruptcy protection.

The League of California Cities and the South Bay Cities Council of Governments strongly oppose AB 155 as an unwarranted intrusion upon local government’s management of local fiscal affairs. Additionally, as municipal bankruptcy is rarely used (only two California cities have petitioned for its use in 60 years) and cities have a much better track-record for managing their fiscal and budgetary affairs than does the State, this bill appears to be a questionable solution in search of a problem.
A RESOLUTION OF THE CITY OF EL SEGUNDO
OPPOSING AB155 (MENDOZA) A BILL IMPOSING AN UNNECESSARY
PROCEDURAL BURDEN ON LOCAL GOVERNMENTS IN MANAGING THEIR
FISCAL AFFAIRS

BE IT RESOLVED by the Council of the City of El Segundo as follows:

SECTION 1: The City Council finds as follows:

A. Under current law, any taxing agency or instrumentality of the state
may file a petition and prosecute to completion bankruptcy
proceedings permitted under the laws of the United States;

B. This bill would provide that a local public entity may only file under
federal bankruptcy law with the prior approval of the California Debt
and Investment Advisory Commission;

C. This bill would impose an unnecessary procedural burden by
requiring a local government entity to obtain approval from a State
Commission before filing for Chapter 9 bankruptcy protection;

D. Most local government agencies are fiscally-responsible; unlike the
State of California whose fiscal house is in shambles and currently
has the worst credit rating among all states.

SECTION 2: The City of El Segundo is concerned that this bill is imposing an
unnecessary procedural burden on local government entities in managing their
fiscal affairs, particularly in light of the fact that municipal bankruptcy in California
has been used by only two cities in 60 years.

SECTION 3: The City of El Segundo strongly opposes AB 155 which would
require local government agencies to obtain the approval of the California Debt
and Investment Advisory Commission before filing for Chapter 9 bankruptcy
proceedings under federal law.

SECTION 4: The City Manager is directed and authorized to communicate the
City Council's policy position on this matter to members of the California
Legislature, the Governor and appropriate state agencies as necessary.

SECTION 5: The City Clerk is directed to certify the adoption of this Resolution;
record this Resolution in the book of the City's original resolutions; and make a
minute action of the adoption of the Resolution in the City Council's records and
the minutes of this meeting.
SECTION 6: This Resolution will become effective immediately upon adoption and will remain effective unless repealed or superseded.

PASSED AND ADOPTED this 5th day of May 2009.

__________________________
Kelly McDowell,
Mayor

ATTEST:

__________________________
Cindy Mortesen,
City Clerk

APPROVED AS TO FORM:
Mark D. Hensley, City Attorney

By: _______________________
Karl H. Berger
Assistant City Attorney
An act to amend Section 53760 of, and to add Section 8860 to, the Government Code, relating to local government.

LEGISLATIVE COUNSEL'S DIGEST

AB 155, as amended, Mendoza. Local government: bankruptcy proceedings.

Under existing law, any taxing agency or instrumentality of the state may file a petition and prosecute to completion bankruptcy proceedings permitted under the laws of the United States.

This bill would provide that a local public entity may only file under federal bankruptcy law with the approval of the Local Agency Bankruptcy Committee that would consist of the Controller, the Treasurer, and the Director of Finance; California Debt and Investment Advisory Commission, as specified.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:
(a) California is one of only 12 states that grants blanket authority for its municipalities to petition for bankruptcy and offers no opportunity for its municipalities to receive state-level, prebankruptcy guidance, oversight, or assistance for those jurisdictions that are truly insolvent and face no other alternative to bankruptcy.
(b) The costs of municipal financial default are borne by the state as a whole, including every California taxpayer.
(c) State intervention in local affairs should only occur in exceptional circumstances and not without a compelling interest of statewide concern.
(d) Given the connection between state allocations and local budgets, the state has a role in mitigating possible local bankruptcy.
(e) It is the duty of all state and local elected officials to ensure that governments provide essential services to the communities they are elected to serve.
(f) California's taxpayers who rely on public safety, senior, park, and library services, as well as those who own and operate businesses in our communities deserve every effort that state and local government can make to avoid the long-term devastation of bankruptcy.
(g) The California Debt and Investment Advisory Commission, as established by the Legislature in 1981, is the appropriate body to provide the expert oversight and guidance sought by local public agencies who find themselves in a fiscal crisis, given its current statutory duties to collect municipal finance data, conduct research, administer educational seminars, and provide information and technical assistance on behalf of local public agencies and their finance professionals, and given the commission's diverse membership that includes state and local government financial experts.

SEC. 2. Section 8860 is added to the Government Code, to read:
8860. (a) The commission shall, upon request of a local public agency, advise and, if deemed appropriate by the commission,
grant approval to the agency to exercise its rights pursuant to
Section 53760, which may include conditions prescribed by the
commission.
(b) Upon request under subdivision (a), the local public agency
shall submit all of the following to the commission:
(1) A proposed plan for restructuring debt and other financial
obligations to avoid a fiscal crisis.
(2) An itemization of creditors that may be impaired or may
seek damages as a result of the proposed restructuring.
(3) Any and all supporting documentation that the local public
entity deems appropriate in support of the stated fiscal crisis or
as requested by the commission, that may be required to perform
a desk audit.
(c) Upon receipt of the information required by subdivision (b),
the commission shall do all that it deems necessary to evaluate
the fiscal condition of the local public agency, including, but not
limited to, reviewing the submission and recommending specific
action to be taken by the public agency to avert fiscal insolvency.
(d) Any recommendations released, or approvals granted, by
the commission shall be conducted in a noticed public hearing.
(e) As used in this section, “local public entity” means any city,
county, city and county, district public authority, public agency,
or other entity that is a “municipality” within the meaning of
paragraph (40) of Section 101 of Title 11 of the United States
Code, or that qualifies as a debtor under any federal bankruptcy
law applicable to local public entities.

SECTION 3.

SEC. 3. Section 53760 of the Government Code is amended
to read:

53760. (a) Except as otherwise provided by statute, a local
public entity in this state may, with the approval of the Local
Agency Bankruptcy Committee California Debt and Investment
Advisory Commission, under the terms and conditions that the
committee may impose; commission may impose pursuant to
Section 8860, file a petition and exercise powers pursuant to
applicable federal bankruptcy law.
(b) As used in this section, “local public entity” means any
county, city, district, public authority, public agency, or other
entity, without limitation, that is a “municipality,” as defined in
paragraph (40) of Section 101 of Title 11 of the United States Code
1 (bankruptcy), or that qualifies as a debtor under any other federal
2 bankruptcy law applicable to local public entities.
3 (e) The Local Agency Bankruptcy Committee is comprised of
4 the Controller, the Director of Finance, and the Treasurer.
CURRENT BILL STATUS

MEASURE : A.B. No. 155
AUTHOR(S) : Mendoza (Principal coauthor: Torrico) (Coauthors:
Brownley, Coto, De Leon, Fuentes, Furutani, Ma, Nava,
John A. Perez, V. Manuel Perez, and Yamada) (Coauthor:
Senator Wiggins).
TOPIC : Local government: bankruptcy proceedings.
HOUSE LOCATION : ASM
LAST AMENDED DATE : 03/27/2009

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

LAST HIST. ACT. DATE: 04/23/2009
LAST HIST. ACTION : From committee: Do pass, and re-refer to Com. on APPR.
COMM. LOCATION : ASM APPROPRIATIONS

TITLE : An act to amend Section 53760 of, and to add Section
8860 to, the Government Code, relating to local
government.
COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 155
AUTHOR       : Mendoza
TOPIC        : Local government: bankruptcy proceedings.

TYPE OF BILL :
Active
Non-Urgency
Non-Appropriations
Majority Vote Required
Non-State-Mandated Local Program
Fiscal
Non-Tax Levy

BILL HISTORY
2009
Apr. 23 From committee: Do pass, and re-refer to Com. on APPR.
Mar. 31 Re-referred to Com. on L. GOV.
Mar. 27 From committee chair, with author's amendments: Amend, and re-refer
to Com. on L. GOV. Read second time and amended.
Feb. 26 Referred to Com. on L. GOV.
Jan. 27 From printer. May be heard in committee February 26.
Jan. 26 Read first time. To print.
BILL ANALYSIS

AB 155

Date of Hearing: April 22, 2009

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT
Anna Marie Caballero, Chair
AB 155 (Mendoza) - As Amended: March 27, 2009

SUBJECT: Local government: bankruptcy proceedings.

SUMMARY: Prohibits a local public entity, as defined, from exercising its rights under applicable federal bankruptcy law unless granted approval by the California Debt and Investment Advisory Commission (CDIAC), under CDIAC's terms and conditions. Specifically, this bill:

1) Allows a local public entity, if CDIAC approves, under the terms and conditions that CDIAC may impose, to file a petition and exercise powers pursuant to applicable federal bankruptcy law.

2) Requires CDIAC, upon request of a local public agency, to advise, and if deemed appropriate by CDIAC, grant approval to the local public agency to exercise its right pursuant to applicable federal bankruptcy law.

3) Requires the local public agency to submit to CDIAC all of the following:

   a) A proposed plan for restructuring debt and other financial obligations to avoid a fiscal crisis;

   b) An itemization of creditors that may be impaired or may seek damages as a result of the proposed restructuring; and,

   c) Any and all supporting documentation that the local entity deems appropriate in support of the stated fiscal crisis or as requested by the commission, that may be required to perform a desk audit.

4) Requires CDIAC, upon receipt of the information listed in #3 above, to do all that it deems necessary to evaluate the fiscal condition of the local public agency, including, but not limited to, reviewing the submission and recommending specific action to be taken by the public agency to avert fiscal insolvency.
5) Requires CDIAC to conduct a noticed public hearing for any recommendations released, or approvals granted.

6) Defines "local public entity" to mean any city, county, city and county, district public authority, public agency, or other entity that is a "municipality" within the meaning of federal bankruptcy law applicable to local public entities.

7) Makes findings and declarations relating to municipal bankruptcies.

EXISTING LAW:

1) Allows a local public entity in California to file a petition and exercise powers pursuant to applicable federal bankruptcy law, without any statewide approval or pre-conditions.

2) Defines a "local public entity" as a county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in paragraph (40) of Section 101 of Title 11 of the United States Code, or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities.

3) Allows a legislative body authorized to conduct a proceeding pursuant to this chapter (Government Code 59125) to file a petition and exercise powers under applicable federal bankruptcy law as provided by Section 53760.

4) Defines the term "municipality" as a political subdivision or public agency or instrumentality of a state, in federal law (11 U.S.C. 101(40)).

5) Prohibits the California Earthquake Authority from authorization to become a debtor in a case under the United States Bankruptcy Code.

6) Allows a city to file a petition and take all steps and proceedings required, permitted, or authorized under bankruptcy law of the United States, when property owners located in an assessment district have filed their written consent to the refunding and reassessment of bonds issued.
under the "Improvement Bond Act of 1915."

7) Allows the Superintendent of Public Instruction to assume control of a school district that becomes insolvent to ensure the district's return to fiscal solvency.

8) If the Office of Statewide Health Planning and Development (OSHPD) determines that a health care district's ability to fulfill its financial obligation is threatened, allows OSHPD to assume direct or managerial or financial control of the health care district.

9) Allows OSHPD to request that the Secretary of the Health and Human Services Agency appoint a trustee for a health care district that is determined by OSHPD to have a threatened ability to fulfill its financial obligations.

_FISCAL EFFECT_: Unknown costs to CDIAC to implement provisions of this bill.

_COMMENTS_: 

MUNICIPAL BANKRUPTCY 101 UNDER FEDERAL LAW

1) The list of eligibility requirements for a "municipal debtor" in federal law under chapter 9 is contained in 11 U.S.C. Section 109(c) and specifies the following:

First, an entity may be a debtor under chapter 9 only if such entity:

a) Is a municipality;

b) Is specifically authorized, in its capacity as a municipality or by name, to be a debtor under such chapter by state law, or by a governmental officer or organization empowered by state law to authorize such entity to be a debtor;

c) Is insolvent;

d) Desires to effect a plan to adjust such debts; and,

e) Has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that such entity intends to impair under a plan in case under such chapter:
i) Has negotiated in good faith with creditors and it has obtained the agreement of creditors holding at least a majority in amount of the claims of each class that the municipality intends to impair under a plan of adjustment of claims;

ii) Is unable to negotiate with creditors because such negotiation is impracticable; or,

iii) Reasonably believes that a creditor may attempt to obtain a transfer that is avoidable under section 547 of this title.

A municipality must meet all of these conditions for the bankruptcy petition to be accepted by the court.

1) According to the U.S. Courts, "the purpose of chapter 9 is to provide a financially-distressed municipality protection from its creditors while it develops and negotiates a plan for adjusting its debts. Reorganization of the debts of a municipality is typically accomplished either by extending debt maturities, reducing the amount of principal or interest, or refinancing the debt by obtaining a new loan."

Chapter 9 provides a municipal debtor with two primary benefits: a) a breathing spell with the automatic stay; and, b) the power to readjust debts through a bankruptcy plan process. The process enables municipalities to continue to provide essential public services while allowing them to adjust their debts.

2) Federal law regarding municipal bankruptcy rose out of the financial crises of the 1930s. Chapter 9 federal law was created in 1934, and after several revisions, was made a permanent part of the Bankruptcy Act in 1946, and incorporated into the new Bankruptcy Code in 1978. In 1994, Congress amended the Bankruptcy Code to require that municipalities be "specifically authorized" under state law to file a petition under chapter 9 - this was an express invitation to the states to revisit the types of local agencies that could seek federal relief. SB 1323 (Ackerman), Chapter 94, Statutes of 2002, sponsored by the California Law Revision Commission (CLRC), accomplished this by bringing state law in line with the "specific authorization" as required under federal law.
3) In response to the federal creation of chapter 9, the California Legislature enacted municipal bankruptcy authorization for municipalities in 1934. The general state statutes authorizing bankruptcy filings by local governments were codified in 1949 and those provisions were not amended until SB 1323 was signed into law in 2002.

There were several attempts in the 1990s to streamline California law with federal law requiring specific authorization:
a) SB 1274 (Killea, 1995-1996) and AB X2 2 (Caldera, 1995-1996) would have granted the broadest authority permissible under federal law by adopting the federal definition of "municipality."

b) AB X2 29 (Archie-Hudson, 1995-1996) would have provided authority for a municipality as defined by federal law to file "with specific statutory approval of the Legislature" and required the plan for adjustment of debts under Bankruptcy Code Section 941 to be "submitted to the appropriate policy committees of the Legislature prior to being submitted to the United States Bankruptcy Code."

c) SB 349 (Kopp, 1995-1996) would have modernized the obsolete references and adopted the "municipality" definition language in federal law. The bill would have established a Local Agency Bankruptcy Committee to determine whether to permit a municipality to file a chapter 9 petition, and the committee would have contained the Treasurer, Controller and Director of Finance. The bill passed the Legislature, but was vetoed by then-Governor Wilson.

These bills were introduced mainly in response to the Orange County bankruptcy filing in 1994. According to a study done by the Public Policy Institute of California on the Orange County bankruptcy, "the financial difficulties leading to the bankruptcy were the direct result of an enormous gamble with public funds taken by a county treasurer who was seriously under-qualified to deal in the kinds of investments he chose."

At that time, Orange County and its investment pool - which suffered nearly $1.7 billion in investment losses - filed for bankruptcy protection on December 6 in two separate cases. The bankruptcy judge ruled that only the county, and not the investment pool, could file for bankruptcy.

4) Currently, California state law authorizes federal bankruptcy filing by a "local public entity" - "a county, city, district, public authority, public agency, or other entity, without limitation, that is a municipality as defined in paragraph (40) of Section 101 of Title 11 of the United States Code, or that qualifies as a debtor under any other federal bankruptcy law applicable to local public entities". As referenced, federal law defines "municipality" as a political subdivision or public agency or instrumentality of a state, in federal law (11 U.S.C. 101 (40)). However, the California Law Revision Commission notes that the definitions in state and federal law create some ambiguity as to what exactly falls under the definition of "municipality" and can therefore seek financial aid. **

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[4] This section discusses the legal framework for state and federal bankruptcy filings. It highlights the specific criteria for what constitutes a "local public entity" as defined under federal bankruptcy laws, specifically noting the relevance of the "municipality" definition. The section also touches on the process and implications of bankruptcy filings in California, emphasizing the distinction between county and investment pool bankruptcy. **
relief through the chapter 9 bankruptcy process.

There is some debate about how broad the definition of "municipality" and "local public entity" is - it may be that the definition includes anything from library districts, parking districts, public cemetery districts, community service districts and the like. The author and committee may wish to discuss whether there is a legitimate statewide interest in preventing these small local government entities from filing for bankruptcy.

BANKRUPTCY PRACTICES IN OTHER STATES

5) The 10th amendment to the United States Constitution says that "the powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people," otherwise known as the sovereign rights of the states. In the context of municipal bankruptcy filing, it is up to each state to decide whether to empower its municipalities to utilize federal bankruptcy laws.

Other states approach authorization for municipalities in various ways - some explicitly authorize municipalities and provide unlimited access, or explicitly authorize certain types of municipalities, some states are silent, one state expressly prohibits municipalities from filing, and yet others have their own state pre-conditions, processes or "gate-keeping" requirements.

Those states comparable to California in terms of population, like Texas and Florida, provide explicit authorization for municipalities in their state statutes. The state of New York allows a municipality or its emergency financial control board to file any petition within any United States district court or court of bankruptcy and explicitly notes in the statute that "nothing contained in this title shall be construed to limit the authorization granted by this section [for municipalities to file a petition under federal bankruptcy law]."

For those states with preconditions or "gatekeeping" provisions, the following is a sample of the wide range of state statutes:

IOWA: Permits "a city, county, or other political subdivision" to become a chapter 9 debtor only if it is rendered insolvent as a result of debt (a defined term in the
state statute) involuntarily incurred.

Michigan: Requires notice to be given to the local emergency financial assistance loan board and authorization from the emergency financial manager.

Montana: Applies to a "local entity." The local entity's legislative body must pass an ordinance or resolution declaring that it meets all eligibility requirements found in 109 of the Bankruptcy Code.

New Jersey: Applies to "any county, municipality, school district or other political subdivision of this State." The political subdivision must get the approval of the municipal finance commission before filing the petition. Also, the governing body of the political subdivision must pass an ordinance authorizing the filing by a not less than two-thirds vote of all the members elected to the governing body. The municipal finance commission must approve the plan of adjustment before the political subdivision files it with the court, and the commission must approve in writing each payment for attorneys, agents, committees, or other representatives of creditors.

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North Carolina: Applies to "any taxing district, local improvement district, school district, county, city, town, or village." The local unit must get the approval of the Local Government Commission of North Carolina, which oversees local government debt and financial management.

PROPOSED LAW

6) AB 155 places conditions on how and when a municipality could seek chapter 9 relief under federal bankruptcy law. Current law authorizes municipalities to file a petition under the federal bankruptcy process without any prior state approval or state placed pre-conditions to filing. AB 155 creates "gatekeeper" provisions by granting a state entity - CDIAC - the authority to allow or disallow a municipality from exercising its rights to file a petition under federal chapter 9.

7) CDIAC under the purview of the State Treasurer's office, currently collects data on municipal finance, conducts research, and provides information and technical assistance to local public agencies and their finance professionals. Since CDIAC has expertise in the financial health of local governments, it makes sense to put the review process in their hands. CDIAC's Board is comprised of the State Treasurer as
Chair, and other members including the State Controller, the
Governor, two members each from the Senate and Assembly, and
two local government officials with expertise in debt
issuance.

8) The author bases the justification for AB 155 on a California
Law Revision Commission report from 2001, in which the
commission studied California's municipal bankruptcy statute.
The commission recommended that the Legislature revise the
state law to conform to the federal provisions and what
resulted was SB 1323 by Senator Ackerman. However, the
Commission's report only suggested that California law be
updated to provide explicit authority for municipalities, per
the federal statute requiring states to have explicit
authorization. The report did not recommend any other
substantive policy changes or pre-conditions, or
"gate-keeping" in order to access the federal bankruptcy
process, and instead, commented that "there does not appear to
be any general agreement on the best approach to reform, or
even as to the need for additional protections or controls."

The California State Legislature has a long history, dating
back to the Orange County bankruptcy filing in 1994, of
debating access to federal municipal bankruptcy laws every few
years (see Comments under # 3 and #4), and ultimately in 2002,
made the decision to seek the broadest authority for municipal
bankruptcies that exists under federal law.

9) The author argues that a municipal bankruptcy filing will have
repercussions in terms of credit rating and spillover effects
that will raise borrowing costs for other California
municipalities and the state. Arguably, a municipal
bankruptcy, depending on the size of the entity, could
potentially affect other local agencies and the state as a
whole. The author argues that the state government should
have the opportunity to consider whether bankruptcy is the
best approach to the problem, since municipal affairs are of
interest to the state and should not be left to the sole
discretion of the municipality.

10) One of the major concerns of the opposition to this bill is
that the current bill language does not present any timeline
requirement for the CDIAC review process. The California State
Association of Counties (CSAC) notes that "AB 155 requires the
collection and presentation of data by a local agency, the
review and evaluation of such data by CDIAC, a public hearing
to discuss the fiscal situation of the local agency,
preparation of recommendation for actions, potential
imposition of terms and conditions prior to receiving approval
to enter chapter 9 bankruptcy, action by the local agency to implement recommendations, action by the local agency to meet terms and conditions required by CDIAC, and finally time to see if the recommendations, terms and conditions actually make a difference in the local agency's fiscal situation."

Further, "counties respectfully suggest that this process will take a considerable amount of time, during which the local agency's financial obligations are expected to be met when they are either completely or nearly unable to meet them. The principal benefit of federal bankruptcy is the automatic stay of financial obligations, allowing a debtor some "breathing space" to formulate a debt readjustment plan."

CSAC, in their opposition letter, additionally poses the question of what CDIAC would have advised in the instance earlier this year when the state withheld hundreds of millions of dollars in state payments to counties due to the state's cash flow crisis. CSAC notes that "the process outlined by AB 155 would place the local agency at risk of default, creditors at risk of not getting paid, and the state with the potential liability for damages as a result, with little to no benefit for citizens."

11) The issue of state liability is of great concern. As noted in Governor Wilson's veto of SB 349 (Kopp) in 1996, state interference in municipal bankruptcy "could raise questions of the liability of the state to creditors of the public agency if eligibility for bankruptcy is denied. State denial of access to chapter 9 may create the implication that the state has assumed responsibility for the debts of the distressed municipality."

12) The Association of California Water Agencies writes that "this bill is an unwarranted and unjustified intrusion on local control" and that the "determination to pursue protection under federal bankruptcy law should be left to the discretion of a local agency's board of directors." AB 155 undercuts local authority by giving the state the right to intervene in local decisions. Voters elect their local representatives and expect that their local elected officials know best about the municipality's financial condition, which will vary from jurisdiction to jurisdiction based on unique local needs. AB 155 effectively undoes the will of the voters by allowing the state to take the reigns on making a local decision.

13) The League of California Cities, in opposition, writes that
"[local governments] will use all means available to avoid bankruptcy" and even then it is strictly a last resort. They cite the rare usage of the chapter 9 process under federal law - only three filings by cities and counties since the adoption of the state Bankr (See Comment #4), the City of Desert Hot Springs in 2001 because of a judgment against the city, and the City of Vallejo in May of 2008.

14) According to the California Professional Firefighters (CPF), a co-sponsor of AB 155, "last year's bankruptcy filing by the City of Vallejo has only served to further devastate an already struggling community, including local businesses that were already feeling the adverse impact of a stagnant economy. Since the filing, Vallejo's litigation costs have escalated to over $5 million thereby further encumbering an already dried up general fund budget."

Additionally, CPF notes that "bankruptcy may appear to provide a municipality quick relief from certain [types] of debt obligations, but the municipality will ultimately end up paying in the financial markets."

The Assembly Local Government Committee held a hearing in February 2009 jointly with Assembly Budget Subcommittee #4 on State Administration to hear directly from local cities and counties about the effect of the economic downturn on their budgets. Many local officials noted that sales tax revenue is down and the effect of the housing market is now being felt in decreasing property tax revenues. Along with the Pooled Money Investment Board's decision in December 2008 to stop funding local projects, the declining sales and property tax revenues are troubling for local governments. The committees also received information from cities and counties in California about the types of cuts they were making and had already made to stay solvent - everything from staff volunteering to be furloughed, involuntary furloughs and lay-offs, and cutting of services to seniors, parks and recreation, and other local programs, cuts to planning departments and public safety, among other solutions to scale back local budgets.

Unfortunately, the bankruptcy filing in Vallejo seems to be a situation created out of nightmare conditions, given the highly political and volatile nature of the ongoing bankruptcy proceedings. In a March 13, 2009, memorandum, Michael McManus, the U.S. Bankruptcy Judge assigned to the Vallejo case, addressed whether chapter 9 of the Bankruptcy Code permits a
municipality to reject collective bargaining agreements with its public employee unions. He found that "if a municipality is authorized by the state to file a chapter 9 petition, it is entitled to fully utilize 11 U.S.C. 365 (Section 365) to accept or reject its executory contracts" and that "unexpired collective bargaining agreements are executory contracts subject to rejection under Section 365."

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**15) COMMITTEE AMENDMENTS:** In order to not put the financial affairs of a local government purely in the hands of the state, the committee may wish to have the author and sponsor take the following amendments to provide a mechanism by which a local government can still file a petition under chapter 9 if they truly feel that no other viable options remain:

Add to Section 8860 of the Government Code:

The governing body of the local public entity, after the hearing required by this section, may hold a public meeting to override the recommendations and prescriptions proved by the commission and declare intent to exercise powers pursuant to applicable federal bankruptcy law under Section 53760. The governing body shall make public findings about the necessity to override the alternatives or preconditions raised in the report.

Revise Section 53760 of the Government Code to read:

A local public entity may file a petition and exercise powers pursuant to applicable federal bankruptcy law, if either of the following apply:

(1) The California Debt and Investment Advisory Commission has granted approval and the local public entity has met the conditions pursuant to Section 8860; or

(2) The governing body of the local public entity has voted, by 2/3 vote, to override the commission's recommendations and prescriptions pursuant to Section 8860.

**REGISTERED SUPPORT / OPPOSITION:**

Support

CA Professional Firefighters [CO-SPONSOR]
CDF Firefighters Local 2881 [CO-SPONSOR]
AARP
American Federation of State, County and Municipal Employees,
AFL-CIO
Association for Los Angeles Deputy Sheriffs
CA Alliance for Retired Americans
CA Association of Highway Patrolmen (CAHP)
CA Labor Federation, AFL-CIO

CA Nurses Association
CA Professional Firefighters
CA Reinvestment Coalition
CA School Employees Association (CSEA)
CA State Employees Association
CA State Firefighters' Association, Inc.
CA Teamsters Public Affairs Council
Consumer Federation of CA
Glendale City Employees Association
Kern County Fire Fighters Union, Inc.
L.A. County Probation Officers Union
Livermore-Pleasanton Firefighters Local 1974
Los Angeles County Fire Fighters Local 1014
Los Angeles Police Protective League
Napa-Solano Central Labor Council
National Nurses Organizing Committee
North Bay Labor Council, AFL-CIO
Organization of SMUD Employees
Peace Officers Research Association of CA (PORAC)
Production Strategies, Inc.
Professional Engineers in CA Government (PECG)
Riverside Sheriffs' Association
San Bernardino Public Employees Association
San Diego Municipal Employee's Association
San Francisco Labor Council
San Luis Obispo County Employees Association
Santa Rosa City Employees Association
Service Employees International Union (SEIU)
State Building and Construction Trades Council of CA
Individual letter

Opposition

Association of California Water Agencies
CA Special Districts Association
CA State Association of Counties
Cities of: Adelanto, American Canyon, Antioch, Arvin, Atascadero, Belmont, Benicia,
         Berkeley, Burlingame, California City, Calistoga,
         Chowchilla, Cloverdale, Clayton,
         Clovis, Coalinga, Concord, Cypress, Exeter, Fairfield,
         Fowler, Fremont,
Fullerton, Guadalupe, Healdsburg, Hermosa Beach, Highland, Huntington Beach, Huntington Park, Huron, Kingsburg, Lemoore, Livermore, Fontana, Madera, Manteca, Merced, Mendota, Mill Valley, Modesto, Moreno Valley, Newport Beach, Norco, Norwalk, Palmdale, Patterson, Placentia, Pleasanton, Rio Vista, Reedley, Ridgecrest, San Luis Obispo, San Pablo, Santa Rosa, Shafter, Signal Hill, Stockton, Tehachapi, Torrance, Tracy, Tulare, Tustin, Visalia, Wasco, Walnut Creek, Woodlake, Yorba Linda, Yucaipa County of Orange League of CA Cities League of CA Cities, Inland Empire Division League of CA Cities, Orange County Division Regional Council of Rural Counties South Bay Cities Council of Governments Towns of Apple Valley, Danville, Mammoth Lake, Paradise, Windsor and Yountville Urban Counties Caucus

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