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OFFICE OF THE
CITY ATTORNEY

CITY OF SACRAMENTO
CALIFORNIA

921 TENTH STREET
SUITE 700
SACRAMENTO, CA
95814-2717

SAMUEL L. JACKSON
CITY ATTORNEY

July 27, 1994

PH 916-264-5346
FAX 916-264-7455

THEODORE H. KOBAY, JR.
ASSISTANT CITY ATTORNEY

WILLIAM P. CARNAZZO
ASSISTANT CITY ATTORNEY

DEPUTY CITY ATTORNEYS
RICHARD F. ANTOINE
RICHARD E. ARCHIBALD
DIANE B. BALTER
CATHERINE H. BROWN
SHANA S. FABER
JOSEPH McINERNEY
KELLIE A. McNAIR
TAMARA MILLIGAN-HARMON
JOE ROBINSON

Law and Legislation Committee
Sacramento, California

**SUBJECT: SB 1601 (Beverly) re Loss of Priority
for Delinquent Utility Liens**

Honorable Members in Session:

LOCATION AND COUNCIL DISTRICT: Citywide

RECOMMENDATION

This report recommends that the Law and Legislation Committee oppose SB 1601 (Beverly) which would deprive City utility liens of their priority over deeds of trust, even after the utility liens are made special assessments and added to the property tax bill. If the bill is passed, it could lead to substantial financial losses for the City's utilities, which could only be partially mitigated by a more aggressive water shut-off program which would have negative impacts upon many of our citizens, especially tenants.

CONTACT PERSON: Margaret Freeman, Revenue Manager, 264-5724

FOR COMMITTEE MEETING OF: August 2, 1994

SUMMARY

SB 1601 (Beverly) provides that a lien or special assessment on real property that results from a delinquency in the payment of rates or charges for utility services supplied to the owners or occupants of real property by a municipal utility shall be subordinate to any prior recorded lien on the property. This report explains that the City of Sacramento imposes delinquent utility liens in the amount of \$3 to \$4 million per year on some 6,000 properties. The City's ability to collect these amounts would be impaired by SB 1601, in that Sacramento County may no longer recognize the assessments as secured real property liens and any lender who obtained a security interest on a property before the utility charges became delinquent could wipe out the City's lien through

Law and Legislation Committee
Re: **SB 1601 (Beverly) re: Loss of
Priority for Delinquent Utility Liens**
July 27, 1994
Page 2

foreclosure. Should this bill be enacted, it could force the City to implement an aggressive water shut-off program to replace a gutted lien procedure.

BACKGROUND INFORMATION

Title 64 of the Sacramento City Code provides that delinquent charges for utility services provided by the City (water, storm drainage, sewer, regional sewer, garbage and garden refuse) constitute a lien against the real property to which the services were provided. If not paid, proceedings are taken to make the delinquent charges a special assessment on the real property. The special assessment is added to the property tax bill and collected along with secured real property taxes.

Annually, \$3 to \$4 million of delinquent City utility charges are made special assessments and added to property tax bills. Under the current Teeter Plan for property tax distribution, Sacramento County recognizes unpaid utility charges assessments as secured real property liens and remits to the City the total amount of the secured liens annually.

If SB 1601 is enacted, the unpaid utility charges would become subordinate to other liens, and Sacramento County would most likely not recognize the assessments as secured liens under the Teeter Plan distribution. In addition, an unknown portion of the annual assessments would be lost entirely due to foreclosure of prior liens by other creditors of the property owner.

SB 1601 would significantly reduce the effectiveness of the lien/assessment process to collect delinquent utility bills. Not only would City revenues decrease, but the passage of Senate Bill 1601 could force the City to implement an aggressive water shut-off program given that up to 6,000 properties have secured liens placed annually. A broader water shut-off program would require an increase in staff and would likely cause increased distress for a number of Sacramento citizens. Innocent tenants would be penalized for the failure of their landlords to pay utility bills.

Supporters of the bill include the California League of Savings Institutions (sponsor), California Bankers Association, California Land Title Association, and California Financial Services Association. Opponents include the California Municipal Utilities Association, the City of Los Angeles, the League of California Cities, and the Western Center on Law and Poverty.

FINANCIAL CONSIDERATIONS

The passage of SB 1601 could result in an immediate loss of \$3 to \$4 million per year under the County's Teeter tax distribution plan. How much of that loss would be collectible from the delinquent property owners by methods other than imposing special assessments which go onto the tax

Law and Legislation Committee
Re: SB 1601 (Beverly) re: Loss of
Priority for Delinquent Utility Liens
July 27, 1994
Page 3

bill is unknown. A report to the Assembly Committee on Judiciary notes that "[t]his bill may restrict substantially the ability of municipally owned utilities to collect unpaid charges for utility services."

POLICY CONSIDERATIONS

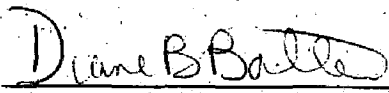
Opposition to SB 1601 is consistent with the City's general legislative policy to oppose legislation which will reduce the options, methods, alternatives and flexibility available to the City in dealing with problems, issues and policies of local government.

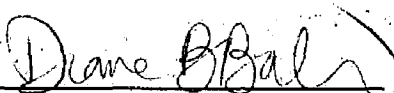
MBE/WBE

This report does not concern procurement of goods or services.

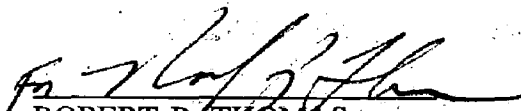
Respectfully submitted,

SAMUEL L. JACKSON
City Attorney

for 
MARGARET L. FREEMAN
Revenue Manager

By: 
DIANE B. BALTER
Deputy City Attorney

Recommendation Approved:


ROBERT P. THOMAS
Deputy City Manager

In bill text, brackets have special meaning:

[A> <A] contains added text, and

[D> <D] contains deleted text.

California 1993-94 Regular Session

ended

AMENDED IN ASSEMBLY JUNE 21, 1994

AMENDED IN ASSEMBLY JUNE 9, 1994

AMENDED IN SENATE APRIL 5, 1994

SENATE BILL

No. 1601

Introduced by Senator Beverly

February 22, 1994

An act to add Section 2899.5 to the Civil Code, relating to liens.

LEGISLATIVE COUNSEL'S DIGEST

SB 1601, as amended, Beverly. Property liens: municipal utilities.

Existing law provides for the creation and priority of liens upon property.

This bill would provide that a lien on real property that results from a delinquency in the payment of rates or charges, or the collection of future rates or charges, for utility services supplied to the owners or occupants of real property by a utility owned or operated by a municipality, as defined, shall be subordinate to any prior recorded lien on the property, as specified.

This bill would also make certain legislative findings regarding liens imposed to secure payment for utility services.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

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

SECTION 1. Section 2899.5 is added to the Civil Code, to read:

2899.5. (a) A lien on real property that results from the delinquency in payment of rates or charges or the collection of future rates or charges, whether or not added to the tax assessment rolls, for water or other utility services supplied to the owners or occupants of

real property by a utility owned or operated by a municipality, except a lien to discharge bonded indebtedness, shall be subordinate to any prior recorded lien on the property.

(b) As used in this section, "municipality" means a [D] city, a city and county, or any governmental entity that provides within the boundaries of a city or city and county those services typically provided by a city. <D] [A] city or city and county. <A]

SEC. 2. The Legislature finds the following:

(a) It is a matter of statewide concern to preserve the priority of recorded liens over liens imposed by a utility owned or operated by a municipality to secure payment for utility services supplied to the owners and occupants of real property.

(b) The availability of real estate financing in California will be severely disrupted if liens recently imposed by municipalities without statutory authority are allowed to have priority over previously recorded liens on the property.