

COUNCIL COMMITTEE MINUTES

Concurrent Special Committee Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento and the Parking Authority of the City of Sacramento.

COMMITTEE NAME: Law and Legislation

MEETING DATE: June 21, 1990

MEETING TIME: 3:00 p.m.

LOCATION: **915 I STREET, 2ND FLOOR, COUNCIL CHAMBER**

I HEREBY CALL Special Meetings of the Sacramento City Council, Redevelopment Agency of the City of Sacramento, Housing Authority of the City of Sacramento, and Parking Authority of the City of Sacramento to be conducted concurrently with the Council committee meetings listed below, which are incorporated herein by reference. The Special Meetings are called to permit Members who are not on the listed committees to attend the meetings and participate in the discussions. In the event five (5) or more members of the City Council are present at a Committee meeting, only those items listed on the agenda can be acted on or discussed.

The meeting was called to order at 3:10 p.m. by Chair Lynn Robie.

PRESENT: Committeemembers Robie, Chinn,* Serna and Pane.

GUEST: Councilmember Mueller

* Committeemember Chinn left the meeting at 3:25 p.m.

1. Legislative update from Ken Emanuels, the City's Legislative Advocate.

Recommendation of Staff: File

MINUTES:

Ken Emanuels, the City's Legislative Advocate, discussed some current bills that have priority at this time. He said that AB 3222 relating to water meters is set for hearing in 1½ weeks, and that the Mayor is planning to testify. He said that AB 3436, Serna's CalTrans study of consolidation of freight lines, has been approved by the Assembly and that additional meetings are scheduled. Chair Robie mentioned that this bill was amended within the last week or so; Mr. Emanuels said he was not aware of this. Mr. Emanuels continued with SB 46 relating to flood control agencies, saying that it was heard for the first time in its new form, with no objections. He noted there was some reluctance by Assemblymember Leslie and Senator Doolittle, but he feels agreement can be reached. SB 2893, which denies the City authority to levy admissions tax on private promoters at times other than during the State Fair, will hopefully be stopped. Mr. Emanuels then discussed the two tobacco-related bills, SB 2148 and AB 3967, which is item 2 on the Committee agenda. The discussion is noted below.

COMMITTEE ACTION SHEET

2. AB 3967 (Polanco) and SB 2148 (Petris) relating to distribution of tobacco products to minors.

Recommendation of Staff: File.

Committee Action: Opposed.

Voting Record: Moved: Pane
Seconded: Serna
Ayes: Pane, Serna, Robie
Absent: Chinn

MINUTES:

These two bills were brought before the Committee previously. Ken Emanuels, the City's Legislative Advocate, said Senator Petris agreed to our request for an amendment requiring positive visual identification. He noted that City staff is working with Assemblymember Polanco regarding some of the problems with his bill, as viewed by some of its opponents. However, Polanco is considering the requirement of positive visual identification. Mr. Emanuels said that it was previously agreed that if the City's proposed amendments are incorporated into these two bills, the City would change its position from "opposed" to "neutral".

Serna asked whether the City can prohibit cigarette machines. Ted Kobey, Assistant City Attorney, said that Deputy City Attorney Diane Balter is the attorney who works in that area of the law, and that she was unable to attend this meeting today; therefore, he said he would have Attorney Balter come back to the Committee with the answer to this question.

*Committeemember Chinn left the meeting at this time.

Robie stated that a representative from the Lung Association was present to talk about these bills. She said that it is well known that the only way governments can prohibit free distribution of cigarettes to minors is by City ordinance. The Lung Association feels that support of these bills would prohibit the City from enacting its own ordinances. Ken Emanuels noted that the City is on record in opposition unless positive visual identification is required, and that if the bills are amended to contain that requirement, the City would then change its position from "oppose" to "neutral."

At this time Betty Turner, staff member of the American Lung Association, spoke of the Association's concerns with the Polanco bill. She noted that the State Lung Association is against the bill, and that the California Medical Association is actively opposing it. She said that this bill does preempt the possibility in the future of a City ordinance to ban the distribution of free tobacco products to minors. She said the Association feels the Polanco bill expands to include free distribution to minors even by mail. She said that on a national level, the tobacco industry is trying to preempt local ordinances so that the industry can stay in control, and that the tobacco industry will use this mechanism to erode local control. She then passed out an information sheet relating to this bill (copy attached).

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

2. ITEM CONTINUED FROM PREVIOUS PAGE.

Ken Emanuels noted that letters were sent to both Polanco and Petris regarding the City's position to oppose unless amended. Robie stated she would like the Committee to take a position of *opposition* to these bills rather than remain neutral. Pane moved to oppose AB 3967 and SB 2148 on the basis of preempting local ordinances, and to rewrite letters to the authors noting the City's new position. Serna seconded the motion, and there was unanimous concurrence.

3. Resolution requiring City construction contractors to adopt drug-free workplace policies.

Recommendation of Staff: Recommend support and forward to Council.

Committee Action: Supported and forwarded to Council.

Voting Record: Moved: Serna
Seconded: Robie
Ayes: Serna, Robie
Absent: Pane, Chinn

MINUTES:

Gary Little, the City's Citizen's Assistance Officer, presented this item to the Committee. He noted that this was brought to him by the Laborer's Union, and that this is a part of federal requirements which the City must follow. Serna moved to support the resolution requiring City construction contractors to adopt drug-free workplace policies, and to forward this Resolution to Council. Robie seconded the motion, and there was unanimous concurrence. (Committee member Pane was out of Council chambers at the time of this vote.)

4. Assembly Joint Resolution 90 (Waters) relating to civil rights.

Recommendation of Staff: Recommend support.

Committee Action: Supported.

Voting Record: Moved: Serna
Seconded: Robie
Ayes: Serna, Robie
Absent: Pane, Chinn

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

4. ITEM CONTINUED FROM PREVIOUS PAGE.

MINUTES:

William Carnazzo, Senior Deputy City Attorney, explained to the Committee that Personnel Director Donna Giles' intent was to get the City's support of AJR 90, which would urge Congress to amend the Civil Rights Act. Serna moved to support AJR 90, Robie seconded the motion, and it was unanimously supported. (Committeemember Pane was out of Council chambers at the time of this vote.)

5. An ordinance adding Article IV to Chapter 62 of the Sacramento City Code relating to contribution limitations, spending limits, and public campaign financing.

Recommendation of Staff: Committee to make recommendation.

Committee Action: Unanimous conceptual support of proposed ordinance and forward to joint B&F/T&CD Committee for financial considerations.

MINUTES:

Councilmember Mueller was a guest of the Committee. She explained that she hopes the City can achieve expenditure limitations, put a cap on expenditures, and have stricter contribution procedures, and that the goal is to have something in place by the 1992 election. She said the Mayor, who was unable to attend this meeting, very strongly supports this measure.

Richard Archibald, Deputy City Attorney, was present to discuss this item and to answer any questions. Persons who spoke in favor of this proposed ordinance were Selma Dritz of the League of Women Voters, Brenda Robinson of Common Cause, Virginia Moose, a member of the Ad Hoc Committee and a campaign treasurer, and Glen Carlson of Common Cause. Each of these persons expressed their support and pointed out such matters as last-year's County elections (after enactment of their campaign reform ordinance), the increase in the cost of winning a Council seat (250% increase from 1981 to 1985), and some suggested technical changes relating to illegal contributions, knowing what entity a contributor represents, etc. It was noted that if the Van de Kamp initiative passes in November, many of the problems as to the legality of this proposed ordinance will take care of themselves.

John Scribner, a campaign treasurer, discussed some of his objections to this proposed ordinance, including what happens if the campaign fund is underfunded (which he feels gives an incumbent a strong advantage), and the cost of publicly funding campaigns. He passed out a handout entitled "Fiscal Impact of 'Political Reform' on City Coffers" which showed a cost to the City of almost \$1 million to fund this program. There was considerable discussion regarding this figure, which the majority of speakers and the members of the Committee felt were extremely high. It was agreed by the Committee that the purpose of discussing this matter today was for *policy*

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

5. ITEM CONTINUED FROM PREVIOUS PAGE.

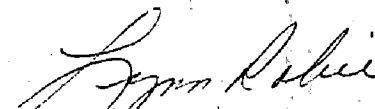
issues, and that the Budget and Finance Committee and City financial staff members would have to prepare and evaluate the financial aspects of this proposed ordinance. Mr. Scribner asked the Committee whether they wanted to spend that much money on public financing of campaigns rather than on other, more pressing City matters. He also pointed out some conflicts in the language of the proposed ordinance, the use of the Consumer Price Index, and the fact that he has a problem with subsidizing political ambitions and feels this matter should be left up to the voters. The Committee agreed they had no problem with putting this matter to the voters.

There was unanimous concurrence by the Committee to support this proposed ordinance in concept and have staff work out the technical details before going to the Joint Budget and Finance/Transportation and Community Development (B&F/T&CD) Committee meeting, and to do the following:

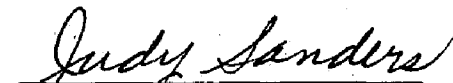
1. Request staff to do an analysis of the financial aspects of this ordinance;
2. Bring this matter before the Joint B&F/T&CD Committee meeting in July;
3. Increase the amount of contribution limitations for Councilmembers from \$5,000.00 to \$10,000.00 during off-election years;
4. Consider putting this item on the November ballot; and
5. Decide at the July Joint B&F/T&CD Committee meeting which of the budgetary and enforcement options presented in the proposed ordinance to adopt.

The meeting was adjourned at 5:08 p.m.

* * * * *


LYNN ROBIE, Chair

ATTEST:


JUDY SANDERS, Secretary

ANTHONY P. NAJERA, M.A.
Director Legislative Affairs

AMERICAN  LUNG ASSOCIATION
of California

ASSEMBLY FLOOR ACTION ALERT

OPPOSE AB 3967 (POLANCO)

PREEMPTION OF
LOCAL AUTHORITY IN TOBACCO REGULATION

A Preemption provision in this state law removes the power and authority to regulate tobacco distribution by a unit of local government.

AB 3967 is a facsimile of a national effort by the tobacco distributors to force the public to accept tobacco marketing programs.

Such efforts, although promoted as leading to standardized statewide statutes, in fact:

- *weaken stronger pre-existing local laws;
- *preclude stronger local laws from being passed in the future; and,
- *run contrary to the usual legislative procedure of setting minimum standards that local governing bodies may exceed.

The American Lung Association of California urges your **"NO"** vote on AB 3967. There is no benefit in this bill for the State of California, it only benefits those who market tobacco products. This measure is contrary to California's established public policies of discouraging tobacco use and maximizing local control.

TOBACCO-FREE AMERICA

Legislative Clearinghouse
1726 M Street, N.W., Suite 902
Washington, D.C. 20036
(202) 452-1184

Angela T. Mickel
Director

John H. Madigan
American Cancer Society

Scott D. Ballin
American Heart Association

Fran Du Melle
American Lung Association

PREEMPTION

A preemption provision in state law removes the power and authority to regulate from a unit of local government.

Preemption clauses are attached to state legislation by the opposition (i.e. tobacco industry) to weaken these measures by:

- precluding further efforts and expense on their part to lobby in the localities;
- enlisting traditional opponents to tobacco-control legislation as supporters or co-sponsors of these weaker bills; and,
- luring tobacco-control advocates into legislation that is deemed more reasonable and, therefore, more likely to pass.

Such efforts, although promoted as leading to standardized statewide statutes, in fact:

- weaken stronger pre-existing local laws;
- preclude stronger local laws from being passed in the future; and,
- run contrary to the usual legislative procedure of setting minimum standards that local governing bodies may exceed.

* * * * *

For more information on the issue of preemption and/or advice on strategies to counter this well-known tobacco industry tactic, please contact the Tobacco-Free America Legislative Clearinghouse.

MAY 1990

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Christopher Zirkle
Principal Deputies

State Capitol, Suite 3021
Sacramento, CA 95814-4996
(916) 445-3057
Telecopier: (916) 324-6311

Legislative Counsel of California

BION M. GREGORY

Sacramento, California
April 25, 1990

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Deputies

Honorable Nicholas C. Petris
5080 State Capitol

Cigarettes: Furnishing - #7058

Dear Senator Petris:

QUESTION

Would Assembly Bill No. 3967, as amended on April 23, 1990, if enacted, prohibit a city, county, or a city and county from adopting an ordinance or regulation prohibiting the free distribution of tobacco products; and, if so, what effect, if any, would the bill have on existing local ordinances or resolutions which include these prohibitions?

OPINION

Assembly Bill No. 3967, as amended on April 23, 1990, if enacted, would prohibit a city, county, or a city and county from adopting an ordinance or regulation prohibiting the free distribution of tobacco products. Moreover, effective January 1, 1991, any existing local ordinances or resolutions, which prohibit the free distribution of tobacco products or which are otherwise inconsistent with the provisions of the bill, would be preempted by the new state law, and thus, be ineffective.

ANALYSIS

Assembly Bill No. 3967, as amended on April 23, 1990 (hereafter, A.B. 3967), if enacted, would include legislative declarations stating that the purpose of the measure is to ensure that cigarette and tobacco product sampling is conducted in accordance with certain standards, including monitoring, to ensure that distribution to minors does not occur. In addition, A.B. 3967 would repeal Section 17537.3 of the Business and Professions Code regulating the advertising and distribution of

smokeless tobacco products with regard to persons under the age of 18 years and amend Section 308 of the Penal Code which, among other things, presently provides that it is a public offense, punishable as specified, to sell, give, or in any way furnish to any person who is under the age of 18 years, any tobacco, tobacco products, or smoking paraphernalia.

More specifically, in this regard, A.B. 3967 would add a new subdivision (e) to Section 308, regulating the advertising and distribution of tobacco products, rather than smokeless tobacco products, as follows:

"(e) Any person who commits any of the following acts is subject to either a criminal action for a misdemeanor or to a civil action brought by a city attorney, a county counsel, or a district attorney, punishable by a fine of two hundred dollars (\$200) for the first offense, five hundred dollars (\$500) for the second offense, and one thousand dollars (\$1,000) for the third offense:

"(1) Offers, as part of an advertising plan or program, promotional offers of tobacco products which require proof of purchase of a tobacco product unless it carries a designation that the offer is not available to minors. Each promotional offer shall include in any mail-in coupon a statement requesting purchasers to verify that the purchaser is 18 years of age or older.

"(2) Honors mail-in and telephone requests for promotional offers of tobacco products unless appropriate efforts are made to ascertain that a purchaser is over 18 years of age. For purposes of this paragraph, appropriate efforts to ascertain the age of a purchaser includes, but is not limited to, requests for a purchaser's birth date.

"(3) Distributes, by any means, as part of an advertising plan or program, free samples of tobacco products within a two block radius of any premises or facilities whose primary purpose is directed toward persons under the age of 18 years including, but not limited to, schools, clubhouses, and youth centers, when those premises are being used for their primary purposes.

"(4) Distributes, as part of any advertising

plan or program, unsolicited samples of tobacco products through a mail campaign."

Subdivision (e) of Section 308 of the Penal Code presently specifies that "[i]t is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section." The bill would redesignate subdivision (e) as subdivision (f).

With regard to the legislative authority of counties and cities, Section 7 of Article XI of the California Constitution provides, as follows:

"Sec. 7. A county or city may make and enforce within its limits all local, police, sanitary and other ordinances and regulations not in conflict with general laws."

The California courts have discussed the preemption of local regulation by state laws, as follows:

"It is well settled, however, that any local regulation that directly conflicts with a provision of state legislation is to that extent void. [Citations.] 'Conflicts exist if the ordinance duplicates [citations], contradicts [citations], or enters an area fully occupied by general law, either expressly or by legislative implication [citations]. If the subject matter or field of the legislation has been fully occupied by the state, there is no room for supplementary or complementary local legislation, even if the subject were otherwise one properly characterized as a "municipal affair." [Citations.]'" (Bamboo Brothers v. Carpenter, 133 Cal. App. 3d 116, 123, citing Lancaster v. Municipal Court, 6 Cal. 3d 805, 807-808.)

In addition, if the ordinance is, in substance, a criminal statute which attempts to prohibit conduct proscribed or permitted by state law either explicitly or implicitly, it is preempted (Cohen v. Board of Supervisors, 40 Cal. 3d 277, 293).

In this instance, as mentioned above, A.B. 3967, if enacted, would include legislative declarations stating that the purpose of the measure is to ensure that cigarette and tobacco product sampling is conducted in accordance with certain standards in order to prevent the unlawful distribution of those products to persons under the age of 18 years. In addition, the bill would

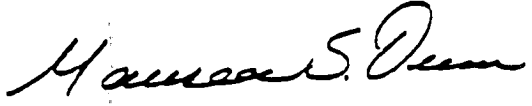
add subdivision (e) to Section 308 of the Penal Code regulating the offering, honoring of mail-in or telephone requests, and distribution of tobacco products, as part of a promotional or advertising plan, as specified. Any person who violates these provisions would be subject to either a criminal action for a misdemeanor or to a civil action, as specified. The bill also would redesignate subdivision (e) as subdivision (f). Thus, the bill would regulate the advertising and distribution of tobacco products in general. In addition, the bill would continue to include within Section 308, the specific preemption language. As a result, no city, county, or city and county would be able to adopt any ordinance or regulation inconsistent with the section.

Based on the above discussion, we think that the Legislature, in enacting A.B. 3967, would clearly indicate its intention to occupy the field governing the advertising and distribution of tobacco products, and, thus, preempt local regulation in this area. Local prohibition would be inconsistent with state law which allows this conduct as long as it is conducted as specified in Section 308.

Thus, it is our opinion that A.B. 3967, if enacted, would prohibit a city, county, or a city and county from adopting an ordinance or resolution prohibiting the free distribution of tobacco products. Moreover, effective January 1, 1991, any existing local ordinances or resolutions which prohibit the free distribution of tobacco products or which are otherwise inconsistent with the provisions of the bill would be preempted by the new state law, and thus, be ineffective.

Very truly yours,

Bion M. Gregory
Legislative Counsel

By 
Maureen S. Dunn
Deputy Legislative Counsel

MSD:dfb

Two copies to Honorable Richard Polanco,
pursuant to Joint Rule 34.



COUNTY OF SACRAMENTO

ENVIRONMENTAL MANAGEMENT DEPARTMENT

NORMAN D. COVELL, DIRECTOR

June 15, 1990

The Honorable Richard Polanco
California State Assembly
P.O. Box 942849
Sacramento, CA 94249-0001

Subject: AB 3967

Dear Assemblyman Polanco:

The Environmental Health Division, Sacramento County Environmental Management Department, is charged with enforcing the Sacramento County and Sacramento City Smoking Ordinances. Through passive enforcement procedures, community visibility, and a willingness to work with affected businesses, the Ordinances have been an effective tool in meeting the demands of the citizens of Sacramento relative to the use of tobacco products. The Ordinances not only regulate where individuals can and can't smoke, but the distribution of tobacco products to minors and the location of cigarette vending machines.

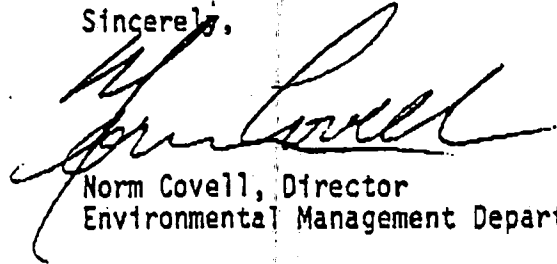
This Department agrees with the statewide need to better regulate the distribution of tobacco, tobacco products, and smoking paraphernalia to minors under the age of 18 years. However, the Department is opposed to your AB 3967 due to the inclusion of the following clause: "It is the Legislature's intent to regulate the subject matter of this section. As a result, no city, county, or city and county shall adopt any ordinance or regulation inconsistent with this section". The concept of state preemption over local smoking regulations is simply not acceptable. The communities of Sacramento have met in task force workgroups to discuss smoking, developed revisions to existing regulations for the Board of Supervisors and City Council consideration. These regulations have been subjected to intensive public hearings, and local determinations have been made as to where smoking is acceptable and where it is not acceptable.

AB 3967 also fails to identify what agency will be responsible for enforcing its provisions. By not identifying enforcement responsibility, enforcement will not occur. Local government should have the authority to delegate who they wish to be the enforcing agency.

The Honorable Richard Polanco
June 15, 1990
Page 2

I urge you to strongly reconsider the removal of the entire preemption and the delegation of enforcement authority clauses. Please do not hesitate to contact Kenneth C. Stuart, Chief, Environmental Health Division, at 916-386-6111 if you would like further input regarding our concerns.

Sincerely,



Norm Covell, Director
Environmental Management Department

NC:KCS:leh

cc: Assemblyman Lloyd Connelly
Supervisor Jim Streng
Karen Keane, CSAC
Yvonne Hunter, League of Cities

AMENDED IN ASSEMBLY MAY 2, 1990

SENATE BILL

No. 65

Introduced by Senator Kopp
(Principal coauthor: Senator Boatwright)
(Coauthors: Senators Ayala, McCorquodale, Seymour, and
Torres)
(Principal coauthor: Assembly Member Katz)

December 6, 1988

An act to amend Sections 25249.5, 25249.6, and 25249.11 of, and to add Sections 25249.15, 25249.16, 25249.17, and 25249.18 to, the Health and Safety Code, relating to toxic chemicals, and calling an election, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 65, as amended, Kopp. Toxic chemicals: discharges.

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) prohibits any person in the course of doing business from knowingly discharging or releasing a chemical known to the state to cause cancer or reproductive toxicity into water, except as specified, and prohibits any person in the course of doing business to knowingly and intentionally expose any individual to such a chemical without giving a specified warning. These provisions exclude from the definition of a "person in the course of doing business" a city, county, or district, a state or federal agency, or an entity in its operation of a public water system.

This bill would, subject to the approval of the electors, include public agencies, as defined, within these discharge or exposure prohibitions, except that the bill would also exclude discharges or releases which are governed by federal law to preempt state authority, specified discharges or releases by public water systems, specified discharges or releases of

surface runoff from a watershed, discharges or releases of stormwater runoff, discharges or releases resulting from activities undertaken in response to a public emergency or for public health purposes, and discharges or releases which take place within a specified period of time. The bill would delete the exclusion for of an entity in its operation of a public water system from the definition of a "person in the course of doing business" and would exclude from this definition publicly owned treatment works, as defined. The bill would also exempt, from these prohibitions, exposures which result from activities undertaken in response to a public emergency, as specified. The bill would exempt from the discharge, release, and exposure prohibitions certain discharges, releases, or exposures by public water systems which are owned or operated by entities which are not public agencies.

The bill would make a statement of legislative intent concerning the bill's effect on existing law with respect to discharges or releases into a publicly owned treatment works.

The bill would require the act to be submitted to the voters at a special election to be consolidated with the June 5, 1990, direct primary November 6, 1990, general election, notwithstanding any other provision of law.

The bill would call an election within the meaning of Article IV of the Constitution, to take effect immediately.

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

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

1 SECTION 1. Section 25249.5 of the Health and Safety
 2 Code is amended to read:
 3 25249.5. No person in the course of doing business
 4 shall knowingly discharge or release a chemical known to
 5 the state to cause cancer or reproductive toxicity into
 6 water or onto or into land where such the chemical passes
 7 or probably will pass into any source of drinking water,
 8 notwithstanding any other provision or authorization of
 9 law except as provided in Sections 25249.9, 25249.15, and
 10 25249.17.
 11 SEC. 2. Section 25249.6 of the Health and Safety Code

1 is amended to read:

2 25249.6. No person in the course of doing business
 3 shall knowingly and intentionally expose any individual
 4 to a chemical known to the state to cause cancer or
 5 reproductive toxicity without first giving clear and
 6 reasonable warning to the individual, except as provided
 7 in Sections 25249.10 and 25249.16.

8 SEC. 3. Section 25249.11 of the Health and Safety
 9 Code is amended to read:

10 25249.11. Definitions.

11 For purposes of this chapter:

12 (a) "Business" means the conduct of activity,
 13 including, but not limited to, commercial or proprietary
 14 activities.

15 (b) "Person" means an individual, trust, firm, joint
 16 stock company, corporation, company, partnership,
 17 association, or public agency.

18 (c) "Person in the course of doing business" does not
 19 include any person employing fewer than 10 employees
 20 in the person's business or a publicly owned treatment
 21 works.

22 (d) "Person in the course of doing business" includes,
 23 but is not limited to, a public agency regardless of the
 24 number of its employees.

25 (e) "Public agency" means a city, county, district,
 26 government corporation, the state, or any department or
 27 agency thereof, and, to the extent permitted by law, the
 28 federal government, or any department or agency
 29 thereof.

30 (f) "Publicly owned treatment works" means
 31 treatment works, as defined in Section 1292 of Title 33 of
 32 the United States Code, which are owned and operated
 33 by a public agency.

34 (g) "Significant amount" means any detectable
 35 amount except an amount which would meet the
 36 exemption test in subdivision (c) of Section 25249.10 if an
 37 individual were exposed to such an amount in drinking
 38 water.

39 (h) "Source of drinking water" means either a present
 40 source of drinking water or water which is identified or

1 designated in a water quality control plan adopted by a
2 regional board as being suitable for domestic or
3 municipal uses.

4 (i) "Threaten to violate" means to create a condition
5 in which there is a substantial probability that a violation
6 will occur.

7 (j) "Warning" within the meaning of Section 25249.6
8 is not required to be provided separately to each exposed
9 individual and may be provided by general methods such
10 as labels on consumer products, inclusion of notices in
11 mailings to water customers, posting of notices, placing
12 notices in public news media, and the like, provided that
13 the warning accomplished is clear and reasonable. In
14 order to minimize the burden on retail sellers of
15 consumer products including foods, regulations
16 implementing Section 25249.6 shall to the extent
17 practicable place the obligation to provide any warning
18 materials such as labels on the producer or packager
19 rather than on the retail seller, except where the retail
20 seller itself is responsible for introducing a chemical
21 known to the state to cause cancer or reproductive
22 toxicity into the consumer product in question.

23 SEC. 4. Section 25249.15 is added to the Health and
24 Safety Code, to read:

25 25249.15. Section 25249.5 does not apply to any
26 discharge or release by a public agency if any of the
27 following apply:

28 (a) The discharge or release is a substance, or the
29 byproducts of a substance, which is intentionally placed
30 into water by a public water system, as defined in Section
31 4010.1, for the purpose of protecting or promoting public
32 health.

33 (b) The discharge or release is by a public water
34 system, as defined in Section 4010.1, if the public water
35 system did not cause the presence of the substance in the
36 water which is discharged or released.

37 (c) The discharge or release is surface runoff from a
38 watershed where the substance is naturally present in
39 geological formations and is present in the surface runoff.

40 (d) The discharge or release is stormwater runoff

1 drained from underground vaults, chambers, manhole
2 storm drains, or detention basins into gutters or other
3 flood control or drainage systems.

4 (e) The discharge or release is governed by a federal
5 law in a manner which preempts state authority.

6 (f) The discharge or release results from activities
7 undertaken in response to a public emergency, including,
8 but not limited to, firefighting, or activities undertaken
9 for public health purposes.

10 (g) The discharge or release takes place less than 2
11 months subsequent to the listing of the chemical in
12 question on the list required to be published under
13 subdivision (a) of Section 25249.8 or before February
14 July 6, 1992, whichever date is later.

15 SEC. 5. Section 25249.16 is added to the Health and
16 Safety Code, to read:

17 25249.16. Section 25249.6 does not apply to any
18 exposure by a public agency, or by a public water system
19 as defined in Section 4010.1, owned or operated by a
20 entity which is not a public agency, if either of the
21 following apply:

22 (a) The exposure takes place less than 12 months
23 subsequent to the listing of the chemical in question on
24 the list required to be published under subdivision (a) of
25 Section 25249.8 or before June 5 November 6, 1992,
26 whichever date is later.

27 (b) The exposure results from activities undertaken in
28 response to a public emergency, including, but not
29 limited to, firefighting. For purposes of this subdivision,
30 a response to a public emergency does not include the
31 routine disinfection of drinking water.

32 SEC. 6. Section 25249.17 is added to the Health and
33 Safety Code, to read:

34 25249.17. Section 25249.5 does not apply to any
35 discharge or release by a public water system, as defined
36 in Section 4010.1, owned or operated by an entity which
37 is not a public agency if any of the following apply:

38 (a) The discharge or release takes place less than 2
39 months subsequent to the listing of the chemical in
40 question on the list required to be published under

1 subdivision (a) of Section 25249.8 or before February 5
2 July 6, 1992, whichever is later.

3 (b) The discharge or release is a substance, or the
4 byproducts of a substance, which is intentionally placed
5 into water by a public water system, as defined in Section
6 4010.1, for the purpose of protecting or promoting public
7 health.

8 (c) The public water system did not cause the
9 presence of the substance in the water which is
10 discharged or released.

11 (d) The discharge or release is surface runoff from a
12 watershed where the substance is naturally present in
13 geological formations and is present in the surface runoff.

14 SEC. 7. Section 25249.18 is added to the Health and
15 Safety Code, to read:

16 25249.18. It is the intent of the Legislature in
17 amending Section 25249.11 by the act adding this section
18 and of the people in approving the act adding this section,
19 to include public agencies, except for publicly owned
20 treatment works, within the prohibitions of Sections
21 25249.5 and 25249.6, except as provided in Sections
22 25249.15 and 25249.16. It is not, however, the intent of the
23 Legislature in enacting the act adding this section, and of
24 the people in approving the act adding this section, to
25 affect in any manner existing statutory law with respect
26 to the prohibition of Section 25249.5 as it applies to any
27 person who, in the course of doing business, knowingly
28 discharges or releases a chemical known to the state to
29 cause cancer or reproductive toxicity into a publicly
30 owned treatment works. A state agency, when
31 implementing this chapter pursuant to Section 25249.12,
32 and a court of competent jurisdiction, when interpreting
33 this chapter, shall not construe the amendment by the act
34 adding this section, of subdivision (c) of Section 25249.11,
35 which excludes publicly owned treatment works from
36 the definition of person in the course of doing business,
37 as affecting in any manner existing statutory law with
38 respect to the prohibition of Section 25249.5 as it applies
39 to any person who, in the course of doing business,
40 knowingly discharges or releases a chemical known to the

1 state to cause cancer or reproductive toxicity into a
2 publicly owned treatment works.

3 SEC. 8. Sections 1 to 7, inclusive, of this act amend the
4 Safe Drinking Water and Toxic Enforcement Act of 1986
5 and shall become effective only when submitted to and
6 approved by the electors at a special election to be
7 consolidated with the June 5, 1990, direct primary
8 November 6, 1990, general election, pursuant to
9 subdivision (c) of Section 10 of Article II of the California
10 Constitution.

11 SEC. 9. Notwithstanding any other provision of law,
12 including, but not limited to, Sections 3525 and 3572 of the
13 Elections Code, Sections 1 to 7, inclusive, of this act shall
14 be submitted to the voters at a special election to be
15 consolidated with the June 5, 1990, direct primary
16 November 6, 1990, general election in accordance with
17 the provisions of the Government Code and the Elections
18 Code governing submission of statewide measures to the
19 voters at a statewide election.

20 SEC. 10. This act calls an election within the meaning
21 of Article IV of the Constitution and shall go into
22 immediate effect.

FISCAL IMPACT OF "POLITICAL REFORM" ON CITY COFFERS

For the last two election cycles, here's a break-out of what those elections would have cost the Sacramento taxpayer:

| | | | | | |
|-----------------|---------|-----------|------------------|-----------|-----------|
| 1987 | Primary | | Runoff | | Total |
| Lyla Ferris | | \$60,000 | Lyla Ferris | \$20,000 | \$80,000 |
| other opponents | | | Josie Washington | | |
| 1987 | Primary | | Runoff | | Total |
| Kim Mueller | | \$60,000 | none | | \$60,000 |
| Bill Smallman | | | | | |
| 1987 | Primary | | Runoff | | Total |
| Anne Rudin | | \$325,000 | Anne Rudin | \$200,000 | \$525,000 |
| Brian Van Camp | | | Brian Van Camp | | |
| Dave Shore | | | | | |
| Pat Melarkey | | | | | |
| 1989 | Primary | | Runoff | | Total |
| Heather Fargo | | \$100,000 | Heather Fargo | \$50,000 | \$150,000 |
| Kate Karpilow | | | Kate Karpilow | | |
| Ray Tretheway | | | | | |
| Dave Shore | | | | | |
| Others | | | | | |
| 1989 | Primary | | Runoff | | Total |
| Josh Pane | | \$90,000 | Josh Pane | \$60,000 | \$150,000 |
| Bruce Pomer | | | Bruce Pomer | | |
| Larry Augusta | | | | | |
| TOTAL: | | | | | \$965,000 |

This financial break-out is based upon a political "subsidy" of \$30,000 each election for the true contending candidates for the city council and \$100,000 each election for the true contending candidates for the Mayors' office. The above totals also take into account lesser amounts for other less contending city candidates.