

**LAW AND LEGISLATION COMMITTEE AGENDA**

Thursday, February 21, 1991

3:00 p.m.

City Council Chamber  
915 "I" Street  
Sacramento, California

1. Smoking in public places. (D-All)

- A. SB 93 (Boatwright)  
B. AB 16 (Peace)

**RECOMMENDATION OF STAFF:** A. SUPPORT  
B. SUPPORT IF AMENDED

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2. AB 7 (Floyd) relating to motorcycle helmets. (D-All)

**RECOMMENDATION OF STAFF:** SUPPORT

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3. An ordinance adding Section 25.150-1 to the Sacramento City Code prohibiting the parking of commercial vehicles weighing 10,000 pounds or more on residential property except under specified conditions. (D-All)

**RECOMMENDATION OF STAFF:** REVIEW AND MAKE RECOMMENDATION TO CITY COUNCIL

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4. Memorandum from Library Director relating to City's legislative program. (D-All)

**RECOMMENDATION OF STAFF:** REVIEW AND INSTRUCT CITY'S LEGISLATIVE ADVOCATE

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5. An ordinance adding Section 27.55 to the Sacramento City Code relating to the authorization of commercial activities in city parks by the Director of the Department of Parks and Community Services or his/her designee. (D-All)

**RECOMMENDATION OF STAFF:** SUPPORT AND FORWARD TO COUNCIL

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LAW AND LEGISLATION COMMITTEE AGENDA (Continued)

6. Regulation of leaf blowers. (D-All)

- RECOMMENDATION OF STAFF: A. REFER MATTER TO ENVIRONMENTAL  
COMMISSION; OR  
B. GIVE STAFF DIRECTION REGARDING  
ORDINANCE
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COMMITTEE MEMBERS: Robie (Chair), Chinn, Pane and Serna

**LAW AND LEGISLATION COMMITTEE**

**PENDING MATTERS**

**February, 1991**

1. **Cleaning the alleys. More enforcement against those who don't keep their alleys clean.**

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**KENNETH  
EMANUELS**

AND ASSOCIATES

LEGISLATIVE ADVOCACY  
GOVERNMENT RELATIONS

**MEMO**

**Date:** January 16, 1991

**To:** Members, Law and Legislation Committee, Sacramento City  
Council  
Walt Slipe, City Manager  
Betty Masuoka, Finance Director

**From:** Ken Emanuels, Legislative Advocate *(Ken)*

**Re:** Administration's Proposed 1991-92 State Budget Issued Last  
Week

I have gone through the state budget quickly this week and here is what I see from the City's standpoint:

1. LOSS of between \$100,000-200,000 in special supplemental subventions to the Sacramento Housing and Redevelopment Agency. This estimate is uncertain, but when I have asked for similar revenue loss estimates in past years, the amount was of this magnitude.
2. GAIN of indeterminable amount of local sales tax revenue from the proposed repeal of state and local sales tax exemptions on candy, snack foods, newspapers and magazines. This is difficult to estimate locally, but amounts to approximately \$80 million statewide for cities, or between \$3-4 per capita.
3. POTENTIAL GAIN OF FUNDING FOR LAW ENFORCEMENT: Administration proposes to provide local agencies with the authority to increase the local sales tax by up to 1/2 of 1% for drug enforcement and crime prevention purposes. (No other information available on this proposal.)
4. THE REPEAL OF BOOKING FEES IS NOT PROPOSED. In fact, the League-sponsored repeal legislation, SB 169 (Boatwright) will apparently be opposed by the Administration. This is because the budget proposes increasing the VLF by \$781 million to finance a shift of program costs to counties for health and mental health programs. (The total cost of the shift is \$942 million, \$190 million coming from a surcharge on state alcohol taxes.) All of the \$942 million

for the program shift would be dedicated to counties. This conflicts directly with the League's SB 169 which eliminates authority for the county booking fee and the property tax administration surcharge and replaces the lost county revenue with an increase of \$340 million from the vehicle license fee.

5. REALLOCATION OF THE LOCAL SALES TAX. The Administration suggests that the "situs" basis for the allocation of the local sales tax is causing significant land use problems. The Administration will "explore the possibility of changing the allocation method for growth in the local sales tax revenue (from situs to per capita). The Administration will work with local government representatives to determine the best means of achieving this end."

Separate legislation will be introduced and sponsored, I am told, by the County Supervisors Association of California because counties almost uniformly would benefit at the expense of cities. The State Controller's data suggests that the City of Sacramento's actual sales tax receipts were 113% of the county-wide average in FY 1988-89 and that a redistribution formula will be proposed to redirect future years' growth in the City's sales tax revenue to Sacramento County, and the cities of Folsom, Galt and Isleton for allocation on a per capita basis.

6. REDUCED VOTE THRESHOLD FOR CERTAIN LOCAL GENERAL OBLIGATION BOND VOTES. The Administration will propose a constitutional amendment which would permit local voters to approve by majority vote rather than two-thirds vote general obligation bonds for educational and criminal justice facilities.
7. HOW THE \$7 BILLION GAP BETWEEN REVENUES AND EXPENDITURES IS CLOSED: (You decide if it is realistic or whether the Legislature will have to turn to cities for additional funds.)

- \$800 million from the state's version of Gramm-Rudman, so-called trigger reductions. (All from state operations and state and county programs.
- \$1.4 billion from program reductions, no COLA's, increased UC, CSU fees, reduction of AFDC grants, etc.
- \$1.9 billion from suspending Prop. 98 and recalculating the Prop. 98 guarantee for 1990-91.
- \$900 million from cost shift to counties for health and mental health programs. (VLF and alcohol taxes are increased to hold counties harmless.)

- \$700 million from closing sales tax loopholes and requiring withholding for independent contractors, individuals receiving lump sum payments, and estates and trusts.
- \$800 million from Medi-Cal limits and change in accounting system from cash to accrual.
- \$500 million from miscellaneous transfers, "tricks" etc.

\$7 billion TOTAL

UNION PACIFIC RAILROAD COMPANY

WAYNE K. HORIUCHI  
SPECIAL REPRESENTATIVE

CHRISTOFER CENTRE  
1000 G STREET, SUITE 200  
SACRAMENTO, CA 95814  
(916) 442-2800



December 11, 1990

Mr. Ken Emanuels  
Legislative Advocate  
Emanuels & Associates  
c/o League of California Cities  
1400 K Street, Room 306  
Sacramento, CA 95814

Dear ~~Mr. Emanuels~~:

In response to your inquiry from the City of Sacramento with respect to potential legislation that would require California locomotives to be equipped with a light bar to prevent pedestrians and vehicles from being hit by our trains, please accept the following.

I have spoken with our Director of Train Operating Practices in Omaha, Nebraska who indicates the following.

First, apparently, legislation that would require changes in locomotive equipment, i.e., some kind of illuminating device standard is most likely preempted by federal law. In the State of Washington, the Washington State Attorney General has researched this issue and issued an informal opinion from authority of the Ninth Circuit Court of Appeals in the Marshall case. I have attached a copy of a letter from the Washington Utilities and Transportation Commission to the Associate General Counsel of Union Pacific Railroad stating the potential preemption.

However, preemption does not address Councilman Chinn's problem. As I noted during our telephone conversation of December 4, 1990, Union Pacific Railroad already has sound warning devices which we, by State law, execute at each crossing. As you may know, the citizens of Sacramento have complained of excessive noise from our whistle.

Mr. Ken Emanuels  
December 11, 1990  
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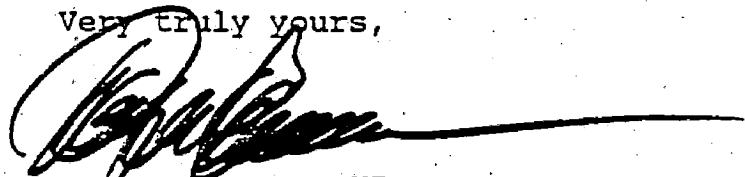
Regardless, Union Pacific Railroad has been experimenting with improved illumination. For example, we are equipping so called "ditch lights" on a number of our locomotives that are supposed to better illuminate our locomotives to pedestrians and vehicles. These "ditch lights" are mounted above the snow plow and illuminate the bar pits. This light will be installed in addition to the headlight that we already have on our existing locomotives. According to our Operating Management Safety Committee meeting of September 29, 1990, 67 units have already been equipped with our "ditch lights". We also expect to equip another 90 ditch lights on our locomotives during this year.

Finally, as a sidenote, most of the accidents which are occurring at crossings are the responsibility of the motorist or the pedestrian. Regardless of what Union Pacific Railroad does to avoid an accident, the pedestrian and motorist are generally responsible. Let me give you a few statistics. 29% of all car/train accidents that occur are the car hitting the side of the train. Over 50% of all car/train accidents that occur in California are at crossings that are signalized with either gates and/or bells. With the tremendous amount of liability that we incur, Union Pacific Railroad is making major investments in not only signal/crossing protection but also on our equipment such as these ditch lights.

I hope that this is responsive to your inquiry. We also hope that you will refrain from introducing legislation that requires the government to intervene in the area of equipping our locomotives. As I indicated before, the exposure to liability is a tremendous incentive for us to be as safe as possible and make the kinds of investments that we are making.

If you have any other questions, please do not hesitate to contact me.

Very truly yours,



WAYNE K. HORIUCHI  
Special Representative

WKH/rtb  
Attachment  
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STATE OF WASHINGTON

WASHINGTON UTILITIES AND TRANSPORTATION COMMISSION

300 S. Evergreen Park Dr. NW • Olympia, Washington 98504-6002 • (206) 733-6423 • (SCAN) 234-6423

AT6065

November 29, 1990

Mr. James Bergman  
Associate General Counsel  
Law Division, Room 830  
Union Pacific Railroad Company  
1416 Dodge Street  
Omaha, Nebraska 68179

Dear Mr. Bergman:

According to a recent Washington State Attorney General informal opinion, it appears that the state of Washington's illuminating device standard, contained in RCW 81.44.031(6), is preempted by federal law under authority of the Ninth Circuit Court of Appeals decision in the Marshall case.

We have notified our Commission railroad inspectors that they can no longer cite Class 1 railroads operating in the state of Washington if a colored oscillating light is not equipped and operable on at least one locomotive in the engine consist.

The Washington Utilities and Transportation Commission encourages Union Pacific Railroad and Burlington Northern Railroad to test other safety devices that may help to alert motorists and/or pedestrians of approaching trains.

The Commission would be interested in receiving feedback from the Union Pacific mechanical department concerning alerting devices to be used on new locomotives manufactured for Union Pacific.

Sincerely,

Paul Curl  
Secretary

cc: Kurt Kroschel, Regional Counsel, BN  
Dale Greenwood, Director of Governmental Affairs, BN  
Pat Halstead, Washington Railroad Association