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DEPARTMENT OF  
FINANCE

CITY OF SACRAMENTO  
CALIFORNIA

CITY HALL  
ROOM 14  
915 I STREET  
SACRAMENTO, CA  
95814-2696

BUDGET DIVISION

August 2, 1988

916-449-5845

Budget and Finance Committee

Honorable Members in Session

**SUBJECT: EMERGENCY RESPONSE COST RECOVERY PROGRAM AND ORDINANCE**

**SUMMARY**

The following report recommends the adoption of an Emergency Response Cost Recovery program, resolution and ordinance for the City of Sacramento. This report also recommends amending the 1988-89 Budget by adding a Claims Collector to the Finance Department and augmenting the Revenue Schedule by \$200,000.

This program will implement the provisions of SB795 (California Government Code sections 53150-53158), which provides local agencies with the authority to recover the costs for police and fire to respond to certain types of emergency incidents.

**BACKGROUND**

On April 19, 1988, at the request of Council member Serna, staff prepared and presented the conceptual outline of a program to implement an Emergency Response Cost Recovery (ERCR) program for the City of Sacramento (included as an attachment). During that meeting the Committee voted to direct staff to return with an implementation plan and ordinance. The Committee requested that the report also address the issues of parental liability; procedural problems with interfacing with the courts; whether operators of boats were covered by the statute; if other communities were allocating any of the program proceeds to affected community groups; and Committee requested that interested community groups be notified of this report (Committee hearing minutes attached).

Under the Emergency Response Cost Recovery program ordinance proposed here, the City will charge any motorist whose intoxication causes the motorist to operate his/her vehicle negligently, thus resulting in an appropriate emergency response by the Police or Fire Departments. The responsible person will be billed subsequent to arrest. A refund will be granted if the individual demonstrates that either the District Attorney has

dismissed the case or that they were granted an acquittal.

The bill will represent the actual time and expenses involved for the officer(s) to respond to the incident, complete field work and investigation, transport the suspect, booking, and report writing. The bill will also include the cost for processing the billing. The rate for 1988-89 will be \$59.22 per hour for police officers, \$101.08 per hour for each fire crew (4 personnel per unit) responding, and \$14.51 per hour for processing billings and collections. It is estimated that the typical bill for a non-accident DUI incident will average between \$100-150. The cost for a non-fatal accident is anticipated to be \$250-400.

#### Discussion of Issues

Parental liability. The Committee questioned whether parents of a minor could be held liable under this program. The City Attorney's Office has determined that there would be no parental liability, that the statute clearly places the liability solely on the operator of the vehicle.

Interfacing with the County Court system. During the hearing of April 19, 1988, staff indicated that if interface with the Courts were involved it would add undesirable complexities to the program. Committee requested staff to discuss this with the courts. The Revenue Manager held preliminary discussions with the County courts regarding the feasibility of having the Court collect the additional emergency response cost recovery fee. Representatives of the courts indicated that this option is not viable, that the court is presently overburdened and is not in a position to accept the additional record keeping responsibility. Additionally, the court has historically resisted being directly involved in cost recovery activities.

Are operators of boats covered by this program? The statute specifically includes the operators of boats and civil aircraft within the scope of the program (sections 53151 and 53152, respectively).

Allocation of program cost recovery revenue to community groups. At this time it appears that no agency with an ERCR program has made any specific allocation of the program's revenue. In all surveyed agencies, the revenues accrue to the General Fund. Due to the relative short experience with ERCR, it is too early for a city to predict, with a high degree of confidence, the long-term revenues from the program.

Notification of interested community groups. At the request of the Committee, interested community groups have been forwarded a copy of this report and notified of the meeting date.

Timing of billing to criminal proceedings. The Committee discussed at length the issue of billing the responsible person prior to disposition of criminal proceedings. The City Attorney's

prior to disposition of criminal proceedings. The City Attorney's staff explained that this statute makes the liability a civil matter which cannot enter into the criminal proceedings (Section 53157). The following table summarizes the disposition of a random sampling of the over 2,200 DUI arrests made in 1987.

**DUI ARREST DISPOSITION  
 AND  
 TIME FROM ARREST TO DISPOSITION**

<u>Disposition</u>	<u>Percent</u>	<u>Average Days From Arrest to Disposition</u>
Plea or verdict of guilty	66 %	60 days
Plea of nolo contendere (no contest)	19	81
Failed to appear (bench warrant issued)	11	57
Dismissed	1.5	88
Rejected by District Attorney	1.5	23
Unable to determine disposition	1	96

In the data sampled, only 3% of the cases were dismissed or rejected. Fully 85% were convicted, with 11% issued bench warrants for failure to appear in court. The average number of days from arrest to disposition is 65 for those convicted and between 23-88 for those dismissed or rejected.

This is contrasted with the City's billing and collection process and timetable outlined below:

<u>DAY</u>	<u>ACTION</u>
1	Invoice is input into the system
10	Invoice is mailed
30	Monthly statement is issued
45	Delinquent letter is mailed
60	Second monthly statement is mailed
90	Necessary forms have been typed and filed at small claims court
140	Court date and judgement
180	Appeal period expired; abstract is filed
210	Order of Examination
225	Wage attachment filed

(It is estimated that it will take about 5 days from the time of

arrest until the information is transmitted to the Revenue Division.)

This information indicates that only in extraordinary instances would the City have successfully sued an individual for failure to pay prior to the disposition of their criminal proceedings.

An individual who is arrested for DUI and subsequently billed by the City may, of course, elect to pay the bill in a timely manner, and subsequently request a refund if they are later acquitted. If they do not pay, the City will proceed with the collection process outlined above. The defendant who loses a small claims case is entitled to appeal the decision to the Superior Court. The Superior Court appeal is a trial de nova which has the effect of eliminating the small claims court decision. If the defendant does not appeal the decision and the City records the judgement, the decision would be permanently recorded.

If the City were to wait to bill until after the disposition of the criminal proceedings it would be necessary then to track the case through the court system. Currently, the courts do not have an automated method of tracking individual cases. It would be necessary for an employee of the City to peruse through all of the proceedings of the court in order to locate those DUI cases referred by the City. Staff has completed some preliminary time trials for this and determined that one additional clerical staff would be required for this task. The added cost would be approximately \$25,000 annually. The 2-3 month delay in billing would result in an undetermined reduction in revenue collected from the program.

The California Highway Patrol collects following disposition of the criminal proceedings. Their own program review cites the tracking of cases through the courts as the most burdensome aspect of the program. Further, they indicate that the difficulty in tracking cases through the courts may make the program not cost effective for state-wide implementation.

It is important to note that the outcome of any criminal proceedings neither confirms or removes any liability under this statute. A persons liability under ERCR is not established by the criminal court, but by the civil court. If a person is convicted criminally, the City may still need to sue civilly to collect.

Impact of ERCR program on DUI. The implementation of this program may not, by itself, have a deterrent effect upon those who choose to consume alcohol or drugs and drive. However, it will add to the growing awareness of the problem and will represent a direct statement by the City of its intent to hold those individuals fully responsible for the consequences of their actions.

### FINANCIAL DATA

The implementation of this program will require the addition of one Claims Collector (1.0 FTE) in the Revenue Division of the Finance Department. This person will split their time between collecting data in the Police Department and processing billings from the Revenue Division. The cost for this position will be approximately \$30,000 annually. These funds will be appropriated from the General Fund Administrative Contingency.

The revenue estimated for this program is \$200,000 for 1988-89, increasing to \$330,000 in 1989-90. Revenue from this program will be deposited to the General Fund. Actual revenue is dependant upon the number of arrests for DUI, the actual time involved in each incident, and the success of the collection activity.

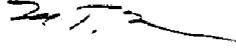
### RECOMMENDATION

It is recommended that the Budget and Finance Committee review and recommend adoption by the full City Council of the attached resolution and ordinance implementing the Emergency Response Cost Recovery program. Specifically, it is recommended that:

1. The City adopt an ordinance adding section 64.209 to the Sacramento City Code creating an Emergency Response Cost Recovery program wherein individuals arrested for Driving Under the Influence will be billed for the cost of the emergency response.
2. The billing rates for 1988-89 will be:
  - \$ 59.22 per hour for Police personnel
  - 101.08 per hour for Fire units
  - 14.51 per hour for billing and collection
3. The 1988-89 Revenue Budget be amended by adding \$200,000 to the General Fund.
4. 1.0 FTE Claims Collector be added to the Revenue Division.
5. The 1988-89 Operating Budget be amended by appropriating \$30,000 from the General Fund Administrative Contingency to the Revenue Division.

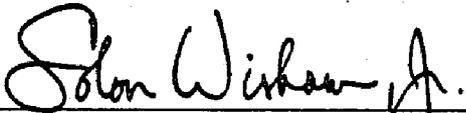
Budget and Finance Committee  
August 2, 1988

Respectively submitted,



Keith T. Kramer  
Senior Management Analyst

Recommendation Approved:



For. Jack Crist  
Deputy City Manager

All Districts  
August 2, 1988

# RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

## RESOLUTION IMPLEMENTING ORDINANCE SECTION 64.209 OF THE SACRAMENTO CITY CODE CREATING AN EMERGENCY RESPONSE COST RECOVERY PROGRAM

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SACRAMENTO THAT:

1. That pursuant to Section 64.209 of the Sacramento City Code, the City does implement an Emergency Response Cost Recovery program wherein individuals arrested for Driving Under the Influence will be billed for the actual cost of the emergency response; and

2. That the billing rates for the 1988-89 Fiscal Year will be:

\$ 59.22 per hour for Police personnel  
101.08 per hour for Fire units  
14.51 per hour for billing and collection

3. That the 1988-89 Revenue Budget is hereby amended by adding \$200,000 to the General Fund and that these revenues are appropriated to the Administrative Contingency:

101-210-2126-3609            \$200,000

101-710-7012-4999            \$200,000

4. That 1.0 FTE Claims Collector is added to the Revenue Division; and

5. That the 1988-89 Operating Budget is amended by appropriating \$30,000 from the General Fund Administrative Contingency to the Revenue Division:

101-710-7012-4999            (\$30,000)

101-110-1125-4101            \$30,000

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

# ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL ON DATE OF

## ORDINANCE ADDING SECTION 64.209 TO THE SACRAMENTO CITY CODE RELATING TO THE CITY EMERGENCY RESPONSE COST RECOVERY PROGRAM

BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF SACRAMENTO AS  
FOLLOWS:

### SECTION 1

Section 64.209 is hereby added to the Sacramento City Code to read  
as follows:

#### **§ 64.209 Emergency response cost recovery program.**

##### **(a) Liability for costs of emergency response.**

Pursuant to the authority vested in the City of Sacramento by state statute, each person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle, boat, vessel, or aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, or whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, shall pay to said City the expense of such an emergency response. In no event shall a person's liability under this section exceed the maximum allowable under state statute.

##### **(b) Collection of costs.**

The expense of an emergency response shall be charged against the person liable for the expenses under this section. The charge constitutes a debt of that person to the City of Sacramento, and is collectible by said City in the same manner as in the case of an obligation under a contract, expressed or implied.

Any person acquitted of, or receiving a dismissal of, all criminal charges arising out of the incident which resulted in the emergency response shall not be charged for the costs of said emergency response. Any such costs paid shall be refunded, with interest at the rate of eight percent (8%) per annum.

PASSED FOR PUBLICATION:

ENACTED:

EFFECTIVE:

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MAYOR

ATTEST:

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CITY CLERK

**BUDGET AND FINANCE COMMITTEE  
MINUTES**

April 19, 1988

3:00 P.M.

City Council Chambers  
915 I Street  
Sacramento, California.

The meeting was called to order at 3:15 p.m. by Committee Chairperson Serna and the roll was answered as follows:

PRESENT: Committee Chairperson Serna, Committee Members Chinn, Mueller and Pope\*, Council Members Ferris, Kastanis and Robie

ABSENT: None

\* Committee Member Pope arrived at 3:25 p.m.

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1. Emergency Response Cost Recovery Program. (D-All)

RECOMMENDATION OF STAFF: RECOMMEND APPROVAL AND DIRECT STAFF TO DEVELOP IMPLEMENTATION PLAN

REPORTS BACK: NONE

COMMITTEE ACTION: STAFF WAS DIRECTED TO COME BACK IN APPROXIMATELY 45 DAYS WITH A FINAL REPORT WHICH WOULD INCLUDE: AN ORDINANCE; THE ISSUES OF PARENTAL LIABILITY; NOTIFICATION OF COMMUNITY GROUPS; PROCEEDS BEING ALLOCATED BACK TO COMMUNITY GROUPS; PROCEDURAL PROBLEMS WITH COURTS BEING RESPONSIBLE FOR COLLECTING FEES; AND IF THIS LEGISLATION CAN BE APPLIED TO OPERATORS OF BOATS.

VOTING RECORD: MOV: D3 SEC: D4  
AYES: D3, D4, D5, D6

COMMITTEE ACTION SHEET

ITEM NO. 1 CONTINUED

MINUTES

Keith Kramer, Sr. Management Analyst, provided committee with an overview of this item. Several committee members voiced concern with the issue of due process. Legal staff indicated there should be no problem with the ordinance as far as due process is concerned. It was also noted by legal staff that to date, there have been no legal challenges from other cities that have implemented a similar cost recovery program.

Committee Member Kim Mueller left the meeting at 4:00 p.m.

Public testimony was given by David French, representing Mothers Against Drunk Driving. He supported the program and added it is important to take into consideration victims' rights; Carol McDonald, VIVA; Dan Germain, California Highway Patrol, also presented public testimony. Mr. Germain reported on the current system used by the Highway Patrol to implement and monitor their cost recovery program.

Council Member Lynn Robie left the meeting at 4:10 p.m.

Committee Member Pope stated that he would like to see the City look at other areas of cost recovery.

Following the discussion, it was moved by Committee Member Pope to instruct staff to prepare an ordinance taking into consideration the reports back requested. The motion was seconded by Committee Member Chinn and carried as noted above.

Committee Member Doug Pope left the meeting at 4:25 p.m.

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2. Various matters regarding Rare Feline Breeding Center: (D4)
- A. Res. suspending formal competitive bidding for construction of the Sacramento Zoo Rare Feline Breeding Center and authorizing award of the contract to John F. Otto, Inc.;
  - B. Res. authorizing the execution of an agreement with the Sacramento Zoological Society and amending the FY 1987-88 Capital Improvement Program Budget in the amount of \$217,000 for the Zoo Rare Feline Breeding Center Project.

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BUDGET AND FINANCE COMMITTEE  
APRIL 19, 1988  
CONTINUED ON NEXT PAGE



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CITY OF SACRAMENTO  
CALIFORNIA

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BUDGET DIVISION

April 12, 1988

916-449-5845

Budget and Finance Committee  
Sacramento, California

Honorable Members In Session:

**SUBJECT: EMERGENCY RESPONSE COST RECOVERY PROGRAM**

**SUMMARY**

At the request of Councilmember Serna, staff has developed an Emergency Response Cost Recovery (ERCR) Program. This program will implement the provisions of SB795 (as amended) which provides local agencies with the authority to recover the costs for police and fire to respond to certain types of emergency incidents.

At this time staff is presenting the conceptual outline for an ERCR program. This report presents the various program elements including the types of emergency response incidents for which cost recovery will be attempted, the timing on billing the responsible party, the determination of the billing rate, the responsibilities of the several departments involved, and the anticipated revenue and costs associated with the program.

Upon approval of the conceptual outline, staff will report back within 45 days with a specific implementation plan and enabling resolution.

This report has been reviewed by representatives of the City Attorney, Police Department, Fire Department, Finance Department Revenue and Budget Divisions, and the City Manager's Office.

**BACKGROUND**

During 1987, the Sacramento Police Department recorded 3135 arrests for driving under the influence (DUI) of alcohol and/or drugs (see Exhibit 1). Of this total, 789 were accidents involving one or more vehicles. Most of these accidents also required an emergency response by the Fire Department. The cost of responding to these emergencies in 1987 is estimated to be \$675,000, or \$215 per incident.

Until recently, public agencies have been restricted from attempting to recover the costs incurred in responding to an emergency incident. In January 1985, the California Legislature approved SB795, introduced by Senator Edward Royce, which allows local governmental agencies to recover up to \$1,000 from certain individuals for the costs of providing services as a result of an emergency response necessitated by a DUI-related incident. Specifically, section 53150 of the Government Code states:

"Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident." (Exhibit 2)

Under provisions of this law the fee assessed to an individual is not insurable. Therefore, an individual may not include the fee as part of the cost of damages in an accident in a claim to their insurance carrier.

At this time, many local agencies have implemented an ERCR program. Exhibit 3 lists the agencies surveyed during the development of this report. It should be noted that although the California Highway Patrol (CHP) has implemented an ERCR program, most of the largest police agencies in the state have not: Los Angeles, San Diego, San Francisco, and Oakland. All of the cities surveyed which do not currently have an ERCR program have indicated that they are reviewing the various programs currently in place and intend to introduce their own program in the coming fiscal year.

Of the programs currently in operation, there are some significant differences in the substantive program elements between the various agencies. These differences center around three program areas: the type of incident, the type of violation, and when to bill.

Type of incident. Section 53150 states that "Any person who is under the influence...(and) causes any incident resulting in an appropriate emergency response..." (emphasis added). The CHP and a minority of other agencies has interpreted this to intend that only accidents, where DUI was the cause, can be pursued for cost recovery. Other agencies (Long Beach and San Jose, for example) interpret this as not to be limited to accidents, but more broadly, to any DUI related incident where an emergency response (use of emergency lights and/or siren) was required.

Type of violation. Again, the statute refers to "Any person who is under the influence...and any person whose intentionally wrongful conduct proximately causes an incident..." (emphasis added). Most agencies (including the CHP and San Jose) are restricting their cost recovery efforts to those incidents where DUI was the probable cause. The City of Long Beach is also applying their program to non-DUI related incidents where there was negligent and intentional wrongful conduct. These include Hit and Run (20001, 20002 CVC), Reckless Driving (23103, 23104 CVC), Speed Contests (23109 CVC), non-injury accidents (902T, 902 CPD), and injury accidents (901T, 901 CPD). Long Beach sees this as an opportunity to recover against a broader group than just DUI.

When to bill. This legislation made ERCR a civil remedy, and as such, a public agency may pursue restitution independent of criminal proceedings. Therefore, most agencies are initiating collection efforts prior to the disposition of any criminal actions. The CHP postpones billing until after conviction. The rationale for billing upon arrest is: (1) as a civil matter it is permissible, (2) the shorter the time elapsed between the incident and billing, the greater the chances of collection, and (3) the difficulty in interfacing with the courts to determine how and when a case is decided. Most agencies now will reimburse if the case is dismissed or acquitted.

Subsequent amendments to the legislation do allow the court to consider whether the defendant shall be required, as a condition of probation, to make restitution to the public agency for the cost of the emergency response.

#### PROGRAM DESCRIPTION

The Emergency Response Cost Recovery Program proposed here attempts to glean the most successful elements from those programs already in place throughout the state. This program is consistent with the intent of the legislation in providing a method for recovering the costs incurred by the negligent actions of those individuals who drive while under the influence of alcohol and/or drugs or whose intentionally wrongful conduct causes an appropriate emergency response.

Under the City of Sacramento Emergency Response Recovery Program, the City will charge any motorist whose intoxication causes the motorist to operate his/her vehicle negligently or whose intentionally wrongful conduct proximately causes any incident, thus resulting in an emergency response by the Police or Fire Department.

A person will be considered to be "under the influence", within the meaning of the California Vehicle Code, when the alcohol or a

combination of alcohol and drugs has physically impaired, to an appreciable degree, their ability to operate a vehicle in a manner like that of an ordinary and prudent and cautious person in full possession of his/her faculties using reasonable care and under like conditions. Intoxication will be measured by a combination of a trained police officer's observation and chemical test results, including blood, breath intoxilyzer, or urine. For example, when a person is stopped for driving under the influence of alcohol, that person will be presumed intoxicated if the person's blood alcohol level is .10 percent or above. When a person's blood alcohol level is .05 percent or more but less than .10 percent, that fact may be considered with other competent evidence in determining whether the person was under the influence of alcohol at the time of the alleged offense. Since chemical tests are not necessary for a conviction of driving under the influence of alcohol, or a combination of alcohol and drugs, an officer's observations may provide sufficient evidence of intoxication. When a person is arrested and they refuse, or fail to complete a chemical test, the fact that there was sufficient probable cause to justify an arrest and booking for a DUI violation makes them liable for costs incurred under the Emergency Response Recovery Program.

An emergency response under the program is defined as a response to a traffic accident or moving traffic violation which causes Police or Fire Department personnel to use their emergency lights or siren or both. That is, a traffic accident or a DUI driver who is driving so erratically that a police officer would be expected to stop the driver in order to insure public safety. Such erratic driving might include excessive speed, driving on the wrong side of the road, or any other hazardous moving violation.

It is proposed that the responsible person be billed as soon as possible following their arrest. A refund will be granted only if the individual can successfully demonstrate that either the District Attorney has dismissed the case or that they were granted an acquittal.

The bill will represent the actual time and expenses involved for the officer(s) to respond to the incident, complete field work and investigation, transport the suspect, booking, and report writing. The billing rate will include the officer's salary and benefits, vehicle and communication equipment costs, the cost of emergency dispatching, and departmental support. The rate for 1987-88 would be \$54.66 per hour for police personnel and \$92.40 per hour for each fire crew (4 personnel per unit) responding.

The program would require the cooperative efforts of several departments with the Police Department responsible for the overall coordination of the ERCR program. This would include collecting the

Budget and Finance Committee  
April 12, 1988  
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initial data from police field reports, determining if the incident is appropriate to bill under the program, requesting Fire Department information when they are involved, and transmitting the billing information to the Revenue Division of the Finance Department. The Revenue Division would be responsible for billing the responsible person and ensuring collection.

It is anticipated that approximately 3000 bills will be mailed in the first year of the program. During this initial year recovery is expected on 33% of the billings. Cost recovery should increase to 50% during the second year of the program.

Revenue is estimated to be \$250,000 during 1988-89. Additional staffing of 1.0 FTE (0.5 in Police and 0.5 in Revenue) for an Account Clerk level position will be required. The cost for the program will be approximately \$30,000, which represents 12% of the program's anticipated revenue. The first year start-up costs and staffing requirements are estimated based upon the experience of the agencies surveyed.

The concept of trying to recover a small fraction of the monies expended on emergency services by charging those who cause them seems to be particularly well founded during these times of fiscal constraint. This program, in particular, makes the individual responsible for the consequences of their actions by placing the financial burden of emergency responses to DUI upon the driver and not the general public. The costs of dealing with these individuals drains resources which could otherwise be utilized in other areas of law enforcement.

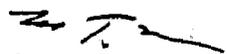
It is hoped that programs such as this will provide not only some cost recovery, but will provide an additional disincentive to those who would otherwise endanger the public by driving while under the influence.

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April 12, 1988  
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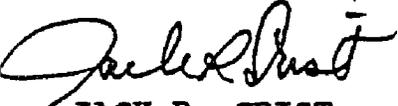
**RECOMMENDATION**

It is recommended that the Budget and Finance Committee approve the program concept and direct staff to develop an implementation plan for the ERCR program outlined in this report and that staff will return to this Committee with a final program within 45 days.

Respectfully submitted,

  
Keith T. Kramer  
Senior Management Analyst

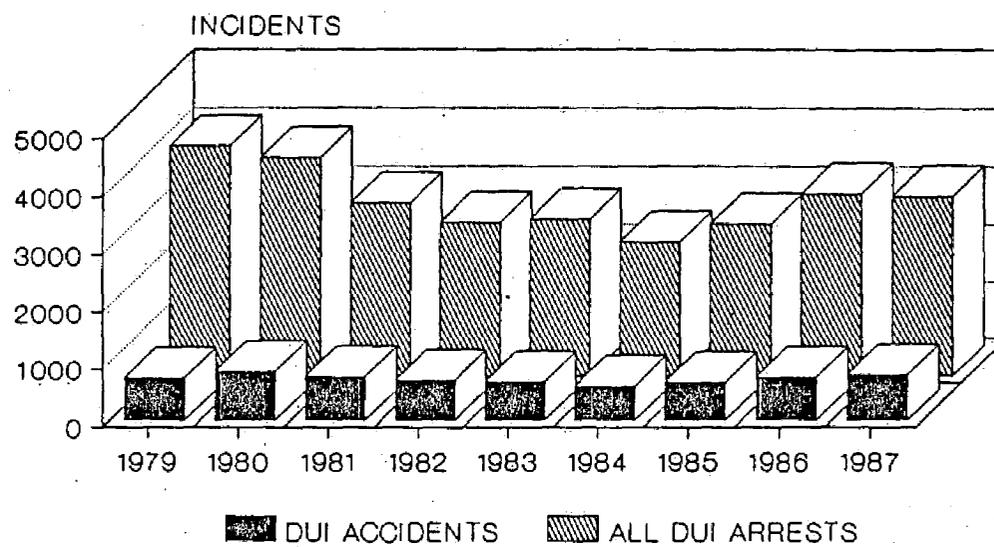
Recommendation Approved:

  
JACK R. CRIST  
Deputy City Manager

April 19, 1988  
All Districts

# EXHIBIT 1

## DRIVING UNDER THE INFLUENCE



# EXHIBIT 2

SENATE BILL 795

Sections 53150-53158

## ARTICLE 8. COSTS OF EMERGENCY RESPONSE

## Section

53150. Negligent operation of motor vehicle; influence of alcoholic beverage or drug; intentional wrongful conduct; liability.
53151. Negligent operation of boat or vessel; influence of alcoholic beverage or drug; intentional wrongful conduct; liability.
53152. Negligent operation of civil aircraft; influence of alcoholic beverage or drug; intentional wrongful conduct; liability.
53153. Influence of alcoholic beverage or drug; inability to operate motor vehicle, boat or vessel, or aircraft; presumptions.
53154. Charge against person liable; collection of debt; insurance.
53155. Limit on liability.
53156. Definitions.
53157. Admissibility of evidence in criminal proceedings.
53158. Legislative intent.

*Article 8 was added by Stats.1985, c. 337, § 1.*

## Cross References

Restitution of costs as condition of probation, see Penal Code § 1203.1.

**§ 53150. Negligent operation of motor vehicle; influence of alcoholic beverage or drug; intentional wrongful conduct; liability**

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a motor vehicle caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added by Stats.1985, c. 337, § 1.)

**§ 53151. Negligent operation of boat or vessel; influence of alcoholic beverage or drug; intentional wrongful conduct; liability**

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of any boat or vessel caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes any incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added by Stats.1985, c. 337, § 1.)

**§ 53152. Negligent operation of civil aircraft; influence of alcoholic beverage or drug; intentional wrongful conduct; liability**

Any person who is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, whose negligent operation of a civil aircraft caused by that influence proximately causes any incident resulting in an appropriate emergency response, and any person whose intentionally wrongful conduct proximately causes an incident resulting in an appropriate emergency response, is liable for the expense of an emergency response by a public agency to the incident.

(Added by Stats.1985, c. 337, § 1.)

**§ 53153. Influence of alcoholic beverage or drug; inability to operate motor vehicle, boat or vessel, or aircraft; presumptions**

For purposes of this article, a person is under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug, when as a result of drinking an

Asterisks \* \* \* indicate deletions by amendment

## § 53153

## GOVERNMENT CODE

alcoholic beverage or using a drug, or both, his or her physical or mental abilities are impaired to a degree that he or she no longer has the ability to operate a motor vehicle, boat or vessel, or aircraft with the caution characteristic of a sober person of ordinary prudence under the same or similar circumstances. For purposes of this article, the presumptions described in Sections 23152 and 23155 of the Vehicle Code shall apply.

(Added by Stats.1985, c. 337, § 1.)

### § 53154. Charge against person liable; collection of debt; insurance

The expense of an emergency response shall be a charge against the person liable for expenses under this article. The charge constitutes a debt of that person and is collectible by the public agency incurring those costs in the same manner as in the case of an obligation under a contract, expressed or implied, except that liability for the expenses provided for in this article shall not be insurable and no insurance policy shall provide or pay for the expenses.

(Added by Stats.1985, c. 337, § 1.)

### § 53155. Limit on liability

In no event shall a person's liability under this article for the expense of an emergency response exceed one thousand dollars (\$1,000) for a particular incident.

(Added by Stats.1985, c. 337, § 1. Amended by Stats.1986, c. 1112, § 1.)

#### 1986 Legislation.

The 1986 amendment increased the limit from \$500 to \$1000.

### § 53156. Definitions

As used in this article:

(a) "Expense of an emergency response" means reasonable costs incurred by a public agency in reasonably making an appropriate emergency response to the incident, but shall only include those costs directly arising because of the response to the particular incident. Reasonable costs shall include the costs of providing police, firefighting, rescue, and emergency medical services at the scene of the incident, as well as the salaries of the personnel responding to the \* \* \* incident.

(b) "Public agency" means the state and any city, county, municipal corporation, district, or public authority located, in whole or in part, within this state which provides or may provide firefighting, police, ambulance, medical, or other emergency services.

(c) "Intentionally wrongful conduct" means conduct intended to injure another person or property.

(Added by Stats.1985, c. 337, § 1. Amended by Stats.1986, c. 1112, § 2.)

### § 53157. Admissibility of evidence in criminal proceedings

Any testimony, admission, or any other statement made by the defendant in any proceeding brought pursuant to this article, or any evidence derived from the testimony, admission, or other statement, shall not be admitted or otherwise used in any criminal proceeding arising out of the same incident.

(Added by Stats.1985, c. 337, § 1.)

### § 53158. Legislative intent

It is not the intent of the Legislature, in enacting this article, to occupy the field of recovery of the expense of an emergency response by a public agency, nor is it the intent of the Legislature to preempt local regulations or to otherwise limit the remedies available to any public agency to recover the expenses of an emergency response to any incident not involving persons who operate a motor vehicle, a boat or vessel, or a civil aircraft while under the influence of an alcoholic beverage or any drug, or the combined influence of an alcoholic beverage and any drug. It is the intent of the Legislature that the recovery of the expenses of an emergency response under this chapter shall

Underline indicates changes or additions by amendment

supplement and shall not supplant any other provisions of law relating to the recovery of those expenses.

(Added by Stats.1985, c. 337, § 1. Amended by Stats.1987, c. 897, § 1.)

CHAPTER 1.5. INTEGRATED FINANCING DISTRICT ACT

Article	Section
1. Definitions and General Provisions.....	53175
2. Proceedings to Create an Integrated Financing District.....	53180
3. Purposes and Powers.....	53185
4. Reimbursement Agreements.....	53190
5. Confirmation and Collection of Levy.....	53195

Chapter 1.5 was added by Stats.1986, c. 1512, § 1.

ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS

Section	Short title.
53175.	Short title.
53175.5.	Alternative method of financing public facilities.
53176.	Liberal construction of chapter.
53176.5.	Validity of proceedings.
53177.	Application of chapter; all local agencies.
53177.5.	Application of chapter; construction of interchange connecting two interstate freeways.
53178.	Application of chapter; Division 4 of Streets and Highways Code.
53178.5.	Application of chapter; Division 4.5 of Streets and Highways Code.
53179.	Definitions.
53179.5.	Joint agreements; use of levy proceeds for facilities or services; contents of agreements.

[New]

Article 1 was added by Stats.1986, c. 1512, § 1.

§ 53175. Short title

This chapter shall be known and may be cited as the Integrated Financing District Act.

(Added by Stats.1986, c. 1512, § 1.)

§ 53175.5. Alternative method of financing public facilities

This chapter provides an alternative method of financing public facilities. This chapter does not limit the application of any other laws that provide for financing governmental facilities. A local agency may use the provisions of this chapter instead of, or in conjunction with, any other method of financing part or all of the cost of providing capital facilities. The provisions of this chapter governing the establishment and operation of an integrated financing district shall, to the extent of any conflict, prevail over any other provision of law.

(Added by Stats.1986, c. 1512, § 1.)

§ 53176. Liberal construction of chapter

This chapter shall be liberally construed in order to effectuate its purposes. No inadvertent error, irregularity, informality, or the inadvertent neglect or omission of any officer, in any procedure taken under this chapter, other than fraud, shall void or invalidate that proceeding, any levy imposed to finance the cost of a public facility, or any reimbursement agreement.

(Added by Stats.1986, c. 1512, § 1.)

§ 53176.5. Validity of proceedings

The inadvertent failure of any person to receive a notice, resolution, order, or other matter shall not affect in any way whatsoever the validity of any proceedings taken under this chapter, or prevent the legislative body from proceeding with any hearing so noticed.

(Added by Stats.1986, c. 1512, § 1.)

Asterisks \* \* \* indicate deletions by amendment

# EXHIBIT 3

## EMERGENCY RESPONSE COST RECOVERY SURVEY

CITY	ERCR PROGRAM?	TYPE OF INCIDENT	WHEN DO THEY BILL
Anaheim	Yes	Accidents	Arrest
Bakersfield	Yes	Accidents	Arrest
CHP	Yes	Accidents	Conviction
Concord	Yes	HMV*	Arrest
Fremont	Yes	Accidents	Arrest
Fresno	No	--	--
Hayward	Yes	Accidents	Arrest
Huntington Beach	Yes	Accidents	Arrest
Long Beach	Yes	HMV	Arrest
Los Angeles	No	--	--
Oakland	No	--	--
Palo Alto	No	--	--
Pasadena	No	--	--
Pleasanton	Yes	HMV	Arrest
Riverside	No	--	--
San Francisco	No	--	--
San Jose	Yes	HMV	Arrest
Santa Clara	Yes	HMV	Arrest
Santa Cruz	Yes	HMV	Arrest
Santa Rosa	Yes	Accidents	Arrest
Stockton	No	--	--
Torrance	No	--	--

\*HMV=Hazardous Moving Violations