



CITY OF SACRAMENTO

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April 1, 1986

Law & Legislation Committee
Council Chambers
Sacramento, CA 95814

Re: Assembly Bills 4238 and 4243 (Hughes).
(Relating to Sports Franchises)

Dear Committee Members:

Mr. Michael Ross has asked the City Council to support Assembly Bills 4238 and 4243 (Hughes) relating to sports franchises. A copy of the bills has already been sent to you. The Council referred this matter to the Law & Legislation Committee. The bills have been assigned to the Assembly Committee on Finance and Insurance. No hearing has been set, although a hearing must be held before April 15, 1986 under the Assembly rules.

Assembly Bill 4238.

This bill is entitled the "California Sports Community Protection Act of 1986." The bill is summarized in the Legislative Counsel's Digest which is a part of the bill. Generally, the bill requires notification within 72 hours of an offer to relocate a franchise. It prohibits financial inducements to relocate in violation of a sports contract. Also if a sports contract exists requiring a team to stay in a community for more than four years, others cannot negotiate with a team to persuade it to relocate. Public money to finance relocation and improve sports facilities must be approved by a majority vote of the people. In addition, the bill provides that certain consumers have a cause of action for damages.

The bill defines the terms "sports team", "sports market" and "sports contract". In my opinion, none of these definitions are sufficiently clear. The bill appears to be intended to apply to a community where the sports team is playing in a publicly owned facility. Since a publicly owned facility is not involved in Sacramento, the bill, for the most part, would not appear to be applicable to this City.

Assembly Bill 4243.

This bill is called the "Sports Franchise Relocation Act of 1986." It also contemplates that the public owns the professional sports facility in which the team is playing. The bill requires notification of an intent to relocate. It also prohibits relocation unless the team establishes that the stadium owner has; (1) failed to comply with a material provision of the stadium lease; (2) the stadium in which the team plays is inadequate, or (3) the team has incurred an annual net income loss for seven consecutive years. The first two factors contemplate that the stadium is publicly owned or at least is owned by someone other than the owner of the team. Thus, these factors are inapplicable to Sacramento since the owner of the team also will own the arena. The third factor, relating to loss of income for seven years, raises some legal issues. In my opinion, it is very questionable whether a condition of this type would be upheld. The recent case of City of Oakland v. Oakland Raiders 174 Cal.App.3d 414 (1985) held that a city's plan to use the eminent domain power to purchase the Oakland Raiders violated the commerce clause of the Federal Constitution. The proposal, even though Oakland would pay the owners the value of the team and franchise, placed an undue burden on interstate commerce. A regulation without compensation, such as that proposed in AB 4243, could be determined to burden interstate commerce more than the Oakland eminent domain proposed.

Because these bills do not apply to the Sacramento situation where the owner of the team also owns the arena, the Committee may wish to take no position on the bills.

I have discussed these bills with Mr. Michael Ross and have notified Mr. Maurice Read of the Committee hearing. The League of California Cities has taken no position on these bills.

Sincerely,



JAMES P. JACKSON
City Attorney

ASSEMBLY BILL

No. 4243

AB 4243

— 2 —

Introduced by Assembly Member Hughes

February 21, 1986

An act to add Chapter 1.5 (commencing with Section 18500) to Division 8 of the Business and Professions Code, relating to sports franchises.

LEGISLATIVE COUNSEL'S DIGEST

AB 4243, as introduced, Hughes. Sports franchise: relocation.

Existing law does not require an owner of a professional sports franchise who intends to relocate that franchise to furnish notification of that intent to a specified government authority prior to its relocation.

This bill would require an owner of a professional sports franchise, as defined, who intends to relocate from a stadium in this state to a stadium outside the city, city and county, or county in which the franchise is operating to furnish notification of the intent to relocate to the appropriate local government authority. It would prohibit a professional sports franchise from relocating unless the person intending to relocate the franchise establishes in the written notification specific factors.

The bill would also provide that any time the owner of a professional sports franchise proposes to sell, or having complied with the provisions of the bill, to relocate the franchise, any appropriate government authority may acquire ownership of the franchise at the fair market value or, if a bona fide offer to purchase has been made by another party, at a price equal to that offer. It would allow for the franchise to be sold to another party or relocated only if no government authority elects to exercise the right of

acquisition.

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

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

1 SECTION 1. Chapter 1.5 (commencing with Section
2 18500) is added to Division 8 of the Business and
3 Professions Code, to read:

4
5 CHAPTER 1.5. SPORTS FRANCHISE RELOCATION ACT
6 OF 1986
7

8 18500. This act shall be known and may be cited as the
9 "Sports Franchise Relocation Act of 1986."

10 18501. The Legislature hereby finds and declares that
11 the public has a vested interest in promoting solid
12 stability in the relationship between professional sports
13 teams and the local communities in which they operate.
14 The Legislature also finds and declares that the public has
15 an interest in encouraging professional sports leagues to
16 promote the economic and geographic stability of
17 member clubs because professional sports teams achieve
18 a strong local identity with the people of the city and
19 region by providing a source of pride and entertainment
20 to their supporters.

21 18502. For the purpose of this chapter, the following
22 definitions shall control:

23 (a) "Government authority" means the unit of local
24 government which exercises regulatory authority with
25 respect to a professional sports franchise, as designated by
26 the board of supervisors of the county wherein the
27 stadium is situated.

28 (b) "Professional sports franchise" means any
29 organized professional baseball, football, basketball,
30 hockey, or soccer team engaged in established league
31 competition which also qualifies as a professional athletic
32 team under paragraph (3) of subdivision (a) of Section
33 25141 of the Revenue and Taxation Code.

34 (c) "Stadium" includes any arena, a theater, or

1 other facility in which a professional sports franchise
2 plays its home games.

3 18503. (a) Any owner of a professional sports
4 franchise intending to relocate that franchise from a
5 stadium in this state to a stadium outside the city, city and
6 county, or county, in which the franchise is operating
7 shall furnish notification of that intent to relocate to the
8 appropriate local government authority.

9 (b) Notification under this section shall be in writing
10 and shall contain each of the following:

11 (1) A statement of intention to relocate, the proposed
12 new location, and the reason for that proposed relocation.

13 (2) Full documentation supporting one or more of the
14 grounds for relocation, as specified in subdivision (c).

15 (3) The date on which the relocation is intended to
16 occur.

17 (c) No professional sports franchise may be relocated
18 unless the person intending to relocate the franchise
19 establishes in the notification described in subdivision (b)
20 that one or more of the factors set forth below exist:

21 (1) A stadium owner or operator has failed to comply
22 with a provision of material significance to a stadium
23 lease agreement with the professional sports franchise,
24 and that the noncompliance cannot be remedied or has
25 not been remedied within a reasonable period of time.

26 (2) The stadium in which the professional sports
27 franchise plays is inadequate for the purposes of properly
28 and competitively operating the team, and the stadium
29 owner or operator demonstrates no intent, or fails within
30 a reasonable period of time, to remedy that inadequacy.

31 (3) The professional sports franchise has incurred an
32 annual loss of net income for each of the seven years
33 immediately preceding notice of intent to move under
34 subdivision (a).

35 (d) Upon the request of the government authority
36 receiving notification under this section, the person
37 furnishing notice of intent to relocate shall make
38 available for public inspection all financial records
39 necessary to support the grounds for relocation provided
40 in the notification.

1 (e) No relocation of a professional sports franchise
2 may take place within one year following the receipt by
3 the appropriate governmental authority of the
4 notification required under this section or if a legal action
5 has been filed to enforce this chapter.

6 18504. Any time the owner of a professional sports
7 franchise proposes to sell, or having complied with the
8 provisions of this chapter, to relocate the franchise, any
9 appropriate government authority may acquire
10 ownership of the franchise at the fair market value or, if
11 a bona fide offer to purchase has been made by another
12 party, at a price equal to the offer. The franchise may be
13 sold to another party or relocated only if no government
14 authority elects to exercise the right of acquisition.

15 18505. Nothing contained in this section shall do any
16 of the following:

17 (a) Change, determine, or otherwise affect the
18 applicability or nonapplicability of any provision of
19 federal or state law to the wages, hours, or other terms
20 and conditions of player employment within any sports
21 league, to any collective bargaining rights and privileges
22 of any player union within any sports league.

23 (b) Exempt from the antitrust laws of the United
24 States any predatory practice or other conduct with
25 respect to competing sports leagues which would
26 otherwise be unlawful under those antitrust laws.

27 (c) Modify any laws relating to the television practices
28 of sports leagues, or change, determine, or otherwise
29 affect the applicability or nonapplicability of the antitrust
30 laws or communications laws of the United States to any
31 form of joint-dealing practices by sports leagues with
32 respect to the sale of cable or subscription television.

33 18506. This act shall apply to all professional sports
34 franchise relocations occurring after January 1, 1987.

ASSEMBLY BILL

No. 4238

Introduced by Assembly Member Hughes

February 21, 1986

An act to add Chapter 5.1 (commencing with Section 19900) to Division 8 of the Business and Professions Code, relating to sports franchises.

LEGISLATIVE COUNSEL'S DIGEST

AB 4238, as introduced, Hughes. Sports franchises: relocation.

(1) Existing law does not regulate the relocation of professional sports teams.

This bill would enact the California Sports Community Protection Act of 1986, which would prohibit out-of-state interests from negotiating with specified professional sports teams to negotiate regarding relocating the team; would require a professional sports team which receives an offer from any outside interest to relocate, and the outside interest, to notify all parties to their sports contracts, as defined, within 72 hours, as specified; would provide that it is a tort for a municipality to provide financial inducement to a professional sports team to relocate in violation of its sports contract; provide that no public funds may be expended for relocation or facility reconstruction for a professional sports team without voter approval, as specified, thereby imposing a state-mandated local program by requiring a higher level of service under an existing program; would establish standing to bring a cause of action under the act; and would specify the civil penalties for violation of the act.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish

procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates which do not exceed \$500,000 statewide and other procedures for claims whose statewide costs exceed \$500,000.

This bill would provide that reimbursement for costs mandated by the bill shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$500,000, shall be payable from the State Mandates Claims Fund.

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

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

1 SECTION 1. Chapter 5.1 (commencing with Section
2 19900) is added to Division 8 of the Business and
3 Professions Code, to read:

4
5 CHAPTER 5.1. CALIFORNIA SPORTS COMMUNITY
6 PROTECTION ACT OF 1986
7

8 19900. This act shall be known, and may be cited, as
9 the California Sports Community Protection Act of 1986.

10 19901. The intent of the Legislature in enacting this
11 chapter is to protect the rights of California's sports fans
12 and the investments that are made by cities on their
13 behalf through the planning and construction of sports
14 facilities, lending of name and regional identity, not to
15 mention the sports future of the city hosting professional
16 sports.

17 19902. The following definitions govern the
18 construction of this chapter:

19 (a) "Professional sports" means any competitive
20 athletic event, contest, amusement, pastime, game, or
21 diversion that is manufactured, produced, and then
22 distributed by organized leagues, owners, teams, and
23 players for profit.

24 (b) "Sports team" means any members of a nationally
25 recognized sports league that employs two or more
26 athletes paid for their services.

1 (c) "Sports market" means the established regional
2 boundaries that are outlined in the official league
3 charters. For the National Basketball Association the
4 market is 90 square miles; for the National Football
5 League, the market is 100 square miles, and for Major
6 League Baseball, the market is 125 square miles.

7 (d) "Sports contract" means the documents defining
8 the relationship and duties between the team and the
9 host city, facility, or sports market.

10 19903. If a professional sports team is under a written
11 sports contract to stay in a city, facility, or sports market
12 for more than four years, it is unlawful for any out-of-state
13 municipality, corporation, league, state, or competing
14 sports market, to negotiate with that team regarding
15 relocating the team to another sports market.

16 19904. If any professional sports team in California
17 receives an offer by any outside interest to relocate to
18 their city, the team and outside interest shall notify all
19 parties to their sports contracts within 72 hours of the
20 offer to relocate. The notification shall be by registered
21 mail, and shall include a detailed synopsis of the offer
22 including any monetary figures proposed for relocating
23 the team or proposed stadium improvements.

24 19905. It is a tort for a municipality to provide
25 financial inducement to a professional sports team to
26 relocate in violation of its sports contract.

27 19906. No public funds may be expended to finance
28 relocation or facility reconstruction for a professional
29 sports team without a majority vote of the electors in that
30 sports market.

31 19907. Since the community as a whole is involved in
32 the participation of the professional sports program, a
33 cause of action for damages may be brought about by:

34 (a) Individual consumers that make up the total sports
35 market.

36 (b) A city on behalf of the community's consumers.

37 (c) The consumers, through a class action.

38 19908. Violations of this chapter are punishable by
39 civil penalties, as follows:

40 (a) For violation of Section 19904 by a team, seven

1 thousand five hundred dollars (\$7,500) per day that
2 notification is not given to their contractual partner.

3 (b) For violation by a city, facility, or competing sports
4 market, twenty-five thousand dollars (\$25,000) per day or
5 cause of action.

6 SEC. 2. Reimbursement to local agencies and school
7 districts for costs mandated by the state pursuant to this
8 act shall be made pursuant to Part 7 (commencing with
9 Section 17500) of Division 4 of Title 2 of the Government
10 Code and, if the statewide cost of the claim for
11 reimbursement does not exceed five hundred thousand
12 dollars (\$500,000), shall be made from the State Mandates
13 Claims Fund.

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