

MINUTES

LAW AND LEGISLATION COMMITTEE MEETING

April 14, 1988

City Council Chambers
915 I Street, Second Floor
Sacramento, California

The meeting was called to order at the hour of 3:15 p.m. by Chairman Terry Kastanis.

PRESENT: Committeemembers Kastanis, Mueller, Shore.

ABSENT: Committeemember Pope.

Chairman Kastanis stated that the City's Legislative Advocate, Ken Emanuels, requested that Item 2 be first. The Committee agreed.

2. Legislative update from Ken Emanuels, Legislative Advocate for the City of Sacramento.

RECOMMENDATION OF STAFF: FILE.

MINUTES:

Mr. Emanuels discussed his list of pending legislation affecting the City of Sacramento.

(a) There are two Board of Control claims. The waste to energy plant claim will be heard next Wednesday and if approved will go into the 1988-89 budget, which is our goal. He stated this is not going to pass automatically; there will be problems.

(b) Flood control legislation. Nothing has occurred since November or December. A number of objections have been raised. This bill isn't moving ahead quickly, and there are no immediate committee deadlines. Garamendi's bill is in the second House; Doolittle's bill is just beginning.

(c) Mr. Emanuels didn't discuss this matter, as it is on the agenda for discussion later today.

(d) Firearms. Connelly strongly supports this, but doesn't want to spend a lot of time on it if it doesn't meet all the requirements of the ACLU and the National Rifle Association. There are no committee hearing deadlines.

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

2. CONTINUED FROM PREVIOUS PAGE.

(e) MORT appropriation for a museum on railroad technology. The State Department of Parks and Recreation is enthusiastic in their support. Running into problems regarding asking for funds to begin plans and specifications without a clear indication of how this will ultimately be paid for.

(f) New Ramona Assessment District. This has been approved by the first Budget Committee in the Ways and Means Committee. Mr. Emanuels thinks this will be in the budget. The State is beginning to understand that if the State doesn't play a "responsible neighbor" at existing facilities, it will be difficult to get support for future State facilities.

(g) PERS merger. There was some discussion about the plans to merge PERS with the City's retirement system. Jim Jackson, City Attorney, stated that this was initiated by the City Manager, and that there is no contractual obligation that this be accomplished.

(h) National Guard Museum. This is an appropriation of \$500,000 from the 1984 State Bond Act for a National Guard museum. It is not likely to be approved, but it does have strong support.

(i)-(j) The Rail Corridor Studies, San Jose to Sacramento and Los Angeles to Sacramento, are long-term studies which warrant following very closely. The cities in the County will be asked to put a member on a task force. Chairman Kastanis suggested that Mr. Emanuels drop a note to the Mayor with that request. It was explained that this will be a joint appointment with other cities in the County.

Committeemember Shore asked that the City consider the Garamendi flood control bill a high priority, and stated that he wants to see it go. Committeemember Mueller asked that the Committee also hear SB 144 (abandoned vehicles) and AB 4498 (motor oil recycling) soon.

1. AB 4355 (Connelly) relating to creation of the Sacramento Metropolitan Air Quality Management District.

RECOMMENDATION OF STAFF: RECOMMEND SUPPORT

COMMITTEE ACTION: SUPPORTED IN CONCEPT

VOTING RECORD: MOVED: SHORE; SECONDED: MUELLER
AYES: SHORE, MUELLER, KASTANIS
ABSENT: POPE

ITEM CONTINUED ON FOLLOWING PAGE.

COMMITTEE ACTION SHEET

1. CONTINUED FROM PREVIOUS PAGE.

MINUTES:

Mike Davis, Director of Planning and Development, was present to discuss this item. He stated that the County has already taken a stand on this. Mr. Davis passed out the staff report on AB 4355 (copy attached). He said the staff is encouraging the Committee to support this bill, as the City has been attempting to promote air quality control. He went over some concerns and comments the staff has regarding the bill as written, which he asked that the Legislative Advocate and the department heads bring to the attention of the author. Chairman Kastanis stated that Councilmember Lynn Robie would like to have the Transportation and Community Development Committee hear this bill also. Chairman Kastanis also asked whether there were any timelines on this bill. Mr. Davis stated that Ken Emanuel's explanation is that this bill will have a hard time flying this way, and that his expectation is that the City has several months, at least. Mr. Davis feels there will be considerable discussion between this Council and the Board of Supervisors in the future on this issue. Committeemember Shore expressed his concern that it is one thing to have enforcement measures, but it is another thing where our local authority is overridden; he doesn't want to see the City's authority deleted. Chairman Kastanis stated that Mike (Davis) is asking for the Committee's conceptual support. Shore moved, Mueller seconded, and it was unanimously agreed to support AB 4355. Chairman Kastanis asked that Ken Emanuel's work independently with individual Council members on this bill, and suggested that no letter be written to Connelly regarding this bill until after it has been heard in T&CD.

3. Ord. adding Chapter 76 to the Sacramento City Code, prohibiting discrimination by clubs or organizations which are not distinctly private.

RECOMMENDATION OF STAFF:

RECOMMEND ENDORSEMENT AND FORWARD TO COUNCIL.

COMMITTEE ACTION:

ENDORSED, WITH AMENDMENTS, AND FORWARDED TO COUNCIL.

VOTING RECORD:

**MOVED: SHORE; SECONDED: MUELLER
AYES: SHORE, MUELLER, KASTANIS
ABSENT: POPE**

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COMMITTEE ACTION SHEET

3. CONTINUED FROM PREVIOUS PAGE.

MINUTES:

Chairman Kastanis stated at this time that the Human Rights and Fair Housing Commission did an excellent job preparing this ordinance.

Martha Powers, Chairperson of the Human Rights and Fair Housing Commission of the City and County of Sacramento, along with Robbin DeShields Randolph and Randy Shiroy, were present to discuss this proposed ordinance. Ms. Powers read a statement regarding this matter. The main issue was that the the existence of clubs that discriminate in their membership and where business is frequently conducted is perceived by the community as an obstacle to the advancement of women and minorities in business and the professions. It was pointed out that the Sutter Club is the only club in the City of Sacramento which would be affected by this ordinance at this time.

The proposed ordinance was modified to reflect that the criteria should include groups of 200 or more members, rather than 100, which was originally the number. With 200 members or more, there's a better chance to prove that it is a business organization rather than a private club. Chairman Kastanis asked why the downtown Rotary Club was not considered a club affected by the proposed ordinance, since they have a very large membership, probably more than 200. Robin Randolph said that the Rotary Club was an open group covered under the Unruh Civil Rights Act. She explained that the proposed ordinance outlines specific criteria for determining what is and is not a private club. Mr. Shiroy stated that in discussions with the president of the Rotary Club, he learned that Rotary had just admitted its first woman member and they think it's a great idea. Diane Balter, Deputy City Attorney, stated that the Sutter Club is a group that serves meals on a regular basis, whereas the Rotary Clubs don't provide that service, and that is another reason why this ordinance doesn't attempt to reach Rotary-type clubs.

There was discussion regarding the City Attorney's office's ability to enforce this ordinance. The Commission feels the community should know that if an incident arises, there is someone to go to. Attorney Balter stated that the City Attorney's office does not have the available resources to provide enforcement of this ordinance, although general provisions of the City Code would authorize the office to seek injunctive relief. She said that putting the name of the City Attorney's office in the ordinance would be misleading to the community. Robin Randolph stated that

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COMMITTEE ACTION SHEET

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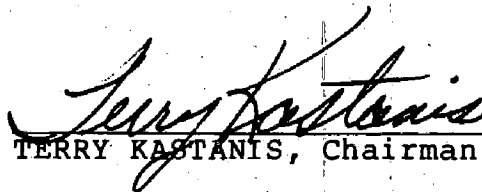
this ordinance was patterned after the Los Angeles ordinance, which states their City Attorneys provide enforcement. Councilmember Shore stated that enforcement will be the same, whether or not it is so stated in the ordinance, and that it doesn't matter one way or another to him. Attorney Balter said that if it is in, people will be expecting the City Attorney's office to do something in the way of enforcement. Mueller and Kastanis were in agreement that the City Attorney's office should be noted in the ordinance.

Councilmember Shore moved, Mueller seconded, and it was unanimously agreed to endorse the ordinance relating to prohibition of discrimination by clubs or organizations which are not distinctly private, leaving in the name of the City Attorney's office in enforcement sections.

City Attorney Jim Jackson stated at this time that there is no money in the General Fund to cover the cost of this additional workload in the City Attorney's office, as his office really can't take on much more and the money just isn't there. Councilmember Shore said that it's up to the Council to make the appropriations, if necessary. Chairman Kastanis asked that the report to the Council identify the budget issue. Committeemember Mueller suggested the City Attorney's office keep a tally of requests and phone calls relating to this issue. Chairman Kastanis again thanked the Commission for their extremely thorough report. Attorney Balter noted that this matter will be heard by the Council on May 3rd.

* * * * *

The meeting was adjourned at 4:13 p.m.


TERRY KASTANIS, Chairman

ATTEST:

JUDY VARVEL, Secretary



DEPARTMENT OF
PLANNING AND DEVELOPMENT

CITY OF SACRAMENTO
CALIFORNIA

1231 I STREET
SACRAMENTO, CA

April 14, 1988

ADMINISTRATION
ROOM 300
95814-2987
916-449-5571

Law and Legislative Committee
Sacramento, California

ECONOMIC DEVELOPMENT
ROOM 300
95814-2987
916-449-1223

Honorable Members in Session:

NUISANCE ABATEMENT
ROOM 301
95814-3982
916-449-5948

SUBJECT: Assembly Bill 4355 (Connelly)

THE BILL

This bill is presented as an amendment to the Health and Safety Code related to air pollution. The bill would create the Sacramento Metropolitan Air Quality management District to include all of Sacramento County and, if requested the counties of Yolo, Solano and Placer. A Sacramento Regional Air Quality Coordinating Council is proposed should the other three counties not participate. The Coordinating Council would coordinate air quality planning of Yolo-Solano Air Pollution Control District and the Placer County Air Pollution Control District. The Council would be terminated at the inclusion of the three counties into the Metropolitan District.

The District would be charged with primary responsibility for air pollution control strategies, clean fuel programs, and motor vehicle use reduction measures. The District may adopt regulations to require purchase of new vehicles or conversion of existing vehicles to cleaner-burning fuels, by public or commercial fleet operators. They may also encourage ridesharing, van pooling, peak shifting or flexible work hours to improve transportation system management and air quality.

The District may adopt fees to recover implementation costs. In addition an annual surcharge on vehicles is authorized beginning at \$2.00 per vehicle.

STAFF REVIEW

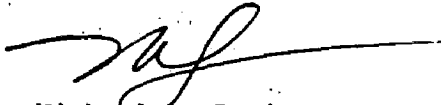
The bill has been reviewed by staff of the Public Works and Planning and Development Departments. Staff will be available at your committee meeting to discuss the bill. The staff review so far has revealed certain areas of the bill which are unclear in meaning or uncertain as to intent and implementation.

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Law and Legislative Committee
April 14, 1988

RECOMMENDATION

Staff recognizes and concurs in the regional approach necessary to resolve a problem of this magnitude. We generally recommend that your committee support adoption of AB4355 with certain reservations regarding clarification of the authorities and responsibilities as they would pertain to the City of Sacramento. These matters should be discussed at your committee meeting.

Respectfully submitted,



Michael M. Davis
Director of Planning and Development

April 14, 1988
All Districts



CITY OF SACRAMENTO

DEPARTMENT OF PLANNING AND DEVELOPMENT

1231 "I" Street

Sacramento, Ca. 95814

Administration

Room 300 449-5571

Building Inspections

Room 200 449-5716

Planning

Room 200 449-5604

April 14, 1988

TO: Michael M. Davis
Director of Planning and Development

FROM: Robert B. Wall
Assistant Director of Planning and Development

SUBJECT: AB4355(Connelly) Sacramento Metropolitan Air Quality
Management District.

On March 25, 1988, Bob Lee and Marilyn Kuntemeyer met with Marty Van Duyn, Diana Parker, and myself regarding this piece of legislation. We agreed that the bill had numerous points that required clarification and that it would be advantageous for you to arrange a meeting for this group with John White, LLOYD Connelly's consultant on this bill. What follows are highlights of our concerns which either need clarification or modification. The concerns will be listed in numeric sequence as presented in the Assembly bill.

ARTICLE 2 CREATION OF THE DISTRICT

Section 40961.

This section should include responsibility for monitoring and enforcement.

Section 40963(A). The last line regarding contiguous territories should be deleted. It would preclude the City of Davis from participating if Yolo County chose not to, that is presuming the Yolo Board would adopt resolution for inclusion of the City of Davis as required by that section.

Section 40963(C). This is not specific regarding which State board is being referred to.

ARTICLE 3 GOVERNING BODY.

Section 40980. Assuming that the City of Sacramento and the County of Sacramento enter into agreement for this District Board, would the "elected officials of the County of Sacramento" be comprised of the Board of Supervisors or the Board and the Council? Does the Council get to directly appoint to the District Board.

Section 40981. Members serve at the pleasure of their respective appointing powers. Does this suggest possible lifetime membership on the Board? Under Article 3, the appointment structure needs to be further clarified. It would be helpful to have a further delineation of the qualifications of members and a specific term of office. The make up and balance of the Board is also of some concern.

Section 41011(B). Would rental car agencies be considered a fleet and have to convert? Could this possibly also include RT busses and diesel equipment (heavy equipment)?

Section 41011(C). What is magical about fifteen (15) in determining what constitutes a fleet?

Section 41012. This section states ". . . district may adopt regulations to encourage ridesharing. . . ." This appears contradictory. If a regulation is adopted it should have the power to "require" action. One can encourage without "regulation" since encouragement is not binding. Only with specific authority to regulate can the district ensure consistency in mitigation measures amongst various jurisdictions.

Section 41013. This section is vague. Taken to its illogical conclusion it could override all transportation and land use decisions of local jurisdictions if they were deemed to impact on air quality. The powers and limitations of the District both need to be identified.

ARTICLE 6. AIR-QUALITY PLAN

Section 41060. To comply with the North Natomas Settlement Agreement, the City must adopt a revised Transportation System Management (TSM) Ordinance by September 1989. If the district strategy to be adopted by January 1, 1990 contradicts our TSM the City could be in a double bind. Non-compliance with either obligation could create legal jeopardy for the City.

This section could be more specific regarding who conducts the strategy study and how such study is to be funded.

Section 41061 and 41063. This section provides the power to implement and enforce at the District level within the Sacramento Valley Region. We question if the entire basin could experience a liability from the noncompliance of one member? Would all members of the District suffer sanctions as a result of that noncompliance.

Section 41064. This section referencing S.A.C.O.G. does not appear to be a necessary inclusion.

ARTICLE 6, FINANCIAL PROVISIONS.

Section 41080. This section provides sweeping powers for adoption of fees on "permitted and other sources of air pollution". This could include breathing, barbecues, and gaseous emissions from vegetal wastes. It cries out for some clearer definition and parameters.

Section 41081. Referring to the \$2.00 per vehicle surcharge for 1988 and '89-- It is not clear if State vehicles operated within the City and County will be required to pay this surcharge as well.

Subsection(D). References funds used to implement the strategy but does not clearly spell out if the Board members are compensated and if that compensation is derived from the \$2.00 per vehicle charge. Likewise any cost of staff and business operation expense should be identified as being funded from that particular source of funding. Otherwise the specific source of funding should be identified individually (i.e., local, general funds).

GENERAL OBSERVATIONS

On a more general note, it should be understood that this jurisdiction agrees with the need for a regional approach to resolve the declining quality of air for its residents. Recognizing that agreement we are still concerned with clearly defining the powers and the limitations of this district; specifying its exact funding source; and placing authority and responsibility at the same level.

Questions of concern could be: Under the current bill language would the district board have the authority to superimpose land use decisions on local jurisdictions? Would they, through so-called mitigation measures, have the power to veto the General Plan or the TSM?

From the perspective of local government, any State highway improvements considered by the City of Sacramento must be reviewed by S.A.C.O.G.; Caltrans District 3; Cal-Trans Headquarters; and the California Transportation Commission.

If the highway is also part of the national highway system, the proposal must also be reviewed by the Federal Highway Administration. By adding one additional layer of government, the grist could stop the mill. Has anyone considered consolidations?

We encourage a meeting with John White at his earliest possible convenience to explain the intent of the bill, and address our concerns.

AIR QUALITY WORK IN PROGRESS.

Items already accomplished towards meeting our Air-Quality goal:

- The North Natomas Settlement with revised TSM Ordinance.
- Air-Quality Plan Update is in progress.
- County's new expanded Environmental Health Department is willing to assume mobile source emissions.

Robert B. Wall om

Robert B. Wall
Assistant Director of Planning and Development

RBW:om

CITY OF SACRAMENTO
STAFF ANALYSIS OF AB4355(CONNELLY)
SUBMITTED TO LAW & LEGISLATION COMMITTEE
APRIL 14, 1988

Section #	Excerpts	Staff Comments/Concerns
1. 40961	"The Sacramento District is the local agency within the boundaries of the Sacramento District with the primary responsibility for air-pollution control strategies, clean fuels programs, and motor vehicle use reduction and shall represent the citizens of the Sacramento District in influencing the decisions of other public and private agencies whose actions may have an adverse impact on air quality within the Sacramento District."	Section should include responsibility for-monitoring and enforcement.
2. 40963(A)	The Sacramento District Board may, by resolution, include all or a portion of the County of Yolo, Solano, or "Placer within the Sacramento District. Upon receipt of a resolution from the Board of Suprvisors of the County requesting inclusion and specifying the portion of the County to be included in the Sacramento District. All territory included within the Sacramento District shall be contiguous."	Contiguous territories should be deleted. It would preclude the City of Davis from participating if Yolo County chose not to.
3. 40963(C)	"A copy of the resolution of inclusion shall be transmitted by the Sacramento District Board to the Board of Supervisors and to the State Board."	Identify which State Board is referenced.

Section #	Excerpts	Staff Comments/Concerns
4. 40980(A)	"The Sacramento District shall, at a minimum, be governed by a district board appointed by elected officials of the County of Sacramento, pursuant to agreement by the affected local governments of that county."	Would "elected officials of the County of Sacramento" be comprised of the Board of Supervisors or the Board and the Council? Does the Council directly appoint to the Board? Should the Board be comprised of elected officials?
5. 40981	"The members of the Sacramento District Board shall serve at the pleasure of their respective appointing powers. . . ."	This suggests lifetime membership potential. Suggests specifying the term of office such as 2 to 4 years with the Board comprised of representatives of all participating jurisdictions. Suggests also specific criteria for selection to the Board.
6. 41011(B)	"After a public hearing, the Sacramento District may adopt regulations to require the purchase of new vehicles or the conversion of existing vehicles, where technologically feasible, to cleaner-burning alternative fuels, or the low-emmission equivalent by public or commercial vehicle fleet operators, or both."	It is assumed that rental car agencies, State vehicles, and heavy equipment are included.
7. 41011(C)	"For purposes of this section, motor vehicle fleet" means 15 or more vehicles under common ownership or operation."	Why does 15 constitute a fleet?

Section #	Excerpts	Staff Comments/Concerns
8. 41012	<p>"In consultation with the Department of Transportation and other appropriate State and local public agencies, after a public hearing the Sacramento District may adopt regulations to encourage ridesharing, van pooling, peak shifting, or flexible work hours, in order to improve Transportation System Management and air quality within the Sacramento District."</p>	<p>The use of the phrase "adopt regulations to encourage" seems contradictory. Regulations imply the power to require action. The scope of the District's regulatory powers should be more fully defined.</p>
9. 41013	<p>"The Sacramento District may adopt regulations to limit or mitigate the impact on air quality of indirect or areawide sources."</p>	<p>Section could be interpreted to include the power to override transportation and land use decisions of local jurisdictions.</p>
10. 41060	<p>"Not later than January 1, 1990, the Sacramento District shall adopt the strategy to reduce public exposure to air pollution and toxic air contaminants and to achieve and maintain State and federal ambient air-quality standards by the earliest date."</p>	<p>To comply with the North Natomas Settlement Agreement, the City must adopt a revised Transportation System Management (TSM) Ordinance by September, 1989. If the January, 1990 District strategy could be in non-compliance with the Settlement Agreement or the District.</p>

Section # Excerpts Staff Comments/Concerns

11. 41064 "In preparing the strategy, the District may contract with the Sacramento area Council of Governments for the preparation of analysis of the availability and effectiveness of transportation control and motor vehicle use reduction measures."
12. 41080 "The Sacramento District may adopt a schedule of fees levied on permitted and other sources of air pollution, to recover its cost of implementing this chapter."
13. 41081(A) ". . . The Sacramento District Board may adopt a surcharge on the motor vehicle registration fees applicable to all motor vehicles registered in those counties within the Sacramento District whose Boards of Supervisors have adopted a resolution approving the surcharge. The surcharge shall be collected by the Department of Motor Vehicles and, after deducting the Department's administrative costs, the remaining funds shall be transferred to the Sacramento District."
14. 41081(B) "Funds received by the Sacramento District pursuant to this section, shall be used to implement the strategy with respect to the reduction in emissions from vehicular sources, including, but not limited to, the clean fuels program and motor vehicle use reduction measures."

The section referencing SACOG does not appear to be a necessary inclusion.

This provides sweeping powers for the adoption of fees. Suggests clearer definition and parameters for levy base.

Regarding the vehicle surcharge, it is not clear if State-owned vehicles operated within the City and County will be required to pay this surcharge as well.