

City of Sacramento  
State Legislature

3

BILL REFERRAL

DATE: May 4, 1993 COMMITTEE ACTION: \_\_\_\_\_

TO: A. VENEGAS, CHIEF OF POLICE DATE: \_\_\_\_\_

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: May 18, 1993

A.B. \_\_\_\_\_ , As Amended \_\_\_\_\_ \* Author \_\_\_\_\_

S.B. 822 , As Amended \_\_\_\_\_ \* Author T. Hayden

\* Date of introduction or latest amendment

Please review the attached measure to determine its effect upon the City of Sacramento and complete the following questions as appropriate. During your analysis of this measure, if questions arise, please feel free to contact Ken Emanuels at 444-6789, FAX 444-0303, (1400 K Street, Suite 306, Sacramento, CA 95814.) This questionnaire should be returned to the City Attorney's Office for presentation to the Council Committee on Law and Legislation. **PLEASE LEAVE THE BILL ATTACHED TO THIS FORM.**

**NO RECOMMENDATION.** If you think no Committee action on this bill should be taken, either because the bill is not of sufficient importance to the City or for any other reason, please mark here, do not fill out the rest of the form, and return this form to the City Attorney's Office. \_\_\_\_\_.

**PLEASE TYPE YOUR RESPONSE**

1. Briefly describe the provisions of the bill (attach additional sheets if necessary.)

S.B. 822 would require law enforcement agencies to destroy guns seized after their use in a crime.

2. This measure should be: (Please circle desired position)

Supported

Opposed

**Supported if Amended**

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, include how this measure effects your Department and the fiscal impact of this measure on the

City. Please make your comments in a format that can be used in a letter to state officials.

Much of the violence today is perpetrated by criminals with firearms. Law enforcement has generally been supportive of gun control laws which assist in keeping guns from the criminal element. For law enforcement to sell weapons that have been used in crimes and reap a profit sends a mixed message to the community. By destroying the confiscated weapons, we are insuring that they will never again be used to injure or kill innocent victims.

The police department currently destroys confiscated weapons and would therefore be in compliance with this new law, if passed.

4. Specify the City's legislative policy guideline(s) applicable to this measure (if any).

Support of this bill would be in keeping with the City Council's previous policy to ban assault weapons within city limits, as well as their support for the fifteen day waiting period for gun purchases.

5. If this measure could be amended to either improve its favorable aspects or to minimize its adverse aspects, which amendments would you propose?

This bill needs to be amended to allow law enforcement agencies to retain confiscated weapons for law enforcement use, archival purposes or training.

6. List known support or opposition to this measure by groups with which you are familiar and include addresses and phone numbers, if known.

League of California Cities position: Opposed - Some cities currently sell guns and use the revenue for other programs.

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation code Section 2231?

SB 822 requires a state mandated local program and provides for reimbursement via the State Mandates Claims Fund. There is no appropriation in the bill.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 5

FORM COMPLETED BY: CE CLAUDIA R. EVANS DATE: 5/10/93

APPROVED: David R. Martinez  
DAVID MARTINEZ, DEPUTY CITY MANAGER

**Introduced by Senator Hayden**

**March 4, 1993**

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**An act to amend Section 12028 of the Penal Code, relating to weapons.**

**LEGISLATIVE COUNSEL'S DIGEST**

**SB 822, as introduced, Hayden. Weapons: destruction.**

Existing law authorizes specified officers to whom weapons have been surrendered to sell any of the weapons the officers in charge consider to have value with respect to sporting, recreational, or collection purposes to persons licensed to engage in the business involving the weapon purchased. Other weapons that cannot be sold are to be destroyed, as specified. These provisions do not apply to firearms in the possession of the Department of Fish and Game, as specified, or to firearms forfeited pursuant to the Public Resources Code.

This bill would delete the authorization to offer these weapons for sale and would instead require that these weapons be destroyed, as specified, thereby creating a state-mandated local program. The bill would also delete the exemption of the Department of Fish and Game and the exemption of firearms forfeited pursuant to the Public Resources Code.

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 \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by

the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made 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. Section 12028 of the Penal Code is  
2 amended to read:

3 12028. (a) The unlawful concealed carrying upon the  
4 person or within the vehicle of the carrier of any  
5 explosive substance, other than fixed ammunition, dirk,  
6 or dagger, as provided in Section 12020, the unlawful  
7 concealed carrying upon the person or within the vehicle  
8 of the carrier of any weapons in violation of Section 12025,  
9 and the unlawful possession or carrying of any item in  
10 violation of Section 653k is a nuisance.

11 (b) A firearm of any nature owned or possessed in  
12 violation of Section 12021, 12021.1, or 12101 or used in the  
13 commission of any misdemeanor as provided in this code,  
14 any felony, or an attempt to commit any misdemeanor as  
15 provided in this code or any felony, is, upon a conviction  
16 of the defendant or upon a juvenile court finding that an  
17 offense which would be a misdemeanor or felony if  
18 committed by an adult was committed or attempted by  
19 the juvenile with the use of a firearm, a nuisance. A  
20 finding that the defendant was guilty of the offense but  
21 was insane at the time the offense was committed is a  
22 conviction for the purposes of this section.

23 (c) Any weapon described in subdivision (a), or, upon  
24 conviction of the defendant or upon a juvenile court  
25 finding that an offense which would be a misdemeanor or  
26 felony if committed by an adult was committed or  
27 attempted by the juvenile with the use of a firearm, any  
28 weapon described in subdivision (b) shall be surrendered  
29 to the sheriff of a county or the chief of police or other  
30 head of a municipal police department of any city or city  
31 and county or the Commissioner of the California

1 Highway Patrol. For purposes of this subdivision, the  
2 Commissioner of the California Highway Patrol shall  
3 receive only weapons that were confiscated by a member  
4 of the California Highway Patrol. The officers to whom  
5 the weapons are surrendered, except upon the certificate  
6 of a judge of a court of record, or of the district attorney  
7 of the county, that the retention thereof is necessary or  
8 proper to the ends of justice, ~~may annually, between the~~  
9 ~~1st and 10th days of July, in each year, offer the weapons,~~  
10 ~~which the officers in charge of them consider to have~~  
11 ~~value with respect to sporting, recreational, or collection~~  
12 ~~purposes; for sale at public auction to persons licensed~~  
13 ~~pursuant to Section 12071 to engage in businesses~~  
14 ~~involving any weapon purchased shall destroy the~~  
15 ~~weapon.~~ If any weapon has been stolen and is thereafter  
16 recovered from the thief or his or her transferee, or is  
17 used in such a manner as to constitute a nuisance  
18 pursuant to subdivision (a) or (b) without the prior  
19 knowledge of its lawful owner that it would be so used,  
20 ~~it shall not be so offered for sale but shall be restored to~~  
21 ~~the lawful owner, as soon as its use as evidence has been~~  
22 ~~served, upon his or her identification of the weapon and~~  
23 ~~proof of ownership.~~

24 ~~(d) If, under this section, a weapon is not of the type~~  
25 ~~that can be sold to the public, generally, or is not sold~~  
26 ~~pursuant to subdivision (e), the weapon, in the month of~~  
27 ~~July, next succeeding, or sooner, if necessary to conserve~~  
28 ~~local resources including space and utilization of~~  
29 ~~personnel who maintain files and security of those~~  
30 ~~weapons, shall be destroyed so that it can no longer be~~  
31 ~~used as such a weapon except upon the certificate of a~~  
32 ~~judge of a court of record, or of the district attorney of the~~  
33 ~~county, that the retention of it is necessary or proper to~~  
34 ~~the ends of justice.~~

35 ~~(e) This section does not apply to any firearm in the~~  
36 ~~possession of the Department of Fish and Game or which~~  
37 ~~was used in the violation of any provision of the Fish and~~  
38 ~~Game Code or any regulation adopted pursuant thereto,~~  
39 ~~or which is forfeited pursuant to Section 5008.6 of the~~  
40 ~~Public Resources Code.~~

1     ~~(f)~~  
2     (d) No stolen weapon shall be ~~sold or~~ destroyed  
3 pursuant to subdivision (c) ~~or (d)~~ unless reasonable  
4 notice is given to its lawful owner, if his or her identity  
5 and address can be reasonably ascertained.  
6     SEC. 2. Notwithstanding Section 17610 of the  
7 Government Code, if the Commission on State Mandates  
8 determines that this act contains costs mandated by the  
9 state, reimbursement to local agencies and school  
10 districts for those costs shall be made pursuant to Part 7  
11 (commencing with Section 17500) of Division 4 of Title  
12 2 of the Government Code. If the statewide cost of the  
13 claim for reimbursement does not exceed one million  
14 dollars (\$1,000,000), reimbursement shall be made from  
15 the State Mandates Claims Fund. Notwithstanding  
16 Section 17580 of the Government Code, unless otherwise  
17 specified in this act, the provisions of this act shall become  
18 operative on the same date that the act takes effect  
19 pursuant to the California Constitution.

City of Sacramento  
State Legislature

BILL REFERRAL

DATE: May 4, 1993 COMMITTEE ACTION: \_\_\_\_\_

TO: A. VENEGAS, CHIEF OF POLICE DATE: \_\_\_\_\_

FROM: KENNETH EMANUELS, LEGISLATIVE ADVOCATE

REPLY NO LATER THAN: May 18, 1993

A.B. 1333, As Amended \_\_\_\_\_ \* Author Gotch

S.B. \_\_\_\_\_, As Amended \_\_\_\_\_ \* Author \_\_\_\_\_

\* Date of introduction or latest amendment

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**PLEASE TYPE YOUR RESPONSE**

1. Briefly describe the provisions of the bill (attach additional sheets if necessary.)

A.B. 1333 would require law enforcement agencies to destroy guns seized after their use in a crime.

2. This measure should be: (Please circle desired position)

Supported

Opposed

**Supported if Amended**

Placed on Watch List

Other (explain)

3. Please explain your reasons for the above determination, include how this measure effects your Department and the fiscal impact of this measure on the

City. Please make your comments in a format that can be used in a letter to state officials.

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League of California Cities position: Opposed - Some cities currently sell guns and use the revenue for other programs.

7. Does this bill involve a State-mandated local program? If so, does the bill contain a State-mandated waiver, or an appropriation for allocation and disbursement to local agencies pursuant to Revenue and Taxation code Section 2231?

AB 1333 requires a state mandated local program and provides for reimbursement via the State Mandates Claims Fund. There is no appropriation in the bill.

8. Using a rating scale of 1 to 10 (with 10 as the most important), how important do you think this bill is to the City of Sacramento? 5

FORM COMPLETED BY: CLAUDIA R. EVANS <sup>ce</sup> DATE: 5/10/93

APPROVED: \_\_\_\_\_  
DAVID MARTINEZ, DEPUTY CITY MANAGER



**ASSEMBLY BILL**

**No. 1333**

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**Introduced by Assembly Member Gotch**

March 3, 1993

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An act to amend Section 12028 of the Penal Code, relating to weapons.

LEGISLATIVE COUNSEL'S DIGEST

AB 1333, as introduced, Gotch. Weapons: destruction.

Existing law authorizes specified officers to whom weapons have been surrendered to sell any of the weapons the officers in charge consider to have value with respect to sporting, recreational, or collection purposes to persons licensed to engage in the business involving the weapon purchased. Other weapons that cannot be sold are to be destroyed, as specified. These provisions do not apply to firearms in the possession of the Department of Fish and Game, as specified, or to firearms forfeited pursuant to the Public Resources Code.

This bill would delete the authorization to offer these weapons for sale and would instead require that these weapons be destroyed, as specified, thereby creating a state-mandated local program. The bill would also delete the exemption of the Department of Fish and Game and the exemption of firearms forfeited pursuant to the Public Resources Code.

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1 or which is forfeited pursuant to Section 5008.6 of the  
2 Public Resources Code.

3 ~~(f)~~

4 (d) No stolen weapon shall be sold or destroyed  
5 pursuant to subdivision (c) or ~~(d)~~ unless reasonable  
6 notice is given to its lawful owner, if his or her identity  
7 and address can be reasonably ascertained.

8 SEC. 2. Notwithstanding Section 17610 of the  
9 Government Code, if the Commission on State Mandates  
10 determines that this act contains costs mandated by the  
11 state, reimbursement to local agencies and school  
12 districts for those costs shall be made pursuant to Part 7  
13 (commencing with Section 17500) of Division 4 of Title  
14 2 of the Government Code. If the statewide cost of the  
15 claim for reimbursement does not exceed one million  
16 dollars (\$1,000,000), reimbursement shall be made from  
17 the State Mandates Claims Fund. Notwithstanding  
18 Section 17580 of the Government Code, unless otherwise  
19 specified in this act, the provisions of this act shall become  
20 operative on the same date that the act takes effect  
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This bill would provide that, if the Commission on State Mandates determines that this bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to those statutory procedures and, if the statewide cost does not exceed \$1,000,000, shall be made from the State Mandates Claims Fund.

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

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10 violation of Section 653k is a nuisance.  
11 (b) A firearm of any nature owned or possessed in  
12 violation of Section 12021, 12021.1, or 12101 or used in the  
13 commission of any misdemeanor as provided in this code,  
14 any felony, or an attempt to commit any misdemeanor as  
15 provided in this code or any felony, is, upon a conviction  
16 of the defendant or upon a juvenile court finding that an  
17 offense which would be a misdemeanor or felony if  
18 committed by an adult was committed or attempted by  
19 the juvenile with the use of a firearm, a nuisance. A  
20 finding that the defendant was guilty of the offense but  
21 was insane at the time the offense was committed is a  
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27 attempted by the juvenile with the use of a firearm, any  
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29 to the sheriff of a county or the chief of police or other

1 head of a municipal police department of any city or city  
2 and county or the Commissioner of the California  
3 Highway Patrol. For purposes of this subdivision, the  
4 Commissioner of the California Highway Patrol shall  
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6 of the California Highway Patrol. The officers to whom  
7 the weapons are surrendered, except upon the certificate  
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9 of the county, that the retention thereof is necessary or  
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11 ~~1st and 10th days of July, in each year, offer the weapons,~~  
12 ~~which the officers in charge of them consider to have~~  
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21 knowledge of its lawful owner that it would be so used,  
22 it ~~shall not be so offered for sale but~~ shall be restored to  
23 the lawful owner, as soon as its use as evidence has been  
24 served, upon his or her identification of the weapon and  
25 proof of ownership.

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