

City of Sacramento
State Legislature

4

B I L L R E F E R R A L

DATE: April 20, 1993 COMMITTEE ACTION: _____

TO: CLAUDIA EVANS DATE: _____

FROM: **KENNETH EMANUELS, LEGISLATIVE ADVOCATE**

REPLY NO LATER THAN: _____

A.B. 2145, As Amended _____ * Author BATES

S.B. _____, As Amended _____ * Author _____

* 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.)

A.B. 2145 would require public officials, including law enforcement, to follow specific procedures when removing, disposing of or destroying property of homeless persons.

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. (Continue on next page or attach additional sheets if necessary.)

The police department concurs that the private property of homeless individuals needs to be protected as does the private property of all citizens. However, in its current form, A.B. 2145 is unclear and will become a problem for law enforcement. It needs to be amended to clarify the following problem areas:

A.B. 2145 refers to following procedures prescribed by law for the destroying or disposing of personal property. The police department is unaware of any law prescribing such procedures. Civil Code Sections 2080.01 - 2080.03 does provide for the disposal of found property. If this is the current law the bill is referring to, is should clearly indicate this.

The bill also mandates that the property must be stored until retrieved. This clearly presents problems as the owner may never make any attempts to retrieve the property. Our property warehouse would then be full of unclaimed items belonging to homeless individuals. The bill should specify a specific time frame for storing the property, at the end of which the property could be destroyed or sold at auction.

The bill specifies that written notification must be made to the owner and that such notice shall include, but is not limited to, leaving a notice at the place where the property is removed. The bill should clarify whether or not there are other required methods of notifying the owner.

If the bill is amended to clarify these issues, the police department believes that it is a bill we could support.

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

N/A.

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

See response to Questions #3

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: No position taken

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?

This bill does involve a state-mandated local program and allows for reimbursement via the State Mandates Claims Fund.

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? 8

FORM COMPLETED BY: CLAUDIA EVANS DATE: April 22, 1993

RECOMMENDATION APPROVED:


DAVID R. MARTINEZ, Deputy City Manager

ASSEMBLY BILL

No. 2145

Introduced by Assembly Member Bates

March 5, 1993

An act to add Section 999 to the Civil Code, relating to property.

LEGISLATIVE COUNSEL'S DIGEST

AB 2145, as introduced, Bates. Homeless persons: property.

Existing law prescribes procedures for the handling and disposition of abandoned property and also contains requirements respecting the holding of property of arrested persons.

This bill would require that specified public officials follow procedures prescribed by law in disposing of or destroying property of homeless persons. The bill would specify procedures to be followed in removing property of homeless persons. The bill would impose a state-mandated local program by requiring arresting peace officers to take possession of specified property of a homeless person in making an arrest of such a person.

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 999 is added to the Civil Code,
2 to read:

3 999. (a) The Legislature finds and declares that
4 homeless people need clear protection of their personal
5 property under the law. The possessions of homeless
6 people must be protected because these possessions are
7 the private property of the owner. The Legislature
8 declares that homeless people have the same right as any
9 other person to possess private property and that the
10 personal property of homeless people shall be protected
11 to the fullest extent under the law.

12 (b) Public officials, including all employees of the
13 Department of Transportation, local or state law
14 enforcement agencies, city or county departments of
15 public works, or any other county, municipal, or state
16 officials, shall not destroy or dispose of the personal
17 property of a homeless person unless the procedures
18 prescribed by law are followed. For purposes of this
19 section, "personal property of a homeless person" means
20 any property, excluding contraband, that a reasonable
21 person knows or should know belongs to a homeless
22 person.

23 (c) The requisite procedure that shall be followed
24 before property of a homeless person can be removed is
25 as follows:

26 (1) Written notification to the owner that the
27 property will be removed.

28 (2) Where property is removed, written notification of
29 where the property can be retrieved shall be provided to
30 the owner. This shall include, but is not limited to, leaving
31 notice at the place where the property is removed.

32 (3) Storage of the property until retrieved.

33 (d) In the event a homeless person is arrested, the

1 arresting officer shall take custody of all transportable
2 property in the arrested person's possession. Property
3 that is transportable includes, but is not limited to,
4 bedrolls and blankets, clothing, toiletries, photographs,
5 identification, government and medical records, and
6 other personal effects. Any property taken into custody
7 pursuant to this section shall be treated in a manner
8 consistent with Section 1412 of the Penal Code.

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