

(R-83-940)

RESOLUTION NUMBER R- **257657**

Adopted on DEC 13 1982

WHEREAS, the Department of Intergovernmental Relations requested the various departments of the City, via memorandum dated September 7, 1982, to submit bill proposals for inclusion in the City of San Diego's 1983 Sponsorship Program; and

WHEREAS, the Rules Committee, on November 22, 1982 reviewed various bill proposals submitted by departments of the City; and

WHEREAS, after said review, the Rules Committee approved six (6) proposals for introduction in the State Legislature and have recommended their adoption for inclusion in the City's Legislative Sponsorship Program; and

WHEREAS, the Committee reviewed the recommendations and deleted one (1) of the proposals; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the City Attorney and Harbor Patrol work together, as discussed in Attachment 1, affixed hereto, to ascertain and ensure that our local ordinances and procedures for impounding vessels and vessel storage are consistent with State law.

BE IT FURTHER RESOLVED, that the following six (6) legislative proposals, discussed in Attachments 2 through 7, affixed hereto, be and the same are hereby included in the City of San Diego's 1983 Legislative Sponsorship Program:

02067

I. A proposal to repeal the sunset provision which causes the maximum interest rate payable on all local agency bonds to revert from 12% to 10% in 1984.

(Attachment 2.)

II. A proposal to require the State Controller to have specific legislative authority before deviating from the statutory schedule of State subventions to local government. (Attachment 3.)

III. A proposal to require that the City of San Diego will be guaranteed one of the existing two City seats on the San Diego County LAFCO. (Attachment 4.)

IV. A proposal to repeal Government Code, Section 65590(c) relating to demolition of coastal housing and findings necessary in connection therewith. (Attachment 5.)

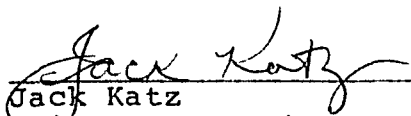
V. A proposal to require a license for power-boat operators similar to the Vehicle Code requirement and to mandate chemical testing for suspected intoxicated boat operators. (Attachment 6.)

VI. A proposal to tighten State laws to improve the City's recovery of outstanding parking citation fines.

(Attachment 7.)

APPROVED: John W. Witt, City Attorney

By



Jack Katz
Chief Deputy City Attorney

JK:smm
12/9/82
Or.Dept:Rules
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CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

IMPOUNDING OF VESSELS
(STATE)

Proposal:

1) To provide local governments with the authority to impound any vessel (boat) for a violation of local beaching or storage ordinances and, 2) to set a statewide minimum impound storage period of 100 days, after which the vessel could be sold or destroyed if the owner cannot be found.

Source:

Park and Recreation Department/Coastal Division

Present Law:

The following two sections of state law are relevant:

- Harbors and Navigation Code Section 522 provides for the disposition of "abandoned" vessels in an unseaworthy or dilapidated condition within municipal limits after 100 days have elapsed.
- Harbors and Navigation Code Section 675 provides for the removal of any vessel left unattended on a public beach in such a position as to obstruct the normal movement of traffic.

Discussion:

The Mission Bay Harbor Patrol currently impounds vessels improperly stored on public beaches based on the authority of local ordinances embodied in the San Diego Municipal Code. The Harbor Patrol feels that this local authority is not sustained by state law. They cite Harbors and Navigation Code Section 522 as being incomplete because it provides only for the disposition of "abandoned" vessels in an unseaworthy condition. The main problem in Mission Bay is not "abandoned" vessels but the large number of seaworthy vessels, primarily small sailboats, that are improperly stored on public beaches as a convenience to the owner.

In an August 1982 memorandum to the acting head of the Coastal Division, the City Attorney agreed that Section 522 does not cover our Mission Bay small boat storage problem. However, he further stated that Section 675 of the Harbors and Navigation Code authorizes the removal of vessels which are left "unattended." Thus, the current impounding practices of the Division should be covered.

A second concern of the Harbor Patrol is how long to keep impounded vessels before selling or destroying them. Their current practice is to store the impounded vessels for approximately six months during which time attempts are made to contact the owner. This lengthy time period creates severe storage problems. The Harbor Patrol believes a minimum 100-day storage limit is reasonable and that state law should be amended to apply a 100-day storage minimum for vessels impounded pursuant to local ordinances.

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ATTACHMENT 1

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To learn how other similar agencies disposed of vessels, we contacted the Port of San Diego Harbor Police who are responsible for boating in San Diego Bay. The Port Harbor Police cite Section 522 of the Harbors and Navigation Code as their authority to destroy because it provides for the disposition of "abandoned" vessels after 100 days. After impounding, the Harbor Police attempt to notify the owner by registered mail. If an owner does not claim the vessel within 100 days it is considered abandoned and the provisions of Section 522 are applied. Additionally, a request for disposal is made to the Port Authority before any action is taken. The Port Harbor Police reports no problem with this approach.

Issues:

Does the City Attorney's opinion and the effective practice of the Port Harbor Police mean specific state legislation is not warranted?

Is the Port Harbor Police properly applying Section 522 which covers disposal of abandoned unseaworthy vessels as a basis for disposing of their impounded seaworthy vessels?

As a deterrent to the common practice of improperly storing small boats on the beaches of Mission Bay, should the Harbor Patrol consider increasing fines and impounding fees?

Recommendation:

Request the Harbor Patrol to work with the City Attorney to determine if our local ordinances and procedures should be modified to reflect current state law rather than sponsoring this proposal.

CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

LOCAL AGENCY BOND INTEREST LIMIT
(STATE)

Proposal:

To repeal the sunset provision which reverts the maximum interest rate payable on all local agency bonds from 12% to 10% in 1984.

Source:

Intergovernmental Relations Department

Present Law:

Provides that the maximum interest rate payable on local agency bonds, including industrial development, housing and redevelopment bonds, shall be 12%. The maximum rate reverts to 10% on January 1, 1984 unless new legislation removes this sunset provision.

Discussion:

The City's 1981 Sponsorship Program included legislation to increase the maximum rate payable on local agency bonds from 10% to 12%. As a price for passage, we had to accept a sunset provision which limited the 12% ceiling to the two-year period of January 1, 1982 to January 1, 1984. Unfortunately, the long-term bond market for many types of local agency bonds has exceeded 10% this year because of competition from corporate and utility bonds and the continued bond ratings below AAA for many agencies. Therefore, as was the case when we sponsored SB 121 in 1981, this proposal is necessary to attract bond buyers to the municipal market and away from other types of investments.

One simple way to attract these investors is to retain the interest rate ceiling on municipal bonds at 12%. It should be noted that if the bond market improves, the ability to go to 12% remains as a limitation.

Issues:

The State Treasurer may oppose this bill until he is assured that chartered cities are covered by his California Debt Advisory Commission. Moreover, this Commission "shall comprehensively review the financing of capital improvements by all agencies of local government and study the comparative debt of local governmental agencies for capital improvements and the use of bond financing as a source of the indebtedness." This report is due by January 1, 1983.

CCDC would be the major benefactor of this proposal for the sale of its lease revenue bonds, tax allocation bonds, and mortgage revenue bonds.

Recommendation:

Sponsor

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ATTACHMENT 2

02071

CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

STATUTORY SCHEDULE FOR STATE SUBVENTIONS
(STATE)

Proposal:

1) To require that the authority for the State Controller to deviate from a statutory schedule to subvent payments to local agencies must be explicitly granted by the Legislature.

Source:

Intergovernmental Relations Department

Present Law:

The various statutes granting subventions to local government also establish a schedule of regular payments. For example, the statutes subventing the cigarette tax, the homeowners' exemption and motor vehicle license (MVL) tax require monthly payment.

Discussion:

To reduce the State's potential deficit in FY 1982 and 1983, the Legislature decreased the MVL subvention for local governments and shifted this revenue into the State's General Fund. Neither Budget Bill authorized the State Controller to change the timing of these MVL payments to local governments, and in FY 1982, the Controller distributed the reduced level of MVL revenue on a monthly basis. However, this year, after making the first two monthly allocations, the Controller announced he would withhold all future MVL subventions to local governments until the total amount to be shifted from local government to the State has been received by the State's General Fund.

In this way, the State will keep a larger portion of this local revenue source in the early months of the fiscal year to ease the State's cash flow problems. Therefore, while this action has alleviated the State's financial problem, it has created an unexpected cash flow problem for cities. For example, we do not expect to receive any MVL revenue until March or April, 1983. This reduces the City's revenue during this time by some \$500,000 per month.

In formulating its budget for FY 1983, the City did not calculate a delay in receiving these MVL payments. The change in the timing of payments was made by the Controller administratively upon instruction from the Department of Finance, which based its request on general language in the FY 1983 Budget Bill reducing the MVL "apportioned" to cities. The language was virtually the same in the FY 1982 Budget Bill when no change in the payment schedule was authorized.

Other State subventions distributed to the City according to a statutory schedule include cigarette tax, homeowners' exemption reimbursement, and business inventory reimbursement. Unexpected delays in State payments of these subventions would be very disruptive to the City's financial planning. Therefore, this proposal assures that any deviation from the statutory schedule for subvention payments would have to be explicitly authorized by the Legislature so that the City would have advance notice of the change.

Issues:

1. Should the timing of State subventions to local government be guaranteed?
2. Should the State be prohibited from deviating from the schedules or should a statutory reduction in the amount of the subventions be construed to allow a change in the timing of payments?

Recommendation:

Sponsor

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CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

CITY REPRESENTATION ON LAFCO
(STATE)

Proposal:

- 1) To provide that a city whose population exceeds 37½% of a county's total population shall be represented on the Local Agency Formation Commission, and
- 2) to provide that when the combined population of the incorporated area exceeds 75% of a county's total population, the cities' membership on LAFCO shall be increased by one.

Source:

Planning Department

Present Law:

In San Diego County, LAFCO consists of seven members: two members of the Board of Supervisors; two representing cities, appointed by the City Selection Committee (composed of the mayors of the cities within the county); two representing special districts, selected by the Special District Selection Committee (composed of the presiding officers of the legislative bodies of the independent special districts), and one representing the general public, appointed by the other six members of the Commission. There is no requirement that a city whose population exceeds 37½% of San Diego County's population should be represented on LAFCO.

Discussion:

At present the City has no representative on LAFCO, although a City Councilmember is serving as an alternate. With 46% of the county's total population, it is not unreasonable for San Diego City to argue that at all times we should be entitled to have our interests directly represented on the Commission. In the future, LAFCO may be considering annexation of Otay Mesa and Fairbanks Ranch.

LAFCO was established in 1965 to promote the orderly development of urbanization and to mitigate leapfrog annexation. In the past, counties did not see themselves as purveyors of urban services, which meant that they did not aggressively oppose annexation of territory to cities. Proposition 13 has changed this fact. Now counties and cities must vie for a limited amount of property tax dollars. Increasingly, counties and cities find themselves in competition for certain favorable annexations. Moreover, special districts tend to see their functions as threatened by possible city annexations, and for this and other reasons tend to ally themselves with the county at LAFCO. As a result, even though cities may represent the largest part of a county in terms of population, with only two seats, their views are easily out-voted by the four representatives of the county and special districts. The public member's vote is inconsequential.

This proposal affects San Diego's LAFCO by reducing the county's representation to one, while increasing the cities' membership to three and guaranteeing one seat for San Diego City. The seventh seat would continue to be held by a member representing the general public, appointed by the other commissioners.

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ATTACHMENT 4

There are precedents for giving large cities a guaranteed seat on LAFCO. In 1981, Los Angeles City was guaranteed a seat by creating two additional seats on Los Angeles County's LAFCO and providing that one of them will be held by a city with more than 30% of the county population. Similarly, in 1982, an amendment was enacted to assure that in Santa Clara County one of the two city seats will be held by the City of San Jose. However, it is important to note that those cities were able to gain support for this special legislative treatment by demonstrating that they had either never been chosen to sit on LAFCO or that it had been almost two decades since they were last represented. They argued that the City Selection Committee discriminated against their appointment to LAFCO. San Diego City's case is unlike those. A representative from San Diego City was chosen to serve on LAFCO in 1979 and served until resigning in 1981. However, prior to that time we were not represented on LAFCO.

This proposal will clearly be opposed by those counties that will lose a seat and by some smaller cities who see their chance of representation diminish in favor of larger cities. When the amendment guaranteeing San Jose a seat was first introduced last year, it would have guaranteed San Diego a place on LAFCO. Because of small city opposition, it was modified to apply only to Santa Clara County.

Another possible way of protecting the City's interests is to use the law on Urban Service Areas. Under that law, LAFCO is unable to block an annexation of territory within an Urban Service Area which has been delineated and adopted by the Commission and which is not prime agricultural land. However, before this law could be of help in a possible Otay Mesa annexation, we would have to obtain an amendment modifying the prime agricultural land provision.

Issues:

1. Should the City work within the City Selection Committee in an effort to have a San Diego City Councilmember appointed to the seat that will become vacant in May, 1983?
2. Once a City's population accounts for a certain significant per cent (e.g., 37½%) of total county population, should it have a right to be permanently represented on LAFCO? Should this right be protected at the expense of smaller cities?
3. Should we seek an amendment to the Urban Service Area Law, modifying the prime agricultural land provision?

Recommendation:

Defer sponsorship until Council decides whether:

1. the LAFCO process needs basic change rather than another piecemeal revision,
2. we should seek an amendment to the Urban Service Area law.

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CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

COASTAL HOUSING
(STATE)

Proposal:

To repeal the requirement that a local agency must find a residential use is no longer feasible on a coastal site that will be converted or demolished for a non-residential purpose.

Source:

Planning Department

Present Law:

Prohibits demolition/conversion of existing residential structures, regardless of the income level of their occupants, for purposes of non-residential use unless the non-residential use is "coastal dependent" (i.e., the activity requires a coastal site in order to function) or unless residential use is no longer feasible.

Discussion:

In 1981, the Legislature amended the California Coastal Act by removing the Coastal Commission's jurisdiction over low and moderate income housing. In place of the Coastal Commission's housing regulations, the Legislature enacted SB 626 (Mello). Now when coastal zone residential structures occupied by low or moderate income persons are demolished or converted, they must be replaced by new housing on the site or elsewhere within the coastal zone, if feasible, or within three miles of the coastal zone. In addition, the law prohibits the demolition or conversion of a coastal residential structure for a non-residential use, regardless of the occupants' income, unless the proposed use requires a seaside site in order to function or unless the residential use is no longer feasible. Practically speaking, in only the rarest situations is it possible to find that continued residential use of the property is not feasible (e.g., it is falling into the ocean, or it has been condemned to build a street).

This new requirement in the law excessively intrudes upon local government's basic legislative power to zone. It, in effect, creates a new priority for residential uses in the Coastal Zone that may not be consistent with a local agency's general plan or local coastal program. This is true in the case of our Local Coastal Program land use plans, that were developed after detailed, time-consuming work, and approved by the Coastal Commission.

Deleting this requirement from the law should not reduce the availability of affordable housing in the Coastal Zone, since the replacement requirements of SB 626 (Mello) would still apply.

At its recent meeting, the League of California Cities passed a San Diego City sponsored resolution to repeal this subsection of law. (Government Code Section 65590 (c)).

Issues:

None, with the adoption of Resolution R 257081 on August 24, 1982 asking the League of California Cities to sponsor legislation to repeal Government Code Section 65590(c).

Recommendation:

Sponsor/Support

02077

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CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

BOATING SAFETY
(STATE)

Proposal:

1) To require that a person be at least 16 years old to operate a powerboat, and 2) to require boat operators arrested for suspicion of intoxication to submit to a chemical test with refusal under penalty of vehicle driver's license suspension, and 3) to provide that a boat operator with a 0.10% blood alcohol level is presumed to be legally intoxicated.

Source:

Park and Recreation Department/Coastal Division

Present Law:

The following sections of state law are relevant:

- Harbors and Navigation Code Section 658 requires an observer at least 12 years of age to be present in a boat towing a water skier. There are no age requirements for the operator of a boat.
- Harbors and Navigation Code Sections 655 and 668 provide that 1) operation of any boat while under the influence of an intoxicating liquor or drug shall be a misdemeanor, and 2) operation of a boat while intoxicated which causes a death or serious bodily injury shall be a felony.

Discussion:

With over 31,000 state-registered pleasure boats in San Diego County, boating safety has been a growing concern to those responsible for patrolling Mission Bay. In San Diego County, there were 53 boating accidents reported in 1981 involving 13 injuries and damage totaling \$510,000. Across California in the 20 months ending on August 31, 132 people died and 491 were hurt in 1,137 boating accidents. Property damage and loss came to \$3.6 million. In addition to overcrowding, the Mission Bay Harbor Patrol feels that intoxicated boat operators and the immaturity and inexperience of powerboat operators are significant factors in many boating accidents. Accordingly, the Harbor Patrol believes boating safety would be improved by strengthening state law in the following areas:

- Minimum age. Ironically, the only mention of age in the California boating law is that boats pulling skiers must have an observer who is at least 12 years old. The operator of a boat can be any age and, in fact, two recent serious accidents in Mission Bay involved powerboats skippered by 9-year olds. The Harbor Patrol is proposing that a minimum age of 16 years be established for the legal operation of a powerboat.

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ATTACHMENT 6

Based on numerous discussions with state and local boating experts and legislative consultants in Sacramento, it appears that a flat minimum age requirement would have little chance of passage. The general feeling is that this type of requirement would unfairly punish those families that conduct their pleasure boating activities in a safe manner. To mollify this anticipated opposition, it is suggested that this proposal be altered to require that minors under 16 must be accompanied by an adult (21 years or older) to legally operate a powerboat. Further, that operators of powerboats that cannot accommodate passengers (e.g., jet skis) be required to be at least 16 years old.

- Chemical testing and a presumed level of intoxication. The negative affect of alcohol on an individual's body functions and their ability to perform motor tasks is well based in medical research. While Harbors and Navigation Code Section 655 makes it a crime to operate a boat while intoxicated, unlike the Vehicle Code there are no provisions for implied consent to chemical tests, test procedures, or the presumed level of intoxication. To facilitate their task of determining the level of intoxication and providing the burden of proof at a trial, the Harbor Patrol proposes to amend state law to require chemical tests for boat operators suspected of intoxication with refusal under penalty of loss of their vehicle driver's license. Additionally, they are proposing that a boat operator with a 0.10% blood alcohol level shall be presumed to be intoxicated.

In conferring with the City Attorney, it became evident that suspending a boat operator's vehicle driver's license for refusing to take a chemical test would be legally invalid. The attorney feels that there would be insufficient nexus or connection between the offense and the penalty. In fact, the attorney believes that mandating chemical tests in general for boat operators could be interpreted as a violation of the self incrimination provision in the Fifth Amendment of the Constitution. Additionally, the attorney points out that while vehicle drivers are licensed and the law provides for implied consent to chemical tests, private boat operators are not licensed and have not consented to anything. Since there are no requirements to become a private boat operator, it would be impractical and unenforceable to apply an "implied consent" law to boat operators because there is no state-afforded privilege that can be suspended or revoked (i.e., driver's license).

Therefore, we believe the Harbor Patrol's proposal should be modified to allow peace officers to request a chemical test of a person's blood for alcohol content, after lawfully arresting such person for operating a boat under the influence. In order to stay within legal grounds, this proposed law would not require any person to submit to such tests, nor would it impose any penalty for refusing to take a test. Further, it is suggested that specific provisions regarding the presumptive level of intoxication and test procedures consistent with those found in the Vehicle Code should be incorporated in this proposal. Attached is draft language to accomplish this goal.

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Issues:

Would the proposed alternative "implied consent" law be of any practical use to the Harbor Patrol?

As an alternative to an age requirement, would it be reasonable to require a boat operator to be licensed or to undergo some type of an education/certificate program?

Should the chemical testing and presumed level of intoxication provisions be limited only to powerboat operators rather than all boat operators?

Recommendations:

Sponsor as modified

02080

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" * . Using Vessel, Water Skis, etc. While Intoxicated - Presumptions.

(a) Upon the trial of any criminal action, or preliminary proceeding in a criminal action, arising out of acts alleged to have been committed by any person while using any boat or vessel, or any water skis, aquaplane or similar device while under the influence of intoxicating liquor pursuant to the provisions of Section 655 of the Harbors and Navigation Code, the amount of alcohol in the person's blood at the time of the test as shown by a chemical analysis of his blood, breath or urine shall give rise to the following presumptions affecting the burden of proof:

(1) If there was at that time less than 0.05 percent by weight of alcohol in the person's blood, it shall be presumed that the person was not under the influence of intoxicating liquor at the time of the alleged offense.

(2) If there was at that time 0.05 percent or more, but less than 0.10 percent by weight of alcohol in the person's blood, such fact shall not give rise to any presumption that the person was or was not under the influence of intoxicating liquor, but such fact may be considered with other competent evidence in determining whether the person was under the influence of intoxicating liquor at the time of the alleged offense.

(3) If there was at that time 0.10 percent or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor at the time of the alleged offense.

(b) Percent weight of alcohol in the blood shall be based upon grams of alcohol per 100 milliliters of blood.

(c) The foregoing provisions shall not be construed as limiting the introduction of any other competent evidence bearing upon the question whether the person was under the influence of intoxicating liquor at the time of the alleged offense."

(Revised from Section 23126 of the Vehicle Code.)

*(Section number to be inserted.)

" * . Chemical Tests for Intoxication.

(a) Any person who uses any boat or vessel, or manipulates any water skis, aquaplane or similar device may be subject to a chemical test of his blood, breath or urine for the purpose of determining the alcoholic content of his blood if lawfully arrested for any offense allegedly committed while the person was using any boat or vessel, or manipulating any water skis, aquaplane or similar device under the influence of intoxicating liquor. The test shall be incidental to a lawful arrest and administered at the direction of a peace officer having reasonable cause to believe such person was using a vessel or boat, or manipulating any water skis, aquaplane or similar device while under the influence of intoxicating liquor.

(b) The person arrested shall have the choice of whether the test shall be of his blood, breath or urine, and he shall be advised by the officer that he has such choice. If the person arrested either is incapable, or states that he is incapable, of completing any chosen test, he shall then be advised by the officer that he has the choice of submitting to and completing any of the remaining test or tests.

Any person who is dead, unconscious or otherwise in a condition rendering him incapable of refusal shall be deemed to have given his consent and such chemical tests may be administered.

(c) Any person who is afflicted with hemophilia shall be exempt from the blood test specified in this section.

Any person who is afflicted with a heart condition and is using an anticoagulant under the direction of a physician and surgeon shall be exempt from the blood test specified in this section.

(d) A person lawfully arrested for any offense allegedly committed while the person was using any boat or vessel, or manipulating any water skis, aquaplane or similar device under the influence of intoxicating liquor may request the arresting officer to have a chemical test made of the arrested person's blood, breath or urine for the purpose of determining the alcoholic content of such person's blood, and, if so requested, the arresting officer shall have the test performed."

(Revised from Section 13553 of the Vehicle Code.)

*(Section number to be inserted.)

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" * . Chemical Test Procedures.

(a) Only a physician, registered nurse, licensed vocational nurse, or duly licensed clinical laboratory technologist or clinical laboratory bioanalyst acting at the request of a peace officer may withdraw blood for the purpose of determining the alcoholic content therein. This limitation shall not apply to the taking of breath specimens.

(b) The person tested may, at his own expense, have a physician, registered nurse, licensed vocational nurse, duly licensed clinical laboratory technologist or clinical laboratory bioanalyst or any other person of his own choosing administer a test, in addition to any administered at the direction of a peace officer, for the purpose of determining the amount of alcohol in his blood at the time alleged as shown by chemical analysis of his blood, breath or urine. The failure or inability to obtain an additional test by a person shall not preclude the admissibility in evidence of the test taken at the direction of a peace officer.

(c) Upon request of the person tested full information concerning the test taken at the direction of a peace officer shall be made available to him or his attorney.

(d) No physician, registered nurse, licensed vocational nurse, or duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, or hospital, laboratory or clinic employing or utilizing the services of such physician, registered nurse, licensed vocational nurse, or duly licensed clinical laboratory technologist or clinical laboratory bioanalyst, owning or leasing the premises on which such tests are performed, shall incur any civil or criminal liability as a result of the proper administering of a blood test when requested in writing by a peace officer to administer such a test.

(e) If the test given under Section ** is a chemical test of urine, the person tested shall be given such privacy in the taking of the urine specimen as will insure the accuracy of the specimen and, at the same time, maintain the dignity of the individual involved.

(f) The Department of Navigation and Ocean Development shall adopt uniform standards for the withdrawal, handling, and preservation of blood samples prior to analysis pursuant to those uniform standards set by the Department of the California Highway Patrol, in cooperation with the Department of Health or any other appropriate agency."

(Revised from Section 13354 of the Vehicle Code.)

*(Section number to be inserted.)

** (Section number from "Chemical Tests for Intoxication" to be inserted.)

BOATING + WATERWAY

CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

RECOVERY OF OUTSTANDING PARKING CITATIONS
(STATE)

Proposal:

1) To provide that outstanding parking citations on file with the Department of Motor Vehicles (DMV) remain on file when ownership of the vehicle is transferred, and the corresponding bail be added to the registration fee for any vehicle newly registered to the violator, 2) to establish a three-year statute of limitations for parking citations, and 3) to allow impounding of any vehicle with five or more outstanding parking citations.

Source:

City Treasurer

Present Law:

The following sections of state law are relevant:

- Vehicle Code Section 4760 provides that the DMV shall refuse to renew the registration of any vehicle whose registered owner has unpaid parking citation(s) unless the owner pays the bail at the time of renewal. However, Vehicle Code Section 4764 provides that if the vehicle is transferred or the registration is not renewed, then the DMV is not required thereafter to attempt collection of undeposited bail for outstanding parking citation(s).
- Penal Code Section 801 provides that the statute of limitations for misdemeanors (including infractions such as parking violations) is one year.
- Vehicle Code Section 22651 provides that only out-of-state vehicles and California vehicles without current registration that have five or more outstanding parking citations can be impounded.

Discussion:

According to the City Treasurer, the City is currently losing approximately \$500,000 per year in unpaid parking citations. In an attempt to capture this lost revenue, the Treasurer is proposing to tighten state law regarding parking citations in the following areas:

- Transfer of ownership. Violators with numerous outstanding parking citations can presently sell or transfer the vehicle involved before registration becomes due and escape payment. Under the existing DMV referral program, vehicles whose registered owner has unpaid parking citations outstanding will not have their registration renewed unless the owner pays the bail at the time of renewal. However, if the vehicle is transferred or the registration is not renewed, the DMV returns the citations to the City leaving us with little recourse. As a remedy to this problem, the Treasurer is proposing that when a vehicle whose owner has outstanding parking citations is transferred, that those citations be kept on file and be applied against the registration of a new vehicle to the same owner.

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ATTACHMENT 7

02084

- Statute of limitations. Under present law, the statute of limitations for parking citations is one year. After the issuance of parking citations and notification to the registered owner of record by the City, unpaid citations are referred to the DMV and fines are added to the next registration renewal fee. Frequently, the delay between citation issuance and registration renewal time is often longer than one year. Under the current statute of limitations, violators can ignore the citations until the statute of limitations has elapsed and escape payment of fines. Accordingly, the Treasurer is proposing a three-year statute of limitations for parking citations.

After conferring with the legislative consultant to the Assembly Criminal Justice Committee, it became evident that a three-year statute of limitations for a relatively minor infraction such as a parking citation would stand little chance of passage by the lawmakers. Statutes of limitations longer than one year are exclusively reserved for felonies. As an alternative approach, it is suggested that the Treasurer's proposal be modified to permissively authorize the statute of limitations for parking citations at one year or the anniversary of the vehicle registration renewal date if that falls more than one year after the date of the citation.

- Impounding. Presently only out-of-state vehicles and California vehicles without current registration can be impounded if they have five or more outstanding parking citations. California vehicles with current registration can have a maximum of 75 citations on file at DMV and City records show violators with many more than that. In many instances, the citations remain unpaid, the vehicle is sold and the violator escapes the penalty for the violations. The Treasurer feels that towing of these vehicles after accumulation of five or more outstanding citations would force the owners to resolve the citations immediately, thus increasing City revenue and making parking enforcement more effective.

Issues:

As an alternative to changing the statute of limitations, is it feasible for the City Treasurer to speed up the referral process to the DMV thereby increasing the opportunity for citations to be applied to registration renewals within the one-year period?

Would it be simpler and equally effective to permit the referral of the citation to the DMV to serve as an indictment found or complaint filed and qualify as meeting the one-year statute of limitation?

Recommendation:

Sponsor as modified.

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02085

DEC 13 1982

Passed and adopted by the Council of The City of San Diego on _____, by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible	
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Susan Golding	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Ed Struiksma	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
District 8	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	Vacant
Mayor Pete Wilson	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

AUTHENTICATED BY:

PETE WILSON

Mayor of The City of San Diego, California,

(Seal)

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California,

By *Ellen Board*, Deputy.

Office of the City Clerk, San Diego, California

Resolution Number

R-257657

Adopted

DEC 13 1982