

RESOLUTION NUMBER R-257774

Adopted on January 10, 1983

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 15, 1982 and December 6, 1982, reviewed various bill proposals submitted by the departments of the City; and


WHEREAS, after said review, the Rules Committee approved one proposal for introduction in the State Legislature and has recommended its adoption for inclusion in the City's Legislative Sponsorship Program; NOW, THEREFORE,

BE IT RESOLVED, by the Council of The City of San Diego, that the following legislative proposal, discussed in Attachment 2, affixed hereto, be and the same is hereby included in The City of San Diego's 1983 Legislative Sponsorship Program:

A proposal for the State Legislature to give local governments the option of hiring private auditors to perform the final audit of local government claims for reimbursement when the State Auditor has failed to schedule such an audit within 60 days after receiving a formal notice of project completion from a local government; and, to assess an interest penalty of .25% (1/4 of 1%) per day

against any State agency which fails, without reasonable cause,
to pay amounts due local governments within 60 days of the
required payment date as defined. (Attachment 2).

APPROVED: John W. Witt, City Attorney

By 
Robert S. Teaze
Assistant City Attorney

JK:RST:smm
12/30/82
REV. 1/11/83
Or. Dept: Mayor
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CITY OF SAN DIEGO
1983 SPONSORSHIP PROGRAM

INTEREST PENALTY/AUDIT
(STATE)

Proposal:

1) To give local governments the option of hiring private auditors to perform the final audit of local government claims for reimbursement when the State Auditor has failed to schedule such an audit within 60 days after receiving a formal notice of project completion from a local government. 2) To assess an interest penalty of .25 percent (1/4%) per day against any State agency which fails, without reasonable cause, to pay amounts due local governments within 60 days of the required payment date, as defined.

Source:

Intergovernmental Relations Department

Present Law:

Under current law, a local government cannot be fully reimbursed by the State until the State Auditor has performed a final audit of the project in question. There is no provision allowing local governments to hire outside auditors to perform the audit. Local governments must simply wait for the State Auditor to schedule a trip to their jurisdiction to audit the project. Under current law, the State is not required to pay interest on amounts past due to local governments.

Discussion:

In general, the State does not advance money for work done by local governments under various State grant programs, but instead reimburses the agency as the work progresses. The State usually withholds the last 10% of reimbursement until the State Auditor has completed the final audit. At present, the City is owed some \$360,000 by the State for the Tiajuana River Flood Control project, under invoices that were sent out one and two years ago. The State Auditor still has not sent someone to perform the final audit on this project in spite of repeated inquiries by the City Auditor. In another recent project, it took roughly two years before the State sent someone to audit the City's claim for some \$70,000 of reimbursement for park projects. The State Auditor's staff states that lack of sufficient audit personnel is responsible for many delays.

The problem of delayed audits is statewide. The backlog of unaudited claims in the area of water resources alone amounts to over \$7 million. The State Department of Water Resources has proposed to the Auditor that the process be speeded up by using spot audits of documents instead of examining each one. However, spot audits are being considered for only one type of project in San Bernardino County, and even this spot audit requires sending someone into the field.

Giving local governments the option of hiring outside auditors would provide a remedy for cities that must now wait passively, in some cases for years, for the State to perform its final audit. Although the local government would have

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to pay the outside auditors, the cost would be more than offset by the potential interest earnings/savings that are now lost while the local government waits to be reimbursed. It has been estimated that the cost for outside auditors to process the \$7 million of water resource claims would be about \$150,000. In the City's claim for \$360,000, an outside audit would cost less than \$2000. One year's lost interest on our claim is 15 times that cost.

Unfortunately, even if all claims were audited promptly, insufficient funds have been budgeted by the State to pay the claims. For example, only \$573,000 was appropriated in FY 1983 in the Water Resources Department budget to cover claims in excess of \$7 million. The proposed interest penalty is designed to deal in part with this problem. An interest penalty would give the State an incentive for paying promptly, or conversely, it gives local governments some compensation for waiting for their payments. The penalty would apply to any payment, including tax subventions, made more than 60 days after the "required payment date."

"Required payment date" would be defined to mean: 1) in the case of a subvented tax revenue, the date upon which payment is required under the governing statute, 2) in the case of reimbursable claims requiring a final audit, the date upon which the final audit is completed, or 3) in the case where no audit is required, the date upon which a proper invoice is received.

There is a recent legislative precedent for charging the State an interest penalty. In 1982, the Legislature enacted SB 982 (Keene) which assesses a penalty of .25 percent (1/4%) per day against any State agency which fails, without reasonable cause, to make payment within 30 days to a small business for an undisputed claim. Our proposal would apply the same penalty to late payments to local governments but would allow the State 60 days to pay the claim instead of only 30.

The two parts of this proposal taken together, the outside audit and the interest penalty, will create a deterrent against the State's alleviating its cash flow problems by shifting them to local government through the means of late payments.

Issues:

- 1) Should the State Auditor's failure to send an auditor to perform a final audit of a local government claim for reimbursement be allowed to delay the final audit and hence the local government's receipt of reimbursement?
- 2) Should the State be required to pay an interest penalty when it fails to pay amounts due local government within days?

Recommendation:

Sponsor

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Passed and adopted by the Council of The City of San Diego on JAN 10 1983,
 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"/>
William Jones	<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"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Vacant

AUTHENTICATED BY:

BILL CLEATOR
 Deputy 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

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