



DATE ISSUED: October 9, 2006

REPORT NO: 06-145

ATTENTION: Rules, Open Government and Intergovernmental Relations Committee  
Agenda of October 11, 2006

## REPORT TO THE CITY COUNCIL

SUBJECT: Review of the 2006 State Legislative Session – INFORMATIONAL REPORT

### SUMMARY:

THIS IS AN INFORMATIONAL ITEM ONLY. NO ACTION IS REQUIRED ON THE PART OF THE COMMITTEE OR THE CITY COUNCIL.

### BACKGROUND:

This is an information only report regarding activities of interest to the City of San Diego relative to the 2006 State Legislative Session – which adjourned Thursday, August 31, 2006.

### DISCUSSION:

#### **Legislation**

During the 2006 Legislative Session, some predominant policy issues garnered the focus of the legislature. Those included: Cable/Video Franchise Agreements; Redevelopment Reform; Eminent Domain protections and Infrastructure Funding. In addition to these major issues, the Legislature considered over 1500 pieces of legislation, some of which could have significant impact on the City if chaptered.

City staff analyzed legislation and determined that some measures could have significant impact on the City. Below is a list and summary of legislation upon which the Mayor communicated a position.

#### *Economic Development*

**AB 1550 (Arambula):** Economic Incentive Areas

**Status:** Chaptered

**Summary:** This bill would make various revisions in the requirements for designating and administering enterprise zones generally. It would provide for the administration and oversight of geographically targeted economic development areas, known as G-TEDAs, which would include enterprise zones, Manufacturing Enhancement Areas, the targeted tax area, and LAMBRAs, by the department, subject to specified criteria. It would also apply various requirements applicable to those entities to the G-TEDAs.

**Mayor's Position:** Support

**Impact on City:** The City's South bay Enterprise Zone (EZ) is scheduled to expire in October 2006. Currently, the City has submitted an application to be redesignated as an EZ, but the State will not make determinations on applications prior to the expiration of the current zone. This bill

authorizes EZ's that are redesignated after their expiration date to provide economic incentives to qualifying businesses retroactive to their expiration date.

**AB 2570 (Arambula):** Community Investment

**Status:** Vetoed

**Summary:** This bill would require public retirement systems with assets over \$4,000,000,000 to provide specified information regarding investments it obtains on and after July 1, 2007, and holds in its portfolio regarding California investments, as defined, and emerging domestic market investments, as defined. This bill would specify that investments be reported by asset class, fair market value, and percentage of total portfolio.

**Mayor's Position:** Oppose

**Impact on the City:** AB 2570 would impose a new costly and time consuming requirement on SDCERS without providing any benefit to SDCERS in meeting its obligations to its members. Of greatest concern, the definitions for "California" and "Emerging Domestic Market" are ambiguous and subject to conflicting interpretations.

**SB 1008 (Ducheny):** Economic Incentive Areas

**Status:** Failed Passage

**Summary:** Existing law provides for the designation and oversight by the Department of Housing and Community Development of various economic development areas in the state, including enterprise zones, up to two Manufacturing Enhancement Areas, a targeted tax area, and local agency military base recovery areas, or LAMBRAs, pursuant to which qualifying entities in those areas may receive various tax and regulatory incentives. This bill would make various revisions in the requirements for designating and administering enterprise zones generally, including authorizing the extension of an Enterprise Zone area designation to total 25 years.

**Mayor's Position:** Support

**Impact on the City:** By extending the designation period, the life of San Diego's South Bay Enterprise Zone could be extended for up to ten years and the Metro Enterprise Zone by five years. Tax incentive programs stimulate job creation, business investment, and revenue generation. The extension of these designation periods would have allowed Enterprise Zones to continue providing the necessary incentives to promote and foster economic growth.

*Environmental Services*

**AB 3056 (Natural Resources):** Beverage containers: refund values

**Status:** Chaptered

**Summary:** The California Beverage Container Recycling and Litter Reduction Act requires a distributor of specified beverage containers to pay a redemption payment to the Department of Conservation (department), for each beverage container, as defined, sold or transferred, for deposit in the California Beverage Container Recycling Fund. This bill would authorize the department, after setting aside the money required for those other expenditures, to expend those moneys to pay an increased refund value in an amount greater than the specified refund value, but by no more than \$0.01, except as specified, until July 1, 2007.

**Mayor's Position:** Support

**Impact on the City:** provide Californians, including consumers, local governments, and recyclers, with a number of programs to enhance current efforts and increase the rate of beverage container recycling. It will directly increase San Diego's recycling revenue by \$150,000 in FY07 and provide the potential for additional revenue streams for San Diego, including more grant funding opportunities.

*Housing/Planning*

**AB 2464 (Saldaña):** Condominium Conversions: City of San Diego

**Status:** Failed Passage

**Summary:** This bill would prohibit a local agency in the City of San Diego from approving or denying a proposal to convert rental units to condominiums when certain conditions apply, until studies relating to the environmental impact of the proposed project and the impact of the proposed project on affordable housing in the jurisdiction have been completed. By requiring a new duty of a local agency, this bill would impose a state-mandated local program.

**Mayor's Position:** Oppose

**Impact on the City:** Unjustly targets the City of San Diego as the only jurisdiction within the state to be prohibited from approving or denying a proposal to convert rental units to condominiums until studies relating to the environmental impact of the proposed project and the impact of the proposed project on affordable housing within the city have been completed.

**AB 2638 (Laird):** Housing Trust Fund

**Status:** Chaptered

**Summary:** Existing law requires funds unencumbered within 30 months of receipt to revert to the department for use in the Multifamily Housing Program and requires loan repayments to accrue to the department to support the development of rental housing consistent with the Multifamily Housing Program if the local grantee trust no longer exists. This bill would allow a project receiving funds from this program to be eligible for funding through the Multifamily Housing Program and would require funds that revert to the department to be used in the Local Housing Trust Fund Matching Grant Program and loan repayments accruing to the department to be used in the Local Housing Trust Fund Matching Grant Program.

**Mayor's Position:** Support

**Impact on the City:** The bill permits projects that receive funds under the Local Housing Trust Fund Matching Grant Program to also receive funding from the Multi-family Housing Program. This ability to access funds will assist in the new construction, rehabilitation and preservation of permanent and transitional rental housing for lower income households.

Additionally, by extending the amount of time a grantee has to expend the funds to 54 months, local non-profit developers will have the extra time needed to identify and acquire other sources of funding to complete the projects.

**SB 1322 (Cedillo):** Housing

**Status:** Vetoed

**Summary:** The Planning and Zoning Law requires the housing element of the general plan of a city or county to include, among other things, a program with a 5-year schedule of actions that the local government is undertaking or intends to undertake to implement the goals and objectives of the housing element. The program is also required to provide for sufficient sites with zoning that permits owner-occupied and rental multifamily residential use by right, including the development of farmworker housing for low- and very low income households. This bill would in addition add emergency shelters and transitional housing to these provisions, as specified, and would revise the requirements by which a local government may identify sites suitable for the development of emergency shelters under these provisions. The bill would require local governments to designate zones where special needs facilities and transitional

housing are a permitted use, either by right or subject to a conditional use permit. By increasing the duties of local public officials, the bill would create a state-mandated local program.

**Mayor's Position:** Oppose

**Impact on the City:** Limits the City's discretionary powers for all special needs facilities serving seven or more persons. This prohibition would apply to all special needs facilities irrespective of size. The discretionary planning process provides useful forums to engage the community and service providers in a constructive dialogue about how to make operations at special needs facilities work.

This bill institutes a dangerous precedence in the way that housing element law is applied. Under current law, cities get an initial opportunity to plan for their share of any housing type. If the local plan fails to meet the need, it must then approve housing "by-right" at preset densities. SB 1322 instead would require the City of San Diego, before our proposed housing element is submitted for adequacy determination, to designate where additional emergency shelters must be approved "by-right."

The bill will lead to more litigation by extending the attorney fee provisions to allow awards to anyone who could occupy an emergency shelter. As a result, this provision unnecessarily encourages lawsuits and litigation in the land use planning process.

#### *Municipal Revenues & Operations*

**AB 2987 (Nuñez):** Cable and video service

**Status:** Chaptered

**Summary:** This bill would enact the Digital Infrastructure and Video Competition Act of 2006 and would establish a procedure for the issuance of state franchises for the provision of video service, which would be defined to include cable service and open-video systems, which would be administered by the Public Utilities Commission. The commission would be the sole franchising authority for state franchises to provide video services. The bill would require any person or corporation that seeks to provide video service in this state to file an application with the commission for a state franchise with specified information.

**Mayor's Position:** Oppose

**Impact on the City:** First, the legislation authorized existing franchise holders to abrogate their agreements with local governments. These agreements have been entered into willingly between the local jurisdiction and the provider(s). Each agreement has been crafted to protect the interests of the local community, while still affording the provider(s) with the ability to be profitable.

Local jurisdictions are best suited to determine the use of their local right-of-way, the appropriate fee for that use and other provisions, such as undergrounding of utilities. AB 2987 usurps that authority.

Finally, the bill's provisions have significant impacts on the City of San Diego's oversight of video and cable providers and could deter cities from auditing the fees paid to local governments associated with the use of local right-of-ways. Under the bill, local government would be required to pay both its audit costs **and** the costs incurred by the franchise holder if the audit determined that the correct amount of franchise fees had actually been remitted. Facing the downside risk of being liable for the franchise holder's audit costs, localities will likely call for audits of the extremely complex and complicated financial statements of video service providers

only in the most extraordinary of circumstances. In all other instances, localities will have to “take on faith” the financial representations of those providers.

**SB 815 (Perata):** Worker’s compensation: permanent disability

**Status:** Vetoed

**Summary:** Existing law requires the payment of disability benefits to eligible individuals for injuries sustained in the course of employment that cause permanent disability, and specifies that the amount of those payments be computed in accordance with a prescribed formula. This bill would revise the formula for computing those payments for injuries causing permanent disability, which occur on or after January 1, 2007.

**Mayor’s Position:** Oppose

**Impact on the City:** This legislation would have overridden the 2004 workers’ compensation reforms by doubling the permanent disability benefits paid to injured workers over three years, beginning on January 1, 2007.

An increase of the magnitude proposed under this legislation would serve to significantly roll back the savings realized as a result of previously adopted worker’s compensation reform and return California to the days of increasing premiums, high litigation, and unpredictability in workers’ compensation.

#### Neighborhood Services

**AB 2081 (Vargas):** Old Town San Diego State Historic Park

**Status:** Failed Passage

**Summary:** Expands the geographical territory of Old Town San Diego State Historic Park by acquiring land contiguous to the existing park from California Department of Transportation (CalTrans) and the City of San Diego by directing the Department of Parks and Recreation (DPR) to acquire surplus land and buildings from CalTrans on San Juan Street as well as acquire from the City of San Diego, the Presidio Golf Course and the Carrillo Adobe.

**Mayor’s Position:** Oppose unless amended

**Impact on the City:** If enacted as introduced, this legislation would have required the state Department of Parks and Recreation to acquire City of San Diego property. The State had not previously contacted the City to determine if the property was for sale or surplus.

The bill was later amended and removed the reference to the City’s property.

**AB 3027 (Levine):** Animal cruelty: elephants

**Status:** Failed Passage

**Summary:** Existing law provides that it is a misdemeanor for an owner or manager of an elephant to engage in abusive behavior towards the elephant, as specified. This bill would, in addition, generally make it a misdemeanor to fail to provide for elephants at a stationary facility specified outdoor space. The bill would increase the scope of these crimes by providing that the provisions prohibiting abusive behavior towards an elephant shall apply to any person. By creating new crimes and by expanding the scope of application of existing crimes, this bill would impose a state-mandated local program upon local government.

**Mayor’s Position:** Oppose

**Impact on the City:** The space requirements contained within this bill are not consistent with professional standards as established by the American Zoo and Aquarium Association (AZA). The requirement of five acres for three elephants and a half acre for each additional elephant is

not proven to have a meaningful connection to elephant well-being and is not sustainable by neither the San Diego Zoo nor the Wild Animal Park.

Both the San Diego Zoo and the Wild Animal Park are well recognized for their expertise in animal care and have become major tourism attractions for San Diego. Annual attendance at these locations is over five million visitors, including thousands of school children who participate in animal education programs featuring the elephants.

Public Safety

**AB 352 (Koretz):** Firearms: microstamping

**Status:** Failed Passage

**Summary:** Existing law defines unsafe handguns as failing to pass certain tests, or lacking certain features, as specified. This bill would, commencing January 1, 2009, expand the definition of unsafe handgun to include semiautomatic pistols that are not designed and equipped with a microscopic array of characters, that identify the make, model, and serial number of the pistol, etched into the interior surface or internal working parts of the pistol, and which are transferred by imprinting on each cartridge case when the firearm is fired.

**Mayor's Position:** Support

**Impact on the City:** This bill would have provided an important tool for law enforcement agencies. Improved ballistics identification, such as microstamping technology, helps law enforcement officials in identifying firearms involved in crimes and thereby apprehending criminals associated with that firearm.

**AB 1405 (Evans):** State Fire Marshal

**Status:** Failed Passage

**Summary:** Existing law requires the State Fire Marshal to gather statistical information and report annually regarding fires and other specified incidents within the state. This bill would additionally require the State Marshal's report to include a comparison of response times and staffing performance objectives relative to fire departments.

**Mayor's Position:** Oppose

**Impact on the City:** This legislation will be a mandatory statute instead of allowing local jurisdictions the discretion to base service levels on local needs. Second, this measure would have caused local jurisdictions to spend considerable staff time and taxpayer funds to comply with a standard that City Fire Department believes is without merit.

**AB 2169 (Montanez):** Public records: confidentiality

**Status:** Chaptered

**Summary:** Existing law establishes a program until January 1, 2008, known as "Address Confidentiality for Victims of Domestic Violence and Stalking," which authorizes specified persons to complete an application containing specified information in person at a community-based victims' assistance program to be approved by the Secretary of State for the purpose of enabling state and local agencies to respond to requests for public records without disclosing a program participant's residence address contained in any public record, including the program participant's voter registration, and requires the Secretary of State to act as that person's agent for service of process and to designate a substitute mailing address for program participants pursuant to specified procedures that state and local agencies are required to use at the request of a program participant. This bill would extend the operation of these programs until 2013.

**Mayor's Position:** Support

**Impact on the City:** Domestic violence, stalking, and aggression toward reproductive health providers are persistent dilemmas faced by California law enforcement and victims. By extending the sunset provision on the program, the Secretary of State will continue to protect these victims by keeping personal information confidential and will ease the burden on law enforcement.

**SJR 29 (Kehoe):**

**Status:** Chaptered

**Summary:** Calls upon the United States (U.S.) Department of Homeland Security (USDHS) to revisit its calculation of risk for the San Diego and Sacramento areas to ensure their inclusion in future Urban Area Security Initiative (UASI) grant programs.

**Mayor's Position:** Support

**Impact on the City:** As a resolution, no direct impact but lends the State's support to the City's efforts of being reinstated on the Department of Homeland Security's Urban Area Security Initiative grant program eligibility list.

*Redevelopment/Eminent Domain*

**SB 1206 (Kehoe):**

**Status:** Chaptered

**Summary:** The Community Redevelopment Law authorizes the establishment of redevelopment agencies in communities in order to address the effects of blight in those communities and defines a blighted area as one that is predominantly urbanized and characterized by specified conditions. This bill would revise the definition of "predominantly urbanized" and revise the conditions that characterize a blighted area. The bill would prohibit the inclusion of nonblighted parcels in a redevelopment project area for the purpose of obtaining property tax revenue from the area without substantial justification for their inclusion.

**Mayor's Position:** Seek amendments

**Impact on the City:** As originally written SB 1206 would have had significant negative impacts on the City's ability to:

1. Establish new redevelopment areas and finance necessary improvements.
2. Issue bonds, making it nearly impossible to jump start redevelopment activities.

*Transportation*

**SB 463 (Ducheny):**

**Status:** Chaptered

**Summary:** Existing law, until January 1, 2003, authorized the Department of Transportation to solicit proposals and enter into agreements for the construction and lease of no more than 2 toll road projects, and specified the terms and requirements applicable to those projects. Existing law provides that the toll roads constructed under these provisions shall be owned by the state, but leased to a private entity for up to 35 years under the agreement. This bill, with respect to the agreement entered into by the department under these provisions for State Highway Route 125 in San Diego County, would allow tolls to be collected for that project for a period of up to 45 years, rather than 35 years, under specified terms and conditions. The bill would also authorize the San Diego Association of Governments (SANDAG) to continue the collection of tolls thereafter subject to a 2/3 vote of the SANDAG board, with excess toll revenues to be used for various projects that improve the operation of the SR 125 corridor.

**Mayor's Position:** Support

**Impact on the City:** Extending toll collections by 10 years will fully fund the cost of construction and operations of the SR 125 toll road project. The design of the project was long delayed because of challenges and opposition and the project now includes more than \$40 million in extraordinary mitigation measures. This bill ensures that the public-private partnership can succeed and that other vital transportation projects throughout San Diego can also continue to move forward.

**SB 1296 (Kehoe):**

**Status:** Chaptered

**Summary:** Existing law provides for a board of directors of 20 members to govern the SANDAG, with a specified weighted voting formula required for the taking of action on certain items. This bill would instead provide for a board of directors of 21 members by adding a second representative from the San Diego County Board of Supervisors. The bill would specify the selection of the two supervisor representatives from substantially incorporated and unincorporated areas of the county, respectively. Additionally, the bill includes language to permit the Mayor, when the Mayor is not a member of a City Council, to be a voting representative to SANDAG.

**Mayor's Position:** Support

**Impact on the City:** The charter change, which implemented the strong mayor form of governance, means that the Mayor is no longer a member of the San Diego City Council. SB 1296 revises the SANDAG governing board provisions to recognize a mayor as a member of a city's governing body when that mayor is not a member of the city council.

**State Budget**

The budget projects General Fund resources at \$103.4 billion with General Fund expenditures of \$101.3 billion, leaving a reserve of \$2 billion. The budget repays \$2.8 billion of General Fund debts- including additional repayments of the Economic Recovery bonds, and significant portions of the 2003-04 and 2004-05 Proposition 42 suspensions, various special fund loans, local government and school mandates, and General Obligation debts.

*Booking Fee Subventions* - Reinstates for one year the booking fee reimbursement program as it existed through the 2004-05 budget, funded at \$35 million.

Beginning in Fiscal Year 2007-08 a new booking fee program will provide that any year in which the state provides at least \$35 million in subventions for local jail facility funds, existing booking fees would be eliminated. Instead, counties and cities with jails will be restricted to charging arresting agencies a new jail access fee for booking of municipal code and misdemeanor violations that exceed the most recent three-year average of each local arresting agency.

*Proposition 42-* Provides \$1.4 billion for full transfer of General Fund sales tax revenue on gasoline in accordance with Proposition 42. The transfer will provide \$678 million for the Transportation Congestion Relief Fund, \$594 million for the State Transportation Improvement Program, and \$148 million in the Public Transportation Account.

*Early Repayment of Proposition 42 suspensions-* Provides \$495 million to repay a portion of the 2003-04 Proposition 42 suspension. Provides another \$920 million to repay a portion of the 2004-05 suspension. This totals \$2.835 billion for transportation in the following categories:



- Local Streets and Roads- \$440 million
- TCRF- \$993 million
- STIP- \$1,034 billion
- PTA- \$368 million.

*Tribal Gaming Bond*- Shifts anticipated receipt of tribal gaming revenues from last fiscal year to the current budget year and reduces the anticipated amount from \$1 billion to about \$850 million. The state has already received \$150 million from tribal gaming revenues, and those funds were allocated in the previous fiscal year for gaming revenues. The funds anticipated in the current fiscal year will be dedicated for transportation purposes rather than securitized for the tribal gaming bond. The budget specifies that if the bond is not issued by June 15, 2007, then the first \$60 million of the annual contribution will go to the Public Transportation Account in order to guarantee cash flow needs for the account.

*COPS/Juvenile Justice Grants* - \$238 million to be allocated evenly between the COPS and Juvenile Justice Program. This approved funding level increases support for these programs by \$38 million compared with 2005-06.

*Public Library Foundation (PLF)* - Approves the Governor's May Revision proposal to increase the PLF by \$7 million. With this increase, total funding for the PLF in 2006-07 will be \$21.3 million.

*Teleconnect Program* - Fully funds this program by providing \$26.8 million for 2006-07 costs, and an additional \$15.1 million to pay remaining claims from past years.

### **Infrastructure Bonds**

Beginning in January, the Governor introduced a Strategic Growth Initiative which included \$68 billion in bonds to increase funding for transportation, K-12 school construction and modernization, higher education facilities, flood control, levee upgrade and restoration, water storage, and jail and court construction.

Over the following months the Legislature debated the bond proposal and negotiated with the Governor until a final package was adopted in early May. The package includes six measures. They are:

**Proposition 1A – Increased Protection of Proposition 42 Funds**

**Proposition 1B – Highway Safety, Traffic Reduction, Air Quality, and Port Security Bond Act**

**Proposition 1C – Housing and Emergency Shelter Trust Fund Act**

**Proposition 1D – Kindergarten-University Public Education Facilities Bond Act**

**Proposition 1E – Disaster Preparedness and Flood Prevention Bond Act**

The details and potential benefit of these measures can be found in a separate report to the Rules, Open Government and Intergovernmental Relations Committee (Agenda of October 11, 2006).

### **Term Limits**

In 1990, Californians passed Proposition 130 which established term limits for both the legislative and executive branches of government. At the end of this session, three Assembly

members representing portions of the City of San Diego will be forced from office because of those limits:

1. 74<sup>th</sup> Assembly District – The Honorable Mark Wyland
2. 77<sup>th</sup> Assembly District – The Honorable Jay La Suer
3. 79<sup>th</sup> Assembly District – The Honorable Juan Vargas

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

City Council unanimously approved a resolution in opposition of AB 2987 on June 19, 2006.

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Originating Department

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Deputy Chief/Chief Operating Officer