

MISSING ORIGINAL LEGISLATION

Resolution / Ordinance Number: 8 2 2 0 4

City Council Meeting Date July 21, 2009

Agenda Item No. 10.38

Recorded Vote 8 Ayes

Draft received for packet

Council amended legislation at the meeting

Responsible Contact Information

Department Council District 4

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Notes (if any)

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 JUL -2 PM 3:55

Approved as to Form and Legality

OAKLAND CITY COUNCIL

RESOLUTION No. _____ C.M.S.

RESOLUTION AUTHORIZING THE CITY ATTORNEY TO COOPERATE WITH THE LEAGUE OF CALIFORNIA CITIES, OTHER CITIES, AND COUNTIES IN LITIGATION CHALLENGING THE CONSTITUTIONALITY OF ANY SEIZURE BY STATE GOVERNMENT OF THE CITY'S STREET MAINTENANCE FUNDS

WHEREAS, the current economic crisis has placed cities under ir pressure and caused them to make painful budget cuts, including layof city workers, decreasing maintenance and operations of public facil in direct services to keep spending in line with declining revenues; ar

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WHEREAS, since the early 1990s the state government of Califor billion of city property tax revenues statewide, now amounting to over year, to fund the state budget even after deducting public safety program pa cities by the state; and

WHEREAS, in his proposed FY 2009-10 budget the Governor has proposed transferring \$1 billion of local gas taxes and weight fees to the state general fund to balance the state budget, and over \$700 million in local gas taxes permanently in future years, immediately jeopardizing the ability of the City to maintain the City's streets, sidewalks, crosswalks, traffic signs, traffic striping, and traffic safety facilities, for the use of the motoring and pedestrian public; and

WHEREAS, the loss of almost all of the City's gas tax funds will seriously compromise the City's ability to perform critical street and traffic safety related maintenance, including, but not limited to, drastically curtailing patching, resurfacing, regulatory and warning signage, pavement markings, sidewalk and curb ramp maintenance and repair, and more; and

WHEREAS, some cities report to the League of California Cities that they will be forced to eliminate part or all of their street maintenance operations while others will be forced to cut back in other areas (including public safety staffing levels) to use city general funds for basic street repair and maintenance. Furthermore, cities expect that liability damage awards will mount as basic maintenance is ignored and traffic accidents, injuries and deaths increase; and

WHEREAS, in both Proposition 5 in 1974 and Proposition 2 in 1998 the voters of our state overwhelmingly imposed restriction on the state's ability to do what the Governor

has proposed, and any effort to permanently divert the local share of the gas tax would violate the state constitution and the will of the voters; and

WHEREAS, cities and counties maintain 81% of the state road network while the state directly maintains just 8%; and

WHEREAS, ongoing street and traffic maintenance is a significant public safety concern. A city's failure to maintain its street pavement (potholes filling, sealing, overlays, etc.), traffic signs, and sidewalks has a direct correlation to traffic accidents, trip and falls, injuries and deaths; and

WHEREAS, according to a recent statewide needs assessment¹ on a scale of zero (failed) to 100 (excellent), the statewide average pavement condition index (PCI) is 68, or "at risk". Local streets and roads will fall to "poor" condition (Score of 48) by 2033 based on existing funding levels available to cities and counties.

NOW, THEREFORE, BE IT RESOLVED THAT the City Council of the City of Oakland hereby directs the City Attorney to take all necessary steps to cooperate with the League of California Cities, other cities and counties in supporting litigation against the state of California if the legislature enacts and the governor signs into law legislation that unconstitutionally diverts the City's share of funding from the Highway Users Tax Account (HUTA), also known as the "gas tax", to fund the state general fund; and

RESOLVED FURTHER, that the city clerk shall send this resolution to the Governor and each legislator, informing them in the clearest of terms of the City's adamant resolve to oppose any effort to frustrate the will of the electorate as expressed in Proposition 5 (1974) and Proposition 8 (1998) concerning the proper use and allocation of the gas tax; and

RESOLVED FURTHER, that a copy of this Resolution shall be sent by the city clerk to the League of California Cities, the local chamber of commerce, and other community groups whose members are affected by this proposal to create unsafe conditions on the streets of our City for pedestrians, bicyclists and motorists.

¹ *California Statewide Local Streets and Roads Needs Assessment*, Nichols Consulting Engineers, Chtd. (2008), sponsored by the League of California Cities, California State Association of Counties and County Engineers Association of California.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 20__

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS, DE LA FUENTE, KAPLAN, KERNIHGAN, NADEL, QUAN, REID and PRESIDENT
BRUNNER

NOES-

ABSENT-

ABSTENTION-

ATTEST: _____
LATONDA SIMMONS
City Clerk and Clerk of the Council
of the City of Oakland, California