



Memorandum

Date: July 24, 2007
To: Mayor and City Council
From: Suja Lowenthal, Second District 
Gary DeLong, Third District 
Subject: SCA 12 (Torlakson/Yee) – Storm Water & Urban Runoff

REQUESTED ACTION:

Respectfully request City Council support for a resolution drafted by the City Attorney endorsing SCA 12 (Torlakson/Yee) and that our support be communicated to appropriate State officials.

Request the State Legislation Committee reflect the City of Long Beach's support for SCA 12 (Torlakson/Yee) in their State Legislative Agenda.

BACKGROUND INFORMATION:

SCA 12 (Torlakson/Yee) amends the California Constitution to make fees for storm water and urban runoff management work the same way as fees for garbage collection, sewer treatment, and water.

Proposition 218, approved by California voters in 1996, requires either a majority of property owners or a two-thirds vote of residents in a specific area to raise property-related fees. Fees for water, sewer and garbage collection were specifically exempted from these requirements.

After Proposition 218 passed, the federal Clean Water Act placed more responsibility on local governments to monitor and treat storm water and urban runoff. This runoff washes pollution and debris into storm drains and eventually into creeks, rivers, bays, harbors and oceans. It can significantly damage aquatic habitat and has been attributed to beach closings and advisories.

This Constitutional Amendment gives voters the opportunity to create an additional resource for local governments to fund storm water and urban runoff management programs. If approved by both houses of the Legislature, SCA 12 (Torlakson/Yee) would be placed before California voters at the next regularly scheduled General Election.

SUPPORT for SCA 12: (Verified 7/12/07)

Association of California Water Agencies
Barbara Pierce, Mayor, Redwood City
Bay Area Stormwater Management
Agencies Association
California Association of Environmental
Health Administrators
California Coastal Coalition
California Coastkeeper Alliance
California Special Districts Association
California State Association of Counties
City and County Association of
Governments, San Mateo
City of Burlingame
City of Camarillo
City of Chula Vista
City of Concord
City of Coronado
City of Covina
City of Eureka
City of Fremont
City of Livermore
City of Lompoc
City of Los Angeles
City of Manteca
City of Martinez
City of Millbrae
City of Moorpark
City of Moreno Valley
City of Palo Alto
City of Redwood City
City of Roseville
City of San Leandro

City of San Pablo
City of Santa Monica
City of Saratoga
City of Signal Hill
City of Sunnyvale
City of Thousand Oaks
City of Walnut Creek
City of Woodland
Contra Costa County
Friends of the Santa Clara River
Heal the Bay
Inland Empire Waterkeeper
Irvine Ranch Water District
Lake County Board of Supervisors
League of California Cities
Ocean Conservation Society
San Joaquin County
San Luis Obispo Coastkeeper
Santa Clara County
Santa Clara County Water District
Santa Cruz County
Save the Bay
South Bay Cities Council of Governments
The River Project
Town of Los Gatos
Ventura Countywide Stormwater Quality
Management Program

OPPOSITION : (Verified 7/12/07)

California Taxpayers' Association
Howard Jarvis Taxpayers Association

Introduced by Senators Torlakson and Yee

May 21, 2007

Senate Constitutional Amendment No. 12—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 6 of Article XIII D thereof, relating to local government finance.

LEGISLATIVE COUNSEL'S DIGEST

SCA 12, as introduced, Torlakson. Local government: property-related fees.

The California Constitution, with the exception of fees or charges for sewer, water, and refuse collection services, conditions the imposition or increase of a property-related fee or charge upon approval by either a majority vote of the owners of the properties subject to the fee or charge or, at the option of the agency imposing the fee or charge, by a $\frac{2}{3}$ vote of the voters residing in the area affected by the fee or charge.

This measure would additionally exclude fees and charges for stormwater and surface water drainage from these approval requirements for the imposition or increase of a property-related fee or charge.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

- 1 *Resolved by the Senate, the Assembly concurring,* That the
- 2 Legislature of the State of California at its 2007–08 Regular
- 3 Session commencing on the fourth day of December 2006,
- 4 two-thirds of the membership of each house concurring, hereby
- 5 proposes to the people of the State of California, that the
- 6 Constitution of the State be amended as follows:
- 7 That Section 6 of Article XIII D thereof is amended to read:

1 SEC. 6. Property Related Fees and Charges. (a) Procedures
2 for New or Increased Fees and Charges. An agency shall follow
3 the procedures pursuant to this section in imposing or increasing
4 any fee or charge as defined pursuant to this article, including, but
5 not limited to, the following:

6 (1) The parcels upon which a fee or charge is proposed for
7 imposition shall be identified. The amount of the fee or charge
8 proposed to be imposed upon each parcel shall be calculated. The
9 agency shall provide written notice by mail of the proposed fee or
10 charge to the record owner of each identified parcel upon which
11 the fee or charge is proposed for imposition, the amount of the fee
12 or charge proposed to be imposed upon each, the basis upon which
13 the amount of the proposed fee or charge was calculated, the reason
14 for the fee or charge, together with the date, time, and location of
15 a public hearing on the proposed fee or charge.

16 (2) The agency shall conduct a public hearing upon the proposed
17 fee or charge not less than 45 days after mailing the notice of the
18 proposed fee or charge to the record owners of each identified
19 parcel upon which the fee or charge is proposed for imposition.
20 At the public hearing, the agency shall consider all protests against
21 the proposed fee or charge. If written protests against the proposed
22 fee or charge are presented by a majority of owners of the identified
23 parcels, the agency shall not impose the fee or charge.

24 (b) Requirements for Existing, New or Increased Fees and
25 Charges. A fee or charge shall not be extended, imposed, or
26 increased by any agency unless it meets all of the following
27 requirements:

28 (1) Revenues derived from the fee or charge shall not exceed
29 the funds required to provide the property related service.

30 (2) Revenues derived from the fee or charge shall not be used
31 for any purpose other than that for which the fee or charge was
32 imposed.

33 (3) The amount of a fee or charge imposed upon any parcel or
34 person as an incident of property ownership shall not exceed the
35 proportional cost of the service attributable to the parcel.

36 (4) No fee or charge may be imposed for a service unless that
37 service is actually used by, or immediately available to, the owner
38 of the property in question. Fees or charges based on potential or
39 future use of a service are not permitted. Standby charges, whether
40 characterized as charges or assessments, shall be classified as

1 assessments and shall not be imposed without compliance with
2 Section 4.

3 (5) No fee or charge may be imposed for general governmental
4 services including, but not limited to, police, fire, ambulance or
5 library services, where the service is available to the public at large
6 in substantially the same manner as it is to property owners.

7 Reliance by an agency on any parcel map, including, but not
8 limited to, an assessor's parcel map, may be considered a
9 significant factor in determining whether a fee or charge is imposed
10 as an incident of property ownership for purposes of this article.
11 In any legal action contesting the validity of a fee or charge, the
12 burden shall be on the agency to demonstrate compliance with this
13 article.

14 (c) Voter Approval for New or Increased Fees and Charges.
15 Except for fees or charges for sewer, water, ~~and stormwater and~~
16 ~~surface water drainage, or refuse collection services, no property~~
17 ~~related~~ a *property-related* fee or charge shall *not* be imposed or
18 increased unless and until that fee or charge is submitted and
19 approved by a majority vote of the property owners of the property
20 subject to the fee or charge or, at the option of the agency, by a
21 two-thirds vote of the electorate residing in the affected area. The
22 election shall be conducted not less than 45 days after the public
23 hearing. An agency may adopt procedures similar to those for
24 increases in assessments in the conduct of elections under this
25 subdivision.

26 (d) Beginning July 1, 1997, all fees or charges shall comply
27 with this section.