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OFFICE OF THE
CITY MANAGER

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February 27, 1997

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Law and Legislation Committee
Sacramento, California

Honorable Committee Members:

**SUBJECT: UPDATE ON SB 147 (AYALA) - LEGISLATION REQUIRING A VOTE
OF THE PEOPLE TO APPROVE ISSUANCE OF LONG TERM LEASE
DEBT**

RECOMMENDATION: Oppose Legislation

CONTACT PERSON: Betty Masuoka, 264-5704

FOR COMMITTEE MEETING OF: March 4, 1997

No staff report available at time of print. Please see attached material.



OFFICE OF THE
MAYOR

JOE SERNA, JR.
MAYOR

CITY OF SACRAMENTO
CALIFORNIA
February 26, 1997

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Senator Ruben Ayala
State Capitol, Room 5108
Sacramento, CA 94248-0001

SUBJECT: Opposition to SB 147 (Ayala)

Dear Senator Ayala:

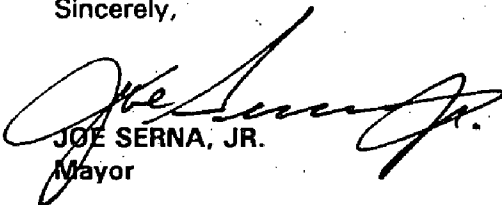
I regret to inform you that the City of Sacramento opposes your SB 147. This bill requires all local government agencies to submit virtually all long-term lease debt, certificates of participation as well as certain other forms of nonvoted installment-basis equipment financing to a referendum of the voters.

The City of Sacramento finances a wide variety of essential equipment purchases and capital facility construction by means of this form of indebtedness. Having to submit each and every debt instrument of this kind to a public vote will interrupt the city's ability to manage its traditional programs and services for no significant benefit to the public. The City does not use its authority to incur debt to an excess and enjoys an excellent credit rating. The taxpaying public in Sacramento is well protected by responsible local leadership on the City Council and the city's professional staff.

In this city, certificates of participation have been used to borrow funds for the purchase of recycling trucks, a city telephone centrex system, street light retrofit, radio communications equipment, energy retrofit of the community center, traffic signal LED retrofit, construction of police substations, building permit software management system, geographic information software system, etc.

Please contact the city's lobbyist, Ken Emanuels, if you would like to discuss our opposition at greater length. Thank you for your consideration of our views.

Sincerely,


JOE SERNA, JR.
Mayor

JS/mecv

c: Senator Patrick Johnston
Senate Local Government Committee



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Senator Patrick Johnston
State Capitol, Room 5066
Sacramento, CA 94248-0001

SUBJECT: City Opposition to SB 147 (Ayala). Hearing in Senate Local
Government Committee on Wednesday, March 5.

Dear Senator Johnston: 

The enclosed letter to Senator Ruben Ayala explains our opposition to SB 147. The bill is set for its first hearing in the Senate Local Government Committee next week, March 5.

As you can see from our letter to the author, requiring lease debt and certificates of participation to be submitted to a referendum every time we use them to finance a capital project or an equipment purchase would be very disruptive. It would delay our equipment replacement schedules and prolong and complicate dozens of the small capital improvement projects. The key question we would ask, for what benefit? We manage our debt very conservatively. Our credit rating is excellent. We are not overly burdened by irresponsible debt.

We believe that the demands put upon us by SB 147, submitting to the voters the routine borrowing we use in the forms of long-term lease debt and certificates of participation, are not justified by any statewide misuse of these forms of debt. We respectfully ask you not only to vote against this bill but also speak against it as an unreasonable new burden on well managed cities.

As usual, thank you for your consideration of our views.

Sincerely,


JOE SERNA, JR.
Mayor

JS/mecv

Enclosure

AMENDED IN SENATE FEBRUARY 13, 1997

SENATE BILL

No. 147

Introduced by Senators Ayala and Kopp

January 13, 1997

An act to add Article 2.5 (commencing with Section 29945) to Chapter 6 of Division 3 of Title 3 of, to add Article 1.5 (commencing with Section 43640) to Chapter 4 of Division 4 of Title 4 of, and to add Article 14 (commencing with Section 53597) to Chapter 3 of Part 1 of Division 2 of Title 5 of, the Government Code, relating to local agency borrowing.

LEGISLATIVE COUNSEL'S DIGEST

SB 147, as amended, Ayala. Local agency borrowing.

Existing law requires that in specified circumstances cities, counties, and other local agencies obtain voter approval for the imposition of general or special taxes or the issuance of bonds.

This bill would require that no city, county, or local agency, including a charter city, a school district, or a community college district may incur any indebtedness, as defined, on or after January 1, 1998, without prior approval by a majority of the voters.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Article 2.5 (commencing with Section~~
2 ~~29945) is added to Chapter 6 of Division 3 of Title 3 of the~~
3 ~~Government Code, to read:~~

4
5 Article 2.5. County Borrowing

6
7 ~~29945. Notwithstanding any other provision of law, no~~
8 ~~county may incur any indebtedness without prior~~
9 ~~approval by a majority of the voters of the county voting~~
10 ~~in an election on the question of incurring each specific~~
11 ~~indebtedness. If debt is to be issued pursuant to a statute~~
12 ~~which requires at least majority voter approval, the~~
13 ~~election provisions of that statute shall be followed to~~
14 ~~satisfy this requirement. If the indebtedness is to be~~
15 ~~incurred pursuant to authority which does not otherwise~~
16 ~~require electoral approval, the county shall comply with~~
17 ~~the election provisions of this article.~~

18 ~~29945.3. (a) For purposes of this article, indebtedness~~
19 ~~means any transaction in which the county obtains money~~
20 ~~or the use or control of funds, tangible assets, or other~~
21 ~~thing or service of value, and in which the county incurs~~
22 ~~an obligation to make payments of any kind in return, if~~
23 ~~the obligation to make those payments continues beyond~~
24 ~~the fiscal year in which the obligation is first incurred.~~
25 ~~Indebtedness includes any transaction involving the~~
26 ~~issuance by the county or by any other entity on behalf of~~
27 ~~the county of any certificate of participation, share in an~~
28 ~~installment sale purchase contract, leaseback, lease sale~~
29 ~~purchase, or similar transaction.~~

30 ~~(b) Notwithstanding subdivision (a), indebtedness~~
31 ~~does not include any contract for employee services,~~
32 ~~including any labor contract.~~

33 ~~(c) Notwithstanding subdivision (a), indebtedness~~
34 ~~does not include any lease of any tangible property,~~
35 ~~including any building, in which the county's payments~~
36 ~~are made to a single entity which owns the tangible~~
37 ~~property, and in which interest in the lease payment~~

stream is not resold, divided, or securitized in any manner.

(d) For purposes of this article, a county shall be deemed to incur indebtedness if the county enters into a transaction with a joint powers authority, including a Marks-Ross Authority, as defined in Section 6585, in which the county incurs an obligation to make payments as described in subdivision (a).

(e) The provisions of this article apply to any redevelopment agency with a project area within the boundaries of the county.

(f) Notwithstanding subdivision (a), indebtedness does not include any debt secured exclusively by any special assessment as defined in Article XIII D of the California Constitution.

29945.8. (a) Any indebtedness subject to this article shall be proposed by an ordinance or resolution of the legislative body of the county. The ordinance or resolution proposing the indebtedness shall include the amount and purpose of the proposed indebtedness and the date upon which an election shall be held upon the issue.

(b) Except as provided in subdivision (c), the election on any indebtedness subject to this article shall be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the county are entitled to vote.

(c) Notwithstanding subdivision (b), the legislative body of the county may provide that the election on any indebtedness proposed shall be held at any date otherwise permitted by law. The county shall bear the cost of any election held pursuant to this subdivision. An election held pursuant to this subdivision shall be deemed at the request of the county calling the election and shall not be deemed a state mandate.

(d) Except as otherwise provided in this article, the provisions of law regulating elections of the county that calls an election pursuant to this article, insofar as they may be applicable, shall govern all elections conducted

1 pursuant to this article. There shall be prepared and
 2 included in the ballot material provided to each voter, an
 3 impartial analysis pursuant to Section 9160 or 9280 of the
 4 Elections Code, and arguments and rebuttals, if any,
 5 pursuant to Sections 9162 to 9167, inclusive, and Section
 6 9190 of the Elections Code or pursuant to sections 9281 to
 7 9287, inclusive, and Section 9295 of the Elections Code.
 8 SEC. 2. Article 1.5 (commencing with Section 43640)
 9 is added to Chapter 4 of Division 4 of Title 4 of the
 10 Government Code, to read:

11
 12 Article 1.5. City Borrowing

13
 14 43640. Notwithstanding any other provision of law, no
 15 city may incur any indebtedness without prior approval
 16 by a majority of the voters of the city voting in an election
 17 on the question of incurring each specific indebtedness.
 18 If debt is to be issued pursuant to a statute which requires
 19 at least majority voter approval, the election provisions of
 20 that statute shall be followed to satisfy this requirement.
 21 If the indebtedness is to be incurred pursuant to authority
 22 which does not otherwise require electoral approval, the
 23 city shall comply with the election provisions of this
 24 article.

25 43640.3. (a) For purposes of this article, indebtedness
 26 means any transaction in which the city obtains money or
 27 the use or control of funds, tangible assets, or other thing
 28 or service of value, and in which the city incurs an
 29 obligation to make payments of any kind in return, if the
 30 obligation to make those payments continues beyond the
 31 fiscal year in which the obligation is first incurred.
 32 Indebtedness includes any transaction involving the
 33 issuance by the city or by any other entity on behalf of the
 34 city of any certificate of participation, share in an
 35 installment sale purchase contract, leaseback, lease sale
 36 purchase, or similar transaction.

37 (b) Notwithstanding subsection (a), indebtedness
 38 does not include any contract for employee services,
 39 including any labor contract.

1 ~~(e) Notwithstanding subdivision (a), indebtedness~~
2 ~~does not include any lease of any tangible property,~~
3 ~~including any building, in which the city's payments are~~
4 ~~made to a single entity which owns the tangible property,~~
5 ~~and in which interest in the lease payment stream is not~~
6 ~~resold, divided, or securitized in any manner.~~

7 ~~(d) For purposes of this article, a city shall be deemed~~
8 ~~to incur indebtedness if the city enters into a transaction~~
9 ~~with a joint powers authority, including a Marks-Rees~~
10 ~~Authority, as defined in Section 6585, in which the city~~
11 ~~incurs an obligation to make payments as described in~~
12 ~~subdivision (a).~~

13 ~~(e) The provisions of this article apply to any~~
14 ~~redevelopment agency with a project area within the~~
15 ~~boundaries of the city.~~

16 ~~(f) Notwithstanding subdivision (a), indebtedness~~
17 ~~does not include any debt secured exclusively by any~~
18 ~~special assessment as defined in Article XIII D of the~~
19 ~~California Constitution.~~

20 ~~43640.8. (a) Any indebtedness subject to this article~~
21 ~~shall be proposed by an ordinance or resolution of the~~
22 ~~legislative body of the city. The ordinance or resolution~~
23 ~~proposing the indebtedness shall include the amount and~~
24 ~~purpose of the proposed indebtedness and the date upon~~
25 ~~which an election shall be held upon the issue.~~

26 ~~(b) Except as provided in subdivision (e), the election~~
27 ~~on any indebtedness subject to this article shall be~~
28 ~~consolidated with a statewide primary election, a~~
29 ~~statewide general election, or a regularly scheduled local~~
30 ~~election at which all of the electors of the city are entitled~~
31 ~~to vote.~~

32 ~~(e) Notwithstanding subdivision (b), the legislative~~
33 ~~body of the city may provide that the election on any~~
34 ~~indebtedness proposed shall be held at any date~~
35 ~~otherwise permitted by law. The city shall bear the cost~~
36 ~~of any election held pursuant to this subdivision. An~~
37 ~~election held pursuant to this subdivision shall be deemed~~
38 ~~at the request of the city calling the election and shall not~~
39 ~~be deemed a state mandate.~~

1 ~~(d) Except as otherwise provided in this article, the~~
2 ~~provisions of law regulating elections of the city that call~~
3 ~~an election pursuant to this article, insofar as they may be~~
4 ~~applicable, shall govern all elections conducted pursuant~~
5 ~~to this article. There shall be prepared and included in the~~
6 ~~ballot material provided to each voter an impartial~~
7 ~~analysis pursuant to Section 9160 or 9280 of the Elections~~
8 ~~Code, and arguments and rebuttals, if any, pursuant to~~
9 ~~Sections 9162 to 9167, inclusive, and Section 9190 of the~~
10 ~~Elections Code or pursuant to Sections 9281 to 9287,~~
11 ~~inclusive, and Section 9295 of the Elections Code.~~

12 ~~SEC 3.~~ Article 14 (commencing with Section 53597)
13 is added to Chapter 3 of Part 1 of Division 2 of Title 5 of
14 the Government Code, to read:

15
16 Article 14. Local Agency Borrowing.

17
18 53597. Notwithstanding any other provision of law, no
19 local agency ~~may incur any indebtedness, including a~~
20 ~~charter city, a school district, or a community college~~
21 ~~district, may incur any indebtedness on or after January~~
22 ~~1, 1998, without prior approval by a majority of the voters~~
23 ~~of the local agency voting in an election on the question~~
24 ~~of incurring each specific indebtedness. If debt is to be~~
25 ~~issued pursuant to a statute which requires at least~~
26 ~~majority voter approval, the election provisions of that~~
27 ~~statute shall be followed to satisfy this requirement. If the~~
28 ~~indebtedness is to be incurred pursuant to authority~~
29 ~~which does not otherwise require electoral approval, the~~
30 ~~local agency shall comply with the election provisions of~~
31 ~~this article.~~

32 53597.3. (a) For purposes of this article, indebtedness
33 means any transaction in which the local agency obtains
34 money or the use or control of funds, tangible assets, or
35 other thing or service of value, and in which the local
36 agency incurs an obligation to make payments of any kind
37 in return, if the obligation to make those payments
38 continues beyond the fiscal year in which the obligation
39 is first incurred. Indebtedness includes any transaction
40 involving the issuance by the local agency or by any other

1 entity on behalf of the local agency of any certificate of
2 participation, share in an installment sale purchase
3 contract, leaseback, lease sale purchase, or similar
4 transaction.

5 (b) Notwithstanding subdivision (a), indebtedness
6 does not include any contract for employee services,
7 including any labor contract.

8 (c) Notwithstanding subdivision (a), indebtedness
9 does not include any lease of any tangible property,
10 including any building, in which the local agency's
11 payments are made to a single entity which owns the
12 tangible property, and in which interest in the lease
13 payment stream is not resold, divided, or securitized in
14 any manner.

15 (d) For purposes of this article, a local agency shall be
16 deemed to incur indebtedness if the local agency enters
17 into a transaction with a joint powers authority, including
18 a Marks-Roos Authority, as defined in Section 6585, in
19 which the local agency incurs an obligation to make
20 payments as described in subdivision (a).

21 (e) The provisions of this article apply to any
22 redevelopment agency with a project area within the
23 boundaries of the local agency.

24 (f) Notwithstanding subdivision (a), indebtedness
25 does not include any ~~debt secured exclusively by any~~
26 ~~special assessment as defined in Article XIII D of the~~
27 ~~California Constitution; of the following:~~

28 (1) *Temporary Borrowing pursuant to Article 7*
29 *(commencing with Section 53820) of Chapter 4.*

30 (2) *Temporary Borrowing pursuant to Article 7.5*
31 *(commencing with Section 53840) of Chapter 4.*

32 (3) *Temporary Borrowing pursuant to Article 7.6*
33 *(commencing with Section 53850) of Chapter 4.*

34 (4) *Grant Anticipation Notes pursuant to Article 7.7*
35 *(commencing with Section 53859) of Chapter 4.*

36 (5) *Debt secured exclusively by a special assessment as*
37 *defined in Article XIII D of the California Constitution.*

38 (6) *Revenue bonds issued pursuant to the following*
39 *provisions of law if the revenues pledged to bond*
40 *repayment are derived exclusively from the charges, fees,*

1 tolls, rates, rentals, or other identified enterprise revenue
2 activity, and not from lease payments;

3 (A) Chapter 14 (commencing with Section 26301) of
4 Division 2 of Title 3.

5 (B) Chapter 5 (commencing with Section 4950) of
6 Part 3 of Division 5 of the Health and Safety Code.

7 (C) Chapter 5 (commencing with Section 32315) of
8 Division 23 of the Health and Safety Code.

9 (D) Article 5 (commencing with Section 34350) of
10 Chapter 1 of Part 2 of Division 24 of the Health and Safety
11 Code.

12 (E) Article 6 (commencing with Section 16571) of
13 Chapter 4 of Division 7 of the Public Utilities Code.

14 (F) Chapter 6 (commencing with Section 17001) of
15 Division 7 of the Public Utilities Code.

16 (G) Chapter 4 (commencing with Section 36300) of
17 Part 6 of Division 13 of the Water Code.

18 53597.8. (a) Any indebtedness subject to this article
19 shall be proposed by an ordinance or resolution of the
20 legislative body of the local agency. The ordinance or
21 resolution proposing the indebtedness shall include the
22 amount and purpose of the proposed indebtedness and
23 the date upon which an election shall be held upon the
24 issue.

25 (b) Except as provided in subdivision (c), the election
26 on any indebtedness subject to this article shall be
27 consolidated with a statewide primary election, a
28 statewide general election, or a regularly scheduled local
29 election at which all of the electors of the local agency are
30 entitled to vote.

31 (c) Notwithstanding subdivision (b), the legislative
32 body of the local agency may provide that the election on
33 any indebtedness proposed shall be held at any date
34 otherwise permitted by law. The local agency shall bear
35 the cost of any election held pursuant to this subdivision.
36 An election held pursuant to this subdivision shall be
37 deemed at the request of the local agency calling the
38 election and shall not be deemed a state mandate.

39 (d) Except as otherwise provided in this article, the
40 provisions of law regulating elections of the local agency

1 that calls an election pursuant to this article, insofar as
2 they may be applicable, shall govern all elections
3 conducted pursuant to this article. There shall be
4 prepared and included in the ballot material provided to
5 each voter, an impartial analysis pursuant to Section 9160
6 or 9280 of the Elections Code, and arguments and
7 rebuttals, if any, pursuant to Sections 9162 to 9167,
8 inclusive, and Section 9190 of the Elections Code or
9 pursuant to Sections 9281 to 9287, inclusive, and Section
10 9295 of the Elections Code.

11 *SEC. 2. The Legislature finds and declares that the*
12 *issuance of nonvoter approved debt by local officials can*
13 *affect the credit ratings of all of the state's local agencies*
14 *and increase taxpayers' costs for public borrowing, and,*
15 *as such, is an issue of statewide concern.*