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CALIFORNIA

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November 1, 2006

#1 ST

Mayor Antonio R. Villaraigosa
Room 305
City Hall
Attn: June Lagmay

OFFICE OF THE MAYOR
RECEIVED
2006 NOV -6 PM 1:16
CITY OF LOS ANGELES

Subject: PROPOSED ORDINANCE AMENDMENT OF SECTION 61.07(a) OF THE
LOS ANGELES MUNICIPAL CODE RELATED TO ENHANCING ARREST
AUTHORITY FOR STREET SERVICES INVESTIGATORS IN ORDER TO
INCREASE THEIR EFFECTIVENESS AND EFFICIENCY IN CONDUCTING
ILLEGAL DUMPING INVESTIGATIONS

As recommended in the accompanying report of the Director of the Bureau of Street Services, which this Board has adopted, the Board of Public Works requests approval and forwarding to the City Council for approval and adoption of the proposed amendments to Section 6107(a) of the Los Angeles Municipal Code (LAMC) to grant Street Services Investigators similar authority as City Transportation Investigators or Animal Control Officers. This would enhance protection for both the City and the Investigator from civil liability associated with law enforcement, would provide legal penalty enhancements for battery or assault committed against the Investigator, and would allow the Investigators to make arrests more efficiently and safely.

FISCAL IMPACT


There is no impact to the general fund.

Respectfully submitted,

James A. Gibson, Executive Officer
Board of Public Works

JAG:mp

**DEPARTMENT OF PUBLIC WORKS
BUREAU OF STREET SERVICES
REPORT NO. 1
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ADOPTED BY THE BOARD OF
PUBLIC WORKS OF THE CITY
of Los Angeles, California
AND REFERRED TO THE MAYOR
NOV 1 2006

Secretary

November 1, 2006

CD# ALL

Honorable Board of Public Works
of the City of Los Angeles
Commissioners:

PROPOSED ORDINANCE AMENDMENT OF SECTION 61.07(a) OF THE LOS ANGELES MUNICIPAL CODE RELATED TO ENHANCING ARREST AUTHORITY FOR STREET SERVICES INVESTIGATORS IN ORDER TO INCREASE THEIR EFFECTIVENESS AND EFFICIENCY IN CONDUCTING ILLEGAL DUMPING INVESTIGATIONS

RECOMMENDATION:

That your Board adopts the report supporting the proposed amendments to Section 61.07(a) of the Los Angeles Municipal Code (LAMC); transmit a copy of this report to the City Council with the recommendation that the attached proposed ordinance amendments be forwarded to the Chief Legislative Analyst and the City Attorney for review as to form and legality; and that the City Attorney be instructed to prepare a draft of the ordinance to reflect the amendments for City Council review and approval and final approval by the Mayor.

TRANSMITTALS:

1. Draft of proposed ordinance amending Section 61.07(a) of the LAMC to grant Street Services Investigators limited powers of arrest as specified by California Penal Code Section 830.7(j).
2. Copy of Council Action for File# 05-0002-S104 dated June 29, 2006 regarding the City's support of AB 1688 (Niello) or any other legislation that would give Street Services Investigators enhanced power to arrest those found to be illegally dumping or committing related violations in their presence and other additional civil liability protection.

RECITAL:

The purpose of the requested amendment to Los Angeles Municipal Code Section 61.07(a) is to grant Street Services Investigators similar authority to City Transportation Investigators or Animal Control Officers. The preceding would enhance protection for both the City and the employee from civil liability associated with law enforcement, would provide legal penalty enhancements for battery or assault committed against Street Services Investigators, and would allow these investigators to make arrests more

**DEPARTMENT OF PUBLIC WORKS
BUREAU OF STREET SERVICES**

REPORT NO. 1

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release to establish identity. Over the past three years, Street Services Investigators have booked 400 illegal dumping violators into LAPD facilities. Investigators seize vehicles used in the commission of illegal dumping crimes and the crime can also be a felony under certain circumstances.

The California Senate analysis of AB 1688 stated regarding current authority granted by CPC 836.5: "It is not clear that this would relieve illegal dumping enforcement officers of potential liability from making arrests in all situations they may encounter because it is not clear that they would have a duty to enforce all laws. It would also not relieve them from potential liability for detaining persons for committing felonies." This legal uncertainty leaves both the individual employee and the City itself exposed to potential liability.

The frequency with which illegal dumping officers make arrests clearly proves the need for the same civil liability afforded other non-sworn enforcement officers. There is nothing unique about the request for illegal dumping officers. Penal Code Sections 830.7, 830.9 and 830.11 already include various state and local non-sworn enforcement officers. The same reasons that CPC 836.5 local authority is not sufficient for these non-sworn inspectors, investigators and officers are the reasons local authority is not sufficient for Street Services Investigators.

On May 2, 2005, your Board adopted a report from the Bureau of Street Services in support of Assembly Bill 1688 (Niello). The Mayor and the City Council concurred and AB 1688 was supported by the City of Los Angeles. AB 1688 amends California Penal Code (CPC) Section 830.7 and adds subsection J for Illegal Dumping Enforcement Officers.

Granting this authority is imperative to give Street Services Investigators the same legal protection for the crimes of battery or assault afforded other City enforcement employees. The Senate analysis of AB 1688 states: "Although Section 830.7 states that persons granted arrest powers under that section are not peace officers, the enhanced penalties for assault and battery on a peace officer nonetheless apply to persons granted arrest powers under Section 830.7." This is a critical safety enhancement for Street Services Investigators.

Amending LAMC 61.07 in accordance with the Federal Environmental Protection Agency "Illegal Dumping Prevention Guidebook's" recommendation will grant Bureau of Street Services investigators with:

- The same limited civil liability protection currently afforded City civilian Animal Control Officers and Transportation Investigators,
- The ability to charge violators with felony dumping when appropriate,

Proposed amendment, new language highlighted and in italics. Original language to be deleted shown with strikethrough. The changes make technical corrections for the enactment of Assembly Bill 1688 that grants Bureau of Street Services public officers the arrest powers of a peace officer as specified.

SEC. 61.07. ARREST AUTHORITY OF CITY EMPLOYEES.

(Amended by Ord. No. 170,451, Eff. 5/8/95.)

(a) **(Amended by Ord. No. 176,364, Eff. 2/8/05.)** The Director of the Bureau of Street Services, the Assistant Director of the Bureau of Street Services, the Chief Street Services Investigator, Senior Street Services Investigators and Street Services Investigators ~~shall have the power to serve warrants as specified in the California Code of Civil Procedures Code Section 1822.50, et seq. and the power, authority and immunity of a public officer as set forth in the Penal Code of the State of California, Section 836.5, to make arrests without a warrant whenever he or she has reasonable cause to believe that the person to be arrested has committed a misdemeanor or an infraction in his or her presence, which is a violation of any law of this State or any ordinance of the City pertaining to matters under the jurisdiction of the Department of Public Works enforce d by the Investigation and Enforcement Division of the Bureau of Street Services, including Los Angeles Municipal Code Section 64.30 with respect to storm drain systems and waters of the State and any law set forth in Subsection (c) of this section and to seize and impound vehicles in order to enforce the provisions of Los Angeles Municipal Code Section 41.70.3.~~ *are duly appointed public officers as defined in California Penal Code, Section 836.5 and have the power, authority and immunity of a peace officer as set forth in California Penal Code Section 830.7(j), to make arrests for the violation of any law of this State or any ordinance of the City as delineated in a Memorandum of Understanding with the Los Angeles Police Department. Such power, authority and immunity shall only be exercised by those directors and investigators referred to herein who have successfully completed a course in the exercise of the powers of a peace officer pursuant to California Penal Code Section 832 and that satisfy the selection standards for peace officers pursuant to the Government Code of the State of California, Section 1029. Such power, authority and immunity shall only be exercised by those directors and investigators referred to herein who have successfully completed a course in the exercise of the powers of a peace officer pursuant to California Penal Code Section 832. All public officers empowered by this Section shall have the authority of a "local enforcement agency" for the purposes specified in the California Public Resources Code Division 30, Part 3, Chapters 16 through 19 related to the California Integrated Waste Management Board Waste Tire Enforcement Program. In addition, such persons shall have the foregoing power, authority, and immunity with respect to a violation of any of the following sections of the Municipal Code. All public officers empowered by this Section shall have the authority of a "local enforcement agency" for the purposes specified in the California Public Resources Code Division 30, Part 3, Chapters 16 through 19 related to the California Integrated Waste Management Board Waste Tire Enforcement Program and to seize and impound vehicles in order to enforce the provisions of Los Angeles*

Municipal Code Section 41.70.3. In addition, such persons shall have the power to serve warrants as specified in the California Code of Civil Procedures Code Section 1822.50, et seq. and the authority granted in Section 80.01.1 of this Code. All persons herein referred to shall be deemed to be acting within the scope of employment with respect to all acts and matters set forth in this section.

~~91.8104 12.21 A.8.(b) 91.6201.1 et seq.~~

~~19.94.1 80.01.1 67.02 A.~~

FRANK T. MARTINEZ
City Clerk

KAREN E. KALFAYAN
Executive Officer

When making inquiries
relative to this matter
refer to File No.

CITY OF LOS ANGELES
CALIFORNIA



ANTONIO R. VILLARAIGOSA
MAYOR

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CLAUDIA M. DUNN
Chief, Council and Public Services Division

05-0002-S104

June 29, 2006

Honorable Antonio Villaraigosa, Mayor
Chief Legislative Analyst
City Administrative Officer
Board of Public Works
Bureau of Street Services

RE: CITY'S POSITION ON AB 1688 (NIELLO) OR ANY OTHER LEGISLATION THAT
WOULD GIVE STREET SERVICES INVESTIGATORS THE POWER TO ARREST THOSE
FOUND TO BE ILLEGALLY DUMPING AND OTHERS COMMITTING MISDEMEANORS IN
THE INVESTIGATORS PRESENCE AND OTHER ADDITIONAL CIVIL LIABILITY
PROTECTION TO THOSE INVESTIGATORS

I HEREBY CERTIFY that the attached committee report was adopted by the
Los Angeles City Council at its meeting held on June 9, 2006. The Mayor
concurred with the Council action on June 26, 2006.

Frank T. Martinez

City Clerk
cr

cc: 8 Certified copies sent to Sacramento Representatives
8 Certified copies sent to Washington Representatives

(716)

TO THE COUNCIL OF THE
CITY OF LOS ANGELES

File No. 05-0002-S104

Your INTERGOVERNMENTAL RELATIONS COMMITTEE
reports as follows:Public Comments Yes No
XX

INTERGOVERNMENTAL RELATIONS COMMITTEE REPORT relative to the City's position on AB 1688 (Niello) or any other legislation that would give street service investigators the power to arrest those found to be illegally dumping and others committing misdemeanors in the investigators presence and offer additional civil liability protection to those investigators.

Recommendation for Council action, pursuant to Resolution (Rosendahl - Reyes - Garcetti),
SUBJECT TO THE CONCURRENCE OF THE MAYOR:

RESOLVE to include in the City's 2005-06 State Legislative Program, SUPPORT for AB 1688 (Niello) or any other legislation that would give street service investigators the power to arrest those found to be illegally dumping and others committing misdemeanors in the investigators presence and offer additional civil liability protection to those investigators.

Fiscal Impact Statement: Neither the Chief Legislative Analyst nor the City Administrative Officer has completed a financial analysis of this report.

Summary:

In order to combat illegal dumping, the Bureau of Street Services Investigation and Enforcement Division employs street service investigators that have limited peace officer powers. AB 1688 (Niello) would add persons employed by a city, county, or city and county as illegal dumping officers, provided that their primary duty is the enforcement of illegal dumping laws, to the list of people who are not peace officers but may exercise powers of arrest of a peace officer and the power to serve warrants if Penal Code Section 832 applies in the individual case. AB 1688 was to be heard in the State Assembly's Public Safety Committee, but was canceled at the author's request so that the bill could be amended to add more civil liability protection. A similar bill AB 1536 (Bass) was vetoed by the Governor. It would have extended the power of arrest to persons regularly employed as security officers for health facilities, certain employees of the California Department of Forestry and Fire Protection, transit inspectors, supervisors, security officers, parole officers, persons designated by the California Science Center and other employees of any department of the City of Los Angeles who are designated as security officers. The bill has now been amended numerous times and has passed the State Assembly and is currently pending a vote in the Senate Committee on Public Safety.

The Intergovernmental Relations Committee, at a special meeting on June 9, 2006, approved the Chief Legislative Analyst's recommendations and now forward the matter to the Council for its consideration.

Respectfully submitted,

INTERGOVERNMENTAL RELATIONS COMMITTEE

MEMBER
SMITH
WESSON
PADILLA

VOTE
YES
YES
ABSENT

MO.
ADOPTED

AB
#050002.104
6/9/06

to App. CMT. JUN 09 2006

LOS ANGELES CITY COUNCIL