

CLA Memorandum

June 6, 2006

TO: Honorable Members,
Intergovernmental Relations Committee

FROM: Gerry F. Miller *WPAK*
Chief Legislative Analyst

SET IN IGR CMTE. 6/9/2006

Assignment No. 05-11-1734
Council File No. 05-0002-S104

SUBJECT: Resolution (Greuel – Hahn) in support of State Assembly Bill 1688

CLA RECOMMENDATION: Adopt the attached Resolution (Greuel – Hahn) that would include in the City's 2005-2006 State Legislative Program SUPPORT of AB 1688 (Niello), which would give provide 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.

SUMMARY

AB 1688, introduced by Assembly Member Robert Niello (R-Sacramento), would extend arrest powers and liability protections to certain persons employed by cities and counties when making arrests during the course of carrying out their routine duties. Among those persons would be those employed by the City as illegal dumping enforcement officers, to the extent necessary to enforce laws related to illegal waste dumping and authorized by a memorandum of understanding with the chief of police.

The Bureau of Street Services employs approximately 50 street service investigators to patrol public right-of-way areas throughout the City and enforce illegal dumping laws. In the course of their duties, these officers sometimes need to detain suspects for civil and criminal illegal actions and crimes. These street service investigators have limited peace-officer powers under Section 61.07 of the Los Angeles Municipal Code, which empowers them with the authority to make arrests without a warrant when they have reasonable cause to believe that the person being arrested has committed a misdemeanor or infraction in their presence.

The Department of Public Works reports that AB 1688 as it is currently proposed would clarify legal issues related to the enforcement of State laws, including illegal dumping and civil liability protection for Street Services Investigators when making arrests. Currently, BOSS Investigators are designated "public officers" pursuant to Penal Code Section 836.5, which authorizes citations or arrests for specific infractions and misdemeanor violations, but the Department of Public Works reports that this does not provide a sufficient level of civil liability protection for its street service investigators.

Since the last CLA report on AB 1688 dated November 4, 2005, the bill has been amended multiple times and has passed through the State Assembly. The bill is currently pending a vote in the Senate Committee on Public Safety. Under the last amended version of the bill, illegal dumping enforcement officers, among other designated persons, would be given the power of arrest and liability protections specified in Penal Code Section 830.7 and 836.

The Department of Public Works recommends support of the bill (report attached). The League of California Cities also supports the bill.

DEPARTMENT AFFECTED: Public Works

STATUS OF LEGISLATION

AB 1688

Intro. 2/22/05

Last am. 5/26/2006

Passed Assembly 1/17/2006

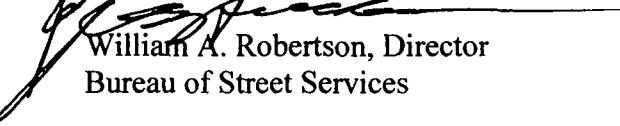
Set for hearing in Senate Cmte. on Public Safety 6/13/2006

Charles E. Modica, Jr.
Charles E. Modica, Jr.
Analyst

CITY OF LOS ANGELES
INTER-DEPARTMENTAL CORRESPONDENCE

DATE: May 24, 2006

TO: Gerry F. Miller, Chief Legislative Analyst
City of Los Angeles

FROM: 
William A. Robertson, Director
Bureau of Street Services

SUBJECT: CF# 05-0002-S104 SUPPORT OF AB 1688
ILLEGAL DUMPING ENFORCEMENT OFFICERS

The passage of AB 1688 will improve the effectiveness of illegal dumping enforcement by the Bureau of Street Services, Investigation and Enforcement Division. On May 2, 2005, the Board of Public Works adopted a report from the Bureau of Street Services recommending City support of AB 1688.

PURPOSE OF PROPOSED LEGISLATION:

The purpose of the requested amendment to California Penal Code Section 830.7 is to grant street services investigators similar authority to City transportation investigators or animal control officers that would enhance protection for both the City and the employee from civil liability associated with law enforcement, and permits street services investigators to make arrests more efficiently and safely. Even with current legal limitations, street services investigators are aggressively enforcing the law. With the proposed authority enhancement, they would have the ability to make additional arrests in the same period of time while freeing police to combat serious life threatening crimes.

Under existing law, Section 61.07(a) of the Los Angeles Municipal Code requires the Board of Public Works through the Bureau of Street Services to enforce laws related to the public right-of-way. Specific law enforcement authority is contained throughout the Municipal Code, including, but not limited to, illegal dumping. Existing law provides criminal and civil penalties, including fines and incarceration, for violations of the laws administered by the Bureau of Street Services.

Existing law provides limited peace officer authority to specified persons employed by various departments of the City. Such persons may exercise the powers of arrest of a peace officer during the course and within the scope of their employment if they receive a course in the exercise of those powers. Current law includes those employed and authorized by the Los Angeles Department of Animal Services (animal control officers) and the Los Angeles Department of Transportation (transportation investigators).

The duties, selection standards and training of transportation investigators and street services investigators are similar yet transportation investigators exercise limited peace officer authority while Street Services Investigators do not. Street services investigators are the primary City enforcement personnel for illegal dumping.

Illegal Dumping is a major problem nationwide, and here in Los Angeles it is of crisis proportions and a major quality of life issue. Governmental agencies nationwide have focused on this environmental issue and over time determined the fundamental requirements for an effective deterrent and environmental protection program is proactive enforcement by dedicated enforcement personnel.

To address this essential public health and safety issue, the City of Los Angeles has created an innovative task force to apprehend and prosecute illegal dumpers. This program utilizes street services investigators of the Department of Public Works, Bureau of Street Services, Investigation and Enforcement Division, in lieu of assigning these environmental crimes to specialized investigative units in the Los Angeles Police Department (LAPD). City street services investigators perform surveillance in known dumping locations to apprehend and arrest violators. Once arrests are made the arrestee is transported to the area LAPD facility for the booking procedure. Investigators complete the booking process and file the criminal case with the City Attorney. Street services investigators work cooperatively with the LAPD and Neighborhood Prosecutors from the City Attorney's Office in the booking and prosecution process.

The City of New York faced one of the most pervasive illegal dumping epidemics in the nation and took decisive steps to stem the tide of illegal dumping. Along with increased fines, tough local ordinances, and the impounding of vehicles, New York allowed the specialized enforcement unit from the Department of Sanitation to exercise peace officer powers on duty only. The Environmental Protection Agency Illegal Dumping Prevention Guidebooks states: "Dedicating officers to illegal dumping prevention and enforcement is an example of how high level authorities can support prevention efforts. Law enforcement officers assigned to illegal dumping must have knowledge of applicable laws and ordinances. In addition, they must have the authority to issue citations, make arrests. Impound vehicles, and conduct surveillance."

The City of New York has seen a significant reduction in the occurrence of dumping since starting an educational program backed by strict enforcement through the specialized peace officers in the Sanitation Department. While not burdening regular City Police, these special limited peace officers have sufficient authority to provide the proper level of enforcement to make this program work. New York's tough approach to "broken window" type violations is credited with helping the City achieve a dramatic decrease in all crime categories. Los Angeles street services investigators perform an almost identical function to the officers of the Department of Sanitation in New York City. While their duties are similar, their level of authority is not. The lack of sufficient authority decreases the effectiveness of the Los Angeles enforcement program.

AB 1688 would, in accordance with the EPA Illegal Dumping Prevention Guidebooks recommendation, grant limited peace officer authority to Street Services Investigators. Specifically, Section 830.7 of the Penal Code would empower the Bureau of Street Services investigative staff with the ability to:

- Provide street services investigators with the same limited civil liability protection currently afforded City civilian animal control officers and transportation investigators;
- Allow street services investigators to charge violators with felony dumping when appropriate;

- Not change the civilian status of these employees and does not make these employees eligible for public safety officer benefits or retirement;
- Does not change or add new responsibilities to street services investigators;
- Provide oversight by the Chief of Police through a Memorandum of Understanding;
- Guarantee that street services investigators meet minimum selection and training standards;
- Street services investigators will have the ability to conduct complete investigations without the necessity to regularly burden limited LAPD support for basic investigative procedures.

FISCAL IMPACT:

The proposal will have minimal budgetary impact with an insignificant training cost increase (approximately \$5000.00 in total staff training costs) to provide needed investigative certification to Inspectors involved in specialized environmental protection enforcement. There would also be undetermined savings in the use of LAPD resources; this proposal will provide improved public safety by better utilizing existing resources. There is no State or Federal fiscal impact related to this proposal.

PREVIOUS LEGISLATION:

The City sponsored successful legislation in 1999, Assembly Bill 89 (Cedillio), for transportation investigators granting limited peace officer powers of arrest. Again in 2005 the City sponsored similar legislation for civilian security officers Assembly Bill 1536 (Bass) to grant limited peace officer powers of arrest.

The City supported legislation that granted authority to civilian animal control officers under Penal Code Section 830.9. The proposed authority amendment for street services Investigators is consistent with the limited arrest power proposals for Animal Services, the Department of Transportation and City Security Officers supported by the City of Los Angeles.

If you have any questions regarding the above please do not hesitate to contact me or Gary Harris, Chief Street Services Investigator.II, at (213) 485-3711.

WAR/GHS:ddp
Attachment

AMENDED IN SENATE MAY 26, 2006

AMENDED IN SENATE MAY 22, 2006

AMENDED IN ASSEMBLY JANUARY 4, 2006

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1688

Introduced by Assembly Member Niello

February 22, 2005

An act to amend Section 830.7 of the Penal Code, relating to illegal dumping enforcement officers.

LEGISLATIVE COUNSEL'S DIGEST

AB 1688, as amended, Niello. Illegal dumping enforcement officers.

Existing laws provides that certain persons are not peace officers but may exercise the powers of arrest of a peace officer as specified, during the course and within the scope of their employment, if they receive a course in the exercise of those powers.

This would add to this list of persons, illegal dumping officers, as specified.

The bill would also provide that nothing in its provisions may be construed to award peace officer retirement benefits to illegal dumping officers.

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. Section 830.7 of the Penal Code is amended to
2 read:

3 830.7. The following persons are not peace officers but may
4 exercise the powers of arrest of a peace officer as specified in
5 Section 836 during the course and within the scope of their
6 employment, if they successfully complete a course in the
7 exercise of those powers pursuant to Section 832:

8 (a) Persons designated by a cemetery authority pursuant to
9 Section 8325 of the Health and Safety Code.

10 (b) Persons regularly employed as security officers for
11 independent institutions of higher education, recognized under
12 subdivision (b) of Section 66010 of the Education Code, if the
13 institution has concluded a memorandum of understanding,
14 permitting the exercise of that authority, with the sheriff or the
15 chief of police within whose jurisdiction the institution lies.

16 (c) Persons regularly employed as security officers for health
17 facilities, as defined in Section 1250 of the Health and Safety
18 Code, that are owned and operated by cities, counties, and cities
19 and counties, if the facility has concluded a memorandum of
20 understanding, permitting the exercise of that authority, with the
21 sheriff or the chief of police within whose jurisdiction the facility
22 lies.

23 (d) Employees or classes of employees of the California
24 Department of Forestry and Fire Protection designated by the
25 Director of Forestry and Fire Protection, provided that the
26 primary duty of the employee shall be the enforcement of the law
27 as that duty is set forth in Section 4156 of the Public Resources
28 Code.

29 (e) Persons regularly employed as inspectors, supervisors, or
30 security officers for transit districts, as defined in Section 99213
31 of the Public Utilities Code, if the district has concluded a
32 memorandum of understanding permitting the exercise of that
33 authority, with, as applicable, the sheriff, the chief of police, or
34 the Department of the California Highway Patrol within whose
35 jurisdiction the district lies. For the purposes of this subdivision,
36 the exercise of peace officer authority may include the authority
37 to remove a vehicle from a railroad right-of-way as set forth in
38 Section 22656 of the Vehicle Code.

1 (f) Nonpeace officers regularly employed as county parole
2 officers pursuant to Section 3089.

3 (g) Persons appointed by the Executive Director of the
4 California Science Center pursuant to Section 4108 of the Food
5 and Agricultural Code.

6 (h) Persons regularly employed as investigators by the
7 Department of Transportation for the City of Los Angeles and
8 designated by local ordinance as public officers, to the extent
9 necessary to enforce laws related to public transportation, and
10 authorized by a memorandum of understanding with the chief of
11 police, permitting the exercise of that authority. For the purposes
12 of this subdivision, "investigator" means an employee defined in
13 Section 53075.61 of the Government Code authorized by local
14 ordinance to enforce laws related to public transportation.
15 Transportation investigators authorized by this section shall not
16 be deemed "peace officers" for purposes of Sections 241 and
17 243.

18 (i) Illegal dumping enforcement officers, to the extent
19 necessary to enforce laws related to illegal waste dumping, or
20 littering, and authorized by a memorandum of understanding
21 with, as applicable, the sheriff or chief of police within whose
22 jurisdiction the person is employed, permitting the exercise of
23 that authority. An "illegal dumping enforcement officer" is
24 defined, for purposes of this section, as a person regularly
25 employed by a city, county, or city and county, whose duties
26 include illegal dumping enforcement and is designated by local
27 ordinance as a public officer. No person may be appointed as an
28 illegal dumping enforcement officer if that person is disqualified
29 pursuant to the criteria set forth in Section 1029 of the
30 Government Code. ~~Illegal dumping enforcement officers~~
31 authorized by this section shall not be deemed "peace officers"
32 for purposes of Sections 241 and 243.

33 SEC. 2. Nothing in this act shall be construed to award illegal
34 dumping officers the retirement benefits of a peace officer.