



Jesse Arreguín
Councilmember, District 4

CONSENT CALENDAR
December 15, 2009

To: Honorable Mayor and Members of the City Council

From: Councilmember Jesse Arreguín

Subject: Request to City Manager: Report on City of Berkeley's involvement in SB 113 (Local Government Omnibus Act of 2009)

RECOMMENDATION:

Request that the City Manager provide a report to the City Council on the City of Berkeley's involvement in the development of SB 113. This report should be provided to the Council as soon as possible.

The report should respond to the following questions:

1. Was the City aware of the University of California's request to include in the Omnibus Act an amendment to Section 2621.7 of the Public Resources Code which would exempt "Any structure owned and operated by a state entity or agency that is listed on the California Register of Historical Resources or the National Register of Historic Places, including the California Memorial Stadium" from the restrictions on building within an earthquake fault zone. This amendment enables the University of California's Memorial Stadium projects to be built under the Alquist-Priolo Earthquake Fault Zoning Act.
2. When did the City become aware of this amendment?
3. Who informed the City of this provision?
4. Did the City express a position on the bill? If so how was the position determined? And who expressed the position on behalf of the City? Was the Mayor or members of the Council involved in the development of this decision?
5. Did the City convey to its lobbyist a position on the bill?

BACKGROUND:

On October 11, 2009, Governor Arnold Schwarzenegger signed Senate Bill 113, the Local Government Omnibus Act of 2009.

Every year the State Senate Committee on Local Government introduces an omnibus bill to make changes that streamline local government law. The implied rule of an omnibus bill is that it can only include changes that are non-controversial.

The Alquist-Priolo Earthquake Fault Zoning Act prohibits the expansion of a project in an earthquake fault zone but allows for an “alternation or addition” to a project “if the value of the alteration or addition does not exceed 50 percent of the value of the structure.”

The University of California has proposed a number of projects, including the retrofitting and expansion of Memorial Stadium. Since these projects fall within an earthquake fault zone, the provisions of Alquist-Priolo apply.

To specifically enable the University to proceed with these projects, they requested that the Senate Local Government Committee include in the bill an amendment to Section 2621.7 of the Public Resources Code which would exempt “Any structure owned and operated by a state entity or agency that is listed on the California Register of Historical Resources or the National Register of Historic Places, including the California Memorial Stadium” from the restrictions on building within an earthquake fault zone.

The amendment was included in the omnibus bill which was ultimately adopted. Staff in various California state departments and some members of the public however did not become aware of this provision until after the bill was passed by the State Legislature.

The stadium projects have been very controversial and were even subject to a lawsuit by the City of Berkeley. Given the controversy it is inappropriate for this amendment to have been included in an omnibus bill and there is a clear lack of transparency in the manner in which this amendment was introduced.

After conducting some preliminary research, I have been informed that the City of Berkeley’s lobbyist, Lynn Suter was told by someone in the City government that the City had “no objection” to the amendment, which thus enabled it to be added.

If this were true it raises important questions about what was the City’s knowledge and involvement in the development of SB 113.

FINANCIAL IMPLICATIONS:

Staff time involved in researching and responding to questions.

CONTACT PERSON:

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