

REPORT OF THE CHIEF LEGISLATIVE ANALYST

DATE: December 16, 2014

TO: Honorable Members of the Rules, Elections and Intergovernmental Relations
Committee

FROM: Sharon M. Tso *Sharon M. Tso* for Assignment No. 14-12-0877
Chief Legislative Analyst

SUBJECT: Department of Transportation Legislative Proposals

CLA RECOMMENDATION: APPROVE the attached Resolutions recommending legislative positions for the 2015-16 State Legislative Program, as submitted by the Department of Transportation.

SUMMARY

As requested by Council President Wesson, the Los Angeles Department of Transportation (LADOT) prepared eight proposals for the City's 2015-16 legislative program. The following are LADOT's three highest priority legislative proposals:

1. *Delegate Initial Reviews of Parking Citations to (Contracted) Processing Agency.* The City has outsourced the initial review of parking citations for approximately three decades. Recently, the City was successfully sued on the California Vehicle Code's (CVC) ambiguous language regarding the delegation of certain activities in the initial review phase of the citation contestation process. The Court ruling mandates that the City must make initial review decisions and barred the City from delegating this duty to a private vendor. Due in part to the complexity of undoing the City's long-standing practice of contracting some of these duties, the judge's ruling was stayed pending appeal or amendment of the CVC. If the desired clarifications to the CVC are not effectuated, the fiscal impact to the City will be significant. The Department estimates that an additional 14 City staff, with the associated resources, would be necessary to undertake the initial review work that is currently done by contract.
2. *Vulnerable Roadway Users.* The Department reports that there is a need to extend greater protections to pedestrians and bicyclists on the City's roadways. In Los Angeles, bicycle collisions are on the rise and pedestrian accidents are higher than the national average. The Department is recommending a definition of vulnerable roadway users and specific requirements for motorists to operate more safely when operating on the roadway.
3. *California Parking Placard Reform.* A California driver who has a disabled placard may park for free at a parking meter for any length of time even if there are posted time restrictions. These benefits have resulted in widespread abuse, a frequent shortage of parking spaces, and a loss of parking meter revenue. The Department is recommending legislation that will help remedy the abuse while providing parking for the disabled community through a tiered system that takes into account

different levels of disability.

Before including disabled parking placard reform in the City's State Legislative Program, this Office recommends that LADOT coordinate with the Department on Disability to ensure that their perspectives are included in any proposed legislative changes.

LADOT also recommends the following five additional legislative proposals:

1. *Installment Payment for Parking Violations*. The CVC currently provides for an Installment Payment Plan (IPP) for payment of parking citations only after the conclusion of an appeal through an administrative hearing. This requirement results in individuals who would like to receive an IPP but are not interested in appealing their citation to go through the administrative hearing process, which inconveniences the public and creates administrative costs for the City. The Department seeks legislation amending the CVC to allow parking agencies to opt into a program where a parking violation recipient could enter into an IPP whether or not they contest a violation.

2. *Prohibit Superior Court appeals of parking citations if there was no administrative hearing decision*. The CVC has established a process for individuals to contest parking citations, which requires an initial review and administrative hearing within the local jurisdiction issuing the violation. This process may then be followed by a single appeal to the Superior Court, with no further review. Some individuals, however, go straight to court without any contact with the processing agency or adjudication division. LADOT is proposing to add clarifying language to the CVC that would require proof of exhaustion of remedies as a prerequisite to filing an appeal from an administrative hearing in Superior Court.

The Council approved the inclusion of this proposal in the City's 2014-15 State Legislative Program, however, no subsequent legislative initiative occurred.

3. *Prohibit Small Claims Court jurisdiction over parking citation disputes*. The Legislature has established that parking citations are disputed by an initial review and administrative hearing within the local jurisdiction issuing the citation, which may be followed by a single appeal to the Superior Court, and no further review. Some parking citation recipients attempt to circumvent the process by filing cases contesting their citations in Small Claims Court. LADOT is requesting that amending language be added to the CVC that clearly states that Small Claims Courts do not have original jurisdiction over parking citations, or over appeals from parking citation administrative reviews or administrative hearings.

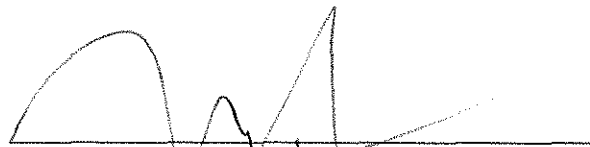
The Council approved the inclusion of this proposal in the City's 2014-15 State Legislative Program, however, no subsequent legislative initiative occurred.

4. *Parking Regulations - Scofflaws/Unpaid Parking Citations.* The CVC provides for seizure of a vehicle if it has five or more unpaid parking violations that have gone into penalty. The Department states that five citations is overly lenient and discourages compliance with parking regulations. Staff is recommending that the CVC be amended to reduce the number of qualifying parking violations from five to three citations.

The Council approved the inclusion of this proposal in the City's 2009-10 State Legislative Program, however, no subsequent legislative initiative occurred.

5. *Inoperable Parking Meters - Repeal of Assembly Bill (AB) 61 (Gatto).* The passage of AB 61, the "broken meter law," in 2013 prohibits a local authority from enacting an ordinance restricting the parking of a vehicle in a parking space that is regulated by an inoperable parking meter or parking payment center until January 1, 2017. Prior to AB 61, the Department of Transportation reports that vandalism of meters was nearly eliminated in the City since there was no incentive for the driver to tamper with the meter. Following the passage of the legislation, vandalism of meters in the City has increased over 300%. If AB 61 is repealed, the law would allow cities to decide whether or not to prohibit parking at inoperable parking meters or payment centers.

On July 13, 2013, the Council approved a resolution to include in the City's 2013-14 State Legislative Program, opposition to AB 61 (Gatto). Furthermore, on July 31, 2013, the Council took action to request that the Governor of the State of California veto AB 61 (Gatto).



Maria Souza Rountree
Legislative Analyst

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code (CVC) is ambiguous as to an issuing agency's ability to delegate initial reviews of contested parking citations to a private contractor (CVC 40200.5 and 40215(a)); and

WHEREAS, the City has outsourced initial reviews of parking citations for approximately three decades; and

WHEREAS, in September 2014, the City was successfully sued regarding delegation of certain activities in the initial review phase of the citation contestation process; and

WHEREAS, if the Court lifts its Stay of Judgement or the CVC is not amended, the fiscal impact to the City will be significant;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would realign/clarify California Vehicle Code (CVC) Sections 40200.5 and 40215(a) to explicitly allow the delegation of the initial reviews of contested parking citations to a private contractor.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, there is a lack of safety on the roadway for bicyclists, pedestrians and the disabled due to high volumes of fast moving motor vehicle traffic; and

WHEREAS, many motorists believe that bicyclists and other individuals using the roadway other than in a vehicle should yield to cars or move out of the way; and

WHEREAS, there is a need to extend greater protections to users of the roadways who are more vulnerable to severe injury and death in the event of a traffic collision;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would provide a definition of vulnerable roadway users and require motorists to take specific steps to ensure that they are protected.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code (CVC) currently provides for an Installment Payment Plan (IPP) for payment of parking citations only after conclusion of an appeal through an administrative hearing; and

WHEREAS, this requirement results in individuals who seek an IPP to proceed through the administrative hearing process, inconveniencing the public and creating administrative costs for the City; and

WHEREAS, to address this issue, the CVC should be amended to allow parking agencies to opt into a program that allows a parking violation recipient to enter into an IPP at any state of contesting a violation, or, in lieu of contesting the violation; and

WHEREAS, extending the option of an IPP at the front end of the citation process, or at any point in the appeal process, may decrease the number of unpaid parking violations and consequences associated with them based on more easily providing the ability to pay over time; and

WHEREAS, the proposal would also reduce the number of citation hearings because many hearings currently occur in order to receive IPP approval, thus saving the City administrative costs;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would amend the California Vehicle Code Section 40215(c)(7) to allow a contestant or recipient of a parking violation to enter into an installment payment plan at any stage of contesting the violation, or, in lieu of contesting the violation.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code (CVC) Sections 40215 and 40230 provide for three reviews when a parking citation is disputed; an initial review by City employees, an administrative review by a hearing examiner and a de novo review in Superior Court; and

WHEREAS, some individuals attempt to circumvent this process by filing cases purporting to contest their citations prematurely in Superior Court without first exhausting prescribed administrative procedures; and

WHEREAS, the City has been able to prevail in such situations, but only after drafting and filing briefs with the Superior Court, which is a costly and inefficient use of the City's scarce transportation resources; and

WHEREAS, the CVC should be amended to expressly and clearly prohibit court filings including appeals of parking citations, or original actions, unless and until there has been a decision in an administrative hearing;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would amend the California Vehicle Code Section 40230 clearly prohibiting the Superior Court from hearing parking citation appeals unless both an initial review and an administrative hearing have already been conducted.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code (CVC) Sections 40215 and 40230 state that parking citations are disputed by an initial review and administrative hearing within the local jurisdiction issuing the citation, which may be followed by a single appeal to the Superior Court, and no further review; and

WHEREAS, some individuals attempt to circumvent this process by filing cases purporting to contest their citations in Small Claims Court; and

WHEREAS, opposing these actions can be excessively burdensome and costly to local jurisdictions and ignoring them can result in unjustified dismissal of citations; and

WHEREAS, Small Claims Court commissioners or judges are often unfamiliar with parking citations and may not be aware of the jurisdictional issues nor the differences between a legitimate appeal and a wrongful small claims filing;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would amend California Vehicle Code Sections 40215 and 40230 and Code of Civil Procedure Section 116.226 by expressly prohibiting jurisdiction of Small Claims Court over parking citation disputes.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the California Vehicle Code (CVC) Section 22651 provides for the seizure of a vehicle if it has five or more unpaid parking violations that have gone into penalty; and

WHEREAS, a vehicle that is subject to seizure for unpaid parking tickets is commonly referred to as being in scofflaw status; and

WHEREAS, the current requirement of five unpaid citations is overly lenient and discourages compliance with parking regulations; and

WHEREAS, revising the threshold from five unpaid citations to three unpaid citations would encourage those with parking fines to pay the outstanding amounts and allow cities to increase citizen compliance with parking regulations;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT or SPONSORSHIP of legislation that would amend the California Vehicle Code to reduce the threshold required to seize a vehicle from five unpaid parking citations to three unpaid parking citations.

RESOLUTION

WHEREAS, any position of the City of Los Angeles with respect to legislation, rules, regulations or policies proposed to or pending before a local, state or federal governmental body or agency must have first been adopted in the form of a Resolution by the City Council with the concurrence of the Mayor; and

WHEREAS, the City enacted an ordinance in December 2012 to prohibit or restrict parking in spaces regulated by an inoperable parking meter or parking payment machine to deter vandalism, which was a significant issue; and

WHEREAS, the Los Angeles Department of Transportation reports that vandalism of meters was nearly eliminated in the City after this ordinance was enacted since there was no incentive for the driver to tamper with the meter; and

WHEREAS, AB 61 (Gatto) the “broken meter law” was signed into law in 2014 and prohibits local agencies from enacting ordinances or resolutions to prohibit or restrict parking in spaces regulated by an inoperable parking meter or payment center; and

WHEREAS, since the passage of AB 61, the Los Angeles Department of Transportation reports that there has been a 300% increase in parking meter vandalism, which negatively impacted maintenance, parking turnover, access to on-street parking, and parking meter revenue;

NOW, THEREFORE, BE IT RESOLVED, with the concurrence of the Mayor, that by the adoption of this Resolution, the City of Los Angeles hereby includes in its 2015-16 State Legislative Program SUPPORT OR SPONSORSHIP of legislation that would repeal AB 61 (Gatto) and authorize local jurisdictions to prohibit or restrict parking in spaces regulated by an inoperable parking meter or payment center.