

# Item No. 17-2

## “To Be Delivered” Material

For

### City of Sacramento

City Council

Financing Authority

Housing Authority

Redevelopment Agency

### Agenda Packet

**Submitted:** 07/29/08

**For the Meeting of:** 07/29/08

The attached materials were not available at the time the Agenda Packet was prepared.

**Title:** AN ORDINANCE ADDING CHAPTER 3.26 TO THE CITY CODE OF THE CITY OF SACRAMENTO TO ADD THE SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT AND TO LEVY A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

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**ORDINANCE NO.**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE ADDING CHAPTER 3.26 TO THE CITY CODE OF THE CITY OF SACRAMENTO TO ADD THE SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT AND TO LEVY A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO

**SECTION 1** Chapter 3.26 is hereby added to Title 3 of the City Code of the City of Sacramento to read as follows:

**CHAPTER 3.26**

**SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT**

**3.26.010 Title.**

This chapter shall be known and may be cited as the “Sacramento Gang Prevention and Youth Investment Act.”

**3.26.020 Purpose.**

A. The people of the City of Sacramento make the following findings and declare their purpose in enacting the act is as follows:

- (1) Gangs and youth violence are serious problems in the City of Sacramento.
- (2) Today, there are 55 to 60 gangs and over 4,300 validated gang members, of which over 850 are youth, in City of Sacramento.
- (3) It costs approximately \$75,000 a year to place a juvenile in detention or in prison. It is far less expensive in the long-run to provide additional funds for anti-gang and after-school programs that keep juveniles out of trouble and prevent them from joining gangs.
- (4) This measure would establish a one quarter of one percent (0.25%) sales and use tax to provide additional funding for such purposes as law enforcement, gang prevention, after-school and job training programs.
- (5) This measure can fund in-school and after-school anti-gang, mentoring and job-training programs recognized as successful in preventing anti-social behavior.
- (6) Funds from this measure can add law enforcement officers who will work with schools, businesses and neighborhoods to reduce and prevent youth and gang violence.
- (7) Our neighborhood schools and classroom teachers are at the center of the fight against gangs. This measure will help make our schools and surrounding neighborhoods gang free zones by funding such items as safe passage programs, expanding classroom

curriculum and after-school programs to educate young children about the dangers of gangs, and providing teachers and school counselors with the resources to prevent at-risk students from joining gangs.

- (8) It is the purpose of this Chapter to foster, sustain and develop evidence-based best practices to reduce and prevent youth and gang violence.
  - (9) It is the intent of this Chapter to encourage collaboration and cooperation among agencies, organizations and jurisdictions to maximize the beneficial use of the funds generated by this Chapter.
  - (10) Effective anti-gang intervention, prevention and enforcement efforts will create safer neighborhoods and increase the employability of youth benefiting the local economy and the fiscal health of local government.
- B. This Chapter is adopted to achieve the following objectives, and its provisions are to be interpreted in order to accomplish such objectives:
- (1) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorize the City to adopt this tax ordinance. This ordinance shall be effective if two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.
  - (2) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.
  - (3) To adopt a transactions and use tax ordinance that imposes a tax and provides a measure that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.
  - (4). To adopt a transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

**3.26.030 Contract with State.**

- A. Prior to the operative date of this Chapter, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of the Transactions and Use Tax levied by this Chapter.
- B. If the City shall not have contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract.

**3.26.040 Retail Transactions and Use Tax.**

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the City of Sacramento at the rate of one-quarter of one percent (0.25%) of the gross receipts of any retailer from the sale of all tangible property sold at retail in the City of Sacramento on and after the operative date of this Chapter.

A excise tax is hereby imposed on the storage, use or other consumption in the City of Sacramento of tangible personal property purchased from any retailer on and after the operative date of this Chapter for storage, use or other consumption in the City at the rate of one-quarter of one percent (0.25%) of the sales price of the property. The sales price shall include delivery charges when such charges are subject to State sales or use tax regardless of the place to which delivery is made.

**3.26.050          Ballot Proposition.**

Pursuant to Revenue and Taxation Code section 7285.91, the Retail Transactions and Use Tax measure shall be placed on the November 4, 2008, general election ballot. If less than two-thirds of the qualified voters voting on the Retail Transactions and Use Tax measure approve the measure during the November 4, 2008, election, the tax shall not be imposed.

**3.26.055.          Placement of Funds in Separate, Segregated Account**

The revenues generated by this Chapter shall be deposited into a special fund and shall be used exclusively for programs identified in the Expenditure Plan. The expenditure of the revenues generated by this Chapter shall be restricted to the purposes stated in Section 3.26.060 and spent only pursuant to the expenditure plan provided by Section 3.26.060.

**3.26.056          Annual Report**

The Finance Director shall prepare and file with the City Council an annual report that satisfies the requirements of Section 50075.3 of the Government Code.

**3.26.060          Permissible Uses and Expenditure Plan; Adoption of Performance Criteria and Procedures for Periodic Review of Programs Funded under Expenditure Plan**

A.      Expenditure Plan

The revenues of the tax shall only be used to fund an integrated program of youth investment and enforcement efforts, spent for the following purposes and spent in amounts consistent with the allocations herein. The provisions of this section are intended to satisfy the requirements of Section 7285.91 of the California Revenue and Taxation Code and Section 50075.1 of the California Government Code.

(1)      Permissible Uses and Allocation of Tax Revenues:

a.      Youth Investment. Sixty percent (60%) of the tax revenues shall be apportioned to youth investment programs provided by the City of Sacramento or by adding capacity to service providers and community-based non-profit programs. Permissible uses of funds in this section include:

1. *Youth outreach and comprehensive services:* Expand street outreach programs successful in reaching the populations they serve; hiring and training personnel to counsel and mentor at-risk youth; create and expand after-school, teen centers and other related programs; parent training;

development of programs administered by community based organizations; and expand programs designed to discourage retaliation and future violence.

2. *Apprenticeship and job-training programs*: Fund programs to provide students with job skills, training and work experience, including, but not limited to, subsidized employment and internship opportunities, teaching basic life skills (e.g. work habits), and skills for seeking and securing employment.

3. *Mentoring activities*: Create and expand year-round mentoring opportunities for at-risk youth.

4. *School based strategies*: Expand existing City programs and City supported programs, including attendance centers that provide recreational opportunities, academic tutoring, homework assistance, dropout prevention, intervention and truancy enforcement programs.

b. Enforcement Efforts. Forty percent (40%) of the tax revenues shall be apportioned to law enforcement activities intended to reduce gang and youth crime. Permissible uses of funds in this section include the purchase of equipment in support of the activities enumerated below and the hiring and training of police officers, community service officers and support staff resulting in the following specific activities:

1. *Community policing*: Expand community policing efforts targeting youth crime and gang intervention and suppression.

2. *School safety*: Expand police services dedicated to school safety.

3. *Investigation services*: Expand police department efforts to investigate and facilitate the successful prosecution of youth and gang-related crime.

4. *Staff training and equipment*: Training and equipping officers and staff.

B. Establishment of Performance Criteria and Procedures for Periodic Review.

The Council shall establish performance criteria for determining the effectiveness of programs funded by the Expenditure Plan and the tax revenue provided by this chapter, and shall provide for periodic review of programs pursuant to this performance criteria. ~~Implementation Plans: Procedures, Contents.~~ The Council may review and amend the performance criteria and the review procedures from time to time, as it deems necessary and appropriate.

(1) Performance Criteria: The Council shall establish criteria for evaluation of the effectiveness of programs carried out pursuant to this chapter. These criteria shall include, but shall not be limited to the following: school attendance rates; truancy and dropout rates; levels of gang violence and other violent crime involving juveniles; and number of validate gang members in the City of Sacramento.

(2) Periodic Review of Programs: The Council shall establish procedures for the periodic review of programs receiving funding pursuant to this chapter, with the goal and purpose of restricting funding to those programs that are determined to be successful and effective.

C. Public Input on Performance Criteria and Performance Review:

The Council shall seek the input of the public, including community groups, neighborhood

associations, faith-based groups, non-profit organizations and other governmental agencies, as well as the Independent Taxpayers' Committee provided for in Section 3.26.090 in establishing performance criteria and procedures for periodic review of programs; and further, the Council shall seek the input of the public and the Independent Taxpayers' Committee when reviewing the programs funded pursuant to this chapter.

**3.26.080 New Funds to Supplement, and Not to Supplant, Existing Funding**

Funds allocated and appropriated pursuant to this Chapter shall be used to supplement existing **and ongoing** levels of federal, state and local funding and not to supplant existing levels of **local** funding.

**3.26.090 Creation of Independent Taxpayers Committee**

- A. There is hereby established a ~~permanent~~ citizens' advisory committee to be called the "Independent Taxpayers Committee" (hereinafter "Committee") ~~which shall annually review the revenues, expenditures and delivery of projects and programs financed by revenues generated under this Chapter.~~ The Committee membership shall consist of **at least five members and shall be** appointed by the Mayor with the approval of the Council. ~~One member of the Committee shall have a minimum of ten years experience in law enforcement, one member shall be a teacher or school administrator with a minimum of five years of experience, one member shall be a certified public accountant, one member shall have demonstrated expertise in youth and gang violence prevention and one member shall be a parent of a child who is under the age of 18.~~ **The Council may establish criteria and qualifications for appointments to the Committee, and may also establish term limits.**
- B. **Duties:** The Committee shall perform the following duties:
- (1) **Review and evaluate, on an annual basis, the effectiveness of programs funded by revenues produced by this Chapter. Programs shall be evaluated according to how effectively they accomplish the purposes of this Chapter, measured according to performance criteria to be established by the Council which may include: the number of young people who exit gangs; improved public safety outcomes, such as decreases in incidents of gang-related violence, severity of crimes committed and gang related violence; improved school attendance and increased graduation rates.**
  - (2) **Make recommendations on an annual basis to the Council on programs and on for any policies for the administrations and programs to comply with the requirements and intent of this Chapter. The Committee's recommendations shall be made annually, prior to the Council's adoption of the fiscal year budget.**
  - (3) **Review annually the independent audit prepared pursuant to Section 3.26.100, and provide comments and recommendations to the Council, as appropriate;**
  - (4) **Other duties as prescribed by the Council.**
- C. **Costs**
- Revenues of the tax established by this Chapter may be used the fund the Committee's operations and performance evaluations of programs.**

**3.26.100 Annual Independent Financial Audit and Program Evaluation**

**A. Annual Audit**

The ~~Committee~~ City shall annually cause to be performed ~~complete~~ an independent financial audit of the revenues and expenditures from the special fund established pursuant to Section 3.26.060 of this Chapter.

**B. Review of Audit**

~~The audit shall be reviewed by the Independent Taxpayers Committee and by the Council. The Committee shall annually review and evaluate the effectiveness of programs funded by revenues produced by this Chapter. Programs shall be evaluated according to how effectively they accomplish the purposes of this Chapter, measured according to evaluation metrics developed by the Committee which may include: the number of young people who exit gangs; improved public safety outcomes, such as decreases in incidents of gang-related violence, severity of crimes committed and gang related violence; improved school attendance and increased graduation rates.~~

**BC. Costs**

Revenues of the tax established by this Chapter may be used to fund the ~~Committee's operations~~ costs of the annual independent financial audit and its review.

**3.26.110 Place of Sale.**

For the purposes of the transactions tax levied by this Chapter, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the state sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

**3.26.120 Adoption of Provisions of State Law**

Except as otherwise provided in this Chapter and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this Chapter as though fully set forth herein.

**3.26.130 Limitations on Adoption of State Law and Collection of Use Taxes.**

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

- A. Wherever the State of California is named or referred to as the taxing agency, the name of the City shall be substituted therefor. The substitution, however, shall not be made when:

- (1) The word "State" is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the

Constitution of the State of California;

(2) The substitution shall not be made when the result of that substitution would require action to be taken by or against the City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Chapter;

(3) The substitution shall not be made in those sections, including, but not necessarily limited to, sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

- a. Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
- b. To impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provisions of that code;

(4) The substitution shall not be made in Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

- B. The word "City" shall be substituted for the word "State" in the phrase "retailer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

**3.26.140 Permit Not Required.**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor's permit shall not be required by this Chapter.

**3.26.150 Exemptions and Exclusions.**

- A. There shall be excluded from the measure of the transactions tax and the use tax levied by this Chapter the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, or the amount of any state-administered transactions or use tax.
- B. There are exempted from the computation of the amount of transactions tax levied by this Chapter the gross receipts from:
  - (1) Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the county in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.
  - (2) Sales of property to be used outside the City which are shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by

delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

- (3) With respect to vehicles, other than commercial vehicles, subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code, by registration to an out-of-county address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his principal place of residence.
  - (4) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.
  - (5) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.
  - (6) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Chapter.
  - (7) For the purposes of subsections (3) and (4), the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.
- C. There is exempted from the use tax imposed by this chapter, the storage, use or other consumption in the City of tangible personal property:
- (1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.
  - (2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code, but does not apply to fuel or petroleum products.
  - (3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Chapter.
  - (4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Chapter.
  - (5) For the purposes of subsections (3) and (4), storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

- (6) Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect a use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the County or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.
- (7) "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect a use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.
- (8) Any person subject to a use tax under this Chapter may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax, pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

**3.26.160 Amendments.**

**A. Amendments of State Law**

All amendments subsequent to the effective date of this Chapter to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments of Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this Chapter; provided, however, that no such amendment shall operate so as to affect the rate of tax imposed by this Chapter. The Council shall have the authority to take such action, including amendments to this chapter, to implement the amendments to state law and also to ensure that the taxes called for by this Chapter are collected by the State, provided, however, that the Council may not affect the rate of tax imposed by this Chapter.

**B. Other Amendments to this Chapter**

The Council shall have the authority to amend the provisions of this Chapter to the extend necessary and appropriate to achieve the purposes of this Chapter, provided that the Council may not affect the rate of tax imposed by this Chapter or the expenditure plan of Section 3.26.060 without voter approval.

**3.44.170 Termination.**

The tax imposed by this Chapter shall continue in effect for fifteen years from the effective date of this chapter.

**3.26.180 Enjoining Collection Forbidden.**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action or proceeding in any court against the State or the City, or against any officer of the State or the City, to prevent or enjoin the collection under this Chapter, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to

be collected.

**3.26.190 Severability.**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Chapter or any part thereof is for any reason held to be invalid, such invalidity shall not affect the validity of the remaining portion of this Chapter or any part thereof. The Council of the City of Sacramento hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared invalid.

**SECTION 2.** Election. An election on the issue of levying a transactions and use tax pursuant to this ordinance shall be held together with the statewide general election on November 4, 2008.

**SECTION 3.** Effective Date. This ordinance shall become effective only if the Retail Transactions and Use Tax is approved by a two-thirds vote of the qualified voters of the City of Sacramento voting on the measure at the November 4, 2008, election. If the foregoing condition is satisfied, this ordinance shall become effective immediately upon certification of the results of the November 4, 2008, election regarding the retail transactions and use tax by the City Council. The transactions and use tax levied under this ordinance shall become operative on the first day of the first calendar quarter commencing more than 110 days after the effective date of the ordinance or on such later date as necessary to facilitate collection of the tax by the State Board of Equalization.

# Supplemental Material

For

## City of Sacramento

City Council  
Financing Authority  
Housing Authority  
Redevelopment Agency

## Agenda Packet

**Submitted:** July 29, 2008

**For the Meeting of:** July 29, 2008

Additional Material

Revised Material

**TITLE: AN ORDINANCE ADDING CHAPTER 3.26 TO THE CITY CODE OF THE CITY OF SACRAMENTO TO ADD THE SACRAMENTO GANG PREVENTION AND YOUTH INVESTMENT ACT AND TO LEVY A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

**Contact Information:** Cassandra Jennings, Assistant City Manager, (916) 808-8888, Office of the City Manager.

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