



# REPORT TO LAW & LEGISLATION COMMITTEE City of Sacramento

915 I Street, Sacramento, CA 95814-2671

STAFF REPORT  
**March 6, 2012**

**Honorable Members of the  
Law and Legislation Committee**

**Title: Ordinance Amending City Code Section 3.44, Article I – Related to the  
Mailed Ballot Procedures for Assessments**

**Location/Council District: Citywide**

**Recommendation:** Staff recommends that the Committee approve and forward to the City Council the attached ordinance amendment to Section 3.44, Article I of the City Code relating to Mailed Ballot Procedures for Assessments.

**Contact:** Mark Griffin, Program Manager, 808-8788

**Presenters:** None

**Department:** Finance

**Division:** Public Improvement Financing

**Organization No:** 16001321

**Description/Analysis:**

**Issue:** The current process for property assessment balloting requires that returned ballot envelopes contain, on the outside back of the envelope, a signature and sworn declaration that the signatory is the owner or authorized representative. This procedure has been the method to manage the requirement in state law that a ballot can be changed or withdrawn only by an authorized person before the close of a public hearing. Since ballots must remain sealed until that time, the right to change or withdraw a ballot can be established.

An issue with the procedure occurs because the signed ballot in the envelope must match the outside signature. Mismatches invalidate the ballot. Thorough instructions are included in the ballot materials but errors nevertheless have occurred.

The alternative procedure proposed is to eliminate the back of the envelope requirements and move the sworn declaration to the ballot itself. Requests to change or withdraw ballots can be managed with a substitute ballot that indicates

the corrected vote or the request to withdraw as well as the sworn declaration. These substitute ballots would have to be completed and sealed before the close of the public hearing and would be reconciled during the actual ballot count.

Additional changes are recommended that are non-substantive edits and one technical correction. Section 3.44.040(F)(3) provides that in the event of a tie, the assessment may not be imposed. Proposition 218 provides that an assessment may not be imposed only in the event of a majority protest. The Section is modified accordingly.

**Policy Considerations:** The proposed ordinance amendment would eliminate invalid ballots resulting from the current procedure and create a procedure that maintains the integrity of the process and meets the requirements of state law.

**Environmental Considerations:**

**California Environmental Quality Act (CEQA):** Under CEQA guidelines, continuing administrative activities do not constitute a "project" as defined in Section 15378 of the CEQA Guidelines and are therefore exempt from review.

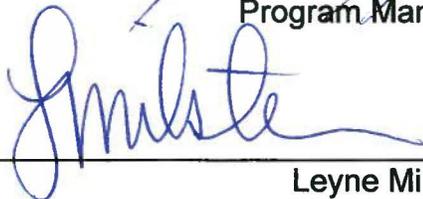
**Committee/Commission Action:** None.

**Rationale for Recommendation:** The amendment is necessary to eliminate invalid ballots resulting from the current procedure.

**Financial Considerations:** None

**Emerging Small Business Development (ESBD):** There are no ESBD considerations as there are no goods or services being purchased.

Respectfully Submitted by:   
Mark Griffin  
Program Manager

Approved by:   
Leyne Milstein  
Director of Finance

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**Attachments**

- 1 Ordinance, Repeals/Amendments to Section, Marked-up Copy
- 2 Ordinance, Repeals/Amendments to Section, Clean Copy

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**ORDINANCE NO. 2012-**

Adopted by the Sacramento City Council

Date Adopted

**AN ORDINANCE AMENDING SECTIONS 3.44.030 AND 3.44.040 OF THE SACRAMENTO CITY CODE, RELATING TO MAILED BALLOT PROCEDURES FOR ASSESSMENTS**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

A. Subsection D of Section 3.44.030 of the Sacramento City Code is amended to read as follows:

D. Each notice required to be given pursuant to this chapter shall contain all of the following provisions, in addition to any further requirements specified in any applicable state law governing the proceedings:

1. The amount proposed to be charged as an assessment for the specific parcel;
2. The total amount of the assessment proposed to be charged to the assessment district;
3. The length of time that the proposed assessment will be in place;
4. The reason or reasons for the assessment and the basis upon which the proposed assessment for the specific parcel was calculated;
5. The date, time and location of the public hearing on the proposed assessment;
6. The address at which the engineer’s report and other materials pertinent to the assessment may be reviewed, and the period of time during which the review may take place;
7. A ballot substantially in the form set forth below:

Parcel No.\_\_\_\_\_ [city fills in from assessor roll]

Record owner:\_\_\_\_\_ [city fills in from assessor roll]

Address:\_\_\_\_\_ [city fills in from assessor roll]

\_\_\_\_\_ Yes, I approve of the proposed annual assessment of \$\_\_\_\_\_ [preprinted] on the parcel identified in this ballot.

\_\_\_\_\_ No, I do not approve of the proposed assessment on this parcel.

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Record owner or authorized representative of owner entity

This ballot is to be returned to: City Clerk, City of Sacramento, 915 I Street, Sacramento, CA 95814, sealed in the envelope included with this ballot.

The ballot also shall include a sworn declaration stating that the person executing the ballot is the record owner of the parcel or the authorized representative of the record owner.

8. A summary of the ballot procedure specified in Section 3.44.040 of this chapter, with instructions for the completion, sealing and return of the ballot; and

9. A return envelope preprinted as required by Section 3.44.040 of this chapter for the return of the ballot. The envelope shall have a brief statement printed in the upper right corner indicating ~~the required~~-return postage amount is required.

B. Except as amended in Section A above, Section 3.44.030 is unchanged and remains in full force and effect.

## SECTION 2.

Section 3.44.040 of the Sacramento City Code is amended to read as follows:

### **3.44.040 Ballot Procedures**

A. The ballot shall be included with the mailed notice, and shall be in the form specified in Section 3.44.030 of this chapter, with the information as to parcel number, owner name and address, and proposed parcel assessment filled in.

B. A return envelope also shall ~~also~~-be included with the mailed notice. The envelope shall be preprinted with the return address of the city clerk; ~~it shall also contain blanks for the owner or authorized representative to fill in the owner's address, a sworn declaration stating that the person executing the ballot and envelope is the record owner of the parcel or the authorized representative of the record owner, and a signature.~~

C. The notice specified in Section 3.44.030 of this chapter shall set forth instructions for completion, sealing and return of the ballot. Returned ballots ~~which that~~ are not sealed, ~~or which do not contain the information properly filled in on the envelope,~~ or ~~which that~~ are not properly signed, shall be rejected.

D. Ballots may be returned by mail, in person at the office of the city clerk, or in person at the public hearing on the proposed assessment; provided, however, that all ballots must be returned prior to the close of the public hearing on the proposed assessment. In the event that the public hearing has been opened and continued to another date or dates, ballots may be returned through and including the said date or dates, and until the close of the hearing.

E. The city clerk shall receive and retain unopened all returned ballots, whether such ballots be returned by mail or in person before or during the hearing.

F. Upon close of the public hearing, or as soon thereafter as is reasonably possible, ~~the city clerk shall open the ballots, and u~~Upon verification of the signature and other information, those ballots which have been properly and timely returned and not rejected shall be ~~opened and~~ tabulated by the city clerk. Tabulation shall be in accordance with the following procedures:

1. The dollar amount of the assessments attributable to all of those ballots in favor of the assessment shall be totaled;

2. The dollar amount of the assessments attributable to all of those ballots in opposition to the assessment shall be totaled;

3. ~~If ballots submitted against the assessment exceed the ballots submitted in favor of the assessment, weighted according to the proportional financial obligation of each affected property, the City Council shall not impose or increase the assessment. The assessment may be imposed only if the total dollar amount of the assessments in favor of the assessment exceeds the total dollar amount of the assessments in opposition to the assessment. In the event of a tie, the assessment may not be imposed.~~In the case of an increase in an existing assessment, which existing assessment is exempt from mailed ballot requirements, the failure of those submitting ballots to approve the increase shall have no effect upon the existing assessment.

4. All ballots, including those which were rejected for noncompliance with the requirements of this chapter, shall be retained by the city clerk for a period of ~~three two~~ years. ~~All ballots shall be deemed to be public records upon completion of the tabulation.~~

5. Nothing in this chapter shall preclude the city council from employing a private consultant, or the county registrar of voters, to administer all or part of the ballot process.

Adopted by the City of Sacramento City Council on \_\_\_\_\_ by the following vote:

Ayes:

Noes:

Abstain:

Absent:

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MAYOR

Attest:

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City Clerk

Passed for Publication:

Published:

Effective:

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Date Adopted

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Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
MAYOR

Attest:

\_\_\_\_\_

City Clerk

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