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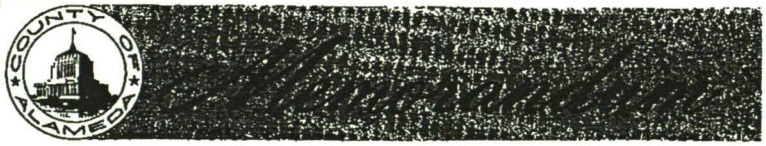
Perata

COUNTY COUNSEL



DATE: July 15, 1993

TO: Supervisor Don Perata

JUL 15 REC'D

FROM: Kelvin Booty, County Counsel, QIC 20104

SUBJECT: Sales Tax

At the PAL Committee meeting on July 11, you asked for a review of the law on the 1/2 percent sales tax continuation under consideration by the Board of Supervisors. Attached is a memorandum dated June 2, 1993, which discusses the substantive legal issues surrounding this tax. It is my understanding that several other counties, including Los Angeles, are considering a county measure to continue the sales tax. In Los Angeles there may be an issue as to whether a county continuation tax would exceed the statutory cap; we have no such issue here. That point has been confirmed with the State Board of Equalization, which would administer the tax in Alameda County. (Incidentally, under S.B. 509, the State Board is authorized to begin collection of our tax on January 1, and not in April as I mentioned in my June 2 memorandum. This has also been confirmed with the State Board.)

In addition to these substantive legal issues, there are procedural legal issues, to which I now turn.

The continuation of the sales tax must be approved by a majority vote of the voters. Since the Board must act before August 6 to order a measure submitted at the November 2, 1993, special election, there has been submitted to the Board for its adoption on July 20 a resolution calling for the measure to be submitted at that election. The resolution also calls for consolidation of this county election with the State election.

The continuation of the sales tax also must be approved by the Board of Supervisors, by a 4/5 vote, by adopting an ordinance. While the law is not entirely clear, the most prudent course is to give a 45-day notice before conducting a public hearing on the adoption of the ordinance. Also before the Board on July 20 is a resolution giving that notice and setting the hearing for September 14, 1993.

Finally, this same law requires the Board to conduct a public "meeting" on the continuation of the sales tax. At this meeting public testimony can be taken. This meeting is scheduled for your July 20 Board meeting. No special notice of that meeting is required, and the notice given is the same as for all other matters to come before the Board.

The text of the ballot measure is contained in the first resolution mentioned above. The final text of the tax ordinance itself has not been completed; as I said, that ordinance will come before you in September.

KHB

cc: Each Board Member; County Administrator

SAN DIEGO STATE UNIVERSITY 1897