
COUNCIL STAFF REPORT

Date: April 11, 2003

Subject: Briefing: Proposed Ordinance to Recriminalize Moving Traffic Violations

Affected Council Districts: Not Applicable

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KEY ELEMENTS:

- The proposed ordinance would bring the Salt Lake City traffic code into compliance with recently passed State Legislation that will go into effect on May 5, 2003.
- Adopting the proposed ordinance is expected to result in a \$191,000 decrease in revenue related to delinquent fees and small claims court fees.
- According to the Administration's transmittal, the City Prosecutor's Office estimates that adopting the ordinance would require a budget increase (\$74,000) for an increase in the number of prosecutors and support personnel.

POTENTIAL OPTIONS:

- Given that the proposed ordinance is designed to bring the City's traffic code into conformance with State law, it appears that the only option available to the City Council is to adopt the ordinance.
- The Administration will evaluate and address decreases in revenue and additional costs in the Prosecutor's Office in the Mayor's Recommended Budget for fiscal year 2004. The Council may wish to discuss these potential budget issues with the Administration at the briefing.
- As noted in a previous City Council staff memorandum on another issue, State law 76-3-301 says in part, a person "convicted of an offense may be sentenced to pay a fine not exceeding: ... \$750 for a class C misdemeanor conviction or infraction conviction." However, *City Code* section 1.12.050 sets the maximum fine limit for an infraction at \$500. The maximum fine under the civil penalties is \$1,000. The City Council may wish to request that the ordinance amendment be rewritten to reflect the higher limit allowed by State law.

MATTERS AT ISSUE/POTENTIAL QUESTIONS TO ADMINISTRATION:

- Could any projected shortfall be offset by charging the State's allowed maximum of \$750 for traffic infractions instead of the \$500 maximum established in the *City Code*?
- Could the apparent projected increase in workload by the City Prosecutor's Office be handled without a projected increase in staffing? This may be possible if the traffic matters are added to the court's calendar at times when prosecutors are already at the court for pre-trial matters, etc.

BUDGET RELATED FACTS:

Decrease in revenue – According to the Administration's transmittal, the Justice court will see a decrease in revenue of \$191,000. The revenue loss will be from two sources:

1. Under the current ordinance, when a civil traffic citation is not paid, the Justice Court "eventually obtains a small claims judgment" on the citation. When a small claims judgment is paid, the payment includes a fee for the City's cost of filing the small claim. Because the proposed ordinance eliminates civil fines for moving traffic violations, revenue from payment of the filing fee will result in a loss of about \$39,000 a year, according to the transmittal.
2. The Justice Court charges \$30 in penalties for the late payment of civil fines (20 days late). In addition, the Court charges \$30 in supplementary late fees after an additional 15 days. According to the Administration's transmittal, the initial late fee charge of \$30 must be reduced to \$20 as mandated by state law. In addition, subsequent late fees "will have to be eliminated entirely." According to the transmittal, estimates of revenue from people paying late fees will be reduced from \$250,000 to about \$98,000 – a difference of \$152,000.

According to a table provided by the Justice Court, total City revenue collected for moving violations in fiscal year 2001-2002 equaled \$2,049,767. The \$191,000 equals 9 percent of the \$2,049,767. Total City revenue collected for moving violations in the first eight months of the current fiscal year appears to be \$1,841,150. (Please see attached spreadsheet.)

Increase in expenditures – The City Prosecutor's Office projects that changing civil violations to criminal violations would require adding one full-time equivalent employee for support staff (\$36,000) and one-half full-time equivalent prosecutor (\$28,000) plus increased funding of \$10,000. The transmittal gives four reasons for the projected increases:

1. An increase in the number of criminal complaints and summonses that would have to be filed where a defendant contests a citation, and in instances where a defendant appears in response to a citation but has lost the citation, but the citation has not yet been entered into the Police Department's computer system for downloading into the Justice Court's computer system.
2. An increase in the number of subpoenas that would be issued for witnesses in bench and jury trials.
3. An increase in prosecutors' court time on traffic cases.
4. Actual cost of serving the increased numbers of summonses and subpoenas.

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It should be noted that, according to the City Prosecutor's Office staff, the office has 13 full-time prosecutors, seven full-time support personnel, and two-part time support personnel. This includes the two additional prosecutor positions and one additional staff support position that were funded when the district attorney misdemeanor cases were added to the City's caseload in January of this year.

DISCUSSION/BACKGROUND:

The proposed ordinance is the result of the 2003 Legislature's passage of House Bill 234 titled *Administrative Treatment of Traffic Violations – Technical Amendments*. (Please see attachment.)

The main thrust of the new law as it affects Salt Lake City appears in an amendment to Section 10-3-703. Subparagraph 2(b) reads: "a municipality may not impose a civil penalty and adjudication for the violation of a municipal moving traffic ordinance." The new law will go into effect on May 5.

As a result, the City Attorney's Office prepared the proposed ordinance to "recriminalize" a number of moving traffic violations that previously had been deemed civil violations.

According to the Administration's transmittal, the City Prosecutor's Office has suggested that some civil penalties be designated as Class B misdemeanors and some designated as Class C misdemeanors to give more leverage in handling certain serious matters. In addition, some civil penalties would be designated as infractions.

Again, it should be noted that the *City Code* establishes a maximum penalty of \$500 for infractions, but State law sets a maximum limit of \$750 for infractions. The *City Code's* maximum financial penalties for Class B and Class C misdemeanor convictions are the same as the State's -- \$1,000 and \$750 respectively.

Cc: Cindy Gust-Jenson, Rocky Fluhart, David Nimkin, Ed Rutan, Zane Gill, Mary Johnston, Larry Spendlove, Gary Mumford.

File Location: City Code, Justice Court