

# LAST MINUTE AGENDA INFORMATION

## 08/05/09 Regular Meeting

*(Agenda Related Writings/Documents provided to a majority of the City Council after distribution of the Agenda Packet for the August 5, 2009 Regular meeting.)*

<u>ITEM NO.</u>	<u>DESCRIPTION</u>
-----------------	--------------------

<b>3.1</b>	<p><b>ORDINANCE NO. 2009-1088 – AMENDING MUNICIPAL CODE CHAPTER 9.10, RELATING TO SKATEBOARD AND ROLLER SKATE RIDING. (0920-95)</b></p> <ul style="list-style-type: none"><li>a. Correspondence from Tim O’Neal, received July 31, 2009</li><li>b. Saldana Bill AB 874 – Introduced</li><li>c. Saldana Bill AB 874 – Amended</li><li>d. Saldana Bill AB 874 – History &amp; Status</li><li>e. Saldana Bill AB 874 – Bill Analysis</li><li>f. Saldana Bill AB 874 – CA Assembly Vote (PASSED 76 - 0)</li></ul>
------------	---

-----Original Message-----

From: tim@skateib.com [mailto:tim@skateib.com]

Sent: Fri 7/31/2009 6:13 AM

To: Gary Brown

Cc: Victoria Madrid; Candy

Subject: [FWD: Amendment to the Skateboard and Roller Skate Riding Ordinance Required for a New Skate Park in Imperial Beach]

Mr. Brown -

California Assembly Bill AB 874 is currently being considered in Sacramento. The purpose of this bill, sponsored by State Assemblywoman Lori Saldana, is to amend section 115800 of the Health & Safety, relating to recreational activities, and specifically asks for the removal of elbow and knee pad requirements by skateparks. In light of AB 874, I would ask that you reconsider revising any ordinance as it relates to skateboarding until a decision on AB 874 has been made.

Since construction of Imperial Beach's skatepark is still in the design phase and not slated for construction until at least January 2010, I'm sure you would agree the city has some time to see AB 874 come to fruition. Please understand the Helmet & Pad Requirements imposed by city skateparks is a hotly debated subject in the skate community. It's been found that requiring skaters to wear elbow and knee pads actually keeps skaters away from skateparks and puts them back on city streets. To move forward at this point with an ordinance requiring elbow and knee pads when AB 874 is still being considered is not necessary and despite the city's intentions, might result in an public relations headache that could have been avoided. Also, since Imperial Beach currently does not have a skatepark, the City and residents are not facing an increase in liability exposure.

FYI - Links below represent a chronology of Saldana's Skateboarding Bill AB 874. Bill passed 76 - 0 in CA State Assembly and currently is making its way through the CA State Senate. In my opinion, at this point it is entirely premature to move forward adopting any revision to the city's ordinances relating to skateboarding.

Saldana Bill AB 874 - Introduced

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090226\\_introduced.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090226_introduced.html)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090226\\_introduced.pdf](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090226_introduced.pdf)

Saldana Bill AB 874 - Amended

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090421\\_amended\\_asm\\_v98.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090421_amended_asm_v98.html)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090421\\_amended\\_asm\\_v98.pdf](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090421_amended_asm_v98.pdf)

Saldana Bil AB 874 - History & Status

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090514\\_history.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090514_history.html)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_bill\\_20090515\\_status.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_bill_20090515_status.html)

Saldana Bill AB 874 - Bill Analysis

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_cfa\\_20090420\\_125443\\_asm\\_comm.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_cfa_20090420_125443_asm_comm.html)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_cfa\\_20090423\\_180626\\_asm\\_floor.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_cfa_20090423_180626_asm_floor.html)

Saldana Bill AB 874 - CA Assembly Vote (PASSED 76 - 0)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_vote\\_20090414\\_000001\\_asm\\_comm.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_vote_20090414_000001_asm_comm.html)

[http://leginfo.ca.gov/pub/09-10/bill/asm/ab\\_0851-0900/ab\\_874\\_vote\\_20090504\\_1230PM\\_asm\\_floor.html](http://leginfo.ca.gov/pub/09-10/bill/asm/ab_0851-0900/ab_874_vote_20090504_1230PM_asm_floor.html)

Tim O'Neal

Co-Founder

Imperial Beach Skateboarding Association

[tim@skateib.com](mailto:tim@skateib.com)

619-209-8745

a.1

PERSONNEL  
2009 AUG - 3 A 11: 32  
CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

**ASSEMBLY BILL**

**No. 874**

RECEIVED

2009 AUG -3 A 11:32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

**Introduced by Assembly Member Saldana**

February 26, 2009

An act to amend Section 115800 of the Health and Safety Code, relating to recreational activities.

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as introduced, Saldana. Recreational activities: skateboarding.

Existing law prohibits an operator of a skateboard park from permitting any person to ride a skateboard in the park unless that person is wearing a helmet, elbow pads, and knee pads. Existing law further describes how those requirements may be satisfied with respect to a recreational skateboard facility owned or operated by a local agency, as specified.

This bill would remove the requirement that any person riding a skateboard in the park must wear elbow pads and knee pads.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 115800 of the Health and Safety Code,
- 2 as amended by Section 1 of Chapter 140 of the Statutes of 2006,
- 3 is amended to read:
- 4 115800. (a) No operator of a skateboard park shall permit any
- 5 person to ride a skateboard therein, unless that person is wearing
- 6 a helmet, ~~elbow pads, and knee pads.~~

- 1 (b) With respect to any facility, owned or operated by a local  
2 public agency, that is designed and maintained for the purpose of  
3 recreational skateboard use, and that is not supervised on a regular  
4 basis, the requirements of subdivision (a) may be satisfied by  
5 compliance with the following:
- 6 (1) Adoption by the local public agency of an ordinance  
7 requiring any person riding a skateboard at the facility to wear a  
8 helmet, ~~elbow pads, and knee pads.~~
- 9 (2) The posting of signs at the facility affording reasonable  
10 notice that any person riding a skateboard in the facility must wear  
11 a helmet, ~~elbow pads, and knee pads,~~ and that any person failing  
12 to do so will be subject to citation under the ordinance required  
13 by paragraph (1).
- 14 (c) "Local public agency" for purposes of this section includes,  
15 but is not limited to, a city, county, or city and county.
- 16 (d) (1) Skateboarding at any facility or park owned or operated  
17 by a public entity as a public skateboard park, as provided in  
18 paragraph (3), shall be deemed a hazardous recreational activity  
19 within the meaning of Section 831.7 of the Government Code if  
20 all of the following conditions are met:
- 21 (A) The person skateboarding is 12 years of age or older.  
22 (B) The skateboarding activity that caused the injury was stunt,  
23 trick, or luge skateboarding.  
24 (C) The skateboard park is on public property that complies  
25 with subdivision (a) or (b).
- 26 (2) In addition to the provisions of subdivision (c) of Section  
27 831.7 of the Government Code, nothing in this section is intended  
28 to limit the liability of a public entity with respect to any other  
29 duty imposed pursuant to existing law, including the duty to protect  
30 against dangerous conditions of public property pursuant to Chapter  
31 2 (commencing with Section 830) of Part 2 of Division 3.6 of Title  
32 1 of the Government Code. However, nothing in this section is  
33 intended to abrogate or limit any other legal rights, defenses, or  
34 immunities that may otherwise be available at law.
- 35 (3) For public skateboard parks that were constructed on or  
36 before January 1, 1998, this subdivision shall apply to hazardous  
37 recreational activity injuries incurred on or after January 1, 1998,  
38 and before January 1, 2001. For public skateboard parks that are  
39 constructed after January 1, 1998, this subdivision shall apply to  
40 hazardous recreational activity injuries incurred on or after January

1 1, 1998, and before January 1, 2012. For purposes of this  
2 subdivision, any skateboard facility that is a movable facility shall  
3 be deemed constructed on the first date it is initially made available  
4 for use at any location by the local public agency.

5 (4) The appropriate local public agency shall maintain a record  
6 of all known or reported injuries incurred by a skateboarder in a  
7 public skateboard park or facility. The local public agency shall  
8 also maintain a record of all claims, paid and not paid, including  
9 any lawsuits and their results, arising from those incidents that  
10 were filed against the public agency. Beginning in 1999, copies  
11 of these records shall be filed annually, no later than January 30  
12 each year, with the Judicial Council, which shall submit a report  
13 to the Legislature on or before March 31, 2011, on the incidences  
14 of injuries incurred, claims asserted, and the results of any lawsuit  
15 filed, by persons injured while skateboarding in public skateboard  
16 parks or facilities.

17 (5) This subdivision shall not apply on or after January 1, 2001,  
18 to public skateboard parks that were constructed on or before  
19 January 1, 1998, but shall continue to apply to public skateboard  
20 parks that are constructed after January 1, 1998.

21 (e) This section shall remain in effect until January 1, 2012, and  
22 as of that date is repealed, unless a later enacted statute, enacted  
23 before January 1, 2012, deletes or extends that date.

24 SEC. 2. Section 115800 of the Health and Safety Code, as  
25 amended by Section 2 of Chapter 140 of the Statutes of 2006, is  
26 amended to read:

27 115800. (a) No operator of a skateboard park shall permit any  
28 person to ride a skateboard therein, unless that person is wearing  
29 a helmet, ~~elbow pads, and knee pads.~~

30 (b) With respect to any facility, owned or operated by a local  
31 public agency, that is designed and maintained for the purpose of  
32 recreational skateboard use, and that is not supervised on a regular  
33 basis, the requirements of subdivision (a) may be satisfied by  
34 compliance with the following:

35 (1) Adoption by the local public agency of an ordinance  
36 requiring any person riding a skateboard at the facility to wear a  
37 helmet, ~~elbow pads, and knee pads.~~

38 (2) The posting of signs at the facility affording reasonable  
39 notice that any person riding a skateboard in the facility must wear  
40 a helmet, ~~elbow pads, and knee pads,~~ and that any person failing

- 1 to do so will be subject to citation under the ordinance required
- 2 by paragraph (1).
- 3 (c) "Local public agency" for purposes of this section includes,
- 4 but is not limited to, a city, county, or city and county.
- 5 (d) This section shall become operative on January 1, 2012.

0

b. 4

AMENDED IN ASSEMBLY APRIL 21, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 874**

**Introduced by Assembly Member Saldana**

February 26, 2009

---

An act to amend Section 115800 of the Health and Safety Code, relating to recreational activities.

LEGISLATIVE COUNSEL'S DIGEST

AB 874, as amended, Saldana. Recreational activities: skateboarding.

Existing law prohibits an operator of a skateboard park from permitting any person to ride a skateboard in the park unless that person is wearing a helmet, elbow pads, and knee pads. Existing law further describes how those requirements may be satisfied with respect to a recreational skateboard facility owned or operated by a local agency, as specified. *Existing law also requires local public agencies to maintain a record of all known or reported injuries incurred by skateboarders in a public skateboard park or facility, and other information regarding these incidents, as specified, and requires that copies of those records be filed annually with the Judicial Council, which is required to submit a report to the Legislature by March 31, 2011, on these incidents, including claims arising therefrom.*

This bill would remove the requirement that any person riding a skateboard in the park must wear elbow pads and knee pads. *This bill would also remove the requirement that local public agencies maintain and file records regarding skateboard injuries and delete the requirement that the Judicial Council submit a report to the Legislature on these incidents.*

RECEIVED

2009 AUG -3 A 11: 32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 115800 of the Health and Safety Code,  
2 as amended by Section 1 of Chapter 140 of the Statutes of 2006,  
3 is amended to read:

4 115800. (a) No operator of a skateboard park shall permit any  
5 person to ride a skateboard therein, unless that person is wearing  
6 a helmet.

7 (b) With respect to any facility, owned or operated by a local  
8 public agency, that is designed and maintained for the purpose of  
9 recreational skateboard use, and that is not supervised on a regular  
10 basis, the requirements of subdivision (a) may be satisfied by  
11 compliance with the following:

12 (1) Adoption by the local public agency of an ordinance  
13 requiring any person riding a skateboard at the facility to wear a  
14 helmet.

15 (2) The posting of signs at the facility affording reasonable  
16 notice that any person riding a skateboard in the facility must wear  
17 a helmet and that any person failing to do so will be subject to  
18 citation under the ordinance required by paragraph (1).

19 (c) "Local public agency" for purposes of this section includes,  
20 but is not limited to, a city, county, or city and county.

21 (d) (1) Skateboarding at any facility or park owned or operated  
22 by a public entity as a public skateboard park, as provided in  
23 paragraph (3), shall be deemed a hazardous recreational activity  
24 within the meaning of Section 831.7 of the Government Code if  
25 all of the following conditions are met:

26 (A) The person skateboarding is 12 years of age or older.

27 (B) The skateboarding activity that caused the injury was stunt,  
28 trick, or luge skateboarding.

29 (C) The skateboard park is on public property that complies  
30 with subdivision (a) or (b).

31 (2) In addition to the provisions of subdivision (c) of Section  
32 831.7 of the Government Code, nothing in this section is intended  
33 to limit the liability of a public entity with respect to any other  
34 duty imposed pursuant to existing law, including the duty to protect  
35 against dangerous conditions of public property pursuant to Chapter

1 2 (commencing with Section 830) of Part 2 of Division 3.6 of Title  
2 1 of the Government Code. However, nothing in this section is  
3 intended to abrogate or limit any other legal rights, defenses, or  
4 immunities that may otherwise be available at law.

5 (3) For public skateboard parks that were constructed on or  
6 before January 1, 1998, this subdivision shall apply to hazardous  
7 recreational activity injuries incurred on or after January 1, 1998,  
8 and before January 1, 2001. For public skateboard parks that are  
9 constructed after January 1, 1998, this subdivision shall apply to  
10 hazardous recreational activity injuries incurred on or after January  
11 1, 1998, and before January 1, 2012. For purposes of this  
12 subdivision, any skateboard facility that is a movable facility shall  
13 be deemed constructed on the first date it is initially made available  
14 for use at any location by the local public agency.

15 ~~(4) The appropriate local public agency shall maintain a record~~  
16 ~~of all known or reported injuries incurred by a skateboarder in a~~  
17 ~~public skateboard park or facility. The local public agency shall~~  
18 ~~also maintain a record of all claims, paid and not paid, including~~  
19 ~~any lawsuits and their results, arising from those incidents that~~  
20 ~~were filed against the public agency. Beginning in 1999, copies~~  
21 ~~of these records shall be filed annually, no later than January 30~~  
22 ~~each year, with the Judicial Council, which shall submit a report~~  
23 ~~to the Legislature on or before March 31, 2011, on the incidences~~  
24 ~~of injuries incurred, claims asserted, and the results of any lawsuit~~  
25 ~~filed, by persons injured while skateboarding in public skateboard~~  
26 ~~parks or facilities.~~

27 (5)

28 ~~(4)~~ This subdivision shall not apply on or after January 1, 2001,  
29 to public skateboard parks that were constructed on or before  
30 January 1, 1998, but shall continue to apply to public skateboard  
31 parks that are constructed after January 1, 1998.

32 (e) This section shall remain in effect until January 1, 2012, and  
33 as of that date is repealed, unless a later enacted statute, enacted  
34 before January 1, 2012, deletes or extends that date.

35 SEC. 2. Section 115800 of the Health and Safety Code, as  
36 amended by Section 2 of Chapter 140 of the Statutes of 2006, is  
37 amended to read:

38 115800. (a) No operator of a skateboard park shall permit any  
39 person to ride a skateboard therein, unless that person is wearing  
40 a helmet.

- 1 (b) With respect to any facility, owned or operated by a local
- 2 public agency, that is designed and maintained for the purpose of
- 3 recreational skateboard use, and that is not supervised on a regular
- 4 basis, the requirements of subdivision (a) may be satisfied by
- 5 compliance with the following:
- 6 (1) Adoption by the local public agency of an ordinance
- 7 requiring any person riding a skateboard at the facility to wear a
- 8 helmet.
- 9 (2) The posting of signs at the facility affording reasonable
- 10 notice that any person riding a skateboard in the facility must wear
- 11 a helmet and that any person failing to do so will be subject to
- 12 citation under the ordinance required by paragraph (1).
- 13 (c) "Local public agency" for purposes of this section includes,
- 14 but is not limited to, a city, county, or city and county.
- 15 (d) This section shall become operative on January 1, 2012.

O

C. 4

COMPLETE BILL HISTORY

BILL NUMBER : A.B. No. 874  
AUTHOR : Saldana  
TOPIC : Recreational activities: skateboarding.

RECEIVED

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

2009 AUG -3 A 11: 32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

BILL HISTORY

2009

- May 14 Referred to Com. on JUD.
- May 4 In Senate. Read first time. To Com. on RLS. for assignment.
- May 4 Read third time, passed, and to Senate. (Ayes 76. Noes 0. Page 1222.)
- Apr. 23 From Consent Calendar. To third reading.
- Apr. 22 Read second time. To Consent Calendar.
- Apr. 21 Read second time and amended. Ordered returned to second reading.
- Apr. 20 From committee: Amend, and do pass as amended. To Consent Calendar. (April 14).
- Mar. 23 Referred to Com. on JUD.
- Feb. 27 From printer. May be heard in committee March 29.
- Feb. 26 Read first time. To print.

d.1

CURRENT BILL STATUS

MEASURE : A.B. No. 874  
AUTHOR(S) : Saldana.  
TOPIC : Recreational activities: skateboarding.  
HOUSE LOCATION : SEN  
+LAST AMENDED DATE : 04/21/2009

RECEIVED

2009 AUG -3 A 11:32

TYPE OF BILL :

- Active
- Non-Urgency
- Non-Appropriations
- Majority Vote Required
- Non-State-Mandated Local Program
- Non-Fiscal
- Non-Tax Levy

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES.

LAST HIST. ACT. DATE: 05/14/2009  
LAST HIST. ACTION : Referred to Com. on JUD.  
COMM. LOCATION : SEN JUDICIARY

TITLE : An act to amend Section 115800 of the Health and Safety Code, relating to recreational activities.

d.2

BILL ANALYSIS

AB 874  
Page 1

RECEIVED

Date of Hearing: April 14, 2009

ASSEMBLY COMMITTEE ON JUDICIARY  
Mike Feuer, Chair

2009 AUG -3 A 11:32

AB 874 (Saldana) - As Introduced: February 26, 2009

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

PROPOSED CONSENT (As Proposed To Be Amended)

SUBJECT : RECREATIONAL ACTIVITIES: SKATEBOARDING

KEY ISSUE : SHOULD THE REQUIREMENT THAT ANY PERSON RIDING A SKATEBOARD IN A SPECIFIED SKATEBOARD PARK WEAR ELBOW PADS AND KNEE PADS BE DELETED, GIVEN THAT THE ALTERNATIVE OF SKATING IN THE STREETS IS MORE DANGEROUS AND THAT ELBOW AND KNEE PADS ONLY PROVIDE LIMITED PROTECTION SUCH THAT THE KEY SAFETY PROTECTION UNDER CURRENT LAW IS THE HELMET REQUIREMENT?

FISCAL EFFECT : As currently in print this bill is keyed non-fiscal.

SYNOPSIS

This bill seeks to eliminate the safety requirement in current law that city and county owned or operated skateboard parks require users to wear elbow and knee pads in addition to safety helmets. This change in law is supported by the Civil Justice Association of California (CJAC), which states that removing this presumed safety requirement will actually lead to enhanced safety by getting more "boarders" back into the parks and off local streets. CJAC reasonably appears to contend that many boarders currently avoid using the parks and instead stay on the streets since they refuse to be forced to wear elbow pads and knee pads. The author's office provided the Committee anecdotal evidence in support of this argument, which appears to have some "real life" merit. There is no known opposition, and the Consumer Attorneys of California are neutral on the measure.

SUMMARY : Seeks to remove the requirement in current law that city and county owned or operated skateboard parks require users to wear elbow pads and knee pads to enhance safety while retaining the requirement that "boarders" wear safety helmets.

EXISTING LAW :

1)Sets forth the guidelines that an operator of a skateboard

□

AB 874  
Page 2

park must follow as well as the requirements with respect to a facility owned and operated by a local public agency. (Health and Safety Code Section 115800.)

2)Provides that skateboarding at a public skateboard park is a "hazardous recreational activity" (HRA) as such activities are defined in Government Code Section 831.7, thereby granting local public agencies who operate such parks qualified

e.1

immunity from liability for any injuries sustained as a result of an individual participating in or watching such skateboarding, if the following conditions are met:

- a) The person skateboarding is 12 years of age or older.
- b) The skateboarding activity that caused the injury was stunt, trick, or luge skateboarding.
- c) The skateboard park is on public property.

3) Requires the Judicial Council to submit a report to the Legislature on or before March 31, 2011, reporting on the incidences of injuries incurred, the number of claims asserted, and the results of any lawsuits filed by persons injured while skateboarding in public skateboard parks or facilities.

4) Sunsets the qualified immunity granted public skate board parks on January 1, 2012.

COMMENTS : This bill seeks to eliminate the safety requirement in current law that city and county owned or operated skateboard parks require users to wear elbow and knee pads in addition to safety helmets. This change in law is supported by the Civil Justice Association of California (CJAC), which states its belief that removing this presumed safety requirement will actually lead to enhanced safety by getting more "boarders" back into the parks and off local streets. CJAC reasonably appears to contend that many boarders currently avoid using the parks and instead stay on the streets since they refuse to be forced to wear elbow pads and knee pads. The author's office provided the Committee anecdotal evidence in support of this argument, which appears to have some "real life" merit.

Backdrop : In 1983, California codified a qualified immunity for public entities for injuries suffered by individuals engaged in hazardous recreational activities. The included activities, such as rock climbing, skydiving and parachuting, all were found

□

AB 874  
Page 3

to pose a substantial risk of injury to a participant or spectator. Over the years, other attempts have been made to expand the list of hazardous recreational activities. For example, mountain biking, but not ordinary use of a bicycle, was added to the list of hazardous recreational activities. In 1997, AB 1296 (Morrow) added skateboarding, under certain conditions, to the list of hazardous recreational activities. That provision was extended in 2002 by SB 994 (Morrow), and then again by AB 1179 -- which is set to sunset on January 1, 2012, unless legislation is enacted to extend or repeal that provision.

Currently skateboarding results in public entity immunity only when the participant is at least 12, and he or she is performing trick, stunt, or luge skateboarding on public property meeting certain requirements. With this grant of qualified immunity, local communities have been more comfortable building public skateboarding parks. These skateboarding parks provide a dedicated location for individuals to skateboard without worry of trespassing on private property or vehicular hazards. They also are intended to entice "boarders" off local streets and highways, and public sidewalks - where such activities can pose great risk to passers by.

e.2

Under the current qualified immunity statute, all skateboard parks are mandated - in order to enjoy the immunity-to require the use of helmets, elbow pads, and knee pads. Thus the current scheme both provides dedicated locations for skateboarding and encourages the public agency to require use of proper safety equipment so as to avoid liability.

Risks of Skateboarding : Some supporters of the measure note the dangers of skateboarding, while others emphasize the sport's safety. The City of Lake Forest proclaimed that "[c]learly, skateboarding is an activity that is hazardous regardless of age." Further elaborating on the danger posed, the California Association of Joint Powers Authorities (CAJPA) contends that "participants . . . are well aware of risks associated with skateboarding. Let's be realistic: we are talking about a small platform set on wheels, and 'ridden' at significant speeds on and around cement surfaces and obstacles."

Deleting/Changing the Report Requirement : The Judicial Council's reports to the Legislature, as required by Health and Safety Code section 115800, demonstrate skate boarding's

□

AB 874  
Page 4

apparently relatively low injury rate in the parks. For example, the Council's March 13, 2002, report found that a total of 80 skateboarding injuries occurred at skateboarding parks in nine cities during the 2001 calendar year. This amounts to less than one injury per skateboard park per month. Furthermore, none of these injuries apparently resulted in a lawsuit against the city. In fact, there are no published California cases including suits against a city for injuries caused at a skateboarding park. In addition, reports submitted to the Judicial Council from public skate parks indicate that injuries, when they do occur, are often mild. Finally, the author references a report from a privately owned skate park operating for over 30 years (Kona Skate Park) which indicates that elbow and knee pads do not prevent serious injury. In 2000, after the park removed the 23-year-old pad requirement, the injury rate actually fell by 27%.

Author's Amendment : Given the earlier reporting provided by the Judicial Council showing skateboarding in parks to cause relatively few serious injuries, the Author is amending her measure to delete the reporting requirement in the law.

ARGUMENTS IN SUPPORT : In support of this apparent diminution in safety requirements at public skateboard parks, the Civil Justice Association of California (CJAC) writes in part that:

This bill simply removes the requirement that skateboarders must use elbow and knee pads. Removing this requirement will encourage more skateboarders to use safer city or county parks, without the dangers of collisions with cars or pedestrians.

California courts have followed a course consistent with this bill. Courts have agreed that skateboarding is a hazardous activity and have declined to find liability when skateboarders are injured in the course of their sport. In fact, the risk associated with the sport is part of the attraction?

e.3

REGISTERED SUPPORT / OPPOSITION :

Support

California State Association of Counties  
Civil Justice Association of California

□

AB 874  
Page 5

International Association of Skateboard Companies  
12 individuals

Opposition

None on file

Analysis Prepared by : Drew Liebert and Seth Benkle / JUD. /  
(916) 319-2334

e.4

BILL ANALYSIS

RECEIVED  
AB 874  
Page 1

ASSEMBLY THIRD READING  
AB 874 (Saldana)  
As Amended April 21, 2009  
Majority vote

2009 AUG -3 A 11:32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

JUDICIARY 10-0

Ayes:	Feuer, Tran, Brownley,		
	Evans, Jones, Knight,		
	Krekorian, Lieu, Monning,		
	Nielsen		

SUMMARY : Seeks to remove the requirement in current law that city and county owned or operated skateboard parks require users to wear elbow pads and knee pads to enhance safety while retaining the requirement that "boarders" wear safety helmets. Further removes the requirement that local public agencies maintain and file records regarding skateboard injuries and deletes the requirement that the Judicial Council submit a report to the Legislature on these incidents.

EXISTING LAW :

- 1) Sets forth the guidelines that an operator of a skateboard park must follow as well as the requirements with respect to a facility owned and operated by a local public agency.
- 2) Provides that skateboarding at a public skateboard park is a "hazardous recreational activity" (HRA) as such activities are defined in Government Code Section 831.7, thereby granting local public agencies who operate such parks qualified immunity from liability for any injuries sustained as a result of an individual participating in or watching such skateboarding, if the following conditions are met:
  - a) The person skateboarding is 12 years of age or older;
  - b) The skateboarding activity that caused the injury was stunt, trick, or luge skateboarding; and,
  - c) The skateboard park is on public property.

□

e.5

AB 874  
Page 2

- 3) Requires the Judicial Council to submit a report to the Legislature on or before March 31, 2011, reporting on the incidences of injuries incurred, the number of claims asserted, and the results of any lawsuits filed by persons injured while skateboarding in public skateboard parks or facilities.
- 4) Sunsets the qualified immunity granted public skate board parks on January 1, 2012.

FISCAL EFFECT : None

COMMENTS : This bill seeks to eliminate the safety requirement in current law that city and county owned or operated skateboard parks require users to wear elbow and knee pads in addition to safety helmets. This change in law is supported by the Civil Justice Association of California (CJAC), which states its belief that removing this presumed safety requirement will actually lead to enhanced safety by getting more "boarders" back into the parks and off local streets. CJAC reasonably appears to contend that many boarders currently avoid using the parks and instead stay on the streets since they refuse to be forced to wear elbow pads and knee pads. The author's office provided anecdotal evidence in support of this argument, which appears to have some "real life" merit.

In 1983, California codified a qualified immunity for public entities for injuries suffered by individuals engaged in hazardous recreational activities. The included activities, such as rock climbing, skydiving and parachuting, all were found to pose a substantial risk of injury to a participant or spectator. Over the years, other attempts have been made to expand the list of hazardous recreational activities. For example, mountain biking, but not ordinary use of a bicycle, was added to the list of hazardous recreational activities. In 1997, AB 1296 (Morrow) added skateboarding, under certain conditions, to the list of hazardous recreational activities. That provision was extended in 2002 by SB 994 (Morrow), and then again by AB 1179 -- which is set to sunset on January 1, 2012, unless legislation is enacted to extend or repeal that provision.

Currently skateboarding results in public entity immunity only

□

AB 874  
Page 3

when the participant is at least 12, and he or she is performing trick, stunt, or luge skateboarding on public property meeting certain requirements. With this grant of qualified immunity, local communities have been more comfortable building public skateboarding parks. These skateboarding parks provide a dedicated location for individuals to skateboard without worry of trespassing on private property or vehicular hazards. They also are intended to entice "boarders" off local streets and

C.6

highways, and public sidewalks - where such activities can pose great risk to passers-by.

Under the current qualified immunity statute, all skateboard parks are mandated - in order to enjoy the immunity-to require the use of helmets, elbow pads, and knee pads. Thus the current scheme both provides dedicated locations for skateboarding and encourages the public agency to require use of proper safety equipment so as to avoid liability.

Some supporters of the measure note the dangers of skateboarding, while others emphasize the sport's safety. The City of Lake Forest proclaimed that "[c]learly, skateboarding is an activity that is hazardous regardless of age." Further elaborating on the danger posed, the California Association of Joint Powers Authorities (CAJPA) contends that "participants . . . are well aware of risks associated with skateboarding. Let's be realistic: we are talking about a small platform set on wheels, and 'ridden' at significant speeds on and around cement surfaces and obstacles."

The Judicial Council's reports to the Legislature, as required by Health and Safety Code Section 115800, demonstrate skateboarding's apparently relatively low injury rate in the parks. For example, the Council's March 13, 2002, report found that a total of 80 skateboarding injuries occurred at skateboarding parks in nine cities during the 2001 calendar year. This amounts to less than one injury per skateboard park per month. Furthermore, none of these injuries apparently resulted in a lawsuit against the city. In fact, there are no published California cases including suits against a city for injuries caused at a skateboarding park. In addition, reports submitted to the Judicial Council from public skate parks indicate that injuries, when they do occur, are often mild. Finally, the author references a report from a privately owned skate park operating for over 30 years (Kona Skate Park) which indicates

□

AB 874

Page 4

that elbow and knee pads do not prevent serious injury. In 2000, after the park removed the 23-year-old pad requirement, the injury rate actually fell by 27%.

In support of this apparent diminution in safety requirements at public skateboard parks, the CJAC writes in part that:

This bill simply removes the requirement that skateboarders must use elbow and knee pads. Removing this requirement will encourage more skateboarders to use safer city or county parks, without the dangers of collisions with cars or pedestrians.

California courts have followed a course consistent with this bill. Courts have agreed that skateboarding is a hazardous activity and have declined to find

e.7

liability when skateboarders are injured in the course of their sport. In fact, the risk associated with the sport is part of the attraction?

Analysis Prepared by : Drew Liebert and Seth Benkle / JUD. /  
(916) 319-2334

FN: 0000397

e.8

UNOFFICIAL BALLOT

MEASURE: AB 874  
AUTHOR: Saldana  
TOPIC: Recreational activities: skateboarding.  
DATE: 04/14/2009  
LOCATION: ASM. JUD.  
MOTION: Do pass as amended, to Consent Calendar.  
(AYES 10. NOES 0.) (PASS)

RECEIVED

2009 AUG -3 A 11: 32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES.

AYES  
\*\*\*\*

Feuer Tran BrownleyEvans  
Jones Knight Krekorian Lieu  
Monning Nielsen

NOES  
\*\*\*\*

ABSENT, ABSTAINING, OR NOT VOTING  
\*\*\*\*\*

f.1

UNOFFICIAL BALLOT

MEASURE: AB 874  
AUTHOR: Saldana  
TOPIC: Recreational activities: skateboarding.  
DATE: 05/04/2009  
LOCATION: ASM. FLOOR  
MOTION: AB 874 SALDANA Assembly Third Reading  
(AYES 76. NOES 0.) (PASS)

RECEIVED

2009 AUG -3 A 11: 32

CITY MANAGER/PERSONNEL  
CITY CLERK OFFICES

AYES  
\*\*\*\*

Adams Ammiano AndersonArambula  
Beall Bill Berryhill Tom Berryhill Blakeslee  
Block Blumenfield BrownleyBuchanan  
Caballero Charles CalderonCarter Conway  
Cook Coto Davis De La Torre  
De Leon DeVore Duvall Emmerson  
Eng Evans Feuer Fletcher  
Fong Fuentes FurutaniGaines  
CalgianiCarrick Gilmore Hagman  
Hall Harkey Hayashi Hernandez  
Hill Huber Huffman Jeffries  
Jones Knight Krekorian Lieu  
Logue Bonnie LowenthalMa Mendoza  
Miller Monning Nava Nestande  
Niello Nielsen V. Manuel Perez Portantino  
Price Ruskin Salas Saldana  
Silva Skinner Smyth Solorio  
Audra StricklandSwanson Torlakson Torrico  
Tran VillinesYamada Bass

NOES  
\*\*\*\*

ABSENT, ABSTAINING, OR NOT VOTING  
\*\*\*\*\*

Chesbro Fuller John A. Perce Torres

f.2