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TOUCH OF DEMOCRACY

A lap dancer's guide to beating City Hall

BY ROBERT GREENE

The Los Angeles City Council looked into the future this week and saw 16 months (at least) of lap dancing — and many years' worth of sleepless nights. The strip-club industry has discovered the referendum.

Now, without even a council vote or a lawsuit, the industry and its savvy lobbyist have blocked regulations that would have prevented club patrons from touching the dancers they're only supposed to watch. Every other industry on the receiving end of unwanted regulation is taking careful note. Los Angeles has long been home territory for direct legislation by voter initiative, but with the successful statewide drive to oust Governor Gray Davis, the initiative's Progressive-era siblings - the recall and the referendum - may be entering their golden age.

Here's what happened: Councilwoman Cindy Miscikowski led a drive earlier this year to rein in the so-called gentlemen's clubs that have sprung up like mushrooms around Los Angeles over the last five years. One reason the clubs have found a home here, Miscikowski argued, was that they have been booted out of nearby cities that grew tired of the noise, the drunken patrons, the public sex, and just the general ickiness that opponents said the clubs bring with them.

Miscikowski's Westside constituents have complained that the quality of life in their neighborhoods is being destroyed by clubs that allow men to take dancers into private rooms to enjoy personal performances until their need for entertainment is, well, satisfied. In other words, the complaint goes, the corner topless bar has become a brothel.

Miscikowski's motion was controversial, to say the least. The city, for all its topless bars, has had a troubled and often costly relationship with the First Amendment. In one lawsuit after

another, Los Angeles has had to drop or re-craft laws intended to regulate aggressive panhandling or airport soliciting, and doing that sort of thing doesn't come cheap. Many in City Hall worried aloud that regulating what dancers and their customers could and couldn't do in the clubs amounted to a restriction on expression. But the city attorney was consulted, and he told the council the ordinance was good. If the city were taken to court, it would win. The council passed the ordinance on September 16.

The adult industry's superstar attorney, Roger Jon Diamond, was going to sue, as he has done many times. But lawsuits can take years, and in the meantime the restrictive ordinance would be on the books. The industry had a better idea: a referendum petition. Lobbyist Steve Afriat was just the man to handle it.

Under the City Charter, an ordinance can be blocked within 30 days after it is passed if opponents collect signatures from a number of eligible voters equal to 10 percent of the people who voted for mayor in the last election. Confusing, perhaps, but in this case, it comes out to 56,941 signatures. Afriat turned in 106,013.

That means the law is automatically suspended. The council now has four choices: schedule an election to put the question to the voters, at a cost of about \$5 million; wait until the March ballot, when the county will be running the presidential primary, and pay a mere \$3 million; wait until 2005, when the city is running its next regularly scheduled election, and pay nothing; or throw in the towel and rescind the law.

Don't bet on either of the first two choices. The city is facing a sharp fiscal crisis and has no extra money to throw around on special elections. A number of council members said

as much last week when grappling with whether to ask voters to pay an extra tax for more police. The council technically has enough time to get the item on the March ballot, but it isn't going to happen. The only question is whether the ordinance will disappear until 2005, or be re-drafted by the council - with Afriat's guidance - into something that the adult entertainment industry says it can live with.

"The industry is not unwilling to be regulated," Afriat said. "But we should regulate those impacts on people outside the clubs, not the private activities of consenting adults."

In other words, any ordinance that would take effect before March 2005 or not cost the city at least \$3 million will be drafted, in part, by the industry that is to be regulated. That is the power of the referendum in Los Angeles.

Referenda have been at the disposal of voters here for a century, but they have rarely been used. The first hint of things to come may have been the 1999 petition drive by lobbyists representing the House of Blues, which wasn't happy with the city's decision to award a contract for operating the Greek Theater to the Nederlander group. So, with Afriat's help, the House of Blues paid signature gatherers to fan out in front of grocery stores with petitions to make the contract the subject of a ballot measure. They filed more than enough names, and Nederlander suddenly became interested in discussing joint operation of the Greek.

And that's the whole point of the referendum - not to actually put the question to voters, but to bully the city into reconsidering its actions.

Is this a bad thing? Not necessarily. Supporters of the House of Blues, for example, could argue with good reason that it was the city that was doing the bullying, awarding the contract to the Nederlanders because the family was closely tied to a number of elected officials and had developed a cozy relationship that was not necessarily in the city's best interest.

In the case of the strip clubs, a First Amendment advocate could argue honestly that the city was spending precious time and resources telling adults what they could and couldn't do behind closed doors when there were more pressing problems to deal with, like violent crime.

Christi Walden, the energetic Westside resident who helped push the council to pass the lap-dance ban, was nearly at a loss for words last week as she wrestled with whether to ask the council to compromise on the law or wait until 2005.

"Here we thought we had a huge victory with a unanimous council vote," she said. "Then the industry comes along and spends \$400,000 for a ballot measure. What can you do?"