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**OFFICE OF THE  
CITY CLERK**

VALERIE A. BURROWES, CMC/AAE  
CITY CLERK

VIRGINIA K. HENRY, CMC/AAE  
ASSISTANT CITY CLERK

February 11, 1998

Mayor and City Councilmembers  
Sacramento, California

Honorable Members In Session:

**SUBJECT:** CALLING AND GIVING NOTICE OF THE SUBMISSION TO THE VOTERS  
OF QUESTIONS RELATING TO A PROPOSED AMENDMENT TO THE CITY  
CHARTER AND AN ORDINANCE TO BE INCLUDED WITH THE  
CONSOLIDATED PRIMARY MUNICIPAL ELECTION OF JUNE 2, 1998

**LOCATION AND COUNCIL DISTRICT:**

City wide.

**RECOMMENDATION:**

Adopt the attached Resolution calling two measures to the June 2,  
1998 ballot.

**CONTACT PERSON:**

Stephanie Armstrong, 264-7200  
Valerie Burrowes, 264-5799

**FOR COUNCIL MEETING OF:**

February 17, 1998

**SUMMARY**

This is the calling for and giving notice of the submission of two  
questions to the voters with such questions to be included in the  
consolidated Primary Municipal Election ballot of June 2, 1998.

**BACKGROUND INFORMATION**

On February 10, 1998, the City Council approved the placement of a  
charter amendment and an ordinance on the June 2, 1998 Primary  
Municipal Election ballot.

**CITY OF SACRAMENTO  
CALIFORNIA**

**APPROVED  
BY THE CITY COUNCIL**

**FEB 17 1998**

**OFFICE OF THE  
CITY CLERK**

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City Council  
Re: Calling and Noticing Questions to Ballot  
February 11, 1998  
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- ▶ Both matters have been heard by the Law and Legislation Committee.
- ▶ The charter amendment will allow for binding arbitration between the recognized city firefighters organization and city administration if contract negotiations reach impasse.
- ▶ The ordinance will replace the utility in-lieu franchise and property tax fees with a general tax in compliance with Proposition 218.

FINANCIAL CONSIDERATIONS

The County has estimated the City's cost of placing these questions on the ballot to be approximately \$60,000.

ENVIRONMENTAL CONSIDERATIONS

None.

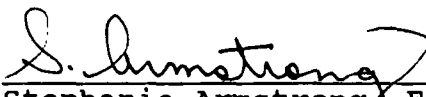
POLICY CONSIDERATIONS

The staff recommendation is consistent with California Elections Code.

WBE/MBE

No impact.

Respectfully Submitted,

  
Stephanie Armstrong, Elections Clerk

  
Valerie A. Burrowes, City Clerk

SA98016

APPROVED  
BY THE CITY COUNCIL

FEB 17 1998

OFFICE OF THE  
CITY CLERK

**RESOLUTION NO. 98-049**

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF \_\_\_\_\_

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SACRAMENTO, CALIFORNIA, CALLING AND GIVING NOTICE OF THE SUBMISSION TO THE VOTERS OF A CHARTER AMENDMENT AND AN ORDINANCE AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO CHARTER CITIES**

WHEREAS, under the provisions of the laws relating to Charter Cities in the State of California, a Primary Municipal Election was called by Resolution 98-004 and will be held on June 2, 1998, and

WHEREAS, pursuant to authority provided by Article XI of the Constitution, Title 4, Division 2, Chapter 3 of the Government Code and Division 9, Chapter 3, Article 3 (commencing at § 9255) of the Elections Code of the State of California, the City Council of the City of Sacramento desires to submit to the voters a proposed charter amendment; and

WHEREAS, the City Council of the City of Sacramento pursuant to its right and authority desires to submit to the voters a proposed ordinance; and

WHEREAS, the City Council is authorized and directed by statute to submit the proposed charter amendment and ordinance to the voters;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SACRAMENTO, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1: That the City Council, pursuant to its right and authority, does order submitted to the voters at the Primary Municipal Election of June 2, 1998 the following questions pertaining to a proposed charter amendment and ordinance:

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_ 3

"Shall the City Charter of the City of Sacramento be amended to provide mandatory binding arbitration if contract negotiations between the recognized city firefighters organization and the City administration reach an impasse?"	YES
	NO

"In order to comply with Proposition 218, the Right to Vote on Taxes Act, shall the City of Sacramento replace its current in-lieu franchise and property tax fees on water, sewer, drainage and garbage with a general tax which will not result in any changes to existing city utility rates?"	YES
	NO

Section 2: That the proposed charter amendment to be submitted to the voters is attached as Exhibit A, and the proposed ordinance to be submitted to the voters is attached as Exhibit B.

Section 3: That the notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

Section 4: That the polls for the election shall be open at 7:00 o'clock a.m. of the day of the election and shall remain open continuously from that time until 8:00 o'clock p.m. of the same day when the polls shall be closed, except as provided in Section 14301 of the Elections Code of the State of California.

Section 5: That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

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FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_ 4

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Section 6: That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

\_\_\_\_\_  
MAYOR

ATTEST:

\_\_\_\_\_  
CITY CLERK

\_\_\_\_\_  
FOR CITY CLERK USE ONLY

RESOLUTION NO.: \_\_\_\_\_

DATE ADOPTED: \_\_\_\_\_

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**ARTICLE XIX  
IMPARTIAL AND BINDING ARBITRATION  
FOR FIRE DEPARTMENT EMPLOYEE DISPUTES**

**Section 600 Declaration of Policy.** It is hereby declared to be the policy of the City of Sacramento that strikes by fire fighters are not in the public interest and should be prohibited, and that a method should be adopted for peacefully and equitably resolving disputes that might otherwise lead to such strikes.

**Section 601 Prohibition Against Strikes.** If any fire fighter employed by the City of Sacramento wilfully engages in a strike against the City, said employee shall be dismissed from his or her employment and may not be reinstated or returned to City employment except as a new employee. No officer, board, council or commission shall have the power to grant amnesty to any employee charged with engaging in a strike against the City.

**Section 602 Obligation to Negotiate in Good Faith.** The City, through its duly authorized representatives, shall negotiate in good faith with a recognized employee organization, which primarily represent fire fighters, on all matters relating to the wages, hours, and other terms and conditions of City employment, including the establishment of procedures for the resolution of grievances concerning the interpretation or application of a negotiated agreement. Unless and until an agreement is reached through negotiations between authorized representatives of the City and a recognized employee organization, which primarily represents fire fighters, for the non-management and non-confidential members of the fire department or a determination is made through the impartial arbitration procedure hereinafter provided, no existing benefit, term or condition of employment for said non-management or non-confidential fire

department employees shall be altered, eliminated or changed.

**Section 603 Impasse Resolution Procedures.**

a) All disputes or controversies pertaining to wages, hours or terms and conditions of employment for non-management and non-confidential employees which remain unresolved after good faith negotiations between the City and a recognized fire department employee organization, which primarily represents fire fighters, shall be submitted to a three-member Board of Arbitrators upon the declaration of an impasse by the City or by the recognized employee organization involved in the dispute.

b) Representatives designated by the City and representatives of the recognized employee organization involved in the dispute shall each select and appoint one arbitrator to the Board of Arbitrators within three (3) days after either party has notified the other, in writing, that it desires to proceed to arbitration. The third member of the Arbitration Board shall be selected by agreement between the City and the employee organization, and shall serve as the neutral arbitrator and Chairperson of the Board. In the event that the City and the recognized employee organization involved in the dispute cannot agree upon the selection of the neutral arbitrator within ten (10) days from the date that either party has notified the other that it has declared an impasse, either party may then request the State Mediation and Conciliation Service of the State of California Department of Industrial Relations to provide a list of seven (7) persons who are qualified and experienced as labor arbitrators. If the City and the employee organization cannot agree within three (3) days after receipt of such list on one of seven (7) persons to act as the neutral arbitrator, they shall alternately strike names from the list of nominees until one name remains and that person shall then become the neutral arbitrator and Chairperson of the Arbitration Board.

c) Any arbitration proceeding convened pursuant to this Article shall be conducted in conformance with, subject to, and governed by Title 9 of Part 3 of the California Code of Civil Procedure. The Arbitration Board shall hold public hearings, receive evidence from the parties and cause a transcript of the proceedings to be prepared. The Arbitration Board, in the exercise of its discretion, may meet privately with the parties and mediate or mede-arb issues in dispute. The Arbitration Board may also adopt such other procedures that are designed to encourage an agreement between the parties, expedite the arbitration hearing process, or reduce the costs of the arbitration process.

d) In the event no agreement is reached prior to the conclusion of the arbitration hearings, the Arbitration Board shall direct each of the parties to submit, within such time limit as the Arbitration Board may establish, a last offer of settlement on each of the remaining issues in dispute. The Arbitration Board shall decide each issue by majority vote by selecting whichever last offer of settlement on that issue it finds most nearly conforms to those factors traditionally taken into consideration in the determination of wages, hours, benefits and terms and conditions of public and private employment, including, but not limited to the following: changes in the average consumer price index for goods and services; the wages, hours, benefits and terms and conditions of employment of employees performing similar services to the extent that such can be reasonably done, including comparable classifications in public employment in the Sacramento metropolitan area, and in the three California cities next larger and the three California cities next smaller in population than Sacramento; and the financial condition of the City of Sacramento and its ability to meet the costs of the decision of the Arbitration Board.



e) After reaching a decision, the Arbitration Board shall mail or otherwise deliver a true copy of its decision to the parties. The decision of the Arbitration Board shall not be publicly disclosed and shall not be binding until ten (10) days after it is delivered to the parties. During that ten (10) day period the parties shall meet privately, attempt to resolve their differences, and by mutual agreement amend or modify the decision of the Arbitration Board. At the conclusion of the ten (10) day period, which may be extended by mutual agreement between the parties, the decision of the Arbitration Board, as it may be modified or amended by the parties, shall be publicly disclosed and shall be binding on the parties. The City and the employee organization shall take whatever action is necessary to carry out and effectuate the arbitration award. No other actions by the City Council or by the electorate to confirm or approve the decision of the Arbitration Board shall be permitted or required.

f) The expenses of any arbitration proceeding convened pursuant to this Article, including the fee for the services of the chairperson of the Arbitration Board and the costs of preparation of the transcript of the proceedings shall be borne equally by the parties. All other expenses which the parties may incur individually are to be borne by the party incurring such expenses.

## PROPOSITION 218 COMPLIANCE MEASURE

### The Situation:

Since June 1989, the City has imposed in-lieu franchise and in-lieu property tax fees on the utility enterprise funds which provide water, sewer, storm drain and garbage services (except for garbage which was approved in June, 1995). In-lieu property tax fees represent the property tax revenue which would be received by the General Fund if the real and personal property owned by these enterprises were privately owned. The in-lieu franchise fee represents the franchise fees which would be received by the General Fund from private entities as 'rental' or 'toll' for the use of city streets and rights of ways in order to provide their service.

Private businesses generally provide support to the City through property taxes, business licensing, sales tax, etc. The in-lieu fees imposed on the city utilities were structured to reflect the reasonable cost of doing business for those enterprise activities similar to a private business. The money from these fees is placed in the discretionary General Fund which then provides funding for services such as police, fire, parks, street maintenance, recreation and other city functions.

### The Proposal:

There are differing opinions as to whether these in-lieu fees comply with State Proposition 218 which was passed by the voters in November, 1996. In order to eliminate any doubt, the City is proposing to eliminate the in-lieu franchise and in-lieu property tax fees currently paid by city-operated utilities and replace the fees with a general tax on these enterprises. The measure would result in:

- ✓ no changes in current city taxes or fees,
- ✓ no change in existing city utility rates,
- ✓ would continue to limit future rate increases to the actual cost to provide the services.

### The Ordinance:

The measure, if approved, would add the following chapter to the Sacramento City Code:

### BE IT ENACTED BY THE PEOPLE OF THE CITY OF SACRAMENTO:

#### SECTION 1.

(a) Increases to water, sewer, storm drainage, and solid waste rates shall not cause rates to exceed the costs incurred by the City to provide the services. Said costs shall include the tax imposed by Section 2.

(b) The tax imposed by Section 2 of this ordinance shall replace equivalent transfers to the General Fund by the City of Sacramento's water, sewer, storm drainage, and solid waste enterprises in the nature of in-lieu franchise fees and in-lieu property taxes. Therefore, as of the effective date of the tax imposed by Section 2, in-lieu franchise fees and in-lieu property taxes shall no longer be transferred to the General Fund.

**SECTION 2.**

Chapter 41.10 (Section 41.10.150) is hereby added to the Sacramento City Code to read as follows:

**41.10 General Tax on City-Operated Water, Sewer,  
Storm Drainage and Solid Waste Enterprises**

41.10.150 General tax on City-operated water, sewer, storm drainage  
and solid waste enterprises.

There is hereby imposed upon the enterprises operated by the City of Sacramento which provide water, sewer, storm drainage, and solid waste services, a general tax which shall be paid to the City General Fund. The tax imposed by this section shall be at the rate of eleven percent (11%) of the gross revenues received by the City-operated enterprises from user fees and charges. In levying the tax, the City Council may impose a tax rate higher or lower than 11% on one or more of the enterprises, so long as the total tax paid by all of the enterprises does not exceed 11% of the total gross revenues from user fees and charges of all of the enterprises combined.