

APPROVED
BY THE CITY COUNCIL

FEB 10 1998



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OFFICE OF THE
CITY CLERK
OFFICE OF THE
CITY MANAGER

CITY OF SACRAMENTO
CALIFORNIA

CITY HALL
ROOM 101
915 I STREET
SACRAMENTO, CA
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February 4, 1998

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City Council
Sacramento, CA

Honorable Members in Session:

**SUBJECT: PROPOSED BALLOT MEASURE FOR THE JUNE 1998 ELECTION:
Proposition 218 Compliance Measure (Replacement of Utility In-Lieu Franchise and Property
Tax Fees with a General Tax)**

LOCATION: CITYWIDE

RECOMMENDATION:

It is recommended that the City Council approve placing the attached measure on the June, 1998 ballot.

CONTACT PERSON: Betty Masuoka, Deputy City Manager (264-5704)

FOR THE COUNCIL MEETING OF: February 10, 1998

SUMMARY:

In order to eliminate any question as to whether or not the City is in compliance with Proposition 218 passed by the voters in November of 1996, the proposed measure would eliminate the In-Lieu Franchise and Property Fees currently paid by City-operated utilities providing water, sewer, storm drainage, and solid waste services and replace the fees with a general tax on these enterprises. *The measure would result in no change in existing city utility rates. The measure would also continue the current freeze on city utility rates for one year following voter approval and continue to limit future rate increases to the actual cost to provide the services.*

BACKGROUND

- On January 27, 1998 City Council heard a report on the proposed measure and directed staff to report back with a recommendation to place the attached measure on the June, 1998 ballot.
- **Implementing the Five-Year Workout Plan.** The proposed ballot measure implements the five-year budget strategy approved by City Council during the FY 97-98 budget hearings. The strategy called for converting *existing contributions* from utility funds (water, sewer, storm drainage, and solid waste) to a tax.
- **Reaffirming the City's Commitment to the Voters' Will.** This measure is designed as an accountability measure to the voters who passed Proposition 218. The measure complies fully with the proposition's mandate.
- **Measure Proposes NO Changes in Ratepayers' Current Fees or Services.** City ratepayers will see no changes in the bottom line on their city utility bills as a result of this measure. The existing utility fee structure will not change should this measure pass.
- **Measure Will NOT Result in Negative Changes to Service.** This measure will not result in any decrease in the quality or quantity of utility service currently received by ratepayers.
- **Measure Freezes Rates and Holds the Line on Any Future Increases.** The proposed measure continues the freeze on city water, sewer, storm drainage, and solid waste rates for one year following approval by the voters. It also mandates that subsequent increases to water, sewer, storm drainage, and solid waste rates shall not cause rates to exceed the cost incurred by the City to provide the services.
- **Preserving Important Services.** Implementing the strategy would bring more stability and certainty to the City's General Fund and the City's ability to provide important services. Note that approximately 70 percent of the discretionary General Fund is spent on Police and Fire services. The remaining 30 percent supports additional government services, including Parks, Recreation, and Code Enforcement, among others.
- **Proposed Ordinance.** Voter approval of the proposed ordinance would enact the tax.

FINANCIAL CONSIDERATIONS:

The proposed measure would impose a general tax at a rate of 11% of gross revenues from fees and charges on city utility operations which would result in an amount equivalent to the in-lieu franchise fees and in-lieu property taxes currently paid by the utilities to the City. The result would be revenue neutral to the City.

If successful, the proposed measure would result in no change in existing fees structure of utility bills, no change in delivery of city services and a status quo on the city budget. If the measure fails, a \$10 million budget gap will have to be addressed.

The following table shows the amount of revenues that are to be transferred from the utility enterprise funds to the General Fund for In-Lieu Franchise and Property Tax Fees in the current year budget:

Enterprise Funds	In-Lieu Property Tax Fee	In-Lieu Franchise Fee	Total
Water	\$ 460,000	\$ 3,038,100	\$ 3,498,100
Sewer	259,000	1,085,200	1,344,200
Storm Drainage	148,000	2,688,500	2,836,500
Solid Waste	45,000	2,752,100	2,797,100
subtotal:			
Utility Funds	\$ 912,000	\$ 9,563,900	\$10,475,900

ENVIRONMENTAL CONSIDERATIONS:

This activity does not constitute a 'project' and is therefore exempt from CEQA.

POLICY CONSIDERATIONS:

Stabilization of Revenues. The proposed measure is an integral part of the Five-Year Workout Plan approved by the City Council in June, 1997.

Elimination of Uncertainty. During the hearings on this year's budget, there was discussion as to whether or not the In-Lieu Franchise and Property Taxes Fees imposed by the City are consistent with Proposition 218. We believe that these in-lieu taxes are a legitimate cost of doing business, however, we acknowledge that the proponents of Proposition 218, along with some others, believe that in-lieu fees are in violation of the proposition. In order to eliminate any question of the City's compliance with the will of the voters, staff is recommending that the City eliminate such uncertainty by bringing the proposed measure to the voters for approval.

Impact if the Measure Fails. If the voters do not approve the swap proposed in the measure, staff will prepare a FY 98-99 budget which excludes in-lieu contributions from the utility funds

to the General Fund. This will result in the need to cut \$10.3 million from the General Fund supported budgets, the largest of which are Police and Fire. There is currently a large enough fund balance in the General Fund, so the decisions on where to cut can be addressed during the course of FY 98-99, thereby delaying the full impact of the cuts until FY 99-00.

MBE/WBE:

No goods or services are being purchased under this report.

Respectfully submitted,



Betty Masuoka
Deputy City Manager

Approved:



 WILLIAM H. EDGAR
City Manager

APPROVED
BY THE CITY COUNCIL

FEB 10 1998

OFFICE OF THE
CITY CLERK

AMENDED

RESOLUTION NO. 98-046

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SACRAMENTO, CALIFORNIA, ORDERING THE
SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN
MEASURE RELATING TO REPLACING THE IN-LIEU FRANCHISE AND
PROPERTY FEES ON CITY UTILITIES WITH A GENERAL TAX AT THE
GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 2, 1998
AS CALLED BY RESOLUTION NO. 98-004

WHEREAS, a General Municipal Election on Tuesday, June 2, 1998 has been called by
Resolution No. 98-004 adopted on January 6, 1998, and

WHEREAS, the City Council desires to submit to the voters at the election a question relating to
replacing the in-lieu franchise and property fees on city utilities with a general tax on those
enterprises.

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 General Municipal Election the following question:

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 measure submitted to the voters is attached as Exhibit A.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

Section 3. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

ATTEST:

CITY CLERK

MAYOR

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

Exhibit A

COMPLETE TEXT OF MEASURE _____

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, and
- ✓ 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.

Exhibit A

COMPLETE TEXT OF MEASURE _____

PROPOSITION 218 COMPLIANCE MEASURE

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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 extend the current freeze on city utility rate levels for one year following voter approval, and~~
- ✓ 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) Rates for water, sewer, storm drainage, and solid waste services shall not be increased by the City of Sacramento between the date on which this ordinance is submitted by the City Council to the voters and the date on which it takes effect, if approved. In addition, if this ordinance is approved by the voters on June 2, 1998, there shall be no net rate increases in water, sewer, storm drainage and solid waste user fees for the 1998-1999 fiscal year.~~

~~(b) (a) Subsequent~~ 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.

~~(c) (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:

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Betty:

How about the following:

"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, ~~and~~ sewer, drainage and garbage with a general tax, ~~when that replacement will not result in any tax or fee increase?~~"

Jon Coupal

which will not result in any changes to existing city utility rates?

RESOLUTION NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF SACRAMENTO, CALIFORNIA, ORDERING THE
SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN
MEASURE RELATING TO REPLACING THE IN-LIEU FRANCHISE AND
PROPERTY FEES ON CITY UTILITIES WITH A GENERAL TAX AT THE
GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JUNE 2, 1998
AS CALLED BY RESOLUTION NO. 98-004

WHEREAS, a General Municipal Election on Tuesday, June 2, 1998 has been called by Resolution No. 98-004 adopted on January 6, 1998, and

WHEREAS, the City Council desires to submit to the voters at the election a question relating to replacing the in-lieu franchise and property fees on city utilities with a general tax on those enterprises.

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 General Municipal Election the following question:

Shall the City of Sacramento, to comply with the 1996 voter-approved state Proposition 218, replace the City's in-lieu franchise and property tax fees on water, sewer, drainage and garbage with a general tax to include freezing current utility rates for one year and limiting future increases in these rates to the actual cost of providing the services?	YES
	NO

Section 2. That the proposed measure submitted to the voters is attached as Exhibit A.

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____

DATE ADOPTED: _____

Section 3. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

ATTEST:

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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.

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- ✓ no changes in current city taxes or fees,*
- ✓ no change in existing city utility rates,*
- ✓ would extend the current freeze on city utility rate levels for one year following voter approval, and*
- ✓ 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:

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(b) Subsequent 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.

(c) 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.

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Shall the City of Sacramento, to comply with the 1996 voter-approved state Proposition 218, replace the City's in-lieu franchise and property tax fees on water, sewer, drainage and garbage with a general tax to include freezing current rates for one year and limiting future increases in these rates to the actual cost of providing the services?	YES
	NO

Section 2. That the proposed measure submitted to the voters is attached as Exhibit A.

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DATE ADOPTED: _____

Section 3. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

ATTEST:

CITY CLERK

MAYOR

FOR CITY CLERK USE ONLY

RESOLUTION NO.: _____ 6

DATE ADOPTED: _____