



Legislation Text

File #: 08-0715, **Version:** 1

Recommendation to conduct hearing on proposed levy of utility users tax, receive supporting documentation into the record, conclude the hearing; adopt finding of emergency; and adopt resolution calling an election for November 4, 2008, for the purpose of the continuation of such levy. (Citywide)

Under Long Beach Municipal Code (LBMC) 3.68.050, a Utility Users Tax (UUT) of 5 percent is charged to any person in the City of Long Beach that uses telephone services. Since the original passage of the UUT in 1985, the telecommunications industry has undergone significant technological changes with the advent of cell phones, satellite communications and other communication media. As competition increased, the industry engaged in efforts to reduce costs to the customer through bundled calling plans and simpler billing methodologies. Although the City revamped its UUT ordinance for telephone services in 2006 to eliminate a reference to the Federal Excise Tax, efforts on the federal and state level to manage the way in which fees and taxes are applied to telephone services have continued to evolve.

In 2006, the federal government issued the May 2006 Internal Revenue Service (IRS) Notice, which reduced the base of the Federal Excise Tax. On the basis of the May 2006 IRS Notice, telecommunication industry providers challenged the methodology some California cities have used to assess their UUT. Though the City corrected some of these issues in 2006, certain discrepancies still remain in the City's existing Municipal Code, thus requiring the City to update and amend its UUT. Should the City fail to modernize its UUT ordinance, the total amount of General Fund revenue derived from this source, \$15 million annually, could be jeopardized. The telephone UUT is the fifth largest General Fund revenue source, representing approximately 4 percent of the General Fund ongoing resources. In service delivery terms, the telephone UUT is greater than the entire Library Services budget or equal to all of the elected officials' (Mayor, City Council, City Attorney, City Auditor and City Prosecutor) budgets combined.

To proactively address this issue, the City Attorney has prepared a resolution calling for an election to be held on November 4, 2008 for the purpose of submitting to the Long Beach voters an ordinance that modernizes the City's LBMC Chapter 3.68. The new ordinance provides for:

- A continuation of the existing UUT rate of 5 percent;
- Continued exemptions for low income seniors and disabled residents, as well as other currently exempted entities; and,
- The incorporation of new and evolving technologies to ensure the users of older technologies are not unfairly burdened by the UUT.

Over the past two years, 22 California cities have placed UUT measures on the ballot to modernize their ordinances with a 95 percent passage rate.

This letter was reviewed by Assistant City Attorney Heather Mahood on July 7, 2008 and Budget and Performance Management Bureau Manager David Wodynski on July 3, 2008.

There are bills before Congress proposing a three-year moratorium on new wireless taxes, which could prevent the City from adopting a modern UUT ordinance. Therefore, it is urgent that the City Council act in a timely manner to adopt the resolution, so the UUT modernization ordinance can be enacted before pending legislation precludes this opportunity.

The residents of Long Beach have paid a UUT on telephone service for many years. The action before the City Council will not change the current tax rate of 5 percent. The revenue generated by the UUT is currently used to fund essential service including 911 emergency response, police and fire, parks and recreation, libraries, sidewalk repair, and other core service. Low-income senior and disabled residents will still be exempted from paying the UUT. The cost to place this measure on the November 4, 2008 ballot is \$415,000, as it is the first measure the City would place in the County's ballot. The proposed FY 09 City Clerk election budget can support this cost.

The City currently receives approximately \$15 million a year related to the telephone UUT. To help ensure the integrity of this vital General Fund revenue source and the essential City service it funds, the City's existing ordinance must be revised. Given pending litigation as well as a potential federal moratorium on UUT changes impacting wireless service, the time the City may act to modernize its UUT is very limited. Therefore, pursuant to Section 2(b) of California Constitution Article XIIC, it is recommended that the City Council hereby unanimously declare the existence of an emergency in that there are imminent financial risks and dangers to the public welfare and the City's financial ability to provide essential municipal services without disruption, such that a special election is necessary to address such risks and dangers before the next regularly scheduled municipal election for members of the City Council on April 13, 2010.

Approve recommendation.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LONG BEACH CALLING AN ELECTION TO BE HELD NOVEMBER 4, 2008 FOR THE PURPOSE OF SUBMITTING TO THE VOTERS OF THE CITY OF LONG BEACH AN ORDINANCE AMENDING CHAPTER 3.68 OF THE LONG BEACH MUNICIPAL CODE, REGARDING THE UTILITY USERS TAX

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APPROVED:

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