

# Agenda Report

**TO:** CITY COUNCIL

**DATE:** June 6, 2005

**THROUGH:** LEGISLATIVE POLICY COMMITTEE

**FROM:** CITY MANAGER

**SUBJECT:** SUPPORT ASSEMBLY CONSTITUTIONAL AMENDMENT 13 (HARMAN)  
- LOCAL GOVERNMENT: ASSESSMENTS AND FEES OR CHARGES –  
EXEMPTING FLOOD CONTROL, STORMWATER DRAINAGE AND  
SURFACE WATER DRAINAGE ASSESSMENTS AND FEES OR  
CHARGES FROM THE CONSTITUTIONAL REQUIRED 2/3 VOTER OR  
MAJORITY PROPERTY OWNER APPROVAL

## **RECOMMENDATION**

It is recommended that the City Council:

1. Support ACA 13 (Harman), Local Government: Assessments and Fees or Charges as amended, and
2. Authorize the Mayor to send correspondence to the appropriate authorities stating Pasadena's position.

## **BILL SUMMARY**

Assembly Constitutional Amendment (ACA) 13 would enact a Constitutional amendment to exempt flood control, stormwater drainage, and surface water drainage assessments and fees or charges, for the purpose of financing capital costs or maintenance and operation expenses of flood control, from the approval requirement of a majority of property owners or a 2/3 vote of the electorate. Increases in these charges could be enacted through the approval of the City Council.

## **BACKGROUND**

In 1996, California voters approved Proposition 218 which amended the California Constitution to require property owner approval by a majority of property owners or a 2/3 vote of the electorate for imposition or increase of assessments and property-related fees or charges by cities, counties or special districts. Assessments and fees for water, sewer and refuse collection were specifically exempted from these requirements as

were flood control assessments in existence prior to November 6, 1996. In order to increase assessments and property-related fees, agencies are required to identify and send written notices of these assessments and fees or charges, with ballots, to the owners of all affected parcels. A public hearing must then be held at least 45 days after the mailing. Additionally, an opportunity for majority protest must be provided. If a majority of parcel owners protest the fees or assessments through submitted ballots, the assessments and property-related fees do not become effective.

Revenue from Pasadena's storm drain assessment is not adequate to meet the needs of operating, maintaining and replacing aging drains and facilities. Furthermore, compliance with the National Pollutant Discharge Elimination System (NPDES) requirements places a further strain on the revenue sources.

The Municipal NPDES Permit requires cities to implement programs to reduce/eliminate the amount of various pollutants that enter the storm drain system. Cities are required to implement these programs but funding has not been made available for these new requirements, thus creating an unfunded mandate. Cities are incurring substantial costs in order to comply with the NPDES requirements; however, the City's ability to fund these programs is severely hampered by the provisions of Proposition 218. Exemption of Pasadena's storm drain assessment from Proposition 218 requirements would allow the City to increase assessments to recover capital costs and maintenance and operation costs of flood control which have increased dramatically over the last few years.

Upcoming NPDES regulations increase the ramifications of the zero-tolerance policy for materials deliberately and/or inadvertently entering storm drains, and requires that the City take steps necessary to reduce and/or eliminate pollution in storm water runoff. Based on existing requirements, the City has spent approximately \$1.5 to \$2 million to ensure compliance over the last ten years or approximately \$200,000 per year. It is estimated that, based on new requirements, the annual amount required to ensure compliance would be approximately \$1 million per year.

This bill was last amended on April 21, 2005 and was scheduled to be heard by the Committee on Local Government on May 4, 2005 but the hearing was canceled at the request of the author. The League of California Cities took a support position on February 22, 2005, and the California State Association of Counties (CSAC) has also taken a support position. If passed, the constitutional amendment would appear on the next Statewide general election ballot in June 2006.

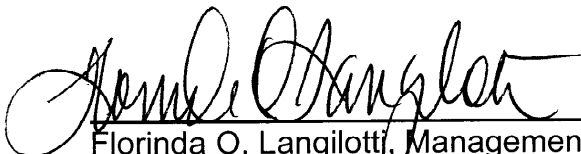
**FISCAL IMPACT**

Existing law severely limits the City's ability to increase the storm drain assessment for necessary programs. If approved, ACA 13 would greatly increase the City's ability to impose flood control, stormwater drainage and surface water drainage assessments and fees or charges to ensure adequate funding for required programs.

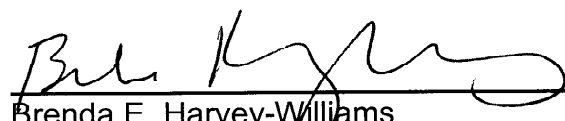
Respectfully submitted,

  
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