

Agenda Report

TO: CITY COUNCIL **DATE:** July 27, 1998
Attn: Legislative Committee
FROM: Acting City Manager
SUBJECT: OPPOSITION OF ASSEMBLY BILL 2065: CITIES: LICENSE FEES

RECOMMENDATION

It is recommended that the City Council adopt the attached resolution and authorize the Mayor to send a letter to the appropriate officials *opposing* Assembly bill 2065: Cities: License Fees.

BACKGROUND

The California Constitution allows cities and counties to make and enforce ordinances and regulations that are not in conflict with general laws. To this end, cities and counties levy business license taxes and fees for both revenue raising and regulatory purposes. Local business license taxes usually tax companies' gross proceeds, and are usually flat fees that offset local officials' regulatory activities. AB 2065 would prohibit the legislative body of a city or city and county, including a charter city, from imposing work permit requirements, requiring or imposing a regulatory license or registration requirement, or imposing a regulatory license fee or business tax on any person working in his or her own home.

As America begins to shift towards a service economy and takes advantage of emerging technologies, more people are choosing to work out of their homes. Professionals have home offices for their consulting and legal practices. Writers, musicians, actors and others in the entertainment industry are using their homes for their workshop. Some cities have local ordinances that require home occupations to obtain business licenses and pay the associated license fees and taxes. The City of Pasadena levies a business license tax for residents who chose to work from their homes.

With the passage of Proposition 13 over 20 years, local government lost their authority to allocate property tax revenues to the state. Since then, the state has continued to approve legislation which again takes decision making authority away from local government. Cities have been resourceful in selecting user fees and service charges that provide revenue for providing and maintaining basic city services. Yet when legislation such as AB 2065 are proposed, local government is again left with the task of providing services with no ability to generate adequate funding. Cities must take a stand against movements which leave cities defenseless to fund basic services such as police, fire, recreation, and park maintenance. With the continuing loss of property tax dollars, now is not the time to further reduce local government coffers.

Bill Status:

As of July 6, 1998, Assembly Bill 2065 was amended so that not all home-based businesses are exempt from paying business license taxes or other associated fees. Assembly Bill 2065 prohibits the legislative body of a city or city and county, including a charter city, from imposing work permit requirements, requiring or imposing a regulatory license or registration requirement, or imposing a regulatory license fee or business tax on any writer, musician, director, or creative artist under specified conditions, relating to working at his or her home. The prohibition would not apply in cases where the individual has: 1) more than one employee in the home, 2) more than two business-related deliveries at home per day, 3) has more than two client visit at home per day, or 4) advertises to the public at large (excluding business cards, letterhead, website or e-mail address).

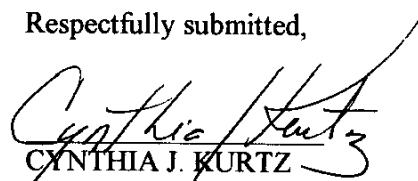
Additionally, a new issue has been raised now that the bill has been narrowed to a select group of business activities (writers, musicians, and creative artist). It is a Tax Committee issue on tax equity. It raises the issue of whether certain classes of work should be subject to tax while others are not and the distinctions between a home-based activity and the exact same activity conducted in an office or other business location.

On May 21, 1998, Assembly Bill 2065 was passed out of the Assembly and sent to the Senate. Currently, Assembly Bill 2065 has been read twice in the Senate Committee on Local Government, has gone from committee with author's amendments and is awaiting its hearing on 7/15/98 in the Senate Revenue and Taxation Committee.

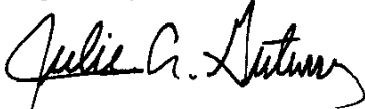
FISCAL IMPACT

Currently, only two licensed individuals have been identified as falling into the exempt category of writer, musician, director or creative artist. Therefore, if Assembly Bill 2065 were to pass into law, the present fiscal impact to the City of Pasadena in the form of loss of business license taxes and associated home occupation permit fees would be minimal. Nevertheless, the very passage of this bill sets a bad precedent of further State preemption of local control with regard to the issuance of business licenses. This bill symbolizes the loss of local control over a traditional local matter. Lastly, this exemption could result in the potential major loss of revenue if more individuals go into this type of home-based business or as the entertainment field becomes a growing industry in the City of Pasadena.

Respectfully submitted,

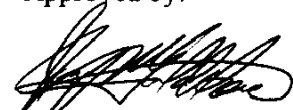

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