

Agenda Report

TO: CITY COUNCIL **DATE:** June 22, 1998

Attn: Legislative Committee

FROM: Acting City Manager

SUBJECT: **OPPOSITION OF ASSEMBLY BILL 1614: SALES AND USE TAX:
CALIFORNIA INTERNET TAX FREEDOM ACT**

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 1614: Sales and Use Tax: California Internet Tax Freedom Act.

BACKGROUND

Both federal and state law set limits on a jurisdiction's ability to tax. Generally, under the Commerce Clause of the United States Constitution, state and local governments may not tax businesses unless those businesses are engaged in commerce within their borders. Also, federal and state laws provide rules for apportioning fairly the income earned by multi-state or multi-national businesses among taxing jurisdictions.

The state imposes a number of taxes, including an income or corporation tax on the income or profits generated by business and a sales tax on most business purchases. In addition, it requires retailers doing business in California to collect sales and use tax on the sales of goods made to California customers.

Cities have broad taxing authority to levy taxes unless prohibited by State law. Counties have been granted some tax authority by the state. Under the provision of the recently passed Proposition 218, local governments must obtain voter approval before increasing any existing tax or enacting any new tax.

Assembly bill 1614, introduced by Assembly Member Lempert on June 3, 1997, imposes a ten-year moratorium – that applies both to the State and to all local governments – on the following kinds of taxes or fees:

- A tax on Internet access or Online Computer Services;
- A bit tax based on the amount of digital information that is transmitted;
- A bandwidth tax based on the signals used to transmit information electronically;

- A tax that is levied on Online Computer Services or Internet access at a rate that is higher than that imposed on other businesses or services generally or that is levied solely on the use of Online Computer Services or Internet Access; and
- A franchise fee on interactive computer services that is delivered by cable TV if the Federal Communications Commission or a court of competent jurisdiction finds that those services are not cable services.

Assembly bill 1614 permits any existing tax or fee, - including sales tax, utility user tax or franchise fee – that is imposed in a uniform and nondiscriminatory manner on activities or transactions conducted through the Internet or Online Computer Services.

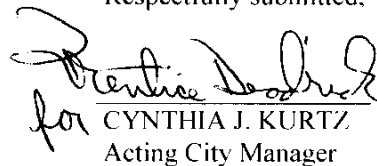
Presently, Assembly bill 1614 was heard in the Senate Revenue and Taxation Committee on June 3, 1998 and is scheduled to be heard again in the Senate Revenue and Taxation Committee on June 17, 1998.

FISCAL IMPACT

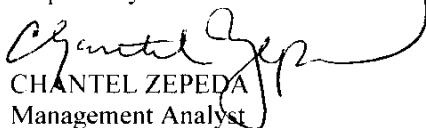
If Assembly Bill 1614 is approved, the City of Pasadena could stand to lose Sales and Use Tax revenue, Utility User Tax revenue and Franchise fees revenue due to the current legal ambiguity in reference to the bill's references to these revenues. The opposition of Assembly bill 1614 is needed to protect a total of **\$41.3 million, 37% of General Fund**, of the City's major revenue sources. In particular, if passed Assembly Bill 1614 would threaten the continued existence of the following major local government revenue sources:

- **Sales Tax revenue - \$21.5 million in Fiscal Year 1998**
- **Utility User's Tax revenue - \$18.5 million in Fiscal Year 1998**
- **Franchise Tax revenue - \$1.3 million in Fiscal Year 1998**

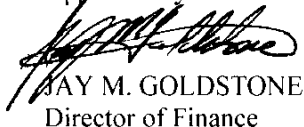
Respectfully submitted,


for CYNTHIA J. KURTZ
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