

CITY OF TURLOCK

Council Meeting

March 26, 2019

*OPTIONS FOR LOCAL CALIFORNIA
AGENCIES TO RAISE REVENUE FOR
ESSENTIAL SERVICES*

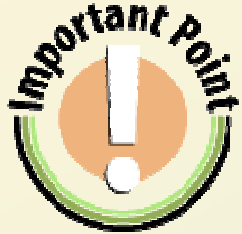


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Significant limitations have been placed by the state's voters and California Legislature on the ability of local agencies increase/raise revenue.

- Proposition 13 – passed by simple majority in 1978. Reduced property tax revenues by half and abolished local control in regard to property tax. Enacted two-thirds voter approval for “special” taxes. Taxes imposed by Legislature require two-thirds.
- Proposition 218 – “Taxpayers Right to Vote” approved in 1996. Allows voters to repeal or reduce taxes, assessments, fees and charges through the initiative process. Voter approval is required to enact, increase or extend any type of local tax. “General taxes” require majority vote to pass and “special taxes” require two-thirds voter approval.
- Proposition 26 – Voters passed in November 2010, which added a definition of “tax” to California Constitution.





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“Fee” or “Tax”?

Distinction Between Fees and Taxes

Fees

- ✓ User fees and regulatory fees cannot exceed the cost of providing the service.
 - * User fee examples: recreation programs, building permit fee, and utility connection fee (water & sewer).
 - * Regulatory fee example: inspection fees, development impact fees and plan check.
- ✓ User fees and regulatory fees maybe adjusted if the cost of providing the service increases or decreases. Fees can not exceed the “estimated reasonable cost” of providing the service, facility, or program.



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“Fee” or “Tax”?

Tax

- ✓ Taxes are a monetary imposition by a government on persons or property for the purpose of raising revenue to support the purposes of government.
- ✓ Taxes need not be levied in proportion to specific benefit to a person or property.
- ✓ Revenues collected in excess of the cost of service is a “tax” and subject to voter approval. (Prop 218 & 26)
 - * Tax examples: Sales tax, Business license tax, TOT (transient occupancy tax), Utility User tax, Parcel tax.



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Requirements to Adjust Fees

Fees

- ✓ User fees and regulatory fees may be adjusted if the cost of providing the service increases or decreases. Fees can not exceed the “estimated reasonable cost” of providing the service, facility, or program.
- ✓ All fee adjustments go before City Council for approval during an advertised Public Hearing.
- ✓ Proposition 218 sets specific procedures and special rules for property-related fees used to fund property-related services.
- ✓ Special benefit assessments are charges levied to pay for public improvements or services and amount is determined by level of benefit received. (Proposition 218)



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Requirements to Enact, Increase or Extend Local Taxes

Taxes

- ✓ Voter approval is required prior to enacting, increasing or extending ANY type of local tax (exception if original implementing language included a prescribed method for subsequent adjustments i.e. inflationary adjustments).
- ✓ California constitution distinguishes between a general tax and a special tax. General tax revenues can be used for any purpose and special tax revenues used for a specific purpose.
- ✓ General taxes require a majority vote (50% +1) in favor to impose, increase or extend a general tax.
- ✓ Special taxes require approval by two-thirds (66% + 1) of voters to enact, increase or extend a special tax.





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What's a Local Government to do when more revenue is needed to provide essential services?



Fees: Cannot exceed the reasonable cost of providing the service or cost of regulating the business.



Taxes:

General taxes require a majority vote of the electorate (those voting on the measure) to impose, increase or extend a general tax. Deposited in General Fund used for governmental purposes.

Special taxes require two-thirds of the electorate to enact, increase or extend a special tax. Earmarked for specific purpose and deposited in separate fund (not General Fund).



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Types of Local Taxes Voters Can Approve

1. Sales and Use Tax – In addition to the “base” statewide rate.
2. Business License Tax – levied on businesses’ activity in City.
3. Transient Occupancy Tax (TOT) – levied on persons staying under 30-days in hotels, motels and similar lodgings.
4. Utility User Tax – tax on consumption of utility services.
5. Parcel Tax – “Special tax” on a parcel, or unit of real property. Need two-thirds voter approval, even if used for general purposes.
6. Documentary/Property Transfer Taxes – imposed on the transfer of interests in real estate.



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General Information Pertaining to all Taxing Options:

- ✓ Except for a parcel tax, all be either “General Tax” (Majority) or “Special Tax” (two-thirds) vote; Parcel Tax is always “Special Tax” regardless of use.
- ✓ A “General Tax” election must be consolidated with a regularly scheduled general election of the members of the governing body, unless a fiscal emergency is declared by unanimous vote of the governing body.
- ✓ A “Special Tax” can go before voters anytime.
- ✓ Special tax funds must be deposited in separate fund. Taxing agency must publish annual report detailing rate, amounts collected and expended and status of any ongoing projects.



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Sales and Use Tax

- Can be either “General Tax”(Majority) or “Special Tax”(two-thirds).
- Maximum in any jurisdiction may not exceed two percent over statewide base.
- Turlock’s current sales tax is 7.875%, includes 7.25% statewide base, ½ percent transportation .50% (Measure L), and 1/8 cent for Libraries (.125%).
- APPROXIMATE fiscal year revenue generated by increasing sales and use tax by:

1/8 cent (.125%) = \$1.8 million

1/4 cent (.250%) = \$3.6 million

1/2 cent (.500%) = \$7 million

3/4 cent (.750%) = \$10 million

1 cent (1%) = \$14 million



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Business License Tax–

- Can be either “General Tax”(Majority) or “Special Tax”(two-thirds).
- City of Turlock’s current Business License Tax was approved by voters in 1996. Approved with a maximum annual amount “cap” to be paid and an inflationary adjustment to the cap. Any increase, extension, or removal the current “cap” (max annual tax paid) – excluding inflationary adjustments - would need to be approved by voters.
- Due to our current reporting requirements we cannot accurately estimate the amount of revenue that would be generated from removal of the “cap” or an increase in the tax rate.
- The City is provided the “taxable sales” of all businesses in City limits (confidential). The City’s Business License Tax is calculated on “Gross Receipts” and we do not know the amount of tax-exempt sales that each business may have. Most food/groceries are exempt from sales tax, except under certain circumstances.
- Revenue generated from current Business License Tax in 2017-18 totaled \$1,317,317 of which 45% was allocated to Public Safety.



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Transient Occupancy Tax (TOT)

- Can be either “General Tax”(Majority) or “Special Tax”(two-thirds).
- City of Turlock’s current TOT rate is 9% and generated \$1,604,424 in revenue during fiscal year 2017/2018.
- Pursuant to Resolution No. 2002-019, three-ninths (3/9) of TOT revenue is deposited into Fund 120 Tourism. The other six-ninths (6/9) is deposited into the General Fund.
- Fund 120 Tourism pays for the City’s Events Coordinator, Community Grants Program, Diversion Program, Marketing & Branding services, Tourism Strategy, and various City events (Fireworks at CSUS). FY 2018/2019 budget is \$260,528.
- Modesto’s TOT rate is 9%, Ceres’ is 10%, and Merced’s is 10%.
- Increasing the TOT rate by:

Approximate	1% = \$178,000
	2% = \$356,000
	3% = \$534,000



2017 Transient Occupancy Tax Rates in California: CaliforniaCityFinance.com

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Utility User Tax –

- Can be either “General Tax”(majority) or “Special Tax”(two-thirds).
- Tax on consumption of utility services.
- Can be imposed on electricity, gas, water, sewer, telephone (including mobile phone and long distance), sanitation and cable television.
- Amount of revenue generated would depend on which utility service is taxed and the tax rate percentage.
- Locally the Cities of Modesto and Ceres both have UUT’s. The rate is 3% in Ceres and the rate varies from 3% to 6% in Modesto depending on the type of utility.
- Modesto generates approximately \$21,120,000 per FY from their UUT’s. According to their Ordinance a 6% utility users tax is charged on water, telephone, gas and electric services (not to exceed \$1,500 per year). Modesto’s population is approximately 214,221. Based solely on population and assuming all else is equal, if Turlock voters approved similar UUT’s, the revenue generated would be approximately \$6,969,000 (very rough estimate).



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Parcel Tax –

- Considered a “Special Tax” that requires two-thirds voter approval even if it is used for general purposes.
- Tax placed on a parcel, or unit of real property.
- May not be based on the value of property.
- Generally based on a flat per-parcel rate.

EXAMPLE: \$100 per parcel X 20,315 parcels = \$2,031,500 revenue per FY

(assumes placement on both developed/undeveloped parcels & projects current # of parcels)



Documentary/Property Transfer Tax –

- A tax that is imposed on the transfer of interests in real estate.
- Cities may impose an additional tax at up to one half of their respective County’s tax rate. (County’s rate is 55 cents per \$500 of property value)





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Steps to Place a Local Tax Measure on the November 2020 Ballot

Discretionary tasks in 2019:

Task	Estimated Dates 2019
Direction from City Council to Proceed with Exploring Community Interest in Revenue Generating Options	June 2019
Develop Community Engagement Strategy	July 2019
Community Engagement Meetings (Citywide and within each District)	August – September 2019
Polling to Validate Community Interest	October – December 2019



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Steps to Place a Local Tax Measure on the November 2020 Ballot (cont.)

Task	Estimated Dates 2020
Present Proposed Findings to City Council and Seek Direction on Identifying and Developing Measure Proposals	January 2020*
Develop Measure Proposal	March – April 2020*
Submit Resolution to City Council Calling for an Election, Establishing the Date of Election, and Submission of the Question (Measure)	May – June 2020
Submit Resolution to Stanislaus County Board of Supervisors for Consolidation of Measure	July 6, 2020
Stanislaus County Board of Supervisors Meeting to Approve Consolidation	July 14, 2020
Publication	July 15, 2020
Deadline for Arguments “for” and “against” Measure	July 21, 2020
Deadline for Rebuttals to Arguments “for” and “against” Measure	July 31, 2020
Deadline for City Attorney Impartial Analysis	July 31, 2020
10-day Public Examination Period	August 3 –12, 2020
ELECTION DAY	November 3, 2020

* These tasks can be consolidated with the May & June 2020 tasks.

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Option that doesn't require Voter approval:

Development Agreements related to: Cannabis

Cal. Gov't Code § 65865(c). Government Code sections 65864 – 65869.5

Since the passage of Proposition **64**, the California Marijuana Legalization Initiative, by Voters on November 8, 2016, many cities have been utilizing Development Agreements to collect revenue based upon the sales of cannabis in their communities*.

A neighboring Stanislaus County city has several development agreements currently in place and expects to receive approximately \$2.2 million in revenue for FY 2018/19 from the agreements. In November 2018, the voters passed a 15% sales/use tax (covers medical too) on the sales of cannabis in that same community which will increase revenue received from cannabis sales.

* These options regarding cannabis should be considered one-time revenue due to legal volatility of this issue.



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Community Facilities District (CFD) No. 2 – Fund 231



City has option to create additional CFD's to pay for:
*Maintenance
*Services

- ✓ Formed in 2004 under the terms of the Mello-Roos Community Facilities Act of 1982, Chapter 2.5 (commencing with Section 53311) of Part 1 of Division 2 of Title 5 of the Government Code.
- ✓ Imposes an annual special tax levy on new residential units within the CFD No. 2 boundaries to mitigate the gap between revenue produced and the cost of services provided to the new residential units.
- ✓ The special tax levy is to be utilized for Public Safety (Police & Fire Services), and Park Maintenance.
- ✓ New development mitigates its fiscal impacts on the City's General Fund.
- ✓ 2017-18 assessment year rate is \$649/single family unit (lessor for multi-family unit).
- ✓ 88% of the collections are utilized for Public Safety Services (Police & Fire).
- ✓ Revenue collected in 2017-18 totaled \$676,563.
- ✓ In May 2017 the City Council accepted a report prepared by Economic Planning Systems Inc. which concluded that the current rate was adequate.



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Landscape and Lighting Districts – Fund 246

- ✓ Formed under Section 3114 of the Streets and Highways Code.
- ✓ Sections 22500-22679 Streets and Highways Code contain provisions of Landscaping and Lighting Act of 1972.
- ✓ Benefit Assessment Act of 1982, Chapter 6.4 (commencing with Section 54703) of Part 1 of Division 2 of Title 5 of the Government Code.
- ✓ Assessments can only be utilized for “improvements” that are identified in formation documents.
- ✓ Assessment must be proportioned to amount of benefit received.
- ✓ City currently has over 200 Landscaping & Lighting Districts.
- ✓ Many are underfunded and City is still providing services.

POSSIBLE OPTION:

Evaluate the possibility of consolidating all Districts into one CFD.

