



CITY OF

NEWPORT BEACH

City Council Staff Report

July 22, 2025
Agenda Item No. 10

TO: HONORABLE MAYOR AND MEMBERS OF THE CITY COUNCIL

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TITLE: Resolution No. 2025-49: A Procedure to Challenge Property Related Fees, Charges and Assessments in Accordance with Assembly Bill No. 2257

ABSTRACT:

Assembly Bill No. 2257 (AB 2257) amends Proposition 218 to allow public agencies to require those who challenge new or increased fees, charges, or assessments to exhaust administrative remedies before filing a lawsuit by providing, in writing, the legal basis for any protest. For the City Council's consideration is a resolution establishing procedures for protesting property related fees to provide additional protection against unanticipated legal challenges in accordance with Assembly Bill 2257.

RECOMMENDATIONS:

- a) Determine this action is exempt from the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) and 15060(c)(3) of the CEQA Guidelines because this action will not result in a physical change to the environment, directly or indirectly; and
- b) Adopt Resolution No. 2025-49; A Resolution of the City Council of the City of Newport Beach, California, Adopting a Procedure to Challenge Property Related Fees, Charges and Assessments in Accordance with Assembly Bill No. 2257.

DISCUSSION:

Proposition 218, adopted by California voters in 1996, requires local governments to follow specific procedures before imposing or increasing property-related fees and charges. Examples of such fees include water and sewer rates, as well as solid waste and recycling fees. These procedures include providing public notice, holding a public hearing, and allowing for a majority protest process. Notably, Proposition 218 does not require a ratepayer to articulate the legal basis for objection during the protest process; it only requires general approval or disapproval of proposed new fees.

In recent years, California courts have increasingly emphasized the importance of exhausting local administrative remedies before pursuing litigation related to such fees. This trend stems from the recognition that legal challenges can be brought years after a

fee is adopted and implemented, raising concerns about fairness and administrative efficiency.

To address this, the California Legislature adopted AB 2257, which added Sections 53759.1 and 53759.2 to the California Government Code. This law authorized local agencies to adopt administrative procedures that require potential plaintiffs to first exhaust administrative remedies before filing a lawsuit challenging the validity of property-related fees or charges under Proposition 218. This approach is like the exhaustion requirements found in environmental review challenges under CEQA.

Adopting administrative remedies under AB 2257 ensures meaningful public participation during the fee adoption process, while also requiring legal objections to be raised and addressed as part of the public record. This enhances transparency and strengthens the legal integrity of the process.

The City's current procedure for adopting property-related fees already includes several steps mandated by Proposition 218. These include the adoption of a resolution of intention that sets a public hearing date at least 45 days in the future and invites ratepayers to submit written protests. At the public hearing, the City Council may adopt the proposed fees, provided that a majority protest has not been received.

The proposed resolution integrates AB 2257's exhaustion of administrative remedies requirement into this existing 45-day public review process. Under this procedure, any written protest submitted by a ratepayer must include the specific legal basis for the objection. In response, the City will prepare a written reply that addresses the objection and outlines the substantive basis for retaining or modifying the proposed fee, charge, or assessment.

This process reinforces public accountability and provides a clear and timely avenue for addressing legal challenges, thereby reducing the likelihood of protracted litigation and ensuring compliance with both Proposition 218 and the newly enacted Government Code Sections 53759.1 and 53759.2.

FISCAL IMPACT:

There is no fiscal impact related to this item. The City publishes all fee studies 45-days in advance of a public hearing prior to the adoption of property related fees subject to Proposition 218. At the public hearing, the City responds to all protests regarding the validity of the fee established. Therefore, adopting this procedure is not anticipated to incur additional staff time and may result in potential savings from avoiding litigation.

ENVIRONMENTAL REVIEW:

Staff recommends the City Council find this action is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Division 6, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

NOTICING:

The agenda item has been noticed according to the Brown Act (72 hours in advance of the meeting at which the City Council considers the item).

ATTACHMENT:

Attachment A – Resolution No. 2025-49