

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA
RESOLUTION 9194

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA
FINDING THAT CONTINUING AN AD VALOREM PROPERTY TAX RATE AT THE
RATE LEVIED FOR 2014/15 IS ESSENTIAL TO THE FISCAL INTEGRITY OF THE
DISTRICT AND SUSPENDING THE AD VALOREM TAX RATE RESTRICTION**

WHEREAS, The Metropolitan Water District of Southern California (“Metropolitan”), pursuant to Section 124 of the Metropolitan Water District Act (the “Act”), is authorized to levy and collect taxes on all property within the district for the purposes of carrying on the operations and paying the obligations of the district; and

WHEREAS, pursuant to Section 307 of the Act, the Board of Directors (“Board”) determines the amount of money necessary to be raised by taxation for district purposes each fiscal year and fixes rates of taxation upon the assessed valuation of property taxable by the district to be levied accordingly; and

WHEREAS, since its inception Metropolitan has levied and collected property taxes; and

WHEREAS, the Board, pursuant to sections 133 and 134 of the Act, is authorized to fix the rate or rates at which water shall be sold. Such rates, so far as practicable, shall result in revenue which, together with revenue from fixed charges or assessments, will pay Metropolitan’s operating expenses, capital costs, debt service and other expenses and obligations; and

WHEREAS, before 1942, all revenues to pay for operations, construction of the Colorado River Aqueduct, other facilities and other Metropolitan obligations came from ad valorem property taxes. After deliveries of Metropolitan water began in fiscal year 1941/42, water sales were an additional source of revenues, but not until 1974 did revenues from water sales equal revenues from ad valorem taxes; and

WHEREAS, on November 4, 1960, Metropolitan entered into its contract with the California Department of Water Resources (the “State Water Contract”) for water service from the State Water Project. Metropolitan’s was the first contract executed and the prototype for the 28 state water contracts that followed; its terms were validated by the California Supreme Court in *Metropolitan Water Dist. v. Marquardt* (1963) 59 Cal.2d 159; and

WHEREAS, under the State Water Contract, Metropolitan is obligated to pay allocable portions of the cost of construction and replacement of the State Water Project system, as well as

ongoing operating and maintenance costs, regardless of quantities of water delivered to Metropolitan and regardless of the amounts of water Metropolitan sells to its member agencies. Approximately two-thirds to three-quarters of Metropolitan's State Water Contract obligations are fixed, or unrelated to the quantity of water delivered; and

WHEREAS, Metropolitan's authority to levy a tax or assessment to satisfy State Water Contract obligations was a condition to entering into the State Water Contract, and the California Department of Water Resources only executed state water contracts with agencies that have taxing power; and

WHEREAS, the State Water Contract expressly provides that, if other available funds are not sufficient, Metropolitan must levy a tax or assessment to satisfy its State Water Contract obligations; and

WHEREAS, Metropolitan's outstanding general obligation bonds and State Water Contract obligations are indebtedness approved by the California voters before Article XIII A of the California Constitution (Proposition 13) was adopted; and

WHEREAS, Metropolitan's revenues from water sales and deliveries vary with the quantity of water delivered and water deliveries fluctuate significantly with drought, weather conditions, availability of local supplies, economic conditions and other factors affecting regional demands. During the period from fiscal year 2008/09 through fiscal year 2014/15, Metropolitan's annual deliveries ranged from 1.6 million acre-feet to 2.1 million acre-feet; and

WHEREAS, when fixing taxes and setting rates, the Board and Metropolitan's member agencies evaluate the appropriate mix of property taxes and water rates and charges to promote Metropolitan's fiscal stability and ensure its ability to satisfy the region's long-term water supply needs while reasonably and fairly allocating the cost of providing service to its member agencies and complying with legal requirements; and

WHEREAS, on May 8, 1984, the Board approved proposed amendments to the Act, set forth in Board Letter 6-2 dated April 30, 1984; and

WHEREAS, such amendments were incorporated into Assembly Bill 1445, which was approved by the Legislature and filed with the California Secretary of State on July 3, 1984, and added to the Act as Section 124.5; and

WHEREAS Section 124.5 provides that Metropolitan must limit the ad valorem property tax to collect no more than the amount required to pay for a fraction of voter-approved debt, specifically, the composite amount required to pay (1) the principal and interest on general obligation bonded indebtedness of the district and (2) that portion of the district's payment obligation under a water service contract with the state which is reasonably allocable, as determined by Metropolitan, to the payment by the state of principal and interest on bonds issued pursuant to the California Water Resources Development Bond Act as of the effective date of this section and used to finance construction of facilities for the benefit of the district; and

WHEREAS Section 124.5 further provides that Metropolitan may suspend the ad valorem property tax restriction "if the board of directors of the district, following a hearing held to consider that issue, finds that a tax in excess of these restrictions is essential to the fiscal integrity of the district, and written notice of the hearing is filed with the offices of the Speaker of the Assembly and the President pro Tempore of the Senate at least 10 days prior to that date of the hearing;" and

WHEREAS, Section 124.5's rate restriction became effective in fiscal year 1990/91; and

WHEREAS, in fiscal years 1990/91 through 1999/2000, the Board maintained Metropolitan's tax levy rate at .0089 percent, a rate that was below the rate then permitted under the restriction clause of Section 124.5; and

WHEREAS, Metropolitan's tax levy rate has declined from .0089 percent in fiscal year 1999/2000 to .0035 percent in fiscal year 2012/13; and

WHEREAS, on June 11, 2013, the Board held a public hearing, with advance notice as required by Section 124.5, to consider Resolution 9156, "A RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FINDING THAT MAINTAINING THE AD VALOREM TAX RATE FOR FISCAL YEAR 2013/14 IS ESSENTIAL TO THE FISCAL INTEGRITY OF THE DISTRICT";

WHEREAS, at the June 11, 2013 public hearing, the Board received, considered, and evaluated public comments and evidence and all material factors pertaining thereto, including the financial and operating information summarized in Board Letter 8-2 executed by the Chief Financial Officer and General Manager on May 31, 2013; and

WHEREAS, as described in Resolution 9156, the Board found that a tax rate in excess of the restriction set out in Section 124.5 was essential to the fiscal integrity of Metropolitan; and

WHEREAS, by Resolution 9156 the Board resolved and determined that that the tax rate restriction in Section 124.5 was suspended for fiscal year 2013/14 and that the Board in its discretion may levy taxes for fiscal year 2013/14 at the tax rate levied for fiscal year 2012/13 (.0035 percent of assessed valuation, excluding annexation levies); and

WHEREAS, on August 20, 2013, the Board adopted Resolution 9157, "A RESOLUTION LEVYING TAXES FOR THE FISCAL YEAR COMMENCING JULY 1, 2013 AND ENDING JUNE 30, 2014 FOR THE PURPOSES OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA", which set the tax rate for fiscal year 2013/14 at .0035 percent; and

WHEREAS, on March 11, 2014, the Board held a public hearing with advance notice as required by Section 124.5, to consider the recommendation to suspend the tax restriction clause of Section 124.5 to maintain the ad valorem tax at current levels, and to give interested parties the opportunity to present their views regarding the recommendation to suspend the tax restriction clause of Section 124.5 to maintain the ad valorem tax at current levels; and

WHEREAS, on August 19, 2014, the Board considered Resolution 9181, “A RESOLUTION OF THE BOARD OF DIRECTORS OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA FINDING THAT MAINTAINING THE AD VALOREM TAX RATE FOR FISCAL YEAR 2013/14 IS ESSENTIAL TO THE FISCAL INTEGRITY OF THE DISTRICT”; and

WHEREAS, at the August 19, 2014 meeting, the Board received, considered, and evaluated public comments and evidence and all material factors pertaining to Resolution 9181, including the financial and operating information summarized in Board Letter 5J-2 executed by the Chief Financial Officer and General Manager; and

WHEREAS, at the August 19, 2014 meeting, the Board adopted Resolution 9181, through which it resolved and determined that the tax rate restriction in Section 124.5 was suspended for fiscal year 2014/15 and that the Board in its discretion may levy taxes for fiscal year 2014/15 at the tax rate levied for fiscal year 2013/14 (.0035 percent of assessed valuation, excluding annexation levies); and

WHEREAS, on August 19, 2014, the Board adopted Resolution 9182, “A RESOLUTION LEVYING TAXES FOR THE FISCAL YEAR COMMENCING JULY 1, 2014 AND ENDING JUNE 30, 2015 FOR THE PURPOSES OF THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA”, which set the tax rate for fiscal year 2014/15 at .0035 percent; and WHEREAS, Metropolitan currently utilizes tax revenues solely to pay debt service on its general obligation bonds, approved by the voters in 1966 and presently outstanding in the amount of \$110,420,000 as of June 30, 2015, and a small portion of its State Water Contract obligations; and

WHEREAS, Metropolitan provides, sells and delivers a reliable water supply at wholesale to its member agencies throughout a broad service area; and

WHEREAS, the water supply, conveyance rights and other rights to the State Water Project that Metropolitan receives under the State Water Contract are fundamental to Metropolitan's ability to consistently provide a reliable water supply and delivery at wholesale to its service area and, thus, satisfaction of its State Water Contract obligations is essential to Metropolitan's mission; and

WHEREAS, the State Water Project facilities are over 50 years old and Metropolitan's State Water Contract obligations include increasing costs for repair and replacement of existing facilities that are needed to both maintain the storage and conveyance capacity of the State Water Project facilities and assure continued availability and delivery of supplies from the State Water Project and other sources. These costs and obligations were not foreseen by the Legislature when, in 1984, it established the Section 124.5 tax rate restriction and nothing suggests that the Legislature intended to prohibit the Board from considering such circumstances when deciding whether suspension of the restriction is essential to Metropolitan's fiscal integrity; and

WHEREAS, Metropolitan's State Water Contract obligations also include substantial construction, replacement, operation and maintenance costs for endangered species protection

and conservation measures, consistent with state and federal mandates. These obligations must be undertaken to ensure the reliability of the State Water Project, to address ecosystem needs and to secure long-term operating permits consistent with the federal and state endangered species acts. These costs and obligations were not foreseen or considered by the Legislature when, in 1984, it established the Section 124.5 rate restriction and nothing suggests that the Legislature intended to prohibit the Board from considering such circumstances when deciding whether suspension of the restriction is essential to Metropolitan's fiscal integrity; and

WHEREAS, consideration of, and providing for, current and anticipated State Water Contract obligations is essential to Metropolitan's fiscal stability and integrity; and

WHEREAS, availability of diverse financial resources to satisfy Metropolitan's State Water Contract obligations is essential to Metropolitan's fiscal stability and integrity; and

WHEREAS, an appropriate balance of fixed costs and fixed revenue is essential to Metropolitan's long-term fiscal health; and

WHEREAS, the ad valorem tax is essential to the appropriate balance of fixed costs and fixed revenue under current circumstances; and

WHEREAS, continuing an ad valorem property tax rate at the current rate will allow the Board flexibility to fund Metropolitan's State Water Contract obligations fully and fairly in fiscal year 2015/16 and for the foreseeable future; and

WHEREAS, when it enacted Section 124.5, the Legislature recognized the importance of robust fixed revenue sources. At the same time that it established the rate restriction and safety valve to suspend the restriction, it authorized alternative fixed revenue sources in the form of benefit assessments and standby charges. To the extent such charges would be assessments or property-related fees, they would be governed by additional requirements not in place or contemplated when the Legislature enacted Section 124.5. In the Board's judgment, such charges are not practical fixed revenue sources at this time; and

WHEREAS, in FY 2015/16, approximately 80 percent of Metropolitan's estimated costs are fixed, while approximately 18 percent of Metropolitan's revenues are from fixed sources, including ad valorem property taxes, readiness-to-serve and capacity charges. Suspending the rate restriction will allow Metropolitan to sustain ad valorem property tax revenues at 6 percent of overall revenues in fiscal year 2015/16 and at an estimated 5 percent of overall revenues in fiscal year 2023/24. Absent suspension, it is anticipated that, in fiscal year 2015/16, ad valorem property tax revenue will drop to approximately 4 percent of overall revenue and, by fiscal year 2023/24, it will be only 0.1 percent of overall revenue; and

WHEREAS, absent maintenance of the tax rate or other changes, fiscal year 2015/16 fixed revenues as a percentage of total revenues will decline from 18 percent to 16 percent; fixed revenues as a percentage of total revenues will decline from 18 percent to 13 percent in fiscal year 2023/24; and this decline will continue; and

WHEREAS, in light of Metropolitan's significant fixed costs and fluctuating volumetric revenues, robust and diverse fixed revenues are essential to Metropolitan's fiscal well-being for the additional reason that they help Metropolitan maintain creditworthiness. Positive credit ratings are central to fiscal integrity because they reduce the cost of borrowing and provide flexibility by increasing access to credit markets. Access to credit markets is especially important whenever Metropolitan faces supply or demand uncertainties. As set forth above, suspending the tax rate restriction will allow Metropolitan to retain important fixed revenues, whereas, absent suspension, these fixed revenues will be lost; and

WHEREAS, ad valorem taxes are an important component of Metropolitan's fiscal integrity because they help ensure that those for whom costs are incurred help pay those costs. As a wholesale water agency, Metropolitan's customers are its 26 member agencies. Each member agency pays volumetric rates based on the amount of water Metropolitan sells and delivers to it; whereas ad valorem taxes are levied directly on residents and businesses that are property owners within Metropolitan's service area. All property owners within Metropolitan's service area benefit from the water system that allows water to be sold and delivered in Southern California. Ad valorem taxes ensure that residences and businesses pay a share of costs of the system; and

WHEREAS, maintaining the existing ad valorem tax rate advances fiscal integrity because it takes pressure off Metropolitan's volumetric water rates and readiness-to-serve and capacity charges and assist the Board, in its discretion, in maintaining a fair and appropriate balance between fixed costs and fixed revenues and help ensure that all who benefit from Metropolitan's service pay a fair share of the cost of that service; and

WHEREAS, maintaining the existing ad valorem tax rate and preventing the decline in fixed revenues will create a more stable water revenue structure that can better deal with fluctuations in water sales and support drought response measures; and

WHEREAS, Metropolitan's reliance on property taxes is significantly lower than most other agencies that entered into state water contracts. Other state water contractors rely on property taxes to cover up to 100 percent of their state water contract obligations. Even if all Metropolitan's property tax revenue were fully allocated to State Water Contract obligations—and it is not—Metropolitan would cover only 18 percent of its fiscal year 2015/16 State Water Contract obligations. This percentage is at the far low end for state water contractors; and

WHEREAS, an analysis of fiscal health and stability must consider long-term circumstances, and the full spectrum of facts and circumstances, including the appropriate mix of property taxes and water rates and charges that will best allow Metropolitan to satisfy the region's long-term water supply needs; and

WHEREAS, notices of the public hearing were filed with the offices of the Speaker of the Assembly and the President pro Tempore of the Senate on July 17, 2015; and

WHEREAS, the Board conducted a public hearing at its regular meeting on August 18, 2015, at which interested parties were given the opportunity to present their views regarding the

recommendation to suspend the tax restriction clause of Section 124.5 to maintain the ad valorem tax at current levels; and

WHEREAS, the Board has carefully considered the comments and evidence and all material factors relevant to a finding that suspension of the tax rate restriction is essential to Metropolitan's fiscal integrity; and

WHEREAS, the meeting of the Board was conducted in accordance with the Brown Act (commencing at Section 54950 of the Government Code), for which due notice was provided and at which a quorum was present and acting throughout;

NOW, THEREFORE, the Board of Directors of The Metropolitan Water District of Southern California, after receiving, considering, and evaluating public comments and evidence and all material factors pertaining thereto, including the financial and operating information summarized in Board Letter 5G executed by the Chief Financial Officer and General Manager on August 12, 2015 and in recognition of the facts and considerations set forth in this Resolution, hereby:

1. Finds and determines that a tax rate in excess of the restriction set out in Section 124.5 of the Act is essential to the fiscal integrity of Metropolitan; and
2. Resolves and determines that the tax rate restriction in Section 124.5 of the Act is hereby suspended for the limited purpose of allowing the Board in its discretion to continue the ad valorem property tax rate at the tax rate levied in fiscal year 2014/15 (.0035 percent of assessed valuation, excluding annexation levies); and
3. Waives compliance with Section 4301(b) of Metropolitan's Administrative Code for any tax levy that utilizes this suspension of Section 124.5 of the Act.

I HEREBY CERTIFY that the foregoing is a full, true, and correct copy of a resolution of the Board of Directors of The Metropolitan Water District of Southern California, adopted at its meeting held August 18, 2015.


Secretary of the Board of Directors
of the Metropolitan Water District
of Southern California