

THE METROPOLITAN WATER DISTRICT
OF SOUTHERN CALIFORNIA

RESOLUTION 9268

**RESOLUTION OF THE BOARD OF DIRECTORS
OF THE METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA**

**FINDING THAT FOR FISCAL YEARS 2020/21 AND 2021/22, THE AD VALOREM
PROPERTY TAX RATE LIMITATION IN SECTION 124.5 OF THE METROPOLITAN
WATER DISTRICT ACT IS NOT APPLICABLE BECAUSE IT IS ESSENTIAL TO
METROPOLITAN'S FISCAL INTEGRITY TO COLLECT AD VALOREM PROPERTY
TAXES IN EXCESS OF THAT LIMITATION**

The Board of Directors of The Metropolitan Water District of Southern California (the "Board") hereby finds that:

1. 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
2. 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
3. Since its inception Metropolitan has levied and collected property taxes; and
4. 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
5. 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

6. 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

7. 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 delivers to its member agencies. Approximately 70 percent of Metropolitan’s State Water Contract obligations are fixed, or unrelated to the quantity of water delivered; and

8. 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

9. 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

10. 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

11. Metropolitan’s revenues from water transactions 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 2018/19, Metropolitan’s annual deliveries ranged from 1.4 million acre-feet to 2.2 million acre-feet; and

12. 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

13. On May 8, 1984, the Board approved recommendations to amend the Act, set forth in Board Letter 6-2 dated April 30, 1984; and

14. 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

15. 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

16. Section 124.5 further provides that its restrictions do not apply "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

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

18. 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

19. Metropolitan's tax levy rate has declined from .0089 percent in fiscal year 1999/2000 to .0035 percent in fiscal year 2012/13, and the Board has made the necessary finding since fiscal year 2013/14 that it is essential to fiscal integrity to collect more property taxes than the limits set forth in Section 124.5; and

20. On January 31, 2020, the General Manager presented to the Board a proposed biennial budget for fiscal years 2020/21 and 2021/22, proposed rates for calendar years 2021 and 2022, and proposed charges for 2021, that were based on the proposal that Metropolitan maintain its current ad valorem property tax rate of 0.0035 to maintain fiscal integrity; and

21. On March 6, 2020, the General Manager provided an information letter to the Board reviewing the applicability of Section 124.5 for fiscal years 2020/21 and 2021/22; and

22. On March 10, 2020, 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 for to give interested parties the opportunity to present their views regarding the recommendation that it is essential to fiscal integrity to collect more property taxes in fiscal years 2020/21 and 2021/22 than the limits of Section 124.5; and

23. 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 \$48,050,000 as of December 31, 2019, and a portion of its State Water Contract obligations capital costs; and

24. Metropolitan provides, sells and delivers a reliable water supply at wholesale to its member agencies throughout a broad service area, and its integrated water system is able to deliver water throughout its service area; and

25. Metropolitan's participation in the State Water Project under the State Water Contract is 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

26. 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 collecting more than the limitation in that Section is essential to Metropolitan's fiscal integrity; and

27. 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 collecting more than the limitation in that Section is essential to Metropolitan's fiscal integrity; and

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

29. Availability of diverse financial resources to satisfy Metropolitan's State Water Contract obligations is essential to Metropolitan's fiscal stability and integrity; and

30. An appropriate balance of fixed costs and fixed revenue is essential to Metropolitan's long-term fiscal health; and

31. The ad valorem tax is essential to the appropriate balance of fixed costs and fixed revenue under current circumstances; and

32. 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 2020/21 and 2021/22 and for the foreseeable future; and

33. 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 make the restriction inapplicable, it authorized alternative fixed revenue sources in the form of benefit assessments and standby charges. To the extent such assessments or charges would be new assessments or charges, they would likely be governed by additional requirements not in place or contemplated when the Legislature enacted Section 124.5. In the Board's judgment, adoption of such new or additional assessments or charges is not practical and they are not practical fixed revenue sources at this time, especially because those assessments and charges would be collected from property owners already paying the ad valorem property taxes; and

34. In FY 2020/21, approximately 84 percent of Metropolitan's estimated costs are fixed, while approximately 17 percent of Metropolitan's revenues are from fixed sources, including ad valorem property taxes, readiness-to-serve and capacity charges; in FY 2021/22, approximately 83 percent of Metropolitan's estimated costs are fixed, while approximately 17 percent of Metropolitan's revenues are from fixed sources, including ad valorem property taxes, readiness-to-serve and capacity charges. Collecting more than the Section 124.5 rate limitation will allow Metropolitan to sustain ad valorem property tax revenues at 8 percent of overall revenues in fiscal year 2020/21 and 8 percent in fiscal year 2021/22 and at an estimated 6 percent of overall revenues in fiscal year 2029/30. If Section 124.5 limitations were applied, it is anticipated that, in fiscal years 2020/21 and 2021/22, ad valorem property tax revenue would drop to approximately 0.8 percent and 0.6 percent of overall revenue and, by fiscal year 2029/30, it would be only 0.1 percent of overall revenue; and

35. Absent maintenance of the tax rate or other changes, fiscal years 2020/21 and 2021/22 fixed revenues as a percentage of total revenues will decline from 17 percent to 10 percent; fixed revenues as a percentage of total revenues will decline from 15 percent to 9 percent in fiscal year 2029/30; and this trend will continue; and

36. 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, collecting more tax revenue than the tax rate restriction will allow Metropolitan to retain important fixed revenues; and

37. 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 transactions with Metropolitan; 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 delivered in Southern California. Ad valorem taxes ensure that residences and businesses pay a share of costs of the system; and

38. 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

39. 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 transactions and support drought response measures; and

40. 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, as a portion covers Metropolitan's general obligation debt service—Metropolitan would cover only 23 percent of its fiscal years 2020/21 and 22 percent of its fiscal year 2021/22 State Water Contract obligations. This percentage is at the far low end for state water contractors; and

41. 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

42. Notices of a public hearing were filed with the offices of the Speaker of the Assembly and the President pro Tempore of the Senate on February 24, 2020; and

43. The Board conducted a public hearing at its regular meeting on March 10, 2020, at which interested parties were given the opportunity to present their views regarding the recommendation that it is essential to Metropolitan's fiscal integrity to collect taxes in excess of the Section 124.5 to limitation to maintain the ad valorem tax at current levels for fiscal years 2020/21 and 2021/22; and

44. The Board has carefully considered the comments and evidence and all material factors relevant to the finding, and all such materials were made available at <http://mwdh2o.com/WhoWeAre/Mission/Pages/review-applicability-of-property-tax-limit.aspx>; and

45. 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 9-2 and presented on March 10, 2020, and in recognition of the facts and considerations set forth in this Resolution, hereby:

1. Finds and determines that it is essential to Metropolitan's fiscal integrity to collect ad valorem property taxes in excess of the Section 124.5 limitation on ad valorem property taxes in fiscal years 2020/21 and 2021/22; and
2. Resolves and determines that pursuant to its finding, the tax rate restriction in Section 124.5 of the Act is inapplicable when setting the ad valorem property tax rate for fiscal years 2020/21 and 2021/22, allowing the Board to maintain the current ad valorem property tax rate for those fiscal years (.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 finding regarding 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 April 14, 2020.


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