

1 [Initiative Constitutional Amendment - Opposing Proposition 26, Which "Requires That Certain
2 State and Local Fees be Approved by Two-Thirds Vote"]

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4 **Resolution opposing Proposition 26, Initiative Constitutional Amendment, which**
5 **"Requires That Certain State and Local Fees Be Approved by Two-Thirds Vote. Fees**
6 **Include Those That Address Adverse Impacts on Society or the Environment Caused**
7 **by the Fee-Payer's Business."**

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9 WHEREAS, Charges, levies, and fees are enshrined in the California Constitution as a
10 valid form of recovering costs under the "police powers" of legislative and regulatory bodies to
11 protect the health, welfare, and safety of the population; and

12 WHEREAS, Fees are already well regulated under current California law that requires
13 that fees not exceed the cost of providing services necessary to the activity for which the fee
14 is charged; and

15 WHEREAS, State and local governments must also prove the estimated cost of the
16 service or regulatory activity that the fee will pay for, and prove the basis for determining the
17 manner in which the costs of the fee are apportioned, so that charges bear a fair or
18 reasonable relationship to the payor's burdens on or benefit from the regulatory; and

19 WHEREAS, In its decision on Sinclair Paint Company v. State Board of Equalization,
20 California Supreme Court clear that despite Proposition 13, government may impose fees and
21 create funded regulatory programs with a simple majority vote; and

22 WHEREAS, Propositions 26 on the November 2, 2010, ballot would broaden the
23 definition of taxes in the California Constitution to include many payments currently
24 considered fees and charges; and

1 WHEREAS, As a result, implementing or increasing such fees and charges would
2 require either a two-thirds vote of both houses of the California legislature or two-thirds vote of
3 local voters; and

4 WHEREAS, By arbitrarily imposing a new definition of "taxes" applicable to local
5 government in the state Constitution, Proposition 26, if approved, will invite additional litigation
6 and destabilize existing funding for local public safety, health, transportation, and
7 environmental protection; and

8 WHEREAS, Proposition 26 has been funded by oil, tobacco, and alcohol companies
9 that hope to avoid paying fees to mitigate the harms they cause to public health and the
10 environment; and

11 WHEREAS, Proposition 26 would require San Francisco voters to decide on minor
12 adjustments to the dozens of fees that have already been enacted; and

13 WHEREAS, Charges, levies, and fees are especially important in recovering the costs
14 of environmental regulation and in mitigating for the harm from pollution, be it from air, water,
15 toxins or waste; now, therefore, be it

16 RESOLVED, That the Board of Supervisors of the City and County of San Francisco
17 opposes Proposition 26 on the November 2, 2010 ballot.

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City and County of San Francisco
Tails
Resolution

City Hall
1 Dr. Carlton B. Goodlett Place
San Francisco, CA 94102-4689

File Number: 101118

Date Passed: September 14, 2010

Resolution opposing Proposition 26, Initiative Constitutional Amendment, which requires that certain state and local fees be approved by two-thirds vote; fees include those that address adverse impacts on society or the environment caused by the fee-payer's business.

September 14, 2010 Board of Supervisors - ADOPTED

Ayes: 9 - Avalos, Campos, Chiu, Chu, Daly, Dufty, Mar, Maxwell and Mirkarimi
Absent: 2 - Alioto-Pier and Elsbernd

File No. 101118

I hereby certify that the foregoing
Resolution was ADOPTED on 9/14/2010 by
the Board of Supervisors of the City and
County of San Francisco.

Angela Calvillo
Clerk of the Board

Mayor Gavin Newsom

September 22, 2010
Date Approved