

City Attorney's Impartial Analysis

Since 1970, the City of San José has imposed a telephone utility users tax, which is paid by telephone customers on their telephone bills. Currently, this tax produces approximately \$26 million annually.

Measure K would reduce the current 5% tax rate to 4.5%; maintain current exemptions; update the definitions; and apply the tax to all intrastate, interstate and international communications services regardless of the technology used to provide such services. As a result, private communication services, voice mail, paging, and text messaging, would be treated the same as traditional telephone services. Measure K would continue the existing tax on communication services including landline, wireless, Voice over Internet Protocol (VoIP), and bundled services, where taxable and non-taxable services are bundled together. Under current federal law, the City cannot tax Internet access.

The City's existing tax ordinance, like many similar tax ordinances throughout the state, was written before the introduction of new communications technologies. The tax ordinance was also written before several changes occurred to federal law. Taxes imposed by other California cities that contain language similar to that in the City's existing ordinance have been the subject of legal controversy. This measure would remove outdated ordinance language that is the subject of lawsuits in other jurisdictions. If the City's ordinance were challenged, the outdated language could affect the City's ability to collect a portion of the tax.

Like the existing telephone utility users tax, the updated telecommunications users tax would be a general tax, with its proceeds deposited into the City's General Fund. Such funds are available to the City for all of its programs, including parks and libraries, police, fire, and street maintenance, among other services. The measure also clarifies the City's collection procedures and the process for appealing tax calculations. The revenues from the tax imposed by Measure K would be subject to the annual audit performed by the City's independent auditor which is reported in the City's Comprehensive Annual Financial Report.

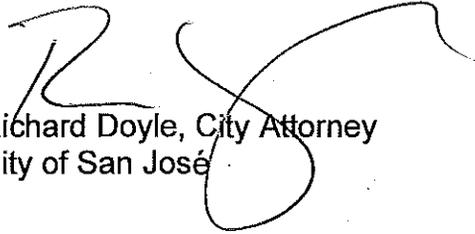
The measure has no effect on the existing utility users tax applied to electrical, gas and water services. The measure does not apply to charges for Internet services, including digital downloads, such as books, ringtones, games and similar products.

A "yes" vote is a vote to approve the updated telecommunications users tax as described above and reduce the tax rate from 5% to 4.5%.

A "no" vote is a vote that would maintain the current telephone users tax, without updates, at the existing rate of 5%.

City of San Jose Measure K – November 4, 2008 Election

The above statement is an impartial analysis of Measure K. If you would like to read the full text of the measure, see <http://www.sanjoseca.gov/clerk/elections/Election.asp> or call (408) 535-1260 and a copy will be sent at no cost to you.



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City of San José