

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

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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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