File No. 101118

Committee Item No._____
Board Item No. 46

COMMITTEE/BOARD OF SUPERVISORS

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Completed by: LaTonia Stokes Date September 09, 2010
Completed by:_____ Date_____

An asterisked item represents the cover sheet to a document that exceeds 20 pages. The complete document is in the file.

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

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."

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

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

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

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

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

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

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

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

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

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

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