



# CITY OF HAYWARD AGENDA REPORT

AGENDA DATE 4/28/98

AGENDA ITEM 4

WORKSESSION ITEM \_\_\_\_\_

To: Mayor and City Council

From: Finance and Internal Services Director

Subject: Resolution Opposing State Legislation Prohibiting Taxation of the Internet

### Recommendation:

It is recommended that the City Council adopt the attached Resolution and authorize the Mayor to forward it to the appropriate State officials.

### Background/Discussion:

Assembly Bill 1614, (Lempert), if adopted, will enact the "California Internet Tax Freedom Act". In brief, the bill would prohibit the imposition of any new tax or assessment on the Internet or any interactive computer service. At the same time, items purchased over the Internet would remain subject to current sales tax law. In addition, the bill expressly allows local governments to continue to collect utility user taxes and franchise fees on "basic" cable television, telephone and cellular phone service, even if used to gain Internet access. The author of the bill believes that a national tax policy developed by Congress and uniformly applied is the best way to avoid stifling development of the Internet and providing a level playing field for all jurisdictions.

Several California cities as well as the League of California Cities oppose this bill. More specifically, the League and several city attorneys believe that the bill preempts local taxing authority indefinitely and places several key local revenue sources at risk. For example, the bill allows taxation of "basic services" with respect to utility user taxes or franchise fees. However, what constitutes a "basic service" and what the fiscal impact of this change might be at the local level has not been determined. Given these considerations, staff is recommending that the City of Hayward join the League and other cities and counties in opposing this bill in its current form.

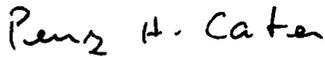
At this time, the bill has passed out of the Assembly and is under consideration by the Senate Revenue and Taxation Committee. The bill has been with the Senate Revenue and Taxation Committee since mid January of this year. Once the bill passes out of the Taxation Committee,

and it may be delayed for some time, it will go to the Local Government Committee. Discussions with League staff indicate that the bill will face careful scrutiny by the Local Government Committee and may not survive in its current form. This is something that staff will be monitoring in the upcoming weeks.

In addition to the proposed California bill there is legislation making its way through the process at the Federal level, which would also block Internet taxes. Oregon Senator Ron Wyden and Representative Christopher Cox of California introduced this legislation. However, negotiations between a group of twelve local officials, twelve business representatives and eight academicians under the aegis of the Electronic Commerce Project have helped produce a compromise bill which has been acceptable to cities and counties opposed to the original bill. Under the federal legislation a 29-member Commission on Electronic Commerce will have two years to consider a range of issues related to Internet transactions and make a report and recommendations to the president and Congress. To a certain degree the progress of the California legislation will depend upon the status of the federal legislation.

At this time staff is recommending that the City Council approve the attached resolution opposing AB 1614 as the bill would limit local taxing authority and jeopardize current significant revenue sources.

Recommended by:



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Perry H. Carter  
Finance and Internal Services Director

Approved by:



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Jesús Armas  
City Manager

**DRAFT**

Jan 4-22-98

HAYWARD CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_

Introduced by Council Member \_\_\_\_\_

**RESOLUTION OPPOSING ASSEMBLY BILL 1614, THE CALIFORNIA INTERNET TAX FREEDOM ACT**

WHEREAS, Assembly Bill 1614 would prohibit the imposition of any new tax or assessment on the Internet or any interactive computer service, and would limit local governments to collect utility user taxes and franchise fees on "basic" cable television, telephone, and cellular phone service, even if used to gain Internet access; and

WHEREAS, the bill would preempt local taxing authority indefinitely and place local revenue sources at risk.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Hayward opposes Assembly Bill 1614.

IN COUNCIL, HAYWARD, CALIFORNIA \_\_\_\_\_, 1998

ADOPTED BY THE FOLLOWING VOTE:

AYES:

NOES:

ABSTAIN:

ABSENT:

ATTEST: \_\_\_\_\_  
City Clerk of the City of Hayward

APPROVED AS TO FORM:

\_\_\_\_\_  
City Attorney of the City of Hayward