



## Legislation Text

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**DATE:** June 20, 2017

**SUBJECT:**

**AMENDMENT OF SAN DIEGO UNIFIED PORT DISTRICT, PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, AND UPDATED FORMAT AND LANGUAGE**

- A) RESOLUTION FINDING THE AMENDMENT TO THE SAN DIEGO UNIFIED PORT DISTRICT, PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, TO INCREASE RATES, ADD NEW RATES AND ITEMS, AND UPDATE TARIFF FORMAT AND LANGUAGE IS EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) AS SPECIFIED UNDER SECTION 15273 OF THE CEQA GUIDELINES**
- B) CONDUCT A PUBLIC HEARING AND ADOPT AN ORDINANCE AMENDING THE SAN DIEGO UNIFIED PORT DISTRICT, PORT OF SAN DIEGO TARIFF NO. 1-G, RATES AND CHARGES, ADD NEW RATES AND ITEMS, AND UPDATE TARIFF FORMAT AND LANGUAGE**

**EXECUTIVE SUMMARY:**

District staff conducts an annual review of the San Diego Unified Port District (Port) Tariff No 1-G (Tariff), which governs the rates, charges, rules and regulations applicable for all maritime-related commercial activity within the Port's jurisdiction.

Staff recommends that the Board adopt an amendment to the Port's Tariff, for a General Rate Increase (GRI) as follows:

1. Two and one-half percent (2.5%) for dockage, wharfage, passenger fees, demurrage, storage, space occupancy, and miscellaneous rates and charges, with the exception of Commercial Fishing Vessels and Pilotage Rates.

The 2.5% GRI is based on several factors, including the Western Region, All Urban Users Consumer Price Index (CPI) for the preceding year, recommendations of the California Association of Port Authorities (CAPA) Tariffs and Rates Committee, and actual rate increases by other CAPA member ports. These proposed rate increases would become effective on August 1, 2017.

Additionally, staff recommends language revisions to amend the Tariff to include five (5) new tariff items which consist of a District Services Fee, new wharfage rates for: aircraft, wind components, Free Time Exception 5, and Mobile Harbor Crane 0738B, and proposes other minor language modifications.

Staff is not recommending an increase in Commercial Fishing Vessel rates at this time. Staff intends

to move forward with a comprehensive strategy that may include rate adjustments for Commercial Fishing Vessels at a future date. Furthermore, staff is evaluating Pilotage rates and will return to the Board at a future date for rate recommendations.

The District last implemented a 1.8% GRI in 2015 and 1.8% GRI in 2014.

The amendment to Port of San Diego Tariff No. 1-G to increase rates and charges and updates format and language is projected to increase revenues to the District by approximately \$487,000 annually and is intended to meet financial reserve needs and requirements of the District.

### **RECOMMENDATION:**

- (A) Adopt a resolution finding the amendment to the San Diego Unified Port District, Port of San Diego Tariff No. 1-G, Rates and Charges, to increase rates, add new rates and items and update tariff format and language exempt from the California Environmental Quality Act as specified under Section 15273 of the CEQA Guidelines.
- (B) Conduct a public hearing and adopt an ordinance amending the San Diego Unified Port District, Port of San Diego Tariff No. 1-G, to increase rates and charges, add new rates and items and update language as follows:
  - 1) Implement a two and one-half percent (2.5%) increase in General items, Dockage items, Wharfage, Demurrage, Storage and Space Occupancy items, miscellaneous rates and charges, with exception of Commercial Fishing Vessels and Pilotage, referenced in Attachment A.
  - 2) Perform an amendment of Tariff No. 1-G to include new rates and items, and perform other minor language modifications, referenced in Attachment A.

### **FISCAL IMPACT:**

The amendment to Port of San Diego Tariff No. 1-G to increase rates and charges and update format and language may increase revenues to the District by approximately \$487,000 annually.

### **COMPASS STRATEGIC GOALS:**

Implementation of the Tariff rate increases will result in increased revenue for the Port of San Diego, while maintaining competitively priced services.

- A thriving and modern maritime seaport.
- A financially sustainable Port that drives job creation and regional economic vitality.

### **DISCUSSION:**

The Port Tariff governs the rates and charges applicable for all maritime-related commercial activity under the Port's jurisdiction. The Tariff is generally reviewed annually to ensure that the Port's rates and charges are competitive and the rules are current. In addition, the rates and charges are reviewed to reflect the prevailing market rates and economic climate. The Port's last GRI was a 1.8% increase in 2015 and 1.8% 2014.

There are several factors that are considered during staff's Tariff analysis, including relevant economic indicators such as the CPI for the West Region, All Urban Consumers (CPI-U), rate

recommendations made by California Association of Port Authorities' (CAPA) member ports, actual rate increases by other CAPA ports, and regional market conditions. This year, several CAPA ports will be instituting a GRI, including the Ports of Hueneme, Oakland, Stockton, Richmond, and Redwood City.

Based on the above factors, staff recommends that the Board conduct a public hearing and adopt the following changes to the Port's Tariff No.1-G, effective August 1, 2017:

- Implement a two and one-half percent (2.5%) increase in General for Minimum Charge - Item No. 0510; Cargo Handling Permit Fee - Item No. 0515, Vessel Repair Permit Fee - Item No. 0520 and Hazardous and Dangerous Cargo Permit Fee - Item No. 0522, Dockage Charge for Transient Vessels - Item No. 0572 and Rates for Full Dockage - Item No. 0575, Wharfage Rates for all commodities Item Nos. 0600 through 0674, including Passenger Fees- Item No. 0647 and including Hawaiian Trade - Item No. 0666, Demurrage Rates - Item No. 0705, Storage Rates - Item No. 0720, Per Container Wharf Storage Rates - Item No. 0725, Space Occupancy Rates - Item No. 0735 and Temporary Office Occupancy - Item No. 0736, Temporary Area Assignments - Item No. 0737, Mobile Harbor Crane - Item No. 0738, Electrical Service for Refrigerated Containers - Item No. 0747, Electrical Service for Shore Power - Item No. 0748, Redelivery of Merchandise - Item No. 0750, Environmental Surcharge - Dry Bulk - Item No. 0758.
- Perform an amendment of the Tariff to include five (5) new Tariff items and added language for the following:
  - Item No. 0521- District Services Fee and added Tariff language as follows:  
*The fee for District to supply services not otherwise specified in this tariff for operations at District-owned facilities shall be the cost of service calculated by the Port prior to the services rendered, per request.*
  - Item No. 0655- Aircraft Wharfage Rate and added Tariff language as follows: *Aircraft Commercial, Personal, Military per metric ton \$21.15.*
  - Item No. 0672- Wind Turbines Towers and Components Wharfage Rates and added Tariff language as follows: *Wind Turbines, Towers, and Components: Tower sections and single blades: \$1.50 per Cubic Meter (CBM) Hubs and Nacelles: \$5.84 per Cubic Meter (CBM).*
  - Item No. 0685-Free Time Allowed Exception 5 and added Tariff language as follows: *EXCEPTION 5: Free time for bulk commodities stored inside railcars before and/or after trans-loading to/from ocean vessel and/or to truck shall be: Forty-eight (48) hours prior to vessel arrival and twenty-Four (24) hours after vessel departure for a total of seventy-two (72) hours per shipment that shall be coordinated through the District's Marine Operations Department.*
  - Item No. 0738B-Mobile Harbor Crane Application for Use of Mobile Harbor Crane and added Tariff language as follows: *Application for use of a Mobile Harbor Crane(s) shall be made to the Maritime Operations, Marine Terminal Supervisor, Tenth Avenue Marine Terminal prior to 1400 hours on the day preceding the day crane is to be used, subject to the following:*
    - (a) *Crane ordered within (12) hours of requested start time will be in position and ready to work at the earliest time possible. Crane(s) required for an 1800 hour start or later shall be ordered no later than 1400 hours that same day.*
    - (b) *Crane(s) required for Saturday, Sunday or a holiday start shall be subject to prior arrangements.*

*(c) Cancellation notice of a crane order or change of the original starting time shall be given at least three (3) hours prior to the originally ordered starting time. Change of original starting time or cancellation of crane notice given within 3 hours of original starting time is subject to a one-time charge of One-Thousand Five Hundred Dollar (\$1,500) Service Charge.*

- Perform an amendment of Tariff language and other minor language modifications, referenced in Attachment A.

The proposed rate increases would aid in balancing the rising operational and maintenance costs, and the financial reserve needs while maintaining a rate structure that is comparable to competitor ports. Additionally, while some of the Tariff will be used for maintenance, such maintenance shall not be for capital improvements to expand systems.

## **Customer Outreach**

Staff conducted customer outreach through a Tariff Update Stakeholder Meeting and Teleconference call with customers on April 5, 2017. Additionally, notification letters were distributed via electronic mail to affected customers on April 14, 2017. Lastly, staff also conducted follow-up phone calls and met in-person with other customers who had questions or expressed concerns in regard to the proposed changes.

In accordance with Government Code Section 54954.6(a)(1)(2), a notice of public hearing has been published. Written notification of the proposed Tariff amendment was given to shipping lines, ships agents, stevedores, terminal operators, facilities users, maritime tenants, and San Diego Port Tenants Association.

Staff is not recommending an increase in Commercial Fishing Vessel rates at this time. Staff intends to move forward with a comprehensive strategy that may include rate adjustments for Commercial Fishing Vessels at a future date. Furthermore, staff is evaluating Pilotage rates and will return to the Board at a future date for rate recommendations.

## **Recommendation**

Implementation of the rate increase will result in increased revenues to the District estimated at approximately \$487,000 annually. Staff recommends the Board approve the proposed changes.

## **General Counsel's Comments:**

The General Counsel's Office has reviewed this agenda sheet and attachments as presented to it and approves them as to form and legality.

## **Environmental Review:**

The proposed Board action involves an amendment to Port of San Diego Tariff No. 1-G to increase rates and charges and update format and language (Project). The action is Statutorily Exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15273 (Rates, Tolls, Fares, and Charges) and/or Categorically Exempt pursuant to CEQA Guidelines Section 15301 (Class 1 - Existing Facilities) and Sections 2.h and/or 3.a of the District's Guidelines for compliance

with CEQA. The existing facilities exemption is proper because the activity in question will only involve an amendment to Port of San Diego Tariff No. 1-G to increase rates and charges and updated format and language and will involve no expansion of use beyond that previously existing. Additionally, the increase in rates may be used for maintenance activities that do not constitute capital improvements that expand systems. As part of this action, and based upon the facts and analysis set forth in this agenda sheet and during the public hearing of this matter at the June 20, 2017 Board meeting, staff recommends that the Board adopt specific findings pursuant to CEQA Guidelines Section 15273, subsection (c), as follows and as more particularly described in the draft resolution:

1. The proposed Project, generally consists of (1) an amendment to Port of San Diego Tariff No. 1-G to increase rates and charges and updated format and language is based on relevant economic indicators such as the Consumer Price Index for West Region for All Urban Consumers, the Producer Price Index for Port and Harbor Operations, and CAPA, and (2) amend the Tariff to include five (5) new tariff items which consist of a District Services Fee, new wharfage rates for: aircraft, wind components, Free Time Exception 5, and Mobile Harbor Crane 0738B, and proposes other minor language modifications.
2. The proposed Project is projected to increase revenues to the District by approximately \$487,000 annually.
3. The proposed Project will maintain a rate structure that is competitive with other competitor ports and is not to obtain funds for capital projects for expansion of systems.
4. The proposed Project is to meet operational expenses of the District and financial reserve needs and requirements of the District and while some of the fees may be used for maintenance activities those maintenance activities will not involve capital projects for expansion of systems.
5. The proposed Project is not to obtain funds for capital projects for expansion of systems and will involve no expansion of use beyond that previously existing.

In addition, the proposed Board action complies with Sections 36 of the Port Act specifically gives the Board of Port Commissioners (Board) the authority to “by ordinance fix the rate[s] . . . or other charges which are appropriate for the use of any of the facilities owned and constructed or services furnished or provided by the [D]istrict” and therefore, it is within the District’s authority to set tariff rates on tidelands.

Finally, the proposed Board action is considered an “excluded development” pursuant to Section 8.a (Existing Facilities) of the District’s Coastal Development Permit Regulations; therefore, issuance of a Coastal Development Permit is not required.

### **Equal Opportunity Program:**

Not applicable.

### **PREPARED BY:**

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Attachment:

Attachment A: Tariff No. 1-G

Attachment B: CAPA- February 3, 2017 Correspondence