



County of Monterey

Board of Supervisors
Chambers
168 W. Alisal St., 1st Floor
Salinas, CA 93901

Board Report

File #: RES 21-079, **Version:** 1

- a. Consider adoption of a Resolution amending Article I.E. of the Monterey County Master Fee Resolution effective July 1, 2021, to adjust fees relating to oversight and services provided by the Health Department's Environmental Health Bureau; and
- b. Provide direction to staff regarding waiver of certain fees for Fiscal Year 2021-2022 and provision of supplemental funding from the County's designated American Rescue Plan Act funds.

RECOMMENDATION:

It is recommended that the Board of Supervisors:

- a. Consider adoption of a Resolution amending Article I.E. of the Monterey County Master Fee Resolution effective July 1, 2021, to adjust fees relating to oversight and services provided by the Health Department's Environmental Health Bureau; and
- b. Provide direction to staff regarding waiver of certain fees for Fiscal Year 2021-2022 and provision of supplemental funding from the County's designated American Rescue Plan Act funds.

SUMMARY:

The Health Department's Environmental Health Bureau (EHB) is requesting approval of a proposed across-the-board 2% increase to EHB fees, as set forth in Article I.E. of the Monterey County Fee resolution, effective July 1, 2021. Concurrently, per Board direction from the Board's budget workshop, EHB is seeking direction from the Board regarding waiver of certain of these fees for Fiscal Year 2021-2022.

DISCUSSION:

Fee Increase

The fee increase is proposed to reflect more closely, while still not exceeding, the actual and reasonable costs of services and benefits provided to the public by the EHB. Adoption of the proposed fees will contribute to the self-sufficiency of the programs within the Environmental Health Bureau; however, the fee increase will not fully cover cost of services and benefits and may still result in the need for additional future General Fund Contributions for those services to remain at Fiscal Year (FY) 2020-21 staffing levels.

In FY 2016-17, the Environmental Health Bureau contracted with MGT America to conduct a comparison analysis of its facility and permit fees. The results of that analysis included a recommendation to increase fees by 14%; however, after evaluation of the impact of this increase to the public, the Board of Supervisors requested Environmental Health to implement increases incrementally. The Environmental Health Bureau has adhered to this request by asking for Board approval of an across-the-board fee increase of 4% in FY 2017-18, 3% in FY 2018-19, 3% in FY 2019-20 and 4% in FY 2020-21. The EHB is now requesting approval for an across-the-board 2% fee increase effective July 1, 2021 to contribute to meeting its Fiscal Year 2021-22 Requested Budget.

Of note is the fact that, although the fee request for FY 2019-20 was the final implementation of the fee adjustment supported by the 2017 MGT fee study, that study was based on costs for FY 2017. Since that time, additional costs and expenses, including but not limited to cumulative across the board employee salary cost of living adjustments (10.5%), COWCAP/Indirect Costs (35%), and salary adjustments (11% based on market),

corroborates this request for a 2% increase, as the current fee adjustment requested herein only continues to partially recapture the true current cost of services.

Also, of note is the ongoing educational and regulatory requirements necessary to ensure that the public is protected during the COVID-19 pandemic with regard to food facilities and businesses impacted by the pandemic. In addition to conducting routine facility inspections, Environmental Health staff have consistently provided additional education to permit holders regarding the use of personal protection equipment (PPE), hand washing and indoor/outdoor dining requirements since the inception of the Shelter In Place Order, and staff have visited facilities multiple times throughout the year to ensure the public's safety and protection. Permit holders have been provided payment options for permit fees to allow these businesses to continue to operate during this unprecedented time.

Environmental Health is also charged with the regulation of cannabis businesses, which requires more time and effort operationally and administratively to address the specific environmental and public health issues, both known and unknown, related to specific categories. Cannabis related fees were initially introduced and included in the Article I.E. Master Fee Schedule effective FY 2018-19. These fees are also subject to the requested across-the-board 2% increase.

An increase in fees for the Tobacco Retailer License permit fee is not requested at this time; a review of the expenditures associated with the license permitting indicates that these services are covered with the current fee.

The Drinking Water/Wells program includes an increase in fees for well construction permit applications requiring review by the Housing and Community Development Department for compliance with the California Environmental Quality Act (CEQA).

The Environmental Health Review Services program (EHRS) reviews land use projects and building permits and inspects and approves Onsite Wastewater Treatment Systems (OWTS or septic system permit applications). An increase in fees for the EHRS program is not requested at this time; a fee adjustment was approved by the Board in Fiscal Year 2019-20, effective November 17, 2019. At some future time, these fees, as well as an attempt to recapture additional costs that have been added to the fully loaded costs of services, will be brought back to the Board for consideration.

By definition, the changes to these charges are not a "tax" and are exempt from voter approval pursuant to Article XIII C section 1(e)(1)-(3) and (5) of the California Constitution (Prop. 26; charges imposed for specific benefit conferred/privilege/service or product, reasonable regulatory costs provided or granted to the payor, and/or fines and/or penalties). As such, they reflect no more than the actual cost of the service/benefit received by the payor.

Fee Waiver

Subject to further Board approval, the EHB is prepared to waive fees on certain permit categories for businesses that have been impacted the most by the COVID-19 pandemic. Per Board direction from the Board's April 6, 2021 Budget Workshop, staff seeks direction regarding a one-time permit fee waiver for FY 2021-22 for certain types of businesses most likely to have been significantly impacted by the COVID-19 pandemic. Staff seeks Board direction on the categories of fees to be waived and the amount of the reduction, whether 100% or partial waiver. Staff also seeks direction on the proposal to supplement the amount not received due to the waiver with funds from the American Recovery Plan Act (ARPA) expected to be received by the County. Staff recommends ARPA as the source of funding this action, as it is an allowable use as per the language in the Act, [Text - H.R.1319 - 117th Congress \(2021-2022\): American Rescue Plan Act of 2021 |](#)

[Congress.gov | Library of Congress <https://www.congress.gov/bill/117th-congress/house-bill/1319/text>](https://www.congress.gov/bill/117th-congress/house-bill/1319/text)
(ARPA), Subtitle M, and the current guidelines available.

The Budget office in reviewing the qualifying categories under ARPA does not believe the waiving of the fees qualifies under the Revenue Backfill category. The most appropriate category would be Economic Recovery, however, there is a risk that the waiving of fees will not qualify because it is not based on the direct effect of the pandemic or as grant to businesses but an action taken by the local government to reduce fees. Additional guidelines may be issued in the future which may limit or prohibit use of ARPA funds for this purpose, which would require alternative funding.

The proposed specific fees eligible for this waiver are shown in Attachment 4 - Article I.E. Proposed Waived Fees. The attachment assumes the proposed 2% fee increase and indicates the fees proposed to be waived. The general categories of businesses proposed to receive the fee waiver are the following:

- Restaurants
- Personal Care Services (Body Art)
- Public Swimming Pools and Spas
- Grocery Retailers (Retail Markets)

The fee waiver of the annual permit cost would provide some monetary relief to these businesses to compensate in part from negative impacts they may have experienced in Fiscal Year 2020-21 and may continue to experience due to the pandemic in FY 2021-22. If the Board were to approve a waiver for these proposed fees, the EHB would request supplemental funding in the amount of \$3.4 million for a fee waiver equivalent to 100% of the annual permit cost, \$2.5 million for a fee waiver equivalent to 75%, or \$1.7 million for a fee waiver equivalent to 50%.

As the County continues to move towards opening more fully, businesses directly affected by COVID-19 restrictions are facing challenges to reopening but have indicated an eagerness to do so. Revenue from these facility permits directly impact the County as does the revenue from these facilities. Supplementally funding EHB to account for loss of revenue from fees for these permits will allow for the EHB cost recovery while also assisting businesses to remove a potential obstacle to moving forward towards reopening.

Included in the supplemental funding request for those businesses in the categories identified, is the payment of the annual surcharge assessed for the Fire Hazardous Materials Emergency response (First Responder surcharge) required under Section 10.67.050 of the Monterey County Code. This fee is collected and distributed to the City of Salinas Fire Department and City of Seaside Fire Department per the terms of Agreement with the County.

Based on Board direction regarding the fee waiver, staff would intend to return on May 4, 2021 with a resolution for Board consideration for approval of the fee waiver and supplemental funding. If the Board directs staff to return to the Board for consideration of fee waivers, EHB requests direction regarding supplemental funding from American Rescue Plan Act funds in the amount of \$3.4 million for a fee waiver equivalent to 100% of the annual permit cost, \$2.5 million for a fee waiver equivalent to 75%, or \$1.7 million for a fee waiver equivalent to 50% to offset the loss of fees for the services provided.

The proposed fee adjustments are attached as follows: Attachment 1 - Redlined Article I.E. Fee Schedule for Fiscal Year 2021-22; Attachment 2 - Board Resolution with Article I.E. Fee Schedule for Fiscal Year 2021-22; Attachment 3 - Fiscal Assessment Summary; and Attachment 4 -Proposed Fees with Waiver.

This work supports the Monterey County Health Department 2018-2022 Strategic Plan Initiatives to enhance community health and safety through prevention and to engage MCHD workforce and improve operational functions to meet current and developing population health needs. It also supports three of the ten essential public health services, specifically; 2. Diagnose and investigate health problems and health hazards in the community; 3. Inform, educate, and empower people about health issues; and 6. Enforce laws and regulations that protect health and ensure safety.

OTHER AGENCY INVOLVEMENT:

County Counsel has reviewed, and approved as to legal form, the proposed amendment to Article I.E. of the Monterey County Master Fee Resolution. Due to late submission of this Board Report, the CAO Budget and Analysis Division was not provided adequate time to fully review for potential fiscal, organizational, policy, or other implications to the County of Monterey.

FINANCING:

The recommended fee adjustments are intended to improve on the recapture of a portion of the costs associated with the provision of the indicated services, and do not exceed actual costs for providing these services. As such, the fees represent a charge imposed for the specific regulatory service provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the County for providing the regulatory service. Anticipated revenues resulting from the proposed fee adjustments are included in the Fiscal Year (FY) 2021-22 Requested Budget (001-4000-HEA005). This action will have no immediate impact on the General Fund Contributions for these services.

BOARD OF SUPERVISORS STRATEGIC INITIATIVES:

Check the related Board of Supervisors Strategic Initiatives:

Economic Development:

- Through collaboration, strengthen economic development to ensure a diversified and healthy economy.

Administration:

- Promote an organization that practices efficient and effective resource management and is recognized for responsiveness, strong customer orientation, accountability and transparency.

Health & Human Services:

- Improve health and quality of life through County supported policies, programs, and services; promoting access to equitable opportunities for healthy choices and healthy environments in collaboration with communities.

Infrastructure:

- Plan and develop a sustainable, physical infrastructure that improves the quality of life for County residents and supports economic development results.

Public Safety:

- Create a safe environment for people to achieve their potential, leading businesses and communities to thrive and grow by reducing violent crimes as well as crimes in general.

Prepared by: Robin Kimball, Management Analyst II, 796-1297

Approved by:

Date: _____

Elsa Mendoza Jimenez, Director of Health, 755-4526

Attachments:

Attachment 1 - Redlined Article I.E. Master Fee Schedule for Fiscal Year 2020-21 is on file with the Clerk of the Board

Attachment 2 - Board Resolution (proposed) with Article I.E. Master Fee Schedule for Fiscal Year 2020-21 is on file with the Clerk of the Board

Attachment 3 - Fiscal Assessment Summary is on file with the Clerk of the Board

Attachment 4 - Article I.E. Proposed Waived Fees is on file with the Clerk of the Board