L.A. City Council places phone tax on ballot

By David Zahniser, Los Angeles Times Staff Writer
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Hoping to keep up with changing telephone technology while salvaging the city's budget, the Los Angeles City Council voted unanimously Tuesday to put a $243-million telephone utility users tax on the Feb. 15 presidential primary ballot.

Worried that a pending court ruling could eliminate the 40-year-old tax, the council agreed to ask voters to preserve it and, to ward off future lawsuits, grant the city the power to tax telephone services that have not yet been invented.

Hours before the vote, Mayor Antonio Villaraigosa persuaded the two final holdouts -- Councilmen Dennis Zine and Greig Smith, fiscal conservatives who represent the west San Fernando Valley -- that the tax is too important to leave to the courts.

Now the city's elected officials expect Villaraigosa to make a similar pitch to voters, telling them that government services will be gutted unless the tax is preserved.

"We really need the mayor to drive home the need for this tax. His city is at stake," said Councilwoman Janice Hahn. "A lot of what he's been charged with, whether it's fixing traffic or hiring cops, is going to depend on this."

Although the tax is now levied at 10%, Villaraigosa asked the council to put a 9% measure on the ballot so city officials can sell the measure as a tax cut. The mayor embraced the strategy after his pollsters told him that a tax cut received a stronger response from voters than did the retention of a tax.

Villaraigosa also pushed to get the measure on the presidential primary ballot after polling data showed that turnout will be slightly higher than in June, providing it with more support. The measure requires only a simple majority for passage.

Still, the timing is less than ideal for tax proponents. The mayor and his negotiating team recently reached a salary agreement that will give a 23% pay hike over the next five years to certain city employees with more than five years' experience.

That agreement has drawn fire from some community leaders, one of whom compared the pay hikes to "going out to a fancy restaurant when you don't have any money."

"You don't give more money and then tell us we have to increase our taxes," said Denny Schneider, who serves on the Westchester-Playa del Rey Neighborhood Council.

The tax campaign also will play out as the council decides whether to...
approve a plan to hike electrical rates by nearly 9% over the next two years and water rates by nearly 6% over the same period.

Perhaps most distressing to city leaders is that the telecommunications industry -- companies with millions at their disposal -- have been silent on whether they will wage a campaign against the tax. On Tuesday, a spokesman for Verizon said only that the company "doesn't believe that the tax burden should fall disproportionately on telecommunications customers."

"At this time we are assessing our options as it relates to the ballot measure," Verizon spokesman Kevin Laverty said in a statement.

The city's budget analysts have warned that an adverse court ruling could eliminate the tax and therefore result in any number of cutbacks: 2,700 police officers, or half the Fire Department or 4,200 civilian city employees. The loss of the tax easily could erase Villaraigosa's bid to hire 1,000 new police officers -- an initiative that was funded by hiking trash fees from $11 to $28 per month.

Although the city's telephone tax has been in place since 1967, it has become increasingly vulnerable to legal challenges, as cellphones have come into greater usage and phone calls are no longer billed based on the distance between callers.

The Internal Revenue Service decided last year that the federal excise tax on telephone usage would apply only to separately billed local calls, according to city leaders. That decision quickly spurred questions about the legality of the city's telephone tax, which contained a reference to the excise tax.

The council rewrote its telephone tax earlier this year to omit references to the federal rules. But one taxpayer quickly filed a challenge, saying the city should have sent the reworded ordinance to the voters in accordance with Proposition 218, the 1996 ballot initiative that requires a public vote on every new tax.

While legally complex, the changing technology has created a windfall for City Hall in recent years. Telephone tax revenue has increased in Los Angeles from $203 million in 1997 to $274 million this year.

The biggest boost came in 2004, a year after the city imposed the tax on all wireless carriers. That move provided the city an extra $40 million in revenue over the prior year. AT&T Wireless challenged the tax, prevailing twice in court. If that decision stands, the city would lose $162 million annually.

To comply with Proposition 218, the council had to vote Tuesday to declare an "emergency" -- language that allows it to put the tax on the ballot in February instead of 2009. Because an emergency declaration requires a unanimous vote, Villaraigosa needed to persuade Zine and Smith that the measure should go on the ballot.

During Tuesday's council meeting, Villaraigosa aides ushered the two men into the mayor's office. After 25 minutes, both emerged and said they would vote yes.

Villaraigosa has not yet created a campaign committee to raise money for the ballot measure. But one campaign consultant who has worked with Villaraigosa -- and so far is not involved in the tax campaign -- said firefighters and police officers would make ideal spokespersons.

Villaraigosa seemed to echo that strategy in a statement hours after the vote.

"The mayor believes that this issue is absolutely critical to the health and safety of the city and he will lead an aggressive campaign to support it," said mayoral spokesman Matt Szabo.
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david.zahniser@latimes.com

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