



# City of Sacramento City Council

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915 I Street, Sacramento, CA, 95814  
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**Meeting Date:** 6/7/2011

**Report Type:** Consent

**Title:** Escheat of Unclaimed Property

**Report ID:** 2011-00456

**Location:** Citywide

**Recommendation:** Adopt a Resolution directing the City Manager to transfer permanently escheated unclaimed property to the City's General Fund pursuant to Government Code Section 50053.

**Contact:** Dennis Kauffman, Accounting Manager, (916) 808-5843; Leyne Milstein, Director of Finance, (916) 808-8491, Department of Finance

**Presenter:** None

**Department:** Finance

**Division:** Accounting Division

**Dept ID:** 06001311

**Attachments:**

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1-Description/Analysis  
2-Resolution

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**City Attorney Review**

Approved as to Form  
Larry Duran  
5/31/2011 2:28:21 PM

**City Treasurer Review**

Prior Council Financial Policy Approval or  
Outside City Treasurer Scope  
Russell Fehr  
5/12/2011 5:06:23 PM

**Approvals/Acknowledgements**

Department Director or Designee: Leyne Milstein - 5/31/2011 12:46:24 PM

Assistant City Manager: Patti Bisharat - 5/31/2011 1:45:19 PM



## Description/Analysis

**Issue:** The Finance Department is finalizing a new policy and procedure for the escheat of unclaimed property. Escheat is the legal process of lapsing or reverting ownership of unclaimed private property to the government by operation of law.

The California Unclaimed Property Law (UPL) generally provides that unclaimed moneys held by private business and state government agencies escheat to the state. The UPL does not apply to money in the custody of local agencies. Escheat of unclaimed property in the possession of local agencies is governed by the local government escheat laws set forth in the Government Code. Specifically, Government Code sections 50050 through 50056 provide for unclaimed property in the City's possession to permanently escheat to the City.

The main objective of the Finance Department's escheat policy is to enhance the prospect of returning unclaimed property held by the City to its rightful owner. The City will escheat unclaimed property only after reasonable diligent efforts to contact the owner have been unsuccessful or where, after having been notified, the owner fails to claim the property within the time allowed by state law.

When unclaimed money is held in a special fund, once the money escheats to the City, the City Council, in its discretion, may allow the money to escheat to the special fund or to be transferred to the General Fund. Specifically, Government Code Section 50053 provides: "When any such money becomes the property of a local agency and is in a special fund, the legislative body may transfer it to the general fund." Staff is recommending that the City Council direct the City Manager to transfer permanently escheated unclaimed property held in any special fund to the City's General Fund pursuant to Government Code Section 50053, with the exception of any cost reimbursement necessary to comply with Proposition 218.

**Policy Considerations:** A considerable amount of the unclaimed money in the City's possession is currently held in the utility funds. However, unclaimed money held in the utility funds is not the property of the utility funds because it is the result of overpayments, and therefore is not a fee for service rendered. Rather, the unclaimed money is simply being held in constructive trust for the true owners who failed to claim it. Allowing the unclaimed money to revert to the special funds would only benefit the ratepayers of those funds. Alternatively, unclaimed property which permanently escheats to the City from monies held in a special fund may be transferred to the General Fund to benefit all City residents.

**Environmental Considerations:** Not Applicable

**California Environmental Quality Act (CEQA):** This recommendation does not constitute a "project" and is therefore exempt from the California Environmental Quality Act according to CEQA guidelines Section 15061 (b)(1) and 15378(b)(3).

**Sustainability Considerations:** There are no sustainability considerations associated with this report.

**Commission/Committee Action:** None

**Rationale for Recommendation:** Unclaimed property which permanently escheats to the City should be transferred to the General Fund to benefit all City residents. Generally, there is not a Proposition 218 issue with the transfer of unclaimed money held by the utility funds because the money in question does not belong to the enterprise fund, but rather it belongs to the owners who haven't claimed their money. However, to avoid any transfer being made in violation of Proposition 218, the utility funds must be reimbursed to the extent that enterprise resources are used to try to locate the owners of unclaimed money held in their possession.

**Financial Considerations:** The City currently holds over \$2 million of unclaimed property in the form of uncashed checks and utility account credit balances. Staff anticipates that a significant amount of this unclaimed property, which has been held by the City for many years, may permanently escheat to the City over the next few years under the newly proposed policy and procedure. The Finance Department escheat revenue budget estimate is \$120,000 for Fiscal Year 2011/12. Unclaimed property escheated in excess of the budget will be added to the available fund balance in the General Fund.

**Emerging Small Business Development (ESBD):** No goods or services are being purchased under this report.

## **RESOLUTION NO.**

Adopted by the Sacramento City Council

### **DIRECTING ESCHEATED UNCLAIMED PROPERTY HELD IN ANY SPECIAL FUND TO BE TRANSFERRED TO THE GENERAL FUND**

#### **BACKGROUND**

- A. The Finance Department is finalizing a new policy and procedures for the escheat of unclaimed property. The main objective of the escheat policy is to enhance the prospect of returning unclaimed property held by the City to its rightful owner. The City will escheat unclaimed property only after reasonable diligent efforts to contact the owner have been unsuccessful or where, after having been notified, the owner fails to claim the property within the time allowed by state law.
- B. Government Code sections 50050 through 50056 provide for unclaimed property to permanently escheat to the City.
- C. Government Code Section 50053 reads “When any such money becomes the property of a local agency and is in a special fund, the legislative body may transfer it to the general fund.”

#### **BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVES AS FOLLOWS:**

- Section 1. The City Council directs the City Manager to transfer permanently escheated unclaimed property held in any special fund to the City’s General Fund pursuant to Government Code Section 50053, except to the extent that such transfer will be violative of state law.
- Section 2. If special fund resources are used to try to locate owners of unclaimed property in the possession of the special fund, and if that unclaimed property escheats to the City and is transferred to the General Fund pursuant to Section 1, then the special fund shall be reimbursed by the General Fund for any costs the special fund incurred in trying to locate owners of the unclaimed property if failure to do so would cause the transfer to the General Fund to be violative of state law.