

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL
FROM: LON PETERSON, CHIEF OF COMMUNICATIONS &
INTERGOVERNMENTAL RELATIONS
COMMUNICATIONS & INTERGOVERNMENTAL RELATIONS
OFFICE
SUBJECT: OPPOSITION TO INITIATIVE 21-0042A1

AGENDA ACTION: RESOLUTION

RECOMMENDATION

It is recommended by the Communications and Intergovernmental Relations Office that the Council, by resolution, oppose Initiative 21-0042A1, the Taxpayer Protection and Government Accountability Act, a proposed statewide ballot measure for the November 2024 election.

EXECUTIVE SUMMARY

A statewide initiative entitled "Taxpayer Protection and Government Accountability Act" has been proposed for placement on the ballot for the November 2024 election. This measure was initially proposed for the 2022 general election. Cal Cities identified this measure in 2022 as a top local priority. With the news that the measure is now qualified for the 2024 ballot, Cal Cities renewed its ask of local governments to oppose the measure. The proposed measure would limit the ability of the state and of local governments to impose taxes, fees and other charges and would restrict voter input on how local tax dollars can be spent. City staff concur with the Cal Cities recommendation.

BACKGROUND

On Jan. 4, 2022, the California Business Roundtable filed a proposed initiative, entitled "The Taxpayer Protection and Government Accountability Act" or AG# 21-0042A1. Cal Cities notes this measure is far more detrimental to cities than the measure filed previously in 2018, because the 2022 measure has a much higher potential to adversely impact vital local services. The proposed ballot measure did not qualify for the November 2022 general election.

Of particular concern for cities, key elements of the new proposed initiative include:

Fees and Charges:

- Except for licensing and other regulatory fees, fees and charges may not exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is defined as the “minimum amount necessary.” The burden to prove the fee or charge does not exceed “actual cost” is changed to “clear and convincing” evidence.
- Requires fees and charges paid for the use of local and state government property and the amount paid to purchase or rent government property to be “reasonable.” These fees and charges are currently allowed to be market-based. Whether the amount is “reasonable” (introducing a new legal standard apparently aimed at forcing below market fee and charge amounts) must be proven by “clear and convincing evidence.” Cal Cities is particularly concerned that the new standard may significantly reduce the amount large companies (e.g., oil, utilities, gas, railroads, garbage/refuse, cable, and other corporations) will pay for the use of local public property.
- Prohibits fees on new development based on vehicle miles traveled.

Taxes:

- Taxes and fees adopted after Jan. 1, 2022, that do not comply with the new rules, are void unless reenacted.
- Invalidates the 2017 California Supreme Court decision in *California Cannabis Coalition v. City of Upland* that allows a majority of local voters to pass special taxes. The measure specifies that taxes proposed by initiative are subject to the same rules as taxes placed on the ballot by a city council.
- Expressly prohibits local advisory measures, which allow local voters to express a preference for how local general tax dollars should be spent.
- Requires voter approval to expand existing taxes (e.g., Utility, Transient Occupancy) to new territory (e.g., annexations) or to expand the tax base (e.g., new utility service)
- New taxes can only be imposed for a specific time period.
- City charters may not be amended to include a tax or fee.

PRIOR CITY COUNCIL REVIEW

On April 12, 2022, the Council unanimously adopted a resolution opposing this same initiative.

ANALYSIS

The California Business Roundtable is a consortium representing large corporations and businesses. The consortium also has financially contributed to the statewide campaign account advocating for passage of this initiative.

Cal Cities conducted a legal analysis regarding the potential impacts to local governments if this measure were to be enacted by the voters in November 2024. Cal Cities concluded that the initiative could significantly curtail the ability of local governments to collect or levy fees, taxes or fines. Cal Cities argues the measure would benefit large corporations by way of tax loopholes and would restrict a city's ability to properly enforce local laws. Under this proposed initiative, any tax measure, including those placed on the ballot by voter initiative would now need to be approved by a two-thirds vote of the electorate.

Based on the current volume of fees and charges imposed by local agencies, including council-adopted increases to simply accommodate for inflation, Cal Cities estimates the amount of local government fee and charge revenue at risk is approximately \$2 billion per year including those adopted since Jan. 1, 2022. Over ten years, \$20 billion of local government fee and charge revenues will be at heightened legal peril.

FISCAL IMPACT

The proposed statewide ballot measure would have an adverse impact on the City's finances and ability to raise revenue through a local ballot measure. Further, the measure would raise the threshold for approval of special tax measures proposed by a citizen initiative from majority to two-thirds voter approval.

The initiative also converts administratively imposed fines and penalties into taxes unless a new, undefined, and ambiguous "adjudicatory due process" is followed. This provision may put at risk local governments' authority to impose fines and penalties for violations of state and local law.

ENVIRONMENTAL IMPACT

This action is exempt from the provisions of the California Environmental Quality Act (CEQA) under CEQA Guidelines Section 15061(b)(3) and 15378 in that there is no possibility that the implementation of this action may have significant effects on the environment, and no further environmental review is required.

BOARD/COMMISSION/COMMITTEE REVIEW AND RECOMMENDATIONS

Not applicable.

NOTIFICATION

Not applicable.

ATTACHMENTS

- Attachment 1 – Cal Cities Fiscal Analysis
- Attachment 2 – Text of Proposed Ballot Initiative 21-0042A1
- Resolution – Opposition to Proposed Statewide Ballot Initiative 21-0042A1

PRESENTER

Scott Alonso, Government Affairs Officer