



CITY OF DEL REY OAKS

Staff Report

DATE: March 26, 2024

TO: Honorable Mayor and Members of City Council

FROM: John Guertin, City Manager

SUBJECT: Letter of Opposition to Initiative 21-0042A1

CEQA: This action does not constitute a “project” as defined by the California Environmental Quality Act (CEQA) guidelines section 15378 as it is an administrative activity of the City that will not result in direct or indirect physical changes in the environment.

Recommendation

Authorize the Mayor to sign a letter opposing Initiative 21-0042A1, also known as the California Business Roundtable “Taxpayer Protection and Government Accountability Act.”

Background

On January 4, 2022, the California Business Roundtable filed the "Taxpayer Protection and Government Accountability Act" or AG# 21-0042A1. On February 1, 2023, the measure qualified for the November 2024 ballot. The initiative would make it more difficult for voters to pass measures needed to fund local services and projects, and would put initiatives passed by voters after January 2022 in jeopardy. Council is being asked to authorize the Mayor to sign a letter in opposition of the initiative.

Summary

The Taxpayer Protection and Government Accountability Act would amend the California Constitution with provisions that limit voters' authority and input, adopt new and stricter rules for raising taxes and fees, and may make it more difficult to impose fines and penalties for violation of state and local laws. The measure puts billions of local government tax and fee revenues at risk statewide with related core public service impacts.

Major Provisions

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 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 aiming to force below market fee and charge amounts) must be proved by "clear and convincing evidence."? The 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 January 1, 2022, that do not comply with the new rules, are void unless reenacted.
- Invalidates Upland decision that allows a majority of local voters to pass special taxes. The measure specifies that taxes proposed by the 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.
- All state taxes require majority voter approval.

Fines and Penalties:

- May require voter approval of fines, penalties, and levies for corporations and property owners that violate state and local laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

Discussion

On January 4, 2022, the California Business Roundtable filed the "Taxpayer Protection and Government Accountability Act" or AG# 21-0042A1. On Feb. 1, 2023, the measure qualified for the November 2024 ballot.

The League of California Cities, along with a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly opposes this initiative. Local government revenue-raising authority is currently substantially restricted by state statute and constitutional provisions, including the voter approved provisions of Proposition 13 of 1978, Proposition 218 of 1996, and Proposition 26 of 2010. The Taxpayer Protection and Government Accountability Act adds and expands restrictions on voters and local government tax and fee authority.

Fees and Taxes

Local governments levy a variety of fees and other charges to provide core public services. Major examples of affected fees and charges are:

- Nuisance abatement charges, such as for weed, rubbish, and general nuisance abatement to fund community safety, code enforcement, and neighborhood cleanup programs.
- Commercial franchise fees.
- Emergency response fees, such as in connection with DUI.
- Document processing and duplication fees.
- Transit fees, tolls, parking fees, and public airport and harbor use fees.
- Facility use charges, fees for parks and recreation services, garbage disposal tipping fees.

Virtually every city, county, and special district must regularly (e.g., annually) adopt increases to fee rates and charges and revise rate schedules to accommodate new users and activities. Most of these would be subject to new standards and limitations under threat of legal challenge. Based on the current volume of fees and charges imposed by local agencies, including council-adopted increases to simply accommodate 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 January 1, 2022. Over ten years, \$20 billion of local government fee and charge revenues will be at heightened legal peril.

Reductions on local government tax revenues have impacts on core services and infrastructure including fire and emergency response, law enforcement, streets and roads, drinking water, sewer sanitation, parks, libraries, public schools, affordable housing, homelessness prevention, and mental health services.

Fines and Penalties

Under existing law, cities are required to provide due process before imposing a penalty or fine for violation of its municipal code:

1. A local agency must adopt administrative procedures that govern imposing fines and penalties, including providing a reasonable period of time for a person responsible for a continuing violation to correct or remedy the violation [Gov't Code 53069.4].
2. Notice must be given to the violating party before imposing the penalty; and give the party an opportunity to be heard and present any facts or arguments [Merco Construction Engineers v. Los Angeles Unified School District (1969) 274 CA 2d 154, 166].
3. The fine may not be "excessive" [U.S. Constitution amendments VIII and XIV].

The initiative 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 authority to impose fines and penalties for violations of state and local law.

Conclusion

Should ballot initiative No. 21-0042A1, the Taxpayer Protection and Government Accountability Act, pass, the City of Del Rey Oaks would be greatly impacted in its ability to raise taxes and fees needed to provide city services. Therefore, the City Manager recommends the Council authorize the Mayor to sign the attached letter to the League of California Cities in order to have the City of Del Rey Oaks join the No on Initiative 21-004241 coalition of public safety, education, labor, local government, and infrastructure groups throughout the State.

Fiscal Impacts

There is no fiscal impact associated with this action. Future impacts to City revenues will need to be evaluated if the measure passes.

ATTACHMENTS:

Attachment 1 – Letter of Opposition to Initiative 21-0042A1

Respectfully Submitted,

John Guertin
City Manager



CITY OF DEL REY OAKS

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March 26, 2024

Bismark Obando
Director of Public Affairs, League of California Cities
1400 K Street, Suite 400
Sacramento, CA 95814

Re: Letter Opposing Initiative 21-0042A1

On March 26, 2024, the Del Rey Oaks City Council voted to oppose Initiative 21-0042A1, a deceptive, developer-sponsored proposition aimed for the November 2024 statewide ballot that would significantly jeopardize cities' ability to provide essential services and infrastructure for our residents.

The measure includes undemocratic provisions that would make it more difficult for local voters to pass measures needed to fund local services and projects and would limit voter input by prohibiting local advisory measures where voters can express a preference on how they want their local tax dollars spent.

This measure creates new constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, including impacts on local infrastructure and our environment.

This measure also may make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods.

Unless defeated, the measure puts billions of dollars currently dedicated to local services at risk, and could force cuts to fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.

The proposed initiative would post a significant challenge to the City, hampering its ability to maintain revenues at a level to effectively and efficiently provide needed services for the community.

You may list the City of Del Rey Oaks in formal opposition to Initiative #21-0042A1 and include our City as part of the growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state opposed to this deceptive proposition.

Sincerely,

Scott Donaldson
Mayor
City of Del Rey Oaks