



City of Grass Valley City Council Agenda Action Sheet

Title: Approve Resolution 2023-19 opposing Initiative No. 21-0042A1, The Taxpayer Protection and Government Accountability Act

CEQA: Not a Project.

Recommendation: That Council review and adopt Resolution 2023-19 opposing Initiative No. 21-0042A1, The Taxpayer Protection and Government Accountability Act.

Prepared by: Tim Kiser, City Manager

Council Meeting Date: May 9, 2023

Date Prepared: May 3, 2023

Agenda: Consent

Background Information: 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 violations of state and local laws.

The measure puts billions of local government tax and fee revenues at risk statewide and will result in core public service impacts, including significant negative impacts on the City's operations and service delivery.

On Jan. 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. This initiative is strongly opposed by The League of California Cities, a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses.

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.

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

- Nuisance abatement charges, such as for weeds, 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's.
- Document processing and duplication fees.
- Transit fees, tolls, parking fees, and other use fees.

- Facility use charges, fees for parks and recreation services, garbage disposal tipping fees.

Every city, county, and special district must routinely adopt increases in fees and revise fee rate schedules to accommodate new users and activities, changes which would now 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 accommodate inflation, Cal Cities estimates the amount of local government fee and charge revenue at risk is approximately \$2 billion per year, including increases adopted since Jan. 1, 2022. Over ten years, \$20 billion of local government fee revenues will be at heightened legal peril.

Reductions in 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, public schools, affordable housing, homelessness prevention, and mental health services.

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

The proposed constitutional initiative is sponsored by the California Business Roundtable.

The following are some of the major provisions of the proposed initiative:

Fees and Charges¹:

- 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

¹ Initiative No. 21-0042A1 (pgs.4-6; Section 1 (a)-(j))

“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.”² 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.

Taxes³:

- Taxes and fees adopted after Jan. 1, 2022, that do not comply with the new rules, are void unless reenacted⁴.
- 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.⁵
- 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 Penalties⁶:

- 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.

Council Goals/Objectives: The execution of this action attempts to achieve Strategic Goal #5 - High Performance Government and Quality Service.

Fiscal Impact: The Taxpayer Protection and Government Accountability Act will take billions of dollars of revenue away from local government services statewide.

Funds Available: N/A

Account #: N/A

Reviewed by: Tim Kiser, City Manager

Attachments: Resolution 2023-19

² Initiative No. 21-0042A1 (pg.5; (3))

³ Initiative No. 21-0042A1 (pgs.4-6; Section 1 (a)-(j))

⁴ Initiative No. 21-0042A1 (pg.7; Section 6 (Sec. 2)(g))

⁵ Initiative No. 21-0042A1 (pg.6 (3))

⁶ Initiative No. 21-0042A1 (pg. 5 (4))