

Cal Cities joins legal challenge against ‘taxpayer protection’ ballot measure

Oct 4, 2023

The League of California Cities last week filed an [amicus letter \(/docs/default-source/advocacy/2023-09-28-local-government-amici-letter-iso-legislature-v-weber.pdf?sfvrsn=e372f199_3\)](/docs/default-source/advocacy/2023-09-28-local-government-amici-letter-iso-legislature-v-weber.pdf?sfvrsn=e372f199_3) in support of a legal challenge against the deceptive [“Taxpayer Protection and Government Accountability Act” initiative \(https://www.calcities.org/news/post/2023/08/09/an-existential-threat-to-cities-is-on-the-2024-ballot\)](https://www.calcities.org/news/post/2023/08/09/an-existential-threat-to-cities-is-on-the-2024-ballot).

In late September, the Legislature and Gov. Gavin Newsom filed [the emergency petition \(/docs/default-source/advocacy/the-emergency-petition.pdf?sfvrsn=bf465e7e_3\)](/docs/default-source/advocacy/the-emergency-petition.pdf?sfvrsn=bf465e7e_3) with the California Supreme Court to remove the initiative from the November 2024 ballot. The petitioners allege it unlawfully revises the state constitution and would cripple essential government functions.

The California Business Roundtable (CBRT) — a group of the state’s wealthiest corporations — is sponsoring the initiative. The ballot measure would expand the definition of what constitutes a tax and raise the voter approval threshold for local taxes. The initiative would also limit certain fees to the least amount necessary to provide the service.

Several other government associations joined Cal Cities in supporting the request for pre-election review of the initiative. The letter highlights the CBRT initiative’s vague

provisions, unlawful revisions to the state constitution, and its potential to “disable fiscal planning” by local governments.

“ ... The proposed measure is already destabilizing government finance,” the letter states. “Substantial questions as to the lawfulness and meaning of the proposed measure arise that, if left unresolved through the November 2024 election, will exacerbate these uncertainties and necessarily reduce government efficiency for months and years after that election.”

The CBRT ballot measure would apply to any tax and certain fees adopted after Jan. 1, 2022. Local governments would have one year to ask voters to reapprove those taxes. The initiative would also impose new requirements for the ballot materials used to submit taxes to voters.

The mayors of some of California’s biggest cities also filed a [separate letter \(/docs/default-source/advocacy/cbrt-mayors-amicus.pdf?sfvrsn=db48408_3\)](/docs/default-source/advocacy/cbrt-mayors-amicus.pdf?sfvrsn=db48408_3), urging the Court for a pre-election review of the initiative. They argued it “poses an immediate threat to vital state and local services”.

“By granting review now, the Court has the opportunity to prevent Californians from voting on an improper Constitutional revision, and to relieve our communities of the pressure to comply with the Measure before its validity is determined,” the group of eight mayors said.

Courts generally hear writ petitions as a matter of discretion. Pre-election ballot measure reviews occur when the validity of an initiative is in serious doubt, and where the matter can be resolved before unnecessary expenditures of time and effort have been placed into a futile election campaign.

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Cal Cities backs state-led legal challenge against deceptive 'taxpayer protection' ballot measure

Sep 27, 2023

The California Legislature, Gov. Gavin Newsom, and voter John Burton on Tuesday filed an emergency petition with the California Supreme Court seeking to remove the **"Taxpayer Protection and Government Accountability Act" initiative** (<https://www.calcities.org/news/post/2023/08/09/an-existential-threat-to-cities-is-on-the-2024-ballot>) from the November 2024 Ballot.

The California Business Roundtable (CBRT) — a group of the state's wealthiest corporations — is sponsoring the initiative.

The Legislature and others argue the CBRT initiative unlawfully revises the state constitution and cripples essential state and local government functions. The League of California Cities plans to file an amicus letter in support of the petition and a pre-election review of the initiative.

"If this measure passes, it will upend and jeopardize city revenue streams needed to provide essential local services," **said Carolyn Coleman, Cal Cities Executive Director and CEO** (<https://www.calcities.org/news/post/2023/09/27/cal-cities-supports-legal-challenge-against-taxpayer-protection-ballot-measure>) . "Our residents expect and rely upon fire, police, and a wide range of other services — including shelter for those experiencing homelessness, safe streets and roads, the maintenance of playgrounds and sidewalks, and garbage removal. But with this measure, residents will get less."

If passed, the CBRT ballot measure would expand the definition of what constitutes a tax and raise the voter approval threshold for local taxes. The initiative would also limit certain fees to the least amount necessary to provide the service. Governments would need to defend those fees with clear and convincing evidence. This ambiguity could lead to thousands of costly lawsuits.

“Given what’s at stake, our cities deserve clarity sooner rather than later regarding the validity of this measure,” Coleman said.

Crucially, the CBRT ballot measure would apply to any tax and certain fees adopted after Jan. 1, 2022. Local governments would have one year to ask voters to reapprove those taxes. The initiative would also impose new requirements for the ballot materials used to submit taxes to voters.

Writ petitions are generally heard as a matter of discretion. Pre-election ballot measure reviews are conducted when the validity of an initiative is in serious doubt, and where the matter can be resolved before unnecessary expenditures of time and effort have been placed into a futile election campaign.

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An existential threat to cities is on the 2024 ballot

Aug 9, 2023

Just what is the deceptively named Taxpayer Protection and Government Accountability Act that's on the November 2024 ballot? For starters, it's a huge attack on local decision-making that puts all public services in California at risk.

Don't let the name fool you. Some of the state's biggest corporations — under the umbrella of the California Business Roundtable (CBRT) — are sponsoring the measure. The only thing it protects is large corporations trying to avoid paying their fair share.

The CBRT measure would significantly restrict the ability of cities to raise taxes and fees, including retroactively. Taxes or fees passed since Jan. 1, 2022, must abide by the measure's rules. The measure would also create new opportunities to challenge local revenue measures.

The League of California Cities estimates that approximately \$2 billion in existing fees and charges, along with \$2 billion in voter-approved measures, will be subject to legal peril if this measure passes.

"If passed, this thoughtless measure will put billions of dollars of vital local government services at risk and cost billions of dollars over many, many years in litigation costs just to determine what it means," said Michael Coleman, a local government finance expert. "Meanwhile, public services will deteriorate. All of this at the whim and for the benefit of a few big corporations and to the detriment of the public at large."

How exactly would the measure impact my city?

The rules for increasing fees and taxes have been clear for many years. This measure fundamentally alters those rules. The CBRT measure would define *all* sources of revenue as either taxes or “exempt charges” (fees). Local governing bodies would not be able to delegate fee adjustments to administrative entities.

Currently, fees for services or products must cover the “reasonable” cost of service. The CBRT initiative would amend the law so that these fees could not exceed the “actual cost” of providing the product or service. It defines “actual cost” as the “minimum amount necessary.” This could mean cities would need to choose cheaper, less optimal projects, goods, and services or subsidize the activity, resulting in race-to-the-bottom service levels and quality.

The measure would also create a new requirement that some fees — including for use of or access to government property — must be “reasonable” to the payor. However, it does not define “reasonable.” At the same time, the measure would allow people to challenge fees by claiming a fee is unreasonable even if it meets the “actual cost” of service. This will result in lawsuits that taxpayers will be forced to fund.

Any taxes and fees adopted after Jan. 1, 2022, that do not comply with the measure’s rules would become void unless reenacted within a year of the effective date of the measure. Voters in an annexed area would need to approve existing taxes and local voters could no longer pass special taxes qualified by initiative with a simple majority.

Some major examples of affected fees and charges are emergency response fees, document processing and duplication fees, transit fees, tolls, parking fees, facility use charges, garbage disposal tipping fees, and potentially commercial franchise fees.

Why does big business support this measure?

In a word: greed. The measure pretends to protect taxpayers. In reality, the measure protects the wealthiest taxpayers at the expense of local control and vulnerable residents.

Under these new rules, corporations would pay far less than their fair share for the impacts they have on communities. Requiring the rental or sale price of local government property to be “reasonable” rather than “fair market value” would also reduce cities’ negotiating power in favor of corporations.

Voters may also need to approve administratively imposed fines, penalties, and levies for corporations that violate laws unless a new, undefined adjudicatory process is used to impose the fines and penalties.

In short, the measure’s ambiguous language will result in countless lawsuits, reduced government services, and red tape all in favor of big business.

What can my city do?

This is CBRT’s latest attempt to reverse court decisions favorable to local governments and dodge accountability. In doing so, it will make it even harder for local governments to provide vital services to their residents.

Cal Cities is working with a broad coalition of partners to defeat this measure. But we cannot do it by ourselves. Defeating this measure will take the efforts of city leaders throughout the state acting to stop it.

The first step is to pass a resolution or send a letter to Cal Cities opposing this measure. Send your [letter \(/docs/default-source/advocacy/cbrt-oppose-letter-02-03-23-final.docx?sfvrsn=2935cebb_3\)](/docs/default-source/advocacy/cbrt-oppose-letter-02-03-23-final.docx?sfvrsn=2935cebb_3) or [resolution \(/docs/default-source/advocacy/cbrt-oppose-resolution-02-03-23-final.docx?sfvrsn=ccaf1fc_3\)](/docs/default-source/advocacy/cbrt-oppose-resolution-02-03-23-final.docx?sfvrsn=ccaf1fc_3) to [ballotmeasures@calcities.org \(mailto:ballotmeasures@calcities.org\)](mailto:ballotmeasures@calcities.org) .

Participation through [CitiPAC \(https://citipac.org/\)](https://citipac.org/) , which provides funding for ballot measure battles, is also crucial.