



AGENCY: City Council  
MEETING DATE: May 13, 2024  
DEPARTMENT: Administration  
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## AGENDA ITEM SUMMARY

**TITLE:**

**Receive Report and Adopt City Council Resolution to Oppose Initiative No. 21-0042A1, The Taxpayer Protection and Government Accountability Act**

**BACKGROUND/ISSUE:**

The League of California Cities (CalCities) monitors policies coming from Sacramento and Washington on behalf of local municipalities. CalCities frequently publishes alerts when policy, legal decisions, or initiatives will positively or negatively impact local government.

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. 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 title and summary will read as follows on the November 2024 ballot:

LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

CalCities, along with a broad coalition of local governments, labor, public safety, education, and infrastructure advocates, strongly oppose this initiative. This item is to request the City Council to consider approving the updated resolution language and oppose this measure as it puts billions of local government tax and fee revenues at risk statewide with related core public service impacts. The measure would have significant negative impacts on the City of Fort Bragg's operations and core service delivery. The proposed constitutional initiative is sponsored by the California Business Roundtable and contains the following provisions.

The Taxpayer Protection and Government Accountability Act limits voters' authority, adopts new and stricter rules for raising taxes and fees, and makes it more challenging to hold violators of state and local laws accountable.

**ANALYSIS:**

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.

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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.

This Measure:

1. Limits voter authority and accountability
  - Limits voter input. Prohibits local voters from providing direction on how local tax dollars should be spent by prohibiting local advisory measures.
  - Invalidates the Upland decision that allows a majority of local voters to pass special taxes. Taxes proposed by the initiative are subject to the same rules as taxes placed on the ballot by a city council. All measures passed between January 2022 and November 2022 would be invalidated unless reenacted within 12 months.
2. Restricts local fee authority to provide local services
  - Impacts franchise fees. Sets new standard for fees and charges paid for the use of local and state government property. The standard may significantly restrict the amount oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations pay for the use of local public property. Rental and sale of local government property must be “reasonable” which must be proved by “clear and convincing evidence.”
  - 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.
3. Restrict the authority of state and local governments to issue fines and penalties for violations of law
  - Requires 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.
4. Restrict local tax authority to provide local services
  - Taxes and fees adopted after Jan. 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 that 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.

## 5. 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.
- Advanced Life Support (ALS) transport charges.
- 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.

## 6. 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 the authority to impose fines and penalties for violations of state and local law.

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 Jan. 1, 2022. Over ten years, \$20 billion of local government fee and charge revenues will be at heightened legal peril.

Hundreds of local tax measures were approved in 2022 that likely do not comply with the provisions of the initiative. Nearly \$2 billion of annual revenues from these voter-approved measures will cease a year after the effective date of the measure, reducing the local public services funded by these measures, unless the tax is re-submitted for voter approval.

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, libraries, affordable housing, homelessness prevention, and mental health services.

**RECOMMENDED ACTION:**

Approve and Adopt a Resolution opposing Initiative No. 21-0042A1, the Taxpayer Protection and Government Accountability Act.

**ALTERNATIVE ACTION(S):**

1. Do not adopt the Resolution opposing Initiative No. 21-0042A1;
2. Provide alternative direction to City staff and/or refer policy matter to a Council Subcommittee for further deliberation and policy development.

**FISCAL IMPACT:**

The Taxpayer Protection and Government Accountability Act would significantly impact local government municipal finances and services which puts billions of dollars currently dedicated to state and local services at risk, and could force cuts to public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to support homeless residents, mental health services, and more.

Major examples of affected fees from this initiative are listed below:

1. Certain water, wastewater, and garbage fees.
2. Fees for recreational services
3. Fees for processing of land use and development applications such as plan check fees, use permits, design review, plan amendment, and subdivision map changes.
4. Emergency response fees- such as in connection with DUI.
5. Code enforcement fees.
6. Facility use charges.
7. Fines, penalties.
8. Code Enforcement fees.

**GREENHOUSE GAS EMISSIONS IMPACT:**

N/A

**CONSISTENCY:**

The potential impact on new fees will require further legal analysis to determine the extent of that impact.

**IMPLEMENTATION/TIMEFRAMES:**

List implementation actions necessary and anticipated timeframes for completion.

**ATTACHMENTS:**

1. Att. 1 - Resolution
2. Att. 2 - CBRT Opposition Letter

**NOTIFICATION:**

1. Regional Public Affairs Office
2. League of California Cities