



# COUNCIL REPORT

**DATE:** March 14, 2023

**CATEGORY:** Consent

**DEPT.:** City Manager's Office,  
Finance and Administrative Services

**TITLE:** **Resolution Opposing the Taxpayer  
Protection and Government  
Accountability Act**

## **RECOMMENDATION**

Adopt a Resolution of the City Council of the City of Mountain View to Oppose the Taxpayer Protection and Government Accountability Act, to be read in title only, further reading waived (Attachment 1 to the Council report).

## **BACKGROUND**

On January 4, 2022, the California Business Roundtable (CBRT), a nonpartisan organization comprised of senior executive leadership of major companies throughout the State, which includes banking, oil, utilities, health care, real estate, and telecommunications companies, among others, filed an initiative measure amending the California Constitution called the "Taxpayer Protection and Government Accountability Act" or AG 21-0042A1 (also referred to as the "measure" in this report).

At its March 22, 2022 meeting, the City Council adopted a resolution to oppose the Taxpayer Protection and Government Accountability Act, and the measure subsequently failed to qualify for the November 2022 ballot.

On February 1, 2023, the measure qualified for the November 2024 ballot. This measure limits voters' authority, adopts new and stricter rules for raising taxes and fees, and makes it more difficult to hold violators of State and local laws accountable.

The League of California Cities (Cal Cities), along with a broad coalition of local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly opposes this initiative and requests that cities adopt resolutions to demonstrate the harmful impact of this measure.

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.

## **ANALYSIS**

The Taxpayer Protection and Government Accountability Act would amend the California Constitution with provisions that limit voters' authority and input and adopt new and stricter rules for raising taxes and fees. The Act may also make it more difficult to impose fines and penalties for violation of State and local laws.

The measure puts billions of dollars in 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 Mountain View operations and core service delivery. The impacts of the Act, if passed, are summarized below.

- **Effective Date:**
  - All new or increased taxes or fees adopted by the Legislature, a city council, or the local voters after **January 1, 2022**, would be required to comply with the Act's new rules.
- **State Taxes:**
  - All new or increased State taxes would require majority voter approval.
- **Local Taxes:**
  - Majority voter approval would be required for the following:
    - When an existing tax is applied to a newly annexed territory.
    - When an existing tax is applied to a new service or product (for example, when a utility user tax is applied to a new service).
  - All new or increased taxes adopted after January 1, 2022 would be required to include a sunset date.
- **Fees and Charges:**
  - Would require that charges for access, use, and rental of government property be "reasonable," such as fees charged for use of government facilities and public works

infrastructure, to oil companies, utilities, gas companies, cable companies, and other corporations.

- Fees and charges for services and permits would not be permitted to exceed the “actual cost” of providing the product or service for which the fee is charged. “Actual cost” is the “minimum amount necessary” to reimburse the government for the cost of providing the service or product. Examples include planning services, excavation and encroachment permits, preparation of candidate statements, and permit parking.
- State and cities would have the burden of proving by “clear and convincing evidence” that a fee/charge is not a tax, that the amount is reasonable, and that it does not exceed the “actual cost.”
- No fee or charge or exaction regulating vehicle miles traveled could be imposed as a condition of property development or occupancy.
- **Fines and Penalties (Administrative Enforcement of State Law and Municipal Codes):**
  - May require voter approval of fines and penalties 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. Examples include nuisance abatement, organic waste reduction requirements, and failure to maintain a vacant property.
- **Voters:**
  - Local advisory ballot measures would not be permitted to ask for approval of a general tax that would express the voters’ preference for how the tax revenue should be used.
  - Would overturn the *California Cannabis Coalition v. City of Upland* decision so taxes proposed by initiative are subject to the same rules as taxes placed on the ballot by a city council.
  - Voters would not be permitted to amend a city charter to impose, extend, or increase a tax or fee.
- **Statewide Fiscal Impact:**
  - Would put approximately \$2 billion from fees and charges at risk each year, subject to legal peril.
  - Would put approximately \$2 billion of annual tax revenue at risk. Many tax measures approved between 2022 and 2024 would need to be resubmitted to voters to comply and be reapproved.

### **FISCAL IMPACT**

By expanding the definition of a tax and increasing the vote requirements for approving taxes and fees, the measure makes it more difficult for the City to increase nearly all types of revenues. The extent to which revenues would be lower under the measure would depend on various factors. For example, requirements for legislative approval of all increases in fees, including those currently set administratively, could result in lower fee revenues. Examples include parking meter fees, building permit fees, regulatory fees, and judicial fines and penalties.

City services also rely heavily on property tax and other local taxes, including sales taxes, utility taxes, and hotel taxes. The various fees and taxes are used to fund different services, such as Fire and Police, Public Works, and Parks and Recreation. Due to the uncertainty of these factors, staff cannot estimate the amount of reduced revenue to the City, but it could be substantial and, thereby, negatively impact the City's long-term fiscal health and ability to provide services to the community.

### **ALTERNATIVES**

1. Do not adopt the Resolution Opposing the Taxpayer Protection and Government Accountability Act.
2. Provide other direction.

### **PUBLIC NOTICING**

Agenda posting and a copy of report and resolution to the League of California Cities.

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Attachment: 1. Resolution