



Agenda Memo

CITY HALL - ONE FRANK H. OGAWA PLAZA, 2ND FLOOR - OAKLAND - CALIFORNIA - 94612

FROM:

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TO: Oakland City Councilmembers and Members of the Public

SUBJECT: RESOLUTION OPPOSING THE TAXPAYER PROTECTION AND GOVERNMENT ACCOUNTABILITY ACT WHICH WOULD (1) JEOPARDIZE FUNDING FOR LOCAL SERVICES, (2) ENCOURAGE FRIVOLOUS LAWSUITS, (3) UNDERMINE VOTING RIGHTS, AND (4) ALLOW WEALTHY CORPORATIONS TO AVOID PAYING THEIR FAIR SHARE IN TAXES

DATE: March 13th, 2024

Colleagues on the City Council and Members of the Public,

Councilmember Dan Kalb and Council President Nikki Fortunato Bas Recommend that the City Council oppose the Taxpayer Protection and Government Accountability Act better known as “The Taxpayer Deception Act.”

The Taxpayer Protection and Government Accountability Act would revise 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. This puts billions of local government tax and fee revenues at risk statewide with related core public service impacts. The measure could have significant negative impacts on our city operations and core service delivery.¹

Fees and Charges²:

- 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.

¹ Ballot language can be found at: <https://oag.ca.gov/system/files/initiatives/pdfs/21-0042A1%20%28Taxes%29.pdf>

² Initiative No. 21-0042A1 (pgs.4-6; Section 1 (a)-(j))

- 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.”³ 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.

Taxes⁴:

- Taxes and fees adopted after Jan. 1, 2022, that do not comply with the new rules, are void unless reenacted⁵.
- 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.⁶
- 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 Penalties⁷:

- 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.

The League of California Cities, along with a broad coalition of over 200 local governments, labor and public safety leaders, infrastructure advocates, and businesses, strongly opposes this initiative. ____

Thank you!

Respectfully submitted,

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

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

⁵ Initiative No. 21-0042A1 (pg.7; Section 6 (Sec. 2)(g))

⁶ Initiative No. 21-0042A1 (pg.6 (3))

⁷ Initiative No. 21-0042A1 (pg. 5 (4))

Dan Kalb

Councilmember Dan Kalb
District 1