



Agenda Item No. 6d.

Staff Report

Date: March 14, 2024

To: Mayor Brekhus and Council Members

From: Christa Johnson, Town Manager

Subject: Resolution Opposing Initiative No. 21-0042A1: The California Business Roundtable "Taxpayer Protection and Government Accountability Act"

Recommendation

It is recommended that the Town Council adopt Resolution No. 2405 opposing Initiative No. 21-0042A1 the California Business Roundtable's (CBRT) Taxpayer Protection and Government Accountability Act.

Background

The Taxpayer Protection and Government Accountability Act ("CBRT measure"), is an initiative that has qualified for the November 2024 ballot. Sponsored by the California Business Roundtable, the measure proposes significant new tax and fee limitations on both state and local governments, reversing numerous court decisions, and retroactively voiding any state or local laws, decisions, or administrative actions in conflict with its provisions enacted after January 1, 2022.

Link to the full text of the ballot initiative: [Initiative 21-0042](#)

If passed, the measure would greatly limit the ability of voters and state and local governments to raise revenues to provide government services and fund critical infrastructure projects. The measure 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.

Key impacts of the initiative would include the following major provisions, among others:

Fees and Charges

- 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 “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.” 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.

Taxes

- 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 town council.
- Expressly prohibits local advisory measures which 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.

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

Discussion

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 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.

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.

Hundreds of local tax measures were approved in 2022¹ 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 on 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, public schools, affordable housing, homelessness prevention, and mental health services.

Fiscal Impact

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

Environmental Review

This proposed action is not subject to review under the California Environmental Quality Act (California Public Resources Code §§ 21000, et seq., "CEQA") and CEQA Guidelines (Title 14 California Code of Regulations §§ 15000, et seq.), because it does not involve any commitment to a specific project which could result in a potentially significant physical impact on the environment; and, constitutes an organizational or administrative activity that will not result in direct or indirect physical changes in the environment.

Attachment

1. Resolution 2405

¹ <http://www.californiacityfinance.com/Votes2211final.pdf>

ATTACHMENT 1

TOWN OF ROSS

RESOLUTION NO. 2405

A RESOLUTION OF THE TOWN OF ROSS OPPOSING INITIATIVE #21-0042A1 THE CALIFORNIA BUSINESS ROUNDTABLE (CBRT) “TAXPAYER PROTECTION AND GOVERNMENT ACCOUNTABILITY ACT”

WHEREAS, an association representing California’s wealthiest corporations is spending tens of millions of dollars to promote a deceptive ballot measure currently eligible for the November 2024 statewide ballot; and

WHEREAS, the measure creates constitutional loopholes that allow corporations to pay far less than their fair share for the impacts they have on our communities, which could force residents and taxpayers to pay more to maintain services; and

WHEREAS, the measure threatens billions of dollars every year in local government funding for services like fire and emergency response, law enforcement, affordable housing, and more; and

WHEREAS, the measure is an attack on voters’ rights, containing undemocratic provisions that would make it more difficult for local voters to pass measures to fund services, provisions that retroactively cancel measures recently passed by voters, and provisions that prevent voters from passing advisory measures that provide direction on how they want their local tax dollars spent; and

WHEREAS, the measure contains intentionally restrictive language that will encourage hundreds of frivolous lawsuits against cities and local governments – costing taxpayers many millions and stopping investments in vital local services; and

WHEREAS, the measure would make it much more difficult for state and local regulators to issue fines and levies on corporations that violate laws intended to protect our environment, public health and safety, and our neighborhoods; and

WHEREAS, the measure is opposed by hundreds of local governments, teachers, firefighters, working families and local elected officials.

THEREFORE, BE IT RESOLVED that the Town of Ross opposes Initiative #21-0042A1;

BE IT FURTHER RESOLVED that the Town of Ross will join the “Stop the Corporate Tax Trick” coalition, a growing coalition of public safety, education, labor, local government, and infrastructure groups throughout the state.

We direct staff to email a copy of this adopted resolution to the League of California Cities at BallotMeasures@calcities.org.

The foregoing resolution was duly and regularly adopted by the Ross Town Council at its regular meeting held on the 14th day of March, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Elizabeth Brekhus, Mayor

ATTEST:

Cyndie Martel, Town Clerk