



CITY COUNCIL

STAFF REPORT

April 3, 2024

ITEM TITLE: CONSIDER ADOPTING RESOLUTION NO. 2024-018 OPPOSING THE TAXPAYER PROTECTION AND GOVERNMENT ACCOUNTABILITY ACT AND SEND A LETTER OF OPPOSITION TO CALCITIES. (0460-20)

ORIGINATING DEPARTMENT:

City Manager

EXECUTIVE SUMMARY:

The City Council may decide at a noticed public meeting to approve a resolution to support or oppose a ballot measure while affirming that the City has not and will not use public funds for any type of advocacy. This item allows the City Council to consider a resolution on the “Taxpayer Protection and Government Accountability Act” or statewide initiative No. 21-0042A1, sponsored by a state-wide business group, California Business Roundtable, proposes to limit local funds contemplated in the future for local voters to fund local services. Proponents of the measure initially filed the initiative in December 2021, and withdrew it from consideration from the November 2022 state-wide ballot. However, the proposed state-wide ballot initiative was re-qualified for the state-wide November 2024 ballot. If passed by state-wide voters, the initiative would revise the California Constitution (attachment 2) with provisions that limit voters’ authority, adopt new and more restrictive 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 measure could have impacts on the City of Imperial Beach operations and core service delivery. On November 2022 as part of the general election, the City of Imperial Beach included a ballot measure “Measure R” – The Imperial Beach Quality of Life Measure – a proposed 4% increase to the local hotel tax that is paid by visitors and tourists who stay in the local hotels and lodging in Imperial Beach. “Measure R” was passed by 67.36% by the City’s voters for an approximately \$400,000 annual revenue. “Measure R” would have to go through an additional vote if statewide initiative No. 21-0042A1 passes.

RECOMMENDATION:

That the City Council consider adopting Resolution No. 2024-018 opposing the Taxpayer Protection and Government Accountability Act (Initiative No. 21-0042A1) and request that the Mayor send a letter on behalf of the City Council to the League of California Cities opposing Initiative No. 21-0042A1.

OPTIONS:

- Consider adopting Resolution No. 2024-018 and send a letter to the League of California Cities.
- Request additional information and return to a future meeting date.
- Provide direction to the City Manager.

BACKGROUND/ANALYSIS:

As stated by the League of California Cities, a measure — Initiative 21-0042A1 — also referred to the “CBRT Initiative,” the California Business Roundtable (“CBRT”) and the “Taxpayer Protection and Government Accountability Act,” or “Taxpayer Protection Act” for short, would revise the state Constitution to significantly undermine local control and disrupt the ability of local governments to provide essential services and infrastructure.

The “Taxpayer Protection and Government Accountability Act” or statewide initiative No. 21-0042A1, sponsored by a state-wide special interest business group, CBRT, proposes to restrict local funds contemplated in the future for local voters to fund local services. Proponents of the measure initially filed the initiative in December 2021, and withdrew it from consideration from the November 2022 state-wide ballot. However, the proposed state-wide ballot initiative was re-qualified for the state-wide November 2024 ballot. If passed by state-wide voters, the initiative would revise the California Constitution as described under attachment 2, 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.

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. Local governments levy a variety of fees and other charges to provide core public services. Major examples of affected fees and charges for the City of Imperial Beach could include nuisance abatement charges, such as for weed, garbage, and general nuisance abatement, code enforcement, facility use charges, and fees for parks and recreation services.

As stated by the League of California Cities, the Taxpayer Protection and Government Accountability Act creates several consequences for local governments and local voters including, but not limited to the following:

- Constitutional Amendment. For new or increased state taxes currently enacted by two-thirds vote of Legislature, also requires statewide election and majority voter approval. Limits voters’ ability to pass voter-proposed local special taxes by raising vote requirement to two-thirds requirement.
- Eliminates voters’ ability to advise how to spend revenues from proposed general tax on same ballot as the proposed tax. Expands definition of “taxes” to include certain regulatory fees, broadening application of tax approval requirements. Requires Legislature or local governing body set certain other fees.
- Lower annual state and local revenues, potentially substantially lower, depending on future actions of the Legislature, local governing bodies, voters, and the courts.

- 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.
- Requires voter approval to expand existing taxes (e.g., utility user tax, use tax, hotel tax) to new territory (e.g., annexation) or expanding the base (e.g., new utility service). This would require additional tax measures and may deter annexations and land development in cities.
- City charters may not be amended to include a tax or fee.
- New taxes can be imposed only for a specific time period.

The above list is not designed to be exhaustive, however it provides an initial representation of the contents of the initiative that may directly impact the City, and any future funding mechanism contemplated to fund local services.

Taxes adopted after January 1, 2022, that do not comply with the new rules, are void unless reenacted. Any state tax approved between January 1, 2022 and the effective date of this measure would be nullified unless it fulfills the requirements of the measure.

On February 1, 2023, the California Secretary of State, pursuant to Elections Code section 9033, declared that the initiative measure is eligible for the November 5, 2024 General Election ballot, and all further signature verification can be terminated. On June 27, 2024, the Secretary of State will certify the initiative as qualified for the November 5, 2024, General Election ballot, unless withdrawn by the proponent prior to certification pursuant to Elections Code section 9604(b).

Based on the current volume of fees and charges imposed by local agencies, including council-adopted increases to simply accommodate inflation, the League of California Cities estimates the amount of local government fee and charge revenue at risk is approximately \$2 billion per year including those adopted since January 1, 2022. 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 on local government tax revenues have impacts on core services and infrastructure including fire and emergency response, law enforcement, streets and roads, and parks and recreation.

On November 2022 as part of the general election, Imperial Beach included a ballot measure “Measure R” – The Imperial Beach Quality of Life Measure – a proposed 4% increase to the local hotel tax that is paid by visitors and tourists who stay in the local hotels and lodging in Imperial Beach. Measure R passed by 67.36% for an approximately \$400,000 annual revenue. Measure R is not a tax on Imperial Beach residents who don’t stay in local hotels. Measure R would allow visitors to contribute to the costs of improvements such as upgrading and maintaining the areas of the city most often visited by tourists with better lighting, sidewalks, and other amenities, which residents also use. Measure R is essential funding to maintain Imperial Beach’s essential services such as keeping neighborhoods safe, quiet and clean, recreation programs, upgrading and maintaining local parks, and improving lighting and safety in areas of the city frequented by visitors to improve the tourism economy – all priorities identified by the Imperial Beach community.

As part of the proposed initiative (attachment 2,) under statement of purpose, Section 3(b) it states that *“the purpose and intent of the voters in enacting this measure is to increase transparency*

and accountability over higher taxes and charges by requiring any tax measure placed on the ballot – either at the state or local level – to clearly state the type and rate of any tax, how long it will be in effect, and the use of the revenue generated by the tax.” Measure R ballot did meet all these requirements - ballot title: *“Shall the measure to maintain quality of life for residents, retain local businesses, jobs; keep neighborhoods, beaches, parks, public areas safe/clean, maintain 911 emergency response; reduce traffic congestion; gain community benefit from tourism by increasing the transient occupancy tax (paid by hotel, motel, short-term rental guests) by 4%, providing about \$400,000 annually until ended by voters, with annual audits, public disclosure of spending, all funds for Imperial Beach, be adopted?”* The Imperial Beach Chamber of Commerce provided a statement of support of Measure R. Pier South and Hampton Inn provided letters of support of Measure R, and the San Diego County Taxpayers Association endorsed Measure R. Initiative 21-0042A1 threatens Measure R to be repealed and brought forward again to the voters for re-election at the 2025. Unfortunately, Imperial Beach does not have any vacant council seats in 2025 making it a special election which means the cost to place a measure on the ballot would be more costly than including it during a primary or general election.

At the March 6, 2024 regular City Council meeting, the League of California Cities, San Diego County and Imperial County Division Regional Public Affairs Manager, provided a presentation and general overview on the Taxpayer Protection and Government Accountability Act. The League of California Cities (CalCities) was founded in 1898 and has defended and expand local agencies through advocacy efforts, legislature, during ballots, policy, in addition to outreach and education. As part of the presented item by the CalCities representative, the City Council directed staff to bring forward a resolution in opposition to the Taxpayer Protection and Government Accountability Act (attachment 1) and a letter to CalCities in opposition to the initiative (attachment 3) for City Council consideration.

City staff is recommending that the City Council consider adopting Resolution No. 2024-018 opposing the Taxpayer Protection and Government Accountability Act (Initiative No. 21-0042A1) and request that the Mayor send a letter on behalf of the City Council to the League of California Cities opposing the Taxpayer Protection and Government Accountability Act (Initiative No. 21-0042A1.)

ENVIRONMENTAL DETERMINATION:

Not a project as defined by CEQA.

FISCAL IMPACT:

There is no fiscal impact adopting the proposed resolution but if the measure is approved by voters in November of 2024, based on preliminary financial evaluations completed by Cal-Cities, it is projected this ballot initiative has the potential to risk \$2 billion in local tax revenues for all California cities collectively, and a financial impact to the City of Imperial Beach on Measure R passed by passed Imperil Beach voters by 67.36% for an approximately \$400,000 annual revenue. As previously mentioned, if Initiative 21-0042A1 qualifies and passes by the voters on November 5, 2024, Measure R would be required to be repealed and brought forward again to the voters for re-election in 2025. Unfortunately, Imperial Beach does not have any vacant council seats in 2025 making it a special election which means the cost to place a measure on the ballot during a special election would be approximately \$200,000 to \$325,000.

ATTACHMENTS:

ATT 1 – Resolution No. 2024-018

ATT 2 – Proposed Initiative 21-0042A1
ATT 3 – Letter to CalCities in opposition