



## The Taxpayer Protection and Government Accountability Act Initiative No. 21-0042A1<sup>1</sup>

Feb. 1, 2023

**Effective date:** Any new or increased tax or fee adopted by the Legislature, a city council, or the local voters after **January 1, 2022**, must comply with the Act's new rules.

### Voters

- Local advisory measures are prohibited. No measure may appear on the ballot asking for approval of a general tax that would allow the voters to express a preference for how the revenue from the general tax will, could, or should be used.
- Overturns *Upland* decision which upheld a special tax that had been placed on the ballot by the voters to be approved by a majority vote. Taxes proposed by initiative will be subject to the same rules as taxes placed on the ballot by a city council.
- Voters may not amend a city charter to impose, extend, or increase a tax or fee.

### Local taxes

- Requires voter approval in order to apply an existing tax:
  - to territory that is annexed.
  - 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 Jan. 1, 2022, must include a sunset date.

### State taxes

- All new or increased state taxes require statewide voter approval.
- Prohibits a property tax "surcharge" (increase). Prohibits any allocation of property tax to the state.

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<sup>1</sup> This is a summary of some of the more significant provisions of the Act. Please review the Act for a complete understanding of the changes it makes to the Constitution.

## **Fees and charges**

- Fees and charges for services and permits 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.” Examples include planning services, excavation and encroachment permits, preparation of candidate statement, and permit parking.
- State and cities 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 “actual cost.”
- Franchise fees — historically considered fees, not taxes — will more likely be considered taxes due to the elimination of an existing category of “fee” and the requirement that charges to entrance, purchase, rental, or lease of government property be “reasonable.” The state and cities issue franchises to oil companies, utilities, gas companies, railroads, garbage companies, cable companies, and other corporations.
- No fee or charge or exaction regulating vehicle miles traveled can 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.