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CITY COUNCIL STAFF REPORT

Meeting: March 21, 2023

Subject

Consider submitting a letter in opposition to the Taxpayer Protection and Government Accountability Act (Initiative No. 21-0042A).

Recommended Action

Approve the submission of a letter in opposition to the Taxpayer Protection and Government Accountability Act

Reasons for Recommendation

On February 1, 2023, the Taxpayer Protection and Government Accountability Act (Initiative No. 21-0042A) qualified for the November 2024 general election ballot. The ballot measure would amend the California Constitution to apply new rules to all new or increased taxes or fees adopted by the state legislature or local agencies. The measure would apply retroactively to new or increased taxes or fees adopted after January 1, 2022.

The ballot measure would amend the State Constitution to prohibit local advisory measures to express a preference for the use of revenue for a general tax, require that local tax measures placed on the ballot by voters be approved by a two-thirds vote (as opposed to approval by a majority vote), and require allow new or increased taxes adopted after January 1, 2022 to have a sunset date.

The ballot measure also includes new restrictions on the ability of local governments to imposes fees and charges for services and permits. User and regulatory fees would be limited to the "actual cost" of providing the product or service for which the fee is charged, which is defined as the "minimum amount necessary." Local governments would have the burden of proving by clear and convincing evidence that a fee or charge is not a tax, that the amount of the fee or change is reasonable, and that the amount does not exceed "actual cost."

A more detailed summary of the ballot measure, including additional requirements for local and state taxes and fees and administrative fines and penalties, is provided as Attachment A.

In December 2021, before the measure qualified for inclusion on the ballot, the Legislative Review Committee took a position opposing the measure. Former Mayor Darcy Paul sent a letter to Senators Dave Cortese and Josh Becker and Assemblymembers Evan Low and Marc Berman conveying the City's opposition to the measure on April 8, 2022.

The League of California Cities has requested that member cities take positions opposing the ballot measure. Staff recommends that the City submit a letter in opposition to the measure to avoid further restrictions on the ability of local governments to raise revenue and the uncertainty and risk associated with a new, higher standard of review for local government fees and service charges. A draft letter for the City Council's consideration is provided as Attachment B. If Council authorizes staff to proceed, the letter will be finalized for the Mayor's signature and sent to the League of Cities, per the League's request.

Sustainability Impact

No sustainability impact.

Fiscal Impact

If approved by voters, the Taxpayer Protection and Government Accountability Act would impose new requirements on future revenue-raising measures. The submission of the requested letter would have no fiscal impact.

California Environmental Quality Act

Not applicable.

Prepared by: Christopher D. Jensen, City Attorney

Approved for Submission by: Pamela Wu, City Manager

Attachments:

A – Summary of Taxpayer Protection and Government Accountability Act Initiative

B – Draft Letter to League of California Cities