

March 2, 2023

The Honorable Liz Ortega  
California State Assembly  
1020 O Street, Suite 5120  
Sacramento, CA 95814

The Honorable Aisha Wahab  
California State Senate  
1020 O Street, Suite 7330  
Sacramento, CA 95814

**RE: Taxpayer Protection and Government Accountability Act (Initiative 21-0042A1)  
City of Hayward – Notice of Opposition**

Dear Senator Wahab and Assembly Member Ortega:

On behalf of the City of Hayward, I write to express our opposition to Initiative 21-0042A1, entitled by its proponents as the “Taxpayer Protection and Government Accountability Act Initiative,” which would amend the California Constitution to restrict the ability of the state, local governments, and the electorate to approve or collect taxes, fees, and other revenues. The measure would require voter approval of all state taxes, would further restrict local fee authority by limiting it to the “minimum amount necessary” to provide government services, and would require voter approval for local measures such as franchise fees. Its provisions would make it easier to challenge local revenue measures by increasing the burden of proof on local agencies while disallowing an agency’s characterization of a measure from being considered in court.

Specifically, this proposed initiative has three main components. First, it would expand the definition of a tax to include charges that the state and local governments refer to as fees, such as certain charges that are imposed for a benefit granted to a payer but not granted to those not charged. This would significantly alter the functional definition of taxes and would subject much needed revenue generation tools to greater vote requirements. Current law already imposes regulations on how local governments can levy fees, by requiring charges associated with fees to not exceed the reasonable costs of providing the associated product or service. The revenue that is generated from our taxes and fees goes to funding essential services, such as fire, police, public works, and parks and recreation.

Second, the initiative would establish new stringent approval requirements for increasing state and local taxes, whether sought by the governing body or the electorate. For local governments, any and all tax increases under the expanded definition of taxes mentioned above would first need to be approved by two-thirds of the legislative body before it is presented to the electorate for consideration. Further, all proposed increases must be placed before voters on a regularly scheduled general election as opposed to a special election, except in cases of emergency, which can only be declared under unanimous agreement of the legislative body. Adding these new requirements to raise or impose taxes severely undercuts the ability for local governments to respond to the needs of its residents and remain nimble under varying conditions. In the event that there are immediate community needs that cannot conjure unanimous support from the legislative body to address, our communities will suffer.



Third, this initiative would place any new tax or fee increase under extreme legal scrutiny and would invite anyone to take costly and lengthy legal action against a governing body. Specifically, the initiative would require that all new taxes or tax increases include highly technical information regarding its specified use, longevity, and estimated cost to the electorate. The inclusion of this explanatory criterion for the passage of new taxes would significantly increase liability for public officials that could result in significant damages. For instance, the initiative states that state and local governments bear the burden of providing clear and convincing evidence that the levy of a “fee” not subject to the onerous vote threshold requirements is not a tax under the new definition. In the event a private citizen or entity determines that the passage of a new fee or tax was unclear or that the amount is unreasonable, a local government could be subject to long and costly litigation.

Ultimately, tax and fee public policy has always dominated the states’ initiative process for decades. It’s important to understand that California has been largely divided on the topic because it relies on individual circumstances. As written, this measure will empower the state’s tax reform extremists to decimate the state and local governing processes by fixating on the hyper-specifics of tax policies, whose revenues are directed to serve the people.

The imposition of taxes and fees to fund public services is an essential tool of government. The COVID pandemic laid bare the necessity of allowing governing bodies at all levels of government to act immediately in order to provide to their communities during times of emergency. The Taxpayer Protection and Government Accountability Act Initiative would impose onerous and undemocratic restrictions on local governments and local voters that would reduce local revenues by billions every year and would harm the function of virtually all local services. For these reasons, the City of Hayward opposes Initiative 21-0042A1.

Sincerely,

Mark Salinas  
Mayor, City of Hayward

Cc: Hayward City Council  
Kelly McAdoo, City Manager  
Eric Thronson, Deputy Director, Townsend Public Affairs, Inc.

