



Agenda Item B.1
CONSENT CALENDAR
Meeting Date: May 1, 2018

TO: Mayor and Councilmembers

FROM: Michelle Greene, City Manager

SUBJECT: State Ballot Measure Restricting Local Taxing Authority

RECOMMENDATION:

Adopt Resolution 18-__ entitled ““A Resolution of the City Council of the City of Goleta, California, Opposing State Ballot Measure Restricting Local Taxing Authority”

BACKGROUND:

The City supported Senate Bill 1 (SB 1) – which will provide more than \$5 billion annually to make road safety improvements, fill potholes, repair local streets, freeways, tunnels, bridges and overpasses and invest in public transportation in every California community. The City of Goleta expects to receive \$181,133 by the end of Fiscal Year 17/18 and anticipates to receive \$527,408 in Fiscal Year 18/19.

DISCUSSION:

The “Tax Fairness, Transparency and Accountability Act of 2018” or (AG# 17-0050 Amendment #1), is currently under circulation for signatures and proposed for the November ballot. This initiative would drastically limit local revenue authority, while making comparatively minor modifications to state authority. For cities and other local agencies, it applies retroactively and may void any local measure approved by local voters on or after January 1, 2018, but prior to the effective date of this act, that does not comply with the provisions of the act.

This initiative is sponsored by the California Business Roundtable, an organization that claims membership from some of the state’s largest companies including, Wells Fargo, Albertsons, KB Home, Blackstone Group, Chevron, Farmers Insurance, Granite Construction and others. The League of California Cities is opposing this measure and has requested that member cities support a resolution opposing it as well.

The Attorney General’s Office has prepared this summary information:

“Summary:

This initiative would drastically limit local revenue authority and for cities and other local agencies, it applies retroactively and may void any local measure approved by local voters on or after January 1, 2018, but prior to the effective date of this act, that does not comply with the provisions of the act, and:

Restricting Local Tax Authority:

- a) Eliminates local authority to impose a tax for general purposes by majority vote and instead requires all local proposed tax increases subject to a two-thirds vote. This proposal also requires two-thirds approval of all members of the local legislative body before a tax can be placed on the ballot.
- b) Requires a two-thirds vote to “extend” a tax to new territory, a new class of payor, or expanded base. For cities, this would limit all future annexations by requiring a separate two-thirds vote of the affected residents prior to applying any existing city tax. Other limitations may apply to a local interpretation that an existing local tax applies to a business or product.
- c) Expands the definition of a tax to include payments voluntarily made in exchange for a benefit received, which may cover local franchise fees.
- d) Prohibits any tax to be placed on the ballot unless it either specifically identifies by binding and enforceable limitation how it can be spent, with any change requiring reapproval by the electorate, or states in a separate stand-alone segment of the ballot that the tax revenue is intended for “unrestricted revenue purposes.”
- e) Requires tax measures to be consolidated with the regularly scheduled general election for members of the governing body, unless an emergency is declared by a unanimous vote of the governing body.
- f) Expands the application of this act to include actions and “legal authority” that may be “enforced” or “implemented” by a local government.
- g) Requires a tax imposed by initiative to also be subject to a two-thirds vote, to address concerns over the Upland decision.
- h) Clarifies a levy, charge, or exaction retained by and payable to a non-governmental entity is a tax, if the local agency limits in any way the use of the proceeds, to address concerns over the Schmeer decision.
- i) Exempts existing school bond (55% vote) construction authority from the application of the bill.

Restricting Local Fee Authority:

Restricts the ability of a local government to impose fees or charges, other than those subject to Prop. 218, by:

- a) Prohibiting a fee or charge from being imposed, increased or extended unless approved by two-thirds vote of the legislative body.
- b) Authorizing a referendum on decisions of a legislative body to impose, increase or extend a fee or charge triggered by petitions signed by 5% of affected voters.
- c) Requiring a fee or charge proposed by initiative to be subject to a two-thirds vote of the electorate.
- d) Narrows the legal threshold from “reasonable” to “actual” costs for fees applied to local services, permits, licenses, etc. Further, the measure authorizes new avenues to challenge “actual” costs by enabling a payor to also second-

guess in court whether they are “reasonable.” Opens up further litigation and debate by replacing the existing standard that fees and charges bear a “fair and reasonable relationship to the payors burdens and benefits” with a more rigorous “proportional to the costs created by the payor” standard.

e) Increases the legal burden of proof for local agencies from “preponderance of evidence” (more likely than not) to “clear and convincing evidence” (high probability) to establish that a levy, charge or other exaction is: (1) not a tax, (2) the amount is no more than necessary to cover the actual costs, and (3) the revenue is not being used for other than its stated purpose.

Provisions Applicable to State Actions:

a) Requires a tax contained in a regulation adopted by a state agency must be approved by two-third vote of the Legislature (unless the Legislature adopted a state tax that authorized the action of the state agency). This change is responsive to the recent Chamber of Commerce decision on cap and trade revenues.

b) Unlike the retroactive provisions that apply to local government, the application of this Act to the state is only prospective.

c) Requires a fee contained in a regulation adopted by a state agency to be approved by majority vote of the Legislature.

d) Imposes the same burden of proof changes applied to local governments.”

Opposing this ballot measure is consistent with the City’s Legislative Platform Section 3 A. on Transportation.

FISCAL IMPACTS:

There is no fiscal impact associated with taking action to support or oppose this resolution.

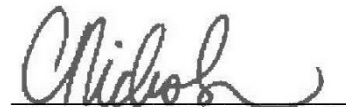
ALTERNATIVES:

Council may wish to take no action at this time.


Reviewed By:

Legal Review By:

Approved By:



Carmen Nichols
Deputy City Manager



Michael Jenkins
City Attorney



Michelle Greene
City Manager

ATTACHMENTS:

1. Resolution 18-__ entitled ““A Resolution of the City Council of the City of Goleta, California, Opposing State Ballot Measure Restricting Local Taxing Authority.”

Attachment 1

Resolution 18-__ entitled ““A Resolution of the City Council of the City of Goleta, California, Opposing State Ballot Measure Restricting Local Taxing Authority.”

RESOLUTION NO. 18-__

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
GOLETA, CALIFORNIA, OPPOSING STATE BALLOT MEASURE
RESTRICTING LOCAL TAXING AUTHORITY**

WHEREAS, California's cities, counties and special districts follow strict guidelines and existing state law regarding the establishment of reasonable fees and the required voter approval of all local taxes; and

WHEREAS, there is a signature-gathering campaign for a state ballot measure currently sponsored by the California Business Roundtable that would severely harm the ability of local governments to continue to provide quality services by imposing onerous roadblocks to raising local revenue to address community needs, services and infrastructure improvements; and

WHEREAS, it is important for local community members, in concert with their duly- elected officials—rather than a special interest group in Sacramento-- to determine the services and funding levels appropriate for their own cities.

WHEREAS, the proposed ballot measure would allow businesses to escape from their existing obligations to pay the full cost of services that they request and receive from local agencies and benefit from.

WHEREAS, the proposed ballot measure would then shift the burden of these uncovered costs from business interests to local general funds supported by taxpayers, and thereby reduce general funds available to support police, fire, park, planning, and other community services.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF
THE CITY OF GOLETA, AS FOLLOWS:**

SECTION 1.

The City of Goleta hereby opposes the Tax Fairness, Transparency and Accountability Act of 2018 sponsored by the California Business Roundtable on the grounds that this measure would harm the ability of local communities to adequately fund services

SECTION 2.

The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED AND ADOPTED this ___ day of _____ 2018.

PAULA PEROTTE
MAYOR

ATTEST:

APPROVED AS TO FORM:

DEBORAH S. LOPEZ
CITY CLERK

MICHAEL JENKINS
CITY ATTORNEY

STATE OF CALIFORNIA)
COUNTY OF SANTA BARBARA) ss.
CITY OF GOLETA)

I, DEBORAH S. LOPEZ, City Clerk of the City of Goleta, California, DO
HEREBY CERTIFY that the foregoing Resolution No. 18-__ was duly adopted
by the City Council of the City of Goleta at a regular meeting held on the __ day
of _____, 2018 by the following vote of the Council:

AYES:

NOES:

ABSENT:

(SEAL)

DEBORAH S. LOPEZ
CITY CLERK