



**RESOLUTION No. 07252022**

RESOLUTION OF THE BOARD OF DIRECTORS OF THE  
RIM OF THE WORLD RECREATION AND PARK DISTRICT  
CONFIRMING THE OPPOSITION OF BALLOT INITIATIVE #21-0042A1

**WHEREAS**, an association representing California's wealthiest corporations and developers is spending millions to push a deceptive proposition aimed for the November 2022 statewide ballot; and

**WHEREAS**, the proposed proposition, Initiative 21-0042A1, has received the official title: "LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT."

**WHEREAS**, the measure includes provisions that would make it more difficult for local voters to pass measures needed to fund local services and infrastructure, and would limit voter input by prohibiting local advisory measures where voters provide direction on how they want their local tax dollars spent; and

**WHEREAS**, the measure exposes taxpayers to a new wave of costly litigation, limits the discretion and flexibility of locally elected boards to respond to the needs of their communities, and injects uncertainty into the financing and sustainability of critical infrastructure; and

**WHEREAS**, the measure severely restricts state and local officials' ability to protect our environment, public health and safety, and our neighborhoods against corporations and others who violate the law; and

**WHEREAS**, the measure creates new constitutional loopholes that would allow corporations to pay less than their fair share for the impacts they impose on our communities, including local infrastructure, our environment, water quality, air quality, and natural resources; and

**WHEREAS**, the measure threatens billions of dollars currently dedicated to state and local services, and could force cuts to SPECIFIC SERVICES PROVIDED BY THE RIM OF THE WORLD RECREATION AND PARK DISTRICT as well as public schools, fire and emergency response, law enforcement, public health, parks, libraries, affordable housing, services to address homelessness, mental health services, and more; and

**WHEREAS**, the measure would also reduce funding for critical infrastructure like streets and roads, public transportation, ports, drinking water, sanitation, utilities, and more.

**THEREFORE, BE IT RESOLVED** that the RIM OF THE WORLD RECREATION AND PARK DISTRICT opposes Initiative 21-0042A1;

**BE IT FURTHER RESOLVED**, that the RIM OF THE WORLD RECREATION AND PARK DISTRICT will join the No on Initiative 21-0042A1 coalition, a growing coalition of public safety, labor, local government, infrastructure advocates, and other organizations throughout the state. We direct staff to email a copy of this adopted resolution to the California Special Districts Association at [advocacy@csda.net](mailto:advocacy@csda.net).

**PASSED AND ADOPTED** by the Board of Directors of the Rim of the World Recreation and Park District this 25<sup>th</sup> day of July 2022, by the following vote:

**Ayes:**  
**Noes:**  
**Absent:**  
**Abstain:**

**PASSED, APPROVED, AND ADOPTED** on this 25<sup>th</sup> of July 2022

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Elizabeth Greeban  
Chair of the Board of Directors

ATTEST:

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Mike Milliorn  
Secretary of the Board of Director



## **BALLOT INITIATIVE #21-0042A1**

### **LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.**

August 2, 2022 Qualification Deadline

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## **BACKGROUND**

The purported “Taxpayer Protection and Government Accountability Act,” a statewide initiative measure to amend the California Constitution sponsored by the [California Business Roundtable](#) (“CBRT”), is the most consequential proposal to limit the ability of the state and local governments to enact, modify, or expand taxes, assessments, fees, and property-related charges since the passage of Proposition 218 (1996) and Proposition 26 (2010). If enacted, public agencies would face a drastic rise in litigation that could severely restrict their ability to meet essential services and infrastructure needs.

In order to qualify for the ballot, proponents must collect 997,139 valid signatures from California voters. The California Secretary of State’s deadline to submit signatures to counties to qualify for the November, 2024 statewide general election is August 2, 2022.

## **SUMMARY**

Ballot Initiative [21-0042A1](#) would result in the loss of billions of dollars annually in critical state and local funding, restricting the ability of local agencies and the State of California to fund services and infrastructure by:

- Adopting new and stricter rules for raising taxes, fees, assessments, and property-related fees.
- Amending the State Constitution, including portions of Propositions 13, 218, and 26 among other provisions, to the advantage of the initiative’s proponents and plaintiffs; creating new grounds to challenge these funding sources and disrupting fiscal certainty.
- Restricting the ability of local governments to issue fines and penalties to corporations and property owners that violate local environmental, water quality, public health, public safety, fair housing, nuisance and other laws and ordinances.

The initiative includes provisions that would retroactively void *all* state and local taxes or fees adopted after January 1, 2022 if they did not align with the provisions of this initiative. This may also affect indexed fees that adjust over time for inflation or other factors. Effectively, it would allow voters throughout California to invalidate the prior actions of local voters, undermining local control and voter-approved decisions about investments needed in their communities.



Specifically, among other provisions effecting the state government, the initiative would impact local agencies through changes to the California Constitution as follows:

### **Restricting Local Tax and Fee Authority to Provide Local Services**

#### *Fees:*

- With few exceptions, fees and charges shall not exceed the “actual cost” of providing the product or service for which the fee is charged.
  - “Actual cost” is defined as the “...*minimum amount necessary...less other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds...*”
- The burden on the local government to prove the fee or charge does not exceed “actual cost” is heightened from a “*preponderance of the evidence*” to “*clear and convincing evidence*”.
- In addition to limiting fees and charges to the actual cost to the local government for providing the service, fees and charges must also be “reasonable” to the payor themselves; no definition is provided for this new subjective reasonableness test that is separate and apart from the test as to how closely the fee or charge is related to the cost of service.
- Defines *all* sources of revenue as either taxes or “exempt charges.”
- Includes Article XIID charges in Proposition 218 under the definition of “exempt” charges subjecting them to potential litigation.
- Exposes previously established fees indexed to inflation or other metrics to new standards and legal challenges.
- Adds to the Constitution a requirement for a board action to adopt, enact, create, establish, collect, increase, or extend any and all fees.

#### *Taxes:*

- Increases the threshold for voters to pass a local special tax initiative placed on the ballot by voters from a simple majority to a two-thirds majority, likely to address concerns over the 2017 California Supreme Court decision in *California Cannabis Coalition v. City of Upland*.
- Requires voter approval when an expansion of boundaries extends existing taxes or fees to new territory.
- New taxes can be imposed only for a specific duration.

#### *Fines and Levees:*

- Interferes with local enforcement efforts, by making it more difficult to impose fines and penalties for state and local law violations related to activities such as water discharge, waste recycling, weed abatement, fireworks, and housing code violations and unlawful commercial marijuana sales, just to name a few. The measure converts administratively imposed fines and penalties into taxes unless a new, undefined, and ambiguous “adjudicatory due process” is followed.



## Increasing Litigation Exposure

- Significantly increases a public agency's burden of proof from "preponderance of evidence" to "clear and convincing evidence" to prove compliance with the new fee requirements. By changing evidence standards to favor corporations suing public agencies, the initiative will promote costly litigation.
- The local government would bear the burden of proving by clear and convincing evidence that a levy, charge or exaction is an "exempt charge" and not a tax. Moreover, the local government would bear the burden of proving by clear and convincing evidence that the amount of the exempt charge is *both* "reasonable" to the payor and that the amount charged does not exceed the "actual cost" of providing the service or product to the payor.
- By enacting a new requirement that all fees must be "reasonable" to the payor but offering no definition as to what "reasonable" means, the initiative provides a new avenue to challenge fees by enabling a plaintiff to claim a fee is not reasonable even if the fee meets the actual costs of service.
- Prop. 218 currently requires fees cover the *reasonable* cost of service. This initiative amends Prop. 218 to require the near-impossible standard of predicting *actual* costs years into the future. To compound this challenge, the new standard also factors in the receipt of external revenues that are constantly shifting and typically outside the control of the local agency. It defines "actual costs" as:
  - "(i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing "actual cost" the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product."
- Fosters endless litigation challenging local fees claiming they are not the "minimum amount necessary". For instance:
  - Do roads need to be paved every 10 years or 50 years?
  - Does infrastructure need to be upgraded or replaced or not improved at all?
  - What is the minimum emergency response time necessary?

## IMPACTS

- Could prevent virtually any new fees or assessments to fund water, sewer, trash, fire protection, parks and recreation, and other essential services and infrastructure.
  - Places over \$20 billion of local government fee and charge revenues over 10 years at heightened legal peril.
- Jeopardizes the public health and safety of communities by cutting off new revenue intended to pay for essential local services and infrastructure.



- Substantially increases the legal and administrative cost of public infrastructure financing.
- With billions of dollars in deferred maintenance and unmet needs for California’s infrastructure, exacerbates the neglect and deterioration of our roads, dams, waterways, and other facilities.
- By limiting revenues to the “minimum amount necessary”, imposes a “race-to-the-bottom” in California that will halt investment in technological advancements that future generations will depend upon.
- Prevents critical investments in climate adaptation and community resilience to address drought, flooding, and wildfire as well as reduce emissions and harmful pollutants.
- Exposes taxpayers to a new wave of costly litigation, limits the discretion and flexibility of locally elected boards to respond to the needs of their communities, and injects uncertainty into the financing and sustainability of critical infrastructure.
- Restricting local services and infrastructure to the lowest and minimum amount possible will disproportionately impact the most underserved communities the hardest.

## **SUPPORT**

- California Business Roundtable (CBRT) – Sponsor
  - Financial contributors to the initiative and CBRT Issues PAC include, but are not limited to:
    - Aera Energy
    - Albertsons Safeway
    - AMR Holdco Inc.
    - Blackstone Real Estate Partners
    - California Business PAC, Sponsored by CalChamber
    - CJ Segerstrom & Sons
    - Cypress Management Company
    - Dart Container
    - Douglas Emmett Properties
    - Enterprise Rental Car
    - Five Point Operating Company
    - Grimmway Enterprises
    - Howard Jarvis Taxpayers Association
    - Kilroy Realty
    - Majestic Realty
    - Michael K. Hayde
    - Pacific Ethanol
    - PEPSICO
    - Pharmaceutical Research and Manufacturers of America
    - Sempra Energy
    - State Farm Insurance
    - Sutter Health
    - 7-Eleven



**California Special  
Districts Association**

*Districts Stronger Together*

- In addition to the CBRT Issues PAC, direct contributors to the initiative include, but are not limited to:
  - AMR Holdco, Inc.
  - Michael K. Hayde, Including Western National Group and Affiliated Entities
  - Kilroy Realty
  - Hudson Pacific Properties and Affiliated Entities
  - Douglas Emmett Properties, LP and Affiliated Entities
  - Shorenstein Realty Services and Affiliated Entities

**OPPOSITION**

- AFSCME California
- CalCities (League of California Cities)
- California Alliance for Jobs
- California Contract Cities Association
- California Professional Firefighters
- California Special Districts Association
- California State Association of Counties
- California State Council of Laborers
- Rebuild SoCal Partnership
- SEIU California
- Over 100 local agencies, including over three-dozen special districts

## TALKING POINTS

### BALLOT INITIATIVE #21-0042A1

### LIMITS ABILITY OF VOTERS AND STATE AND LOCAL GOVERNMENTS TO RAISE REVENUES FOR GOVERNMENT SERVICES. INITIATIVE CONSTITUTIONAL AMENDMENT.

August 2, 2022 Qualification Deadline

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Ballot Initiative [21-0042A1](#), the purported “Taxpayer Protection and Government Accountability Act,” is a statewide initiative measure to amend the California Constitution. It is the most consequential proposal to limit the ability of the state and local governments to enact, modify, or expand taxes, assessments, fees, and property-related charges since the passage of Proposition 218 (1996) and Proposition 26 (2010). If enacted, public agencies would face a drastic rise in litigation that could severely restrict their ability to meet essential services and infrastructure needs.

Proponents of the initiative must collect 997,139 valid voter signatures by August 2, 2022 to qualify for the November 2024 statewide ballot. Dozens of special districts and over 100 local agencies have adopted an oppose resolution.

***Please register your position alongside a growing coalition in opposition to this devastating initiative and download a sample resolution for your board consideration at: [csda.net/VoterLimitations](https://csda.net/VoterLimitations).***

#### Bottom Line

- Could prevent virtually any new fees or assessments to fund water, sewer, trash, fire protection, parks and recreation, and other essential services and infrastructure.
- By limiting revenues to the “minimum amount necessary”, imposes a “race-to-the-bottom” in California that will halt investment in technological advancements that future generations will depend upon.
- Prevents critical investments in climate adaptation and community resilience to address drought, flooding, and wildfire as well as reduce emissions and harmful pollutants.
- Exposes taxpayers to a new wave of costly litigation, limits the discretion and flexibility of locally elected boards to respond to the needs of their communities, and injects uncertainty into the financing and sustainability of critical infrastructure.

#### Retroactive on Already Approved Local Taxes and Fees

The initiative includes provisions that would retroactively void *all* state and local taxes or fees adopted after January 1, 2022 if they did not align with the provisions of this



initiative. This may also affect indexed fees that adjust over time for inflation or other factors. Effectively, it would allow voters throughout California to invalidate the prior actions of local voters, undermining local control and voter-approved decisions about investments needed in their communities.

### **Water and Wastewater District Key Points of Interest**

- Prop. 218 currently requires fees cover the *reasonable* cost of service. This initiative amends Prop. 218 to require the near-impossible standard of predicting *actual* costs years into the future. To compound this challenge, the new standard also factors in the receipt of external revenues that are constantly shifting and typically outside the control of the local agency. It defines “actual costs” as:
  - “(i) the minimum amount necessary to reimburse the government for the cost of providing the service or product to the payor, and (ii) where the amount charged is not used by the government for any purpose other than reimbursing that cost. In computing “actual cost” the maximum amount that may be imposed is the actual cost less all other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds received to provide such service or product.”
- Fosters endless litigation challenging local fees claiming they are not the “minimum amount necessary”. For instance:
  - Do pipes need to be replaced every 30 years or 50 years?
  - Is increasing water reliability through water recycling, desal, or other means the “minimum amount necessary” to serve water or would drilling a deeper well be cheaper?
  - Does infrastructure need to be upgraded or replaced or not improved at all?
- In addition to limiting fees and charges to the actual cost to the local government for providing the service, fees and charges must also be “reasonable” to the payor themselves; no definition is provided for this new subjective reasonableness test that is separate and apart from the test as to how closely the fee or charge is related to the cost of service.
- Significantly increases a public agency’s burden of proof from “preponderance of evidence” to “clear and convincing evidence” to prove compliance with the new fee requirements. By changing evidence standards to favor corporations suing public agencies, the initiative will promote costly litigation.
- Exposes previously established fees indexed to inflation or other metrics to new standards and legal challenges.
- Adds to the Constitution a requirement for a board action to adopt, enact, create, establish, collect, increase, or extend any and all fees.
- Interferes with local enforcement efforts, by making it more difficult to impose fines and penalties for state and local law violations related to activities such as water discharge, waste recycling, weed abatement, and unlawful commercial marijuana sales, just to name a few. The measure converts administratively imposed fines and

penalties into taxes unless a new, undefined, and ambiguous “adjudicatory due process” is followed.

### **Fire Protection District Key Points of Interest**

- Increases the threshold for voters to pass a local special tax initiative placed on the ballot by voters from a simple majority to a two-thirds majority, likely to address concerns over the 2017 California Supreme Court decision in *California Cannabis Coalition v. City of Upland*.
- Requires voter approval when an expansion of boundaries extends existing taxes or fees to new territory.
- New taxes can be imposed only for a specific duration.

### **Recreation and Park District Key Points of Interest**

- Increases the threshold for voters to pass a local special tax initiative placed on the ballot by voters from a simple majority to a two-thirds majority, likely to address concerns over the 2017 California Supreme Court decision in *California Cannabis Coalition v. City of Upland*.
- Requires voter approval when an expansion of boundaries extends existing taxes or fees to new territory.
- New taxes can be imposed only for a specific duration.
- Adds to the Constitution a requirement for a board action to adopt, enact, create, establish, collect, increase, or extend any and all fees.
- Defines *all* sources of revenue as either taxes or “exempt charges.”
- With few exceptions, fees and charges shall not exceed the “actual cost” of providing the product or service for which the fee is charged.
  - “Actual cost” is defined as the “...*minimum amount necessary...less other sources of revenue including, but not limited to taxes, other exempt charges, grants, and state or federal funds...*”
- The burden on the local government to prove the fee or charge does not exceed “actual cost” is heightened from a “*preponderance of the evidence*” to “*clear and convincing evidence*”.
- In addition to limiting fees and charges to the actual cost to the local government for providing the service, fees and charges must also be “reasonable” to the payor themselves; no definition is provided for this new subjective reasonableness test that is separate and apart from the test as to how closely the fee or charge is related to the cost of service.